

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 3263

IN THE MATTER OF:

Served December 9, 1988

Investigation of Need for Charter)
Coach Service Pursuant to the)
Compact, Title II, Article XII,)
Section 4(d)(3))

Case No. MP-88-37

Application of LEATHERWOOD MOTOR)
COACH CORPORATION Trading as EAST)
COAST PARLOR CAR TOURS for)
Temporary Authority)

Case No. AP-88-39

Application of GREYHOUND LINES,)
INC., for Temporary Authority)

Case No. AP-88-41

By Order No. 3239, served October 7, 1988, an investigation was instituted for the purpose of determining, based on evidence from persons requiring for-hire passenger transportation, whether there are insufficient coaches currently available for use within the Metropolitan District and to entertain applications for temporary authority under Title II, Article XII, Section 4(d)(3) of the Compact from those carriers choosing to respond to such need as may exist.

Those persons having an immediate and urgent need for transportation of passengers in coaches were invited to present information of evidentiary quality regarding the exact nature and extent of their need. Those persons ready, willing, and able to provide such transportation as might be needed were invited so to indicate by filing the following items: (1) certified true copy(s) of any operating authority held from any regulatory body; (2) certified true copy of most recent USDOT safety rating; (3) most recent balance sheet and 12-month operating statement, neither being more than 12 months old; (4) an equipment list showing for each vehicle the following: seating capacity, make, model, serial number, vehicle number, and license plate number (with jurisdiction); (5) insurance certificate in conformance with Commission Regulation No. 62; (6) certification that applicant (or its chief operating officer) is familiar with the terms of the Compact and the Commission's rules and regulations and will comply therewith; and (7) reference to any proceedings, either completed or pending, in which applicant has been found unfit or in which its fitness is under investigation by this Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the Interstate Commerce Commission, or the United States Department of Transportation.

Order No. 3239 was widely served. In addition, pursuant to Order No. 3239, notice of the investigation was published in a newspaper of general circulation in the Metropolitan District, and an affidavit of publication is part of the record in Case No. MP-88-37.

Responses were received from the following organizations, all of which arrange for-hire transportation of passengers: (1) The Capital Informer, Inc., Washington, DC; (2) The Convention Store, Washington, DC; (3) American Student Travel, Inc., Houston, TX; (4) Washington, Inc., Washington, DC; (5) the District of Columbia Chamber of Commerce Convention and Tourism Committee, Washington, DC; and (6) USA Hosts, Washington, DC. */

The Capital Informer, Inc. (Capital Informer), manages the operation of diverse programs in which transportation is a major component. Its clients are major corporations, associations, and other organizations. The transportation required by Capital Informer includes large-scale shuttles, airport transfers, and tours. During the balance of 1988 and into 1989, Capital Informer will need a large number of vehicles to fulfill its contract obligations. As examples of its need, the company described the transportation needed for four specific programs. One program will require 30 to 50 vehicles per day for four days of 12 to 16 hours each to move 1,200 persons; the second program will require 80 vehicles per day for five days of 16 hours each; a third program will require between eight and ten buses a day for four-day periods over an eight-week span; and a fourth program requires transportation of between 3,000 and 4,000 persons to an event on the Mall and return. Capital Informer's director of operations emphasizes that these are merely examples of its needs and that its needs are steadily growing. Capital Informer's own growth is augmented by increased tourism and convention promotion for Washington, DC. According to Capital Informer, this growth of demand in combination with the fact that many carriers have reduced the size of their fleets and diminished the availability of vehicles for certain work (e.g. shuttles), has resulted in an ever-tightening transportation supply. It is Capital Informer's position that existing service is inadequate for local transportation needs. Capital Informer urges the Commission to take every reasonable and prudent action to increase the availability of equipment as quickly as possible. The company suggests that this be done initially through the temporary authority process and, thereafter, by "expeditiously granting permanent authority."

Washington, Inc.'s, clients are trade associations and corporate groups. It requires transportation for shuttle systems, transfers, and tours. Its director of operations attests that between 40 and 50 clients a year require at least 25 pieces of equipment. Because the WMATC carrier with the largest fleet imposes a limit of five buses a day for charter moves, Washington, Inc., has been unable

*/ Because USA Hosts' response was filed out of time, notice of its participation in this investigation was not given. However, we will include it in our deliberations.

to serve its clientele using locally-based deluxe coaches. This problem has persisted since the Spring of 1987.

