

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 3387

IN THE MATTER OF:

Served August 8, 1989

Application of LEATHERWOOD MOTOR)
COACH CORPORATION Trading as EAST)
COAST PARLOR CAR TOURS for a)
Certificate of Public Convenience)
and Necessity -- Charter Operations)

Case No. AP-88-47

By application filed November 7, 1988, Leatherwood Motor Coach Corporation trading as East Coast Parlor Car Tours (Leatherwood or applicant) seeks a certificate of public convenience and necessity to transport passengers and their 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.

Pursuant to Order No. 3310, served March 28, 1989, and incorporated herein by reference, a public hearing was held in this proceeding on May 2, 1989. No protests were filed, and at hearing application was uncontested.

SUMMARY OF EVIDENCE

Mr. Johnathan B. Smith, applicant's assistant to the president and its director of regulatory affairs, testified on its behalf. He is familiar with the Compact and our rules and regulations thereunder, as well as with the safety regulations of the U.S. Department of Transportation (DOT). Mr. Smith testified that Leatherwood will abide by the Compact, our rules and regulations, and DOT's safety requirements.

Leatherwood currently holds no permanent operating authority from this Commission. However, pursuant to authority granted by the Interstate Commerce Commission (ICC), it has been operating as a motor common carrier of passengers since 1969. By its ICC Certificate No. MC-3677, Leatherwood is authorized to operate over a network of regular routes extending between the District of Columbia and points in Anne Arundel, Charles, and Prince George's Counties, MD. Under segments of that authority, Leatherwood currently provides commuter service, Monday through Friday, over routes between the District of Columbia and North Beach and Chesapeake Beach, MD, serving intermediate points. In addition, applicant holds ICC authority to provide nationwide interstate charter and special operations. Leatherwood operates nationwide tours and is an experienced operator in that service area. It also is observed that, pursuant to temporary

authority granted by WMATC Order No. 3263, served December 9, 1988, in Case No. AP-88-39, and by Order No. 3346, served June 1, 1989, applicant has been performing charter service between points involved in the instant application.

Leatherwood currently operates a fleet of 21 coaches. Except for three leased units, all equipment is company owned. The applicant's principal garage facility, located at Beaver Heights, MD, has six service bays and a staff of eight mechanics who perform all preventative maintenance and mechanical repairs on applicant's equipment. A consultant company trains and certifies all drivers, provides advice as to safety matters, and monitors driver performance in actual road operations. DOT regulations are followed in investigating and training drivers. Applicant currently employs 31 full-time and 30 part-time drivers.

Leatherwood's balance sheet as of August 31, 1988, reflects total assets of \$3,421,205, including current assets of \$1,654,196, fixed assets after depreciation of \$1,759,433, and other specified assets of \$7,576. Current liabilities of \$988,460, long-term liabilities of \$1,278,287, and owners' equity of \$1,154,458 are shown. Leatherwood's operating statement for the eight months ended August 31, 1988, shows operating income of \$2,450,869, expenses of \$2,354,670, and net income of \$240,784, for an operating ratio of 96 percent. Further, applicant projects that operation of the proposed charter service over a six month period will generate total income of \$765,000, total operating expenses of \$666,425, and net income of \$98,575.

The application was supported at hearing by five public witnesses, principally representatives of destination management companies with need for a wide variety of charter bus services.

Mr. Mark S. Fischer is director of operations for Capital Informer Incorporated. Its clients are primarily corporations, associations, and incentive travel concerns whose programs it supports in the Washington and Baltimore areas. Capital Informer makes transportation and other arrangements for its clients and supervises the implementation and operation of these services. Mr. Fischer is directly responsible for supervising his company's relations with all suppliers including suppliers of transportation. In its transportation services, Capital Informer uses limousines, minibuses, and conventional motor coaches. Within the Metropolitan District it arranges for a variety of transportation movements. These include "meet and greet" services at the airports where passengers are met, loaded with their luggage into vehicles, and taken to their hotels. Transfer services are provided between the airports and Union Station and locations throughout the Metropolitan District. The company operates city-wide shuttles involving the movement of thousands of persons attending major conventions. It provides tour programs in which it hires the guides and obtains the transportation. Also, there are single-event moves in which it arranges transportation for 100 to 600 persons on a given evening to travel between their hotels and parties, museums, restaurants, theaters, etc. Capital Informer may require from one to 80 coaches a day. Most of its clients are located at hotels in the

