

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 3454

IN THE MATTER OF:

Served January 19, 1990

Application of IKARD TRANSPORTATION)
SERVICE, INC., for a Certificate)
Authorizing Special Operations)

Case No. AP-89-41

By application filed August 7, 1989, Ikard Transportation Service, Inc. (Ikard or applicant), a District of Columbia corporation, seeks a certificate of public convenience and necessity to transport passengers in special operations, round-trip or one-way, between health care facilities in the Metropolitan District, on the one hand, and, on the other, points in the Metropolitan District, restricted to the performance of such operations in vehicles with a manufacturer's designed seating capacity of fifteen persons or less, including the driver. 1/

Pursuant to Order Nos. 3390 and 3417-A, served August 10, and September 28, 1989, respectively, and incorporated herein by reference, a public hearing on this matter was held October 26, 1989. A company witness and six public witnesses testified on applicant's behalf. The application is uncontested.

SUMMARY OF EVIDENCE

Mr. Larry A. Ikard, applicant's president and sole shareholder, testified on applicant's behalf. Mr. Ikard has worked in the transportation business since 1976. He began as a driver's assistant and has held various positions including assistant manager for David C. Pearson trading as E&H Transportation Company (WMATC Carrier No. 53). Mr. Ikard has also worked with P&T Transportation Co., Inc. (WMATC Carrier No. 47); Metro Medicab, Inc. (WMATC Carrier No. 46); and J&B Transportation Company, Inc. (WMATC Carrier No. 45).

The proposed service would be conducted using two 1990 maxi-vans, each equipped with raised roof, "side-mount" hydraulic lift, two-way radio, and five "jump seats." The hydraulic lifts are electric but can be operated manually if required. The vehicles are equipped with rear wheel wheelchair tie-downs on a rail mount and with two-point tie-down belts to secure the front of a wheelchair. The rail mounts allow applicant to accommodate wheelchairs of varying sizes; the

1/ To the extent this application could be construed to include transportation solely within the Commonwealth of Virginia, it was dismissed pursuant to the Compact, Title II, Article XII, Section 1(b) by Order No. 3390.

two-point tie-downs give wheelchair occupants extra security. The seats are hinged, and the vehicles can be configured to accommodate eleven ambulatory persons, four wheelchair occupants, or nine ambulatory persons plus two wheelchair occupants. Because applicant's vehicles will be new, Mr. Ikard does not expect applicant will require a back-up vehicle for breakdowns. However, Mr. Ikard has good working relationships with other certificated carriers and could lease vehicles from them if a breakdown occurred. If this application is granted, Ikard plans to acquire a third vehicle within thirty days of obtaining authority. This third vehicle would be a back-up vehicle.

Applicant intends to conduct a vehicle safety inspection daily. A preventive maintenance regime would be followed every 3,000 miles. Mr. Ikard has arranged to have preventive maintenance and repairs conducted by an automotive repair shop. The vehicles will be garaged in the District of Columbia where they will be registered and inspected.

The proposed service would be offered Monday through Saturday from 6 a.m. to 7 p.m. Mr. Ikard testified that applicant will retain an attorney and an accountant and employ a secretary/receptionist, a dispatcher, and a driver. Mr. Ikard will be a driver. Each driver will be required to have a District of Columbia 31C (chauffeur's) license, a safe driving record, and familiarity with the District of Columbia. Initially, Mr. Ikard will train drivers himself regarding handling of clients and will supervise drivers for one month regarding safe driving practices. Mr. Ikard is investigating more formal training programs available through consultants to small companies such as applicant.

Ikard's proposed tariff shows the following per capita rates:

	<u>Medicaid</u>	<u>Non-Medicaid</u>
Round-trip	\$43.00	\$55.00
One-way	25.00	35.00
Cancellation	7.50	7.50
Each additional man <u>2/</u>	10.00	10.00

Each caretaker for passenger: one-third of charge for passenger
 \$1.50 per loaded mile beyond Capital Beltway
 Waiting time: \$5 per 15 minute period.

At hearing, Ikard amended its proposed tariff as it would apply to Medicaid participants, as follows: \$35 per person round trip, \$25 per person one-way, and \$5 for extra manpower each way. The intent of this amendment was to make Ikard's "Medicaid rates" consistent with the rates prescribed by the Commission in Order No. 3415, served

2/ This charge appears to be for extra manpower provided by applicant and required for the safe handling of a passenger, as distinguished from a "caretaker" accompanying the passenger. Applicant is hereby directed to define in its tariff "additional man" and "caretaker."