The Convention Store, Inc. (CSI), designs and runs shuttle bus systems and provides specialized bus transportation service throughout the Metropolitan District. CSI is experiencing a major increase in convention activities for this season and predicts further increases in the next few years. CSI's president attests that the company has an immediate and urgent need for luxury-style coaches seating 45 passengers or more. The equipment is required to transport attendees of at least two conventions a month averaging 25 buses per convention. None of the currently authorized carriers can handle the business CSI has booked in the near future for a number of reasons including service problems for some carriers and self-imposed limitations on equipment availability for other carriers. CSI's letter was in support of the application of Leatherwood Motor Coach Corporation trading as East Coast Parlor Car Tours (Leatherwood).

The Chairman of the District of Columbia Chamber of Commerce Convention and Tourism Committee also wrote in support of Leatherwood. The Committee's Chairman attests that the members of the District of Columbia Chamber of Commerce arrange ground transportation between points in the Metropolitan District. According to the Chairman, the District of Columbia Chamber of Commerce has an immediate and urgent need for transportation in deluxe coaches. Of particular concern is transportation for the events surrounding the upcoming Inaugural in January 1989. No other authorized carrier is willing to commit the amount of time and effort to satisfy customers during the Inaugural period that Leatherwood is, and the District of Columbia strongly supports Leatherwood's temporary authority application.

USA Hosts is a destination management firm that provides tours, city-wide shuttle systems, and multi-bus transfers including airport transfers. USA Hosts may need to move over 1,000 persons at a time. USA Hosts' general manager attests that it is experiencing difficulty fulfilling the charter requirements of those contracts recently awarded for 1988 and 1989. This problem has been compounded recently by frequent instances where USA Hosts' clients select Washington as their conference destination within months of their meeting and make final selection of their program content requiring transportation within weeks of their arrival. USA Hosts' ability to provide enhancement of service for contracted programs or new service to new clients is severely impaired by the fact that some carriers have either reduced the number of coaches available for charter service or have already maximized their charter availability for peak periods in 1988 and 1989. USA Hosts strongly supports Leatherwood's application. For the reasons stated, USA Hosts has an immediate and urgent need for the equipment and service that Leatherwood can provide to ". . . hundreds of visitors that our clients represent."

American Student Travel, Inc. (ASTI), expects to bring approximately 20,000 students to the Washington, DC, area during the 1988/1989 tour season. ASTI strongly supports the application of

Potomac Valley Bus Lines, Inc. (Potomac). ASTI needs Potomac's services from November 1988 through July 1989. Those services are vital to the operation of ASTI's student tours.

Responses were received from the following carriers: (1) Bill Rohrbaugh's Charter Service, Inc., Manchester, MD; (2) Sparten Tours, Inc., Capitol Heights, MD; (3) Capitol Bus Rental, Inc., d/b/a Capitol Tours, Washington, DC; (4) Lee Coaches, Inc., Fredericksburg, VA; (5) Virginia Coach Company, Purcellville, VA; (6) Potomac Valley Bus Lines, Inc., Upper Marlboro, MD; (7) Videovue International, Ltd., d/b/a Videovue Tours, Baltimore, MD; (8) Leatherwood Motor Coach Corporation trading as East Coast Parlor Car Tours, Washington, DC; (9) All About Town, Inc., Washington, DC; (10) Arrowhead Bus and Limousine Equipment, Inc., Alexandria, VA; and (11) Greyhound Lines, Inc., Dallas, TX. In addition, Leatherwood Motor Coach Corporation trading as East Coast Parlor Car Tours and Greyhound Lines, Inc. (GLI), each filed complete applications for temporary authority.

By Order No. 3243, served October 25, 1988, notice of these responses and the applications of Leatherwood and GLI was given, and a ten-day period was established for the filing of protests. No protests were filed.

The standards for temporary authority are set forth in the Compact, Title II, Article XII, Section 4(d)(3). The essential elements are (1) an immediate and urgent need for service, (2) no carrier capable of meeting such need, and (3) fitness of the applicant.

