

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 3558

IN THE MATTER OF:

Served September 17, 1990

Application of RAPIDTRANS, INC.,)
for Temporary Authority to Conduct)
Charter Operations Pursuant to)
Contract with D.C. CHARTERED HEALTH)
PLAN, INC.)

Case No. AP-90-28

By application filed July 25, 1990, and completed July 30, 1990, RAPIDTRANS, Inc. (RTI or applicant), seeks temporary authority to transport passengers, together with mail and express in the same vehicles as passengers, in charter operations between health care facilities in Washington, DC, on the one hand, and, on the other, points in Washington, DC, restricted to transportation for the account of D.C. Chartered Health Plan, Inc. (Chartered). 1/

Order No. 3535, served August 3, 1990, generally described the evidence submitted with the application, and that order is incorporated herein by reference. Order No. 3535 served as publication of notice and directed that protests, if any, be filed in accordance with Commission Rule No. 14 no later than Monday, August 13, 1990. Order No. 3535 further directed that any protest contain or be accompanied by all evidence and legal argument on which protestant would rely.

On August 13, 1990, a protest was filed jointly by J&B Transportation Co., Inc. (WMATC No. 45); Metro Medicab, Inc. (WMATC No. 46); P&T Transportation Co., Inc. (WMATC No. 47); Otis F. Smith trading as Speedy Transportation (WMATC No. 48); Ellis B. Harrison, Sr. trading as Area Transportation Company (WMATC No. 49) Henry L. Epps, Jr. (WMATC No. 51); Noral Harvey trading as Havey's Medivan (WMATC No. 52); David C. Pearson trading as E&H Transportation Company (WMATC No. 53); Damon's Transportation Company, Inc. (WMATC No. 60); William C. Dye trading as W&D Transportation (WMATC No. 61); Mercy Ambulette Services, Inc. (WMATC No. 149); and Ikard Transportation Service, Inc. (WMATC No. 164). The joint protest goes to D.C. Medicaid participation only. Protestants allege that "existing companies" are currently working at between 60 and 70 percent capacity and that protestants have at least 10 vans that are not being utilized at all.

Title II, Article XII, Section 4(d)(3) of the Compact provides that the Commission may, in its discretion, grant an application for temporary authority, without hearings or other proceedings, if it finds that there is an immediate and urgent need for the service proposed by the applicant and that no other carrier service is capable of meeting that need. Fitness of the applicant is also required. See Application

1/ RTI is a wholly-owned subsidiary of Chartered. All of RTI's debt and equity are held by Chartered.

of Suburban Transit Company for Temporary Authority to Serve the Capital Centre, Order No. 1643, served January 24, 1977; Application of American Coach Lines, Inc., for Declaratory Order or, in the Alternative, Temporary Authority to Conduct Charter Operations Between Points in the Metropolitan District, Order No. 2738, served July 22, 1985. See also Order Nos. 2440, 2448, 2864, and 3221, served July 22, 1983; August 10, 1983; May 23, 1986; and August 23, 1988, respectively.

After thoroughly considering the entire record in this matter, the Commission finds that there is no other carrier capable of meeting the need for the proposed service. None of the protestants is authorized to provide charter transportation and, thus, none is legally capable of providing the service at issue in this application. In fact, seven of the protestants are authorized to transport only non-ambulatory persons, service for which Chartered needs no additional carrier. Moreover, protestants' allegations are unsupported by evidence or legal argument, and the protest itself, which is not notarized, carries no evidentiary weight. For these reasons the Commission finds that there is no duly authorized carrier capable of meeting the need for the service proposed by applicant. 2/

It is further found, based on the evidence of record as described in Order No. 3535, that there is an immediate and urgent need for the service described in this application and that applicant is fit to provide that service. With regard to RTI's financial fitness, it is noted that applicant's ability to provide service is dependent on its cash flow. This would be insufficient for a grant of a certificate of public convenience and necessity but adequate to this limited and temporary grant.

THEREFORE, IT IS ORDERED:

1. That RAPIDTRANS, Inc., is hereby conditionally granted a maximum of 180 days temporary authority, contingent upon timely compliance with the terms of this order, to transport passengers, together with mail and express in the same vehicles as passengers, in

2/ Order No. 3517, served June 11, 1990, granted William C. Dye trading as W&D Transportation conditional temporary authority identical to that which RTI seeks by means of this application. Mr. Dye never fully complied with the requirements of Order No. 3517. Moreover, on August 17, 1990, Chartered notified the Commission, in writing, that its service contract with W&D had been cancelled pursuant to its terms. On August 20, 1990, Mr. Dye responded to Chartered's notification of cancellation. Mr. Dye confirmed that his contract with Chartered was terminated July 31, 1990, and asserted ". . . that under the overall operation of the contract we gave more than was required." Mr. Dye's letter further notes that Chartered has contracted to pay RTI a higher rate than that which it was willing to pay him.

charter operations between health care facilities in Washington, DC, on the one hand, and, on the other, points in Washington, DC, restricted to transportation for the account of D.C. Chartered Health Plan, Inc.


2. That RAPIDTRANS, Inc., is hereby directed, no later than 30 days from the service date of this order (a) to identify its vehicles in accordance with Commission Regulation No. 67-03; (b) to file an affidavit of compliance with Commission Regulation No. 67-03; (c) to file three copies of its WMATC Temporary Tariff No. AP-90-28; (d) to file an equipment list stating make, model, serial number, vehicle number (if any), seating capacity, and license plate number (with jurisdiction) for all vehicles to be used in revenue operations; (e) to file evidence of ownership or lease(s), as appropriate, for all vehicles to be used in revenue operations; and (f) to file a certificate of insurance in conformance with Commission Regulation No. 62 covering all vehicles to be