September 26, 1989, and applicable to transportation of participants in the District of Columbia's Medicaid program administered by the Department of Human Services.

With its application Ikard submitted a balance sheet as of August 4, 1989, showing total assets of \$71,007 consisting of \$13,500 cash; \$52,360 vans; \$4,047 radio equipment; and \$1,100 office equipment. The balance sheet shows current liabilities of \$30,480 (consisting of an \$18,000 loan from a family member, a "van loan" of \$10,800, and a "radio equipment loan" of \$1,680); long-term liabilities of \$40,040 (consisting of a van loan of \$38,360 and a radio loan of \$1,680); and equity of \$487. After accounting for liabilities and equity, applicant's balance sheet showed "liabilities and net worth" of \$71,007. At hearing Mr. Ikard testified that equity now stands at \$1,000 with the additional \$503 reflected as cash. The "loan from family member" is a loan from applicant's treasurer to provide Ikard necessary initial operating capital. Vehicles and radios have been financed through the dealers from which the items were obtained. For the first twelve months of operations, Ikard projects revenues of \$131,040 and expenses, including total repayment of the loan from family member, of \$99,280, resulting in net profit, before allowance for depreciation and taxes, of \$31,760. No salaries are shown for a dispatcher or a secretary/receptionist. Revenue was projected assuming six round trips a day, six days a week, for each of two vans, at \$35 a trip, applicant's round trip Medicaid rate.

Mr. Ikard is familiar with the Compact and the Commission's rules and regulations, including its safety regulations, and intends to assure applicant's compliance with them.

Dr. Hazel Harper testified in support of the application. Dr. Harper is a dentist whose practice is located in northwest Washington. Her dental practice is part of a multi-specialty group. Each day between four and seven dentists deliver service to between 36 and 90 persons. Between two and five percent of these persons require transportation of the type applicant proposes. The group's clients come from throughout the Metropolitan District and include both non-ambulatory and ambulatory persons. Persons who participate in various Medicaid programs and those who do not are served by the group. Dr. Harper's experience has shown that, especially for the elderly and the mentally retarded, lack of transportation is a primary barrier to health care access. Dr. Harper does not currently have available a service that she believes is of high enough quality to recommend to her clients. However, she is familiar with Ikard's proposed service and, if this application is granted, would refer clients who need transportation of this type to Ikard.

Mr. Anthony Shepherd, medical records secretary at BMA Capitol Hill Dialysis Center (BMA), testified on its behalf in support of the application. BMA is a dialysis center with 26 chairs, and it serves between 36 and 42 persons a day. Seventy percent of BMA's patients are Medicaid participants, and approximately 50 percent of its clients are non-ambulatory. The majority of BMA's patients come from the District of Columbia and Maryland including Montgomery and Prince George's

Counties. However, BMA occasionally has clients who reside in Virginia. Mr. Shepherd's duties include arranging transportation for BMA's clients, and, if the application is granted, BMA would use Ikard's service.

Ms. Evelyn Nicholson, a licensed social worker with Family and Child Service, Columbia Senior Center (Columbia), testified on its behalf in support of the application. Columbia is a multi-service center located in northwest Washington. Although Columbia provides a number of social services to persons of all ages, Ms. Nicholson and the Columbia location she represents deal specifically with the elderly. Ms. Nicholson's duties include making medical appointments and arranging transportation to the appointments. Ms. Nicholson's current case load consists of 40 persons, 35 of whom are Medicaid participants. The case load includes both ambulatory and non-ambulatory persons. All 40 persons require transportation to medical appointments, and Ms. Nicholson arranges that transportation. In general Ms. Nicholson's clients live in and use medical facilities located in the District of Columbia. Residence and/or use of health care facilities in those parts of the Metropolitan District located outside the District of Columbia is possible. If this application is granted, Ms. Nicholson would use Ikard's service.

Ms. Linda Pope, a registered nurse with the District of Columbia Ambulatory Health Care Administration, Arthur Capper Neighborhood Health Center (Capper), testified on its behalf. Capper is located in southeast Washington and provides comprehensive medical and dental services. On average, 17 persons a day use Capper's medical clinic. Capper also has OB-GYN, pediatric, and dental clinics. Only residents of the District of Columbia may use Capper's services. Persons using Capper include those who are non-ambulatory. Some are participants in the District of Columbia Medicaid program; others pay through Medicare or private insurance. Capper employs a social worker who, among other duties, arranges transportation for patients as needed. Transportation is required between Capper and patients' homes and, where referrals have been made, other health care facilities, all within the District of Columbia.