Representatives of six organizations attested to their need for transportation in vehicles seating 45 passengers or more. These organizations arrange transportation throughout the Metropolitan District. The transportation arranged is diverse and includes the provision of shuttle systems, transfers, and tours. However, all transportation required appears to be in charter operations. Luxury-style equipment is often required. Clients require as many as 50 vehicles a day. Each organization has several moves booked for the coming season which require multiple coaches. The organizations' representatives each attested that, for varying reasons, they had been unable to obtain sufficient equipment through existing WMATC-certificated carriers. This position is supported by the fact that these matters stand uncontested. Based on these facts, we find that there is an immediate and urgent need for service which existing carriers are not capable of meeting, and we turn to an examination of the fitness of the applicants.

The evidence invited from carriers in Order No. 3239 was for the purpose of establishing whether persons wishing to provide service were fit, willing, and able to perform properly such transportation as might be needed and to comply with the Compact and the Commission's rules, regulations, and orders. After reviewing the evidence submitted in response to Order No. 3239, we find that five carriers have substantially complied with that order's requirements and are fit operationally, financially, and as to compliance to meet the

transportation needs described above. These carriers are Bill Rohrbaugh's Charter Service, Inc.; Lee Coaches, Inc.; Virginia Coach Company; Potomac Valley Bus Lines, Inc.; and All About Town, Inc. We decline to grant temporary authority to Sparten Tours, Inc. (Sparten) and Capitol Bus Rental, Inc., d/b/a Capitol Tours (Capitol Bus) because they failed to comply fully with the requirements of Order No. 3239, the result being that the Commission has inadequate evidence upon which to base a finding of fitness. Sparten and Capitol Bus submitted inadequate documentation regarding their USDOT safety ratings. In addition, Capitol Bus filed none of the financial data required by Order No. 3239 and its insurance certificate is not in compliance with Commission Regulation No. 62. If these inadequacies are remedied within 30 days of service of this order, the Commission will treat the filing of the required documents as a petition to reopen the investigation as it applies to the carrier(s) named in the documents. We also decline to grant temporary authority to Videovue International, Ltd., d/b/a Videovue Tours (Videovue) and Arrowhead Bus and Limousine Equipment, Inc. (Arrowhead). USDOT has advised the Commission by letter dated November 23, 1988, that Videovue's safety rating is unsatisfactory. Arrowhead's equipment list shows schoolbus-type vehicles and vans. Arrowhead holds no operating authority and filed neither a USDOT safety rating nor an insurance certificate in compliance with Commission Regulation No. 62. Arrowhead's counsel states the carrier's safety rating is satisfactory but cannot be found, and its insurance certificate is on file with the Commission. Arrowhead's president attests that the company has not been found unfit by any agency. In fact, the Commission by Order No. 2331, served April 4, 1982, revoked Arrowhead's WMATC Certificate No. 75 for failure to maintain adequate security for the protection of the public as required by the Compact, Title II, Article XII, Section 9 and Commission Regulation No. 62. This constitutes a finding of lack of fitness and, taking official notice of the Commission's records, we find that no insurance certificate of any kind was on file at the time that statement was made. On December 2, 1988, an unacceptable certificate of insurance was filed.

Leatherwood seeks temporary authority to transport passengers, together with baggage in the same vehicles as passengers, in charter operations between points in the Metropolitan District, restricted against transportation solely within the Commonwealth of Virginia. The service would be provided in 28 vehicles having a manufacturer's designed seating capacity of 46 passengers or more. At least one vehicle appears to be a "luxury" vehicle. The basic tariff is \$40 an hour with a four-hour minimum during the "off-peak" season and \$45 an hour with a four-hour minimum during "peak" season. In cases where the driver also serves as a sightseeing lecturer, an additional \$5 an hour would be charged. Transfer rates between any two points within the Capital Beltway would be \$150 during off-peak season and \$180 during peak season. The charge for transfers between any point within the Capital Beltway and any point outside the Capital Beltway and between any two points outside the Capital Beltway would be \$175 during off-peak season and \$225 during peak season.