District of Columbia, but it also serves groups based at Maryland and Virginia hotels. Capital Informer can have need for charter service between any points in the Metropolitan District. Capital Informer has used applicant's service under temporary authority. Leatherwood's fleet of equipment represents a significant component in the transportation supply on which Capital Informer draws for charter service. The company has found applicant's equipment adequate and satisfactory for its transportation needs, and has been satisfied with the performance of Leatherwood's drivers and the overall quality of its service. The business of Capital Informer is increasing and it expects sales and gross revenue to be 35 to 40 percent higher in 1989 than in 1988. Business is becoming less seasonal. Peak demand now runs from March to November each year with a dropoff in late July through August.

Ms. Nancy Broers, director of operations for Washington, Inc., testified on behalf of that company in support of the application. Washington, Inc., is a destination management company that provides various services for associations and corporate groups that come to Washington for meetings. It provides tours, shuttles, and special events in conjunction with such meetings. Shuttle systems are designed to move from 5,000 to 35,000 people. Many of the special events it organizes require the movement of 500 to 3,000 persons to and from the site of the event. Washington, Inc., handles airport pickups, meeting many groups at Washington National and Washington Dulles International Airports and occasionally at Union Station. It operates a high volume of tours, all of which require a supply of buses. In 1988, Washington, Inc., spent over \$1,000,000 on transportation. The company provides services including transportation for between 300 and 400 groups a year. Its greatest demand for charter equipment involves shuttle services that require 70 to 80 buses over a five-day period. In some instances it needs 80 buses a day for a variety of movements by a large group even though a formal shuttle service is not provided. Very large groups are now coming to Washington in increasing numbers. It is not unusual in the Spring and Fall for Washington, Inc., to be servicing 10 to 15 meetings at the same time. Collectively, these groups create a substantial demand for charter service on a daily basis. Washington, Inc., requires charter service for groups originating at points in the District of Columbia, Maryland, and Virginia, including the airports, hotels, the Convention Center, and similar locations. Ninety percent of its business is within the Metropolitan District, and it can require charter bus service between any points in that area. Washington, Inc., has made frequent use of the service of Leatherwood. Applicant's service has been responsive to its needs. Applicant's equipment is satisfactory and it provides good drivers. Ms. Broers estimates that applicant is used on eight to ten of her company's projects each month. The witness attempts to get the maximum units of equipment from one carrier, as this enables her to operate more efficiently. Washington, Inc., has enjoyed a consistent rate of growth in its business. Washington, Inc., has experienced difficulty obtaining the amount of equipment needed to meet its contractual obligations. Ms. Broers believes that her company needs Leatherwood's service in addition to other existing carriers, and intends to use the applicant's service extensively if it is authorized.

Mr. Matthew L. Martinucci is operations manager for USA Hosts, which also is a destination management company. The company conducts nationwide operations. Its Washington office plans large and small events in the Washington area, principally for associations and corporations. It plans and provides city-wide shuttles, theme parties, and tour programs. The groups served range from small groups of five to ten persons to major meetings attended by 20,000 to 25,000 people. One of the witness' principal responsibilities is making arrangements for the transportation service required for these events. The company uses sedans, limousines, 20-passenger buses, and full-sized motor coaches. Mr. Martinucci oversees his company's relationship with the charter carriers and is accountable for meeting customers' transportation needs. In his present position and during prior employment with another large destination management company, the witness has made substantial use of Leatherwood's charter service.

USA Hosts arranges transfers to and from the airports and occasionally Union Station. It also requires tours, shuttles, and transportation to and from special events. The witness has been responsible for obtaining as many as 80 buses for a single movement. In a busy month like April, USA Hosts can need ten motor coaches a day; and during its peak periods it requires on average about five to twenty buses a week. Although the company still has peak demand seasons in the Spring and Fall, its business is becoming a year-around operation. It has found Leatherwood's service and equipment satisfactory.

