

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 3435

IN THE MATTER OF:

Served November 28, 1989

Application of D.A.Y. ENTERPRISES,)
INC., for Temporary Authority --)
Thrifty Tours, Inc.)

Case No. AP-89-50

By application filed November 14, 1989, D.A.Y. Enterprises, Inc. (D.A.Y. or applicant), seeks temporary authority to transport passengers, together with mail, express, and baggage in the same vehicle as passengers, in charter operations for the account of Thrifty Tours, Inc. (TTI), between points in the Metropolitan District except transportation solely within the Commonwealth of Virginia, restricted to transportation in vehicles having a manufacturer's designed seating capacity of 32 persons or less (including the driver).

Initially, D.A.Y. would conduct operations using a 1987 25-passenger minibus equipped with reclining seats, individual reading lights, air-conditioning, tinted sightseeing windows, overhead windows, AM/FM cassette system, public address system, mobile telephone system, and separate cargo compartment. A second 31-passenger minibus may be purchased at a later date.

D.A.Y.'s proposed tariff lists charter rates for the 25-passenger vehicle of \$40 an hour (March through October) and \$38 an hour (November through February); rates proposed for the 31-passenger vehicle are \$42.50 an hour (March through October) and \$40 an hour (November through February). A four-hour minimum would be required. In addition, a rate is proposed for transfers between any two points in the Metropolitan District of \$150 with an additional charge for boarding time in excess of 30 minutes.

With its application D.A.Y. submitted a balance sheet as of October 31, 1989, showing current assets of \$12,223, including \$7,889 cash, fixed assets ("operating equipment") of \$37,949 without an allowance for depreciation, and other assets of \$1,002. D.A.Y.'s statement of financial condition lists current liabilities of \$1,358, long-term liabilities of \$19,766, and common stock of \$30,050. For calendar year 1990, applicant projects income of \$128,000, including \$36,900 from WMATC operations, and expenses of \$114,357 resulting in "projected net income" of \$13,643 or an operating ratio of 89. Expenses are not allocated between WMATC operations and non-WMATC operations.

Applicant's president, Mr. Emad Amin, attests that D.A.Y. has been an inactive corporation but is now prepared to engage in the bus business in the Washington area. Applicant has applied for operating

authority from the Interstate Commerce Commission (ICC), obtained \$5,000,000 liability insurance, and is actively looking to purchase a 31-passenger vehicle. If this application is granted, D.A.Y. intends to perform charter service within the Metropolitan District for TTI's account and additional service outside the Metropolitan District pursuant to its ICC authority. */ Before entering the local "bus market" applicant's president studied the existing market. He determined that many companies operate full-size coaches. However, only a few companies operate "minicoaches," and these mid-sized vehicles tended to have a manufacturer's designed seating capacity of 21 passengers. Thus, in Mr. Amin's opinion, applicant's use of 25- and 31-passenger vehicles would provide a service not generally available in the market. Mr. Amin attests that his company is prepared to perform the transportation service proposed and to comply with the Commission's rules and regulations.

In support of the application D.A.Y. submitted an affidavit of Jeanne K. Simpson, TTI's vice president. Ms. Simpson executed the affidavit on TTI's behalf. TTI is a Washington-based company that arranges transfers, local sightseeing, and related transportation for groups visiting the Washington area. TTI has an immediate and urgent need for charter transportation throughout the Metropolitan District in 25-passenger and, if available, 31-passenger vehicles. TTI is unaware of any transportation company which can satisfy this need. In the last 12 months TTI has required local transportation for approximately 30 groups numbering in the low 20's. In Ms. Simpson's opinion this is a growing segment of the market because "with peoples' changing interests and travel patterns, it seems easier . . . to assemble 20-25 persons for a trip to Washington than to assemble a coach load (approximately 45 persons)." TTI also requires a service such as applicant's for transportation it arranges for World Bank between points in the District of Columbia. Transfers and sightseeing tours are required as often as three days a week. In addition, TTI occasionally arranges airport transfers for World Bank which originate or terminate in Washington, DC. TTI wants to provide the best possible service for World Bank, and the availability of an additional 25-passenger minibus would help TTI better serve that customer. To Ms. Simpson's knowledge there are very few 25-passenger vehicles available for these purposes, and the number available is not sufficient to meet TTI's needs. Almost every mid-size vehicle of which Ms. Simpson is aware has a 21-passenger seating capacity. Although the additional four seats are not always determinative, it constitutes an increase in seating capacity of 20 percent, and TTI requires transportation in such a vehicle on a recurring basis. Currently TTI uses 15-passenger vans or full-size coaches to transport small groups. In general the 15-passenger vans are not as comfortable as minibuses, do not have luxury features, and lack sufficient luggage space. Additionally, when the size of the group exceeds 14, TTI must hire two vehicles and split up a group that wants to travel together, incurring additional expense. A full-size coach permits the group to travel together and has ample luggage space but, according to Ms. Simpson, is prohibitively expensive in many circumstances.

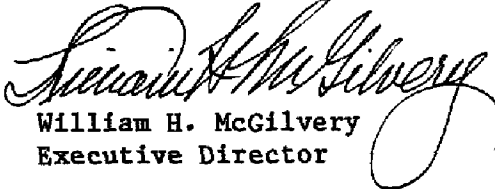
*/ D.A.Y. has applied for authority to provide broader service in the Metropolitan District. See Case No. AP-89-51.

TTI currently relies on two WMATC-certificated carriers to provide transportation in small vehicles. Although TTI is generally satisfied with the service these companies provide, both carriers operate only 21-passenger vehicles. In summary, Ms. Simpson attests that TTI has customers it serves on a year-round basis who have an immediate need for equipment and service that is not available from existing carriers but could be met by D.A.Y. TTI asks that this application be granted in order that D.A.Y. may provide that service.

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 other carrier capable of meeting such need, and (3) fitness of the applicant. This order will provide notice of D.A.Y.'s application, and a brief period will be established for the filing of protests, if any. Each protest should contain all evidence and argument upon which protestant would rely. No extension of time will be granted.

THEREFORE, IT IS ORDERED that any person desiring to protest this application shall file a notarized protest in conformance with Commission Rule No. 14 at the office of the Commission, 1828 L Street, N.W., Suite 703, Washington, DC 20036-5104, no later than Friday, December 8, 1989, and shall simultaneously serve a copy of such protest on applicant's counsel, Jeremy Kahn, Esquire, 1726 M Street, N.W., Suite 702, Washington, DC 20036.

FOR THE COMMISSION:


William H. McGilvery
Executive Director