With its application Leatherwood submitted a statement of financial condition as of August 31, 1988, and an operating statement for the eight months ended August 31, 1988. Leatherwood's balance sheet shows current assets of \$1,654,196 (including \$222,659 cash), fixed assets, after allowance for depreciation, of \$1,759,433, and other assets of \$7,576. Current liabilities are listed at \$988,460 with long-term liabilities of \$1,278,287. Equity is shown to be \$1,154,458. For the eight months ended August 31, 1988, Leatherwood had gross sales of \$3,130,985 with operating expenses including commissions of \$3,034,786 resulting in net operating income of \$96,199. In addition to the letters of support from CSI, District of Columbia Chamber of Commerce, and USA Hosts, discussed above, Leatherwood's application was supported individually by Capital Informer and Washington, Inc.

Thus, four of the largest passenger-transportation brokers in the Metropolitan District and the District of Columbia Chamber of Commerce have detailed a need for transportation in the type of vehicles operated by Leatherwood. The transportation is needed in the immediate future and, according to those supporting Leatherwood's application, cannot be met by existing carriers. The fact that no carrier protested Leatherwood's separate application, notice of which was given by Order No. 3239, supports this position. Leatherwood has a substantial fleet with which to serve such immediate and urgent need as may exist in the Metropolitan District. The fleet is adequately insured. Leatherwood appears to be financially robust, and its representative is familiar with the Compact and the Commission's rules and regulations and has evidenced a willingness to comply therewith. Based on these facts and the entire record in this case, we find that Leatherwood has sustained its burden of proof under the Compact, Title II, Article XII, Section 4(d)(3). Leatherwood's application shall be granted.

GLI seeks temporary authority to transport passengers, together with mail, express, and baggage in the same vehicles as passengers, in charter and special operations between points in the Metropolitan District. By Order No. 366, served June 17, 1964, the Commission found GLI to be exempt from the Compact pursuant to Title II, Article XII, Section 1(a)(4). Interpretation of this section may be intertwined with interpretation of a carrier's Interstate Commerce Commission certificates. According to GLI's application "[a] recent decision of the Interstate Commerce Commission in its Docket No. MC-C-30038, American Coach Lines, Inc., Petition for Declaratory Order, served September 14, 1988, casts doubt on GLI's ability to continue to perform charter and special operations between points in the Metropolitan District." GLI's application shall be granted in order that it may continue to operate within the Metropolitan District. The matter of GLI's exemption and its grandfather rights will be addressed in a future order.

Those carriers which have been granted temporary authority are reminded that such authority extends for no more than 180 days and may not be renewed. Therefore, any carrier that wishes to apply for a certificate of public convenience and necessity should apply within 30 days of the date of service of this order so that its application may be decided prior to expiration of that temporary authority.

THEREFORE, IT IS ORDERED:

1. That Bill Rohrbaugh's Charter Service, Inc., is hereby conditionally granted 180 days temporary authority, contingent upon compliance with the requirements of this order, to transport passengers in charter operations between points in the Metropolitan District, except transportation solely within the Commonwealth of Virginia, for the accounts of The Capital Informer, Inc.; Washington, Inc.; The Convention Store; American Student Travel, Inc.; the District of Columbia Chamber of Commerce Convention and Tourism Committee; and USA Hosts.

2. That Lee Coaches, Inc., is hereby conditionally granted 180 days temporary authority, contingent upon compliance with the requirements of this order, to transport passengers in charter operations between points in the Metropolitan District, except transportation solely within the Commonwealth of Virginia, for the accounts of The Capital Informer, Inc.; Washington, Inc.; The Convention Store; American Student Travel, Inc.; the District of Columbia Chamber of Commerce Convention and Tourism Committee; and USA Hosts.

3. That Virginia Coach Company is hereby conditionally granted 180 days temporary authority, contingent upon compliance with the requirements of this order, to transport passengers in charter operations between points in the Metropolitan District, except transportation solely within the Commonwealth of Virginia, for the accounts of The Capital Informer, Inc.; Washington, Inc.; American Student Travel, Inc.; the District of Columbia Chamber of Commerce Convention and Tourism Committee; and USA Hosts.