Ms. Patricia Barbour, transportation coordinator for the National Rehabilitation Hospital (the Hospital), testified on its behalf in support of the application. Ms. Barbour's duties include arranging transportation for the Hospital's patients. The Hospital specializes in the rehabilitation of persons who have been severely injured by trauma, eg., paraplegics and stroke victims. Because of the Hospital's specialized nature, patients come from throughout the Metropolitan District (and United States). Approximately 80 percent of the Hospital's patients are non-ambulatory. Ms. Barbour arranges transportation for between 20 and 40 persons a day. Payment for the transportation is made in a variety of ways including DC Medicaid, Maryland Medical Assistance, and private insurance. Residents of the Metropolitan District who are patients of the Hospital require transportation between their homes and health care facilities throughout the Metropolitan District, on the one hand, and, on the other, the Hospital. Patients of the Hospital who reside outside the

Metropolitan District require transportation between hotels and other locations throughout the Metropolitan District, including airports located in the Metropolitan District, on the one hand, and, on the other, the Hospital. If this application is granted, the Hospital would use Ikard's service.

Mr. Calvin Kearney, deputy chief of program operations and research for the District of Columbia Department of Human Services, Office of Health Care Financing (OHCF), testified in response to a subpoena issued by the Commission at applicant's request. OHCF is responsible for the day-to-day operations of the District of Columbia's Medicaid program. The transportation portion of that program is under Mr. Kearney's direct supervision. The Medicaid program provides transportation for medical appointments to all participants who need it. The transportation is provided in the form of bus tokens, cab vouchers, or, for those persons who are non-ambulatory -- or who although ambulatory are so frail that they cannot use taxis -- in wheelchair-equipped vans. The van transportation portion of the Medicaid program requires that medical personnel call the program's transportation authorization line to arrange transportation for a qualifying person in need of the transportation. The caller is given an authorization number and the name of a carrier to call to provide the transportation. Once the person has been transported the bill for that service is sent to OHCF. In effect, OHCF both arranges and pays for van transportation of qualifying persons. Mr. Kearney testified that he was pleased with the equipment that Ikard proposed to offer. In Mr. Kearney's opinion, Ikard meets OHCF'S basic requirements for transportation of non-ambulatory persons. If this application is granted, OHCF would enroll Ikard as a DC Medicaid carrier upon its receiving a certificate of public convenience and necessity. According to Mr. Kearney, OHCF has no opposition to any carrier providing wheelchair service to Medicaid participants if that carrier is duly certificated by the Commission. Mr. Kearney could not testify precisely as to the number of Medicaid participants requiring transportation of the type proposed by applicant as that issue is currently being examined by OHCF. The witness offered a tentative figure of 120 to 125 persons a day.

DISCUSSION AND CONCLUSIONS

In determining whether to grant a certificate of public convenience and necessity, the Commission looks to the standards enunciated at Title II, Article XII, Section 4(b) of the Compact as follows:

. . . the Commission shall issue a certificate . . . 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 the [Compact] 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

Based on a review of the entire record in this case, the Commission finds applicant fit, willing and able to provide the proposed service and to conform to the Compact and the Commission's rules and regulations.

Applicant is a newly-formed corporation established for the purpose of providing passenger transportation, including but not limited to, handicapped persons. Its president has years of experience working with WMATC-certificated carriers that perform service similar to that for which Ikard here seeks authority. Although Ikard is thinly capitalized, the record shows financing from an officer's loan in combination with secured credit adequate to begin operations. These loans in combination with projected cash flow from the business should support the first year of WMATC operations. Applicant will begin operating with two new vehicles specially equipped for use by wheelchair occupants, yet adaptable for use by ambulatory passengers. The vehicles will be subject to regular preventive maintenance and daily safety checks. Drivers will be licensed, have clean driving records, and undergo safety training. Ikard's president, as a result of his work with WMATC-certificated carriers, is familiar with the Compact and the Commission's rules and regulations and willing and able to assure applicant's compliance with them.