On occasion USA Hosts has experienced difficulty obtaining sufficient charter buses to meet its needs. Although applicant may not be its primary carrier in all instances, USA Hosts intends to make extensive use of its charter service if authorized in this proceeding.

Ms. Charlotte Timms, vice president of transportation for the Convention Store, Inc., appeared in support of the application on behalf of that company. Ms. Timms has been with the Convention Store for two years and has 22 years' prior experience in transportation. Convention Store also is a destination management company, but it concentrates mainly on arranging for ground transportation services, rather than the planning of parties and other special events. The company requires charter service between all points in the Metropolitan District. It arranges for transfer services to and from the airports and Union Station. The movements it handles originate at hotels throughout the area or the Convention Center. Convention Store attempts to handle at least two or three groups a month, but its volume of business varies, ranging from one to five meetings a month. Although its business has become less seasonal, there continue to be periods such as April, May, and October when it is hard to obtain the charter equipment it needs. The number of buses required for a shuttle movement varies. The day Ms. Timms testified, Convention Store was operating a shuttle involving six buses. However, Convention Store has run shuttles requiring 98 buses a day. The length of time a shuttle system is in operation varies from three to seven days. The size of the groups also differs considerably. It tries to handle groups of 3,000 or more, and its 98-bus movement involved service for 35,000

people. Leatherwood's fleet of motor coaches is considered an important element in the supply of charter equipment. Its service was used by Convention Store under temporary authority. Applicant's drivers and overall service have been satisfactory.

During the Inauguration and the Cherry Blossom season, applicant was booked and unable to supply equipment. However, Leatherwood was booked by the witness for a movement in June and was the only carrier able to provide buses for that movement. If Leatherwood had not been available Convention Store would have been unable to provide the service. When she testified, Ms. Timms was experiencing some difficulty arranging for charter service to handle four or five meetings scheduled for October. If Leatherwood is granted the authority sought in this proceeding, Convention Store intends to make extensive use of its service.

Mr. John Best is president and owner of Capital Entertainment, Inc. His company is a licensed tour company that has been in operation in the Washington area for ten years. Its primary service involves sightseeing tours. The company also operates a school for licensed tour guides. Its guide services are provided in conjunction with charter bus carriers. In some instances the tour group may hire his guide service and make direct arrangements with a carrier to provide the transportation service. However, Capital Entertainment also charters the bus on some occasions in addition to furnishing the tour guide. Mr. Best has carefully surveyed the operations of charter carriers in the area and considers Leatherwood an adequate and substantial carrier that provides good service and drivers. It is important to his company for Leatherwood to be authorized to continue its charter services. If Leatherwood is authorized, Capital Entertainment expects to make regular, possibly daily, use of its service.

DISCUSSION AND CONCLUSIONS

This application is governed by Title II, Article XII, Section 4(b) of the Compact which provides in pertinent part as follows:

. . . the Commission shall issue a certificate to any qualified applicant therefor, authorizing the whole or any part of the transportation covered by the application, if it finds, after hearing held upon reasonable notice, that the applicant is fit, willing and able to perform such transportation properly and to conform to the provisions of this Act and the rules, regulations, and requirements of the Commission thereunder, and that such transportation is or will be required by the public convenience and necessity;

In determining whether the public convenience and necessity require a proposed service, we have consistently applied the three-part test established by the ICC in Pan-American Bus Lines Operation (1 MCC 190, 203, [1936]), namely, whether the proposed service will serve a useful public service responsive to a public demand or need; whether this purpose can and will be served as well by existing service; and whether it can be served by applicant with the new service proposed without endangering the operations of existing carriers contrary to the public interest.

We find applicant to be fit, willing, and able to institute and provide the service proposed, operationally, financially, and as to compliance. Leatherwood is an experienced and substantial carrier. It operates a large fleet of motor coaches suitable for the provision of charter service. The evidence establishes that Leatherwood is in sound financial condition. The management of applicant is familiar with and willing to abide by the requirements of the Motor Carrier Safety Regulations promulgated by the U.S. Department of Transportation, and the Compact and our rules and regulations thereunder.