4. That Potomac Valley Bus Lines, Inc., is hereby conditionally granted 180 days temporary authority, contingent upon compliance with the requirements of this order, to transport passengers in charter operations between points in the Metropolitan District, except transportation solely within the Commonwealth of Virginia, for the accounts of The Capital Informer, Inc.; Washington, Inc.; The Convention Store; American Student Travel, Inc.; the District of Columbia Chamber of Commerce Convention and Tourism Committee; and USA Hosts.

5. That All About Town, Inc., is hereby conditionally granted 180 days temporary authority, contingent upon compliance with the requirements of this order, to transport passengers in charter operations between points in the Metropolitan District, except transportation solely within the Commonwealth of Virginia, for the accounts of The Capital Informer, Inc.; Washington, Inc.; The Convention Store; American Student Travel, Inc.; the District of Columbia Chamber of Commerce Convention and Tourism Committee; and USA Hosts.

6. That Leatherwood Motor Coach Corporation trading as East Coast Parlor Car Tours is hereby conditionally granted 180 days temporary authority, contingent upon compliance with the requirements of this order, to transport passengers, together with baggage in the same vehicles as passengers, in charter operations between points in the Metropolitan District, except transportation solely within the Commonwealth of Virginia.

7. That Greyhound Lines, Inc., is hereby conditionally granted 180 days temporary authority, contingent upon compliance with the requirements of this order, to transport passengers, together with mail, express, and baggage in the same vehicles as passengers, in charter and special operations between points in the Metropolitan District, except transportation solely within the Commonwealth of Virginia.

8. That Bill Rohrbaugh's Charter Service, Inc.; Lee Coaches, Inc.; Virginia Coach Company; All About Town, Inc.; Potomac Valley Bus Lines, Inc.; Leatherwood Motor Coach Corporation trading as East Coast Parlor Car Tours; and Greyhound Lines, Inc., are each hereby directed to file with the Commission an affidavit certifying compliance with Commission Regulation No. 67 governing identification of vehicles.

9. That Bill Rohrbaugh's Charter Service, Inc.; Lee Coaches, Inc.; Virginia Coach Company; Potomac Valley Bus Lines, Inc.; and All About Town, Inc., are each hereby directed to file two copies of its WMATC Temporary Authority Tariff No. 1.

10. That unless Bill Rohrbaugh's Charter Service, Inc.; Lee Coaches, Inc.; Virginia Coach Company; Potomac Valley Bus Lines, Inc.; All About Town, Inc.; Leatherwood Motor Coach Corporation trading as East Coast Parlor Car Tours; and Greyhound Lines, Inc., comply with the requirements of the preceding paragraphs as those paragraphs pertain to each within 30 days of the service date of this order, the conditional grant(s) of temporary authority contained herein shall be void as to that (those) carrier(s) which fail to comply, and such application(s) as may be deemed to have been filed shall stand denied effective upon the expiration of said compliance time for that (those) carrier(s) which fail to comply.

11. That the conditional grants of temporary authority made herein shall become effective Monday, December 12, 1988, and shall continue in effect through Friday, June 9, 1989, contingent upon compliance with the requirements of this order.


12. That the Executive Director shall notify, in writing, each carrier upon its timely compliance with the requirements of this order, that it may commence operations pursuant to temporary authority.

13. That any request for reconsideration filed within 30 days immediately following the service date of this order by Sparten Tours, Inc., and based upon USDOT safety rating documentation approved for filing by the Commission's Executive Director shall be considered grounds for reopening Case No. MP-88-37 as it applies to Sparten Tours, Inc.

14. That any request for reconsideration filed within 30 days immediately following the service date of this order by Capitol Bus Rental, Inc., d/b/a Capitol Tours and based upon USDOT safety rating documentation, the financial information required by Order No. 3239, and a certificate of insurance in compliance with Commission Regulation No. 62, all of which are approved for filing by the Commission's Executive Director, shall be considered grounds for reopening Case No. MP-88-37 as it applies to Capitol Bus Rental, Inc.

15. That except as specifically provided in this order, Case No. MP-88-37 is closed.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS WORTHY, SCHIFTER, AND SHANNON:


William H. McGilvery
Executive Director