The Commission further finds that applicant has satisfied its burden of proving that the public convenience and necessity require the proposed service under the standards enunciated in Pan-American Bus Lines Operation (1 MCC 190, 203 [1936]) et seq. Applicant's public witnesses included representatives of a private dental practice, a dialysis center, a senior citizen service agency, a community health center, a specialized hospital, and the District of Columbia Medicaid program. The representative from Medicaid expressed enthusiasm for applicant's vehicles and a willingness to add Ikard to the list of carriers used by DC Medicaid on a regular basis. The remaining witnesses expressed a need for transportation for their clients between health care facilities in the Metropolitan District, on the one hand, and, on the other, points in the Metropolitan District. All five health care facilities serve both ambulatory and non-ambulatory persons. Clients of the facilities include participants in various medical assistance programs including DC Medicaid. It is clear that, if the application is granted, this client mix would use Ikard's service as proposed. Based on the testimony of these witnesses, the Commission finds a public need for the proposed service. The evidence supports the conclusion that the public purpose found to exist has not been and will not be served as well by existing carriers. No protestants appeared at hearing, and the Commission finds that applicant's proposed service will not materially affect the operations of existing carriers.

Lastly, it is noted that applicant's service is intended to accommodate ambulatory and non-ambulatory passengers, with the transportation of the latter constituting an integral part of its proposal. In the circumstances, an appropriate restriction will be imposed in the authority granted to assure the provision by applicant of service in vehicles specially equipped for the safe transportation of non-ambulatory passengers.

THEREFORE, IT IS ORDERED:

1. That Ikard Transportation Service, Inc., is hereby conditionally granted authority, contingent upon timely compliance with the terms of this order, to transport passengers in special operations, over irregular routes, between health care facilities in the Metropolitan District, on the one hand, and, on the other, points in the Metropolitan District, RESTRICTED (1) to transportation in vehicles with a manufacturer's designed seating capacity of 15 persons or less, including the driver, (2) to transportation in vehicles specially equipped with lifts or ramps and mechanical devices for securing wheelchairs and their occupants in transit, and (3) against transportation solely within the Commonwealth of Virginia.

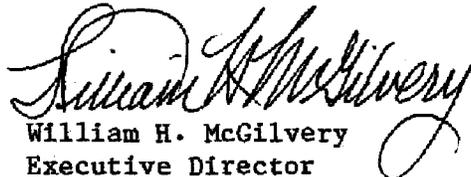
2. That the application, except to the extent granted, is denied.

3. That Ikard Transportation Service, Inc., is hereby directed to file with the Commission the following: (a) three copies of its WMATC Tariff No. 1 revised as directed in this order and amended at hearing; (b) an equipment list specifying make, year, model, serial number, vehicle number (if any), seating capacity, and license plate number (with jurisdiction) for each vehicle to be used in revenue operations; (c) evidence of ownership or a lease in conformance with Commission Regulation No. 69 for each vehicle to be used in revenue operations; (d) a certificate of insurance in accordance with Commission Regulation No. 62 covering each vehicle to be used in revenue operations; and (e) an affidavit of identification of vehicles pursuant to Commission Regulation No. 67 covering each vehicle to be used in revenue operations and for which purpose WMATC No. 164 is hereby assigned.

4. That unless Ikard Transportation Service, Inc., complies with the requirements of the preceding paragraph within 30 days of the service date of this order, or such additional time as the Commission may direct or allow, the grant of authority herein shall be void, and the application shall stand denied in its entirety effective upon the expiration of the said compliance time.

5. That upon compliance with the conditions set forth in the preceding paragraphs, a certificate of public convenience and necessity will be issued to Ikard Transportation Service, Inc., in the form and as worded in the Appendix to this order.

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


William H. McGilvery
Executive Director

NO. 164

IKARD TRANSPORTATION SERVICE, INC.

By Order No. 3454 of the Washington Metropolitan Area Transit Commission issued January 19, 1990;

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. 3454;

THEREFORE, IT IS ORDERED that the said carrier be, and it 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:

SPECIAL OPERATIONS, between health care facilities in the Metropolitan District, on the one hand, and, on the other, points in the Metropolitan District,

RESTRICTED (1) to vehicles having a manufacturer's designed seating capacity of 15 persons or less, including the driver, (2) to transportation in vehicles specially equipped with lifts or ramps and mechanical devices for securing wheelchairs and their occupants in transit, and (3) against transportation 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.