The evidence establishes that there is a public need and demand for applicant's charter service between all points in the Metropolitan District, restricted against transportation solely within the Commonwealth of Virginia. The five public witnesses supporting the application include destination management companies that have a continuing need for extensive and expanding charter service in the Washington area. All have experienced difficulty obtaining sufficient charter bus equipment to meet their needs. These companies have used and are familiar with the service of Leatherwood. They have found applicant's service to be adequate and satisfactory. These companies intend to make extensive use of Leatherwood's charter service. The evidence supports a finding that applicant's proposed charter service is required by the public convenience and necessity.

The remaining criteria of Pan-American also have been met. The service of Leatherwood is needed in addition to that of existing carriers. The testimony shows that existing charter service has not always been able to meet the need for such service, particularly in peak periods. This application stands unopposed, and it appears that no carrier would be materially adversely affected by authorization of this applicant's proposed charter service.

THEREFORE, IT IS ORDERED:

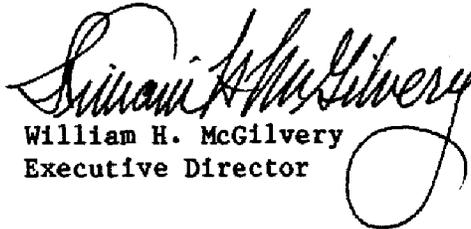
1. That Leatherwood Motor Coach Corporation trading as East Coast Parlor Car Tours is hereby conditionally granted, contingent upon timely compliance with the terms of this order, authority to transport passengers and their baggage, in the same vehicle as passengers, in charter operations between points in the Metropolitan District, restricted against transportation solely within the Commonwealth of Virginia.

2. That Leatherwood Motor Coach Corporation trading as East Coast Parlor Car Tours shall file with the Commission the following: (a) two copies of its WMATC Tariff No. 1 in conformance with Commission Regulation No. 55; (b) an equipment list specifying make, model, serial number, seating capacity and license plate number (with jurisdiction) for each vehicle to be used in revenue service; (c) evidence of ownership or a lease in conformance with Commission Regulation No. 69 for each vehicle to be used in revenue service; (d) a certificate of insurance in accordance with Commission Regulation No. 62 covering all vehicles to be used in revenue service; and (e) an affidavit of identification in accordance with Commission Regulation No. 67 for which purpose WMATC No. 156 is hereby assigned.

3. That unless Leatherwood Motor Coach Corporation trading as East Coast Parlor Car Tours complies with the requirements of the preceding paragraph within 30 days of the service date this order or such other time as the Commission may direct or allow, the grant of authority contained herein shall be void, and the application shall stand denied in its entirety effective upon expiration of the said compliance time.

4. That upon compliance with the conditions set forth in the preceding paragraphs, a certificate of public convenience and necessity will be issued to Leatherwood Motor Coach Corporation trading as East Coast Parlor Car Tours in the form and as worded in the Appendix to this order.

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


William H. McGilvery
Executive Director

NO. 156

LEATHERWOOD MOTOR COACH CORPORATION
Trading as EAST COAST PARLOR CAR TOURS

By Order No. 3387 of the Washington Metropolitan Area Transit Commission issued August 8, 1989;

AFTER DUE INVESTIGATION, it appearing that the above-named carrier is entitled to receive authority from this Commission to engage in the transportation of passengers within the Washington Metropolitan Area Transit District as a carrier, for the reasons and subject to the limitations set forth in Order No. 3387;

THEREFORE, IT IS ORDERED that the said carrier be, and is hereby, granted this certificate of public convenience and necessity as evidence of the authority of the holder thereof to engage in transportation as a carrier by motor vehicle; subject, however, to such terms, conditions, and limitations as are now, or may hereafter be, attached to the exercise of the privilege granted to the said carrier.

IT IS FURTHER ORDERED that the transportation service to be performed by the said carrier shall be as specified below:

IRREGULAR ROUTES:

CHARTER OPERATIONS, transporting passenger and their baggage, in the same vehicle as passengers, between points in the Metropolitan District;

RESTRICTED against transportation of passengers solely within the Commonwealth of Virginia.

AND IT IS FURTHER ORDERED and made a condition of this certificate that the holder thereof shall render reasonable, continuous, and adequate service to the public in pursuance of the authority granted herein, and that failure to do so shall constitute sufficient grounds for suspension, change, or revocation of the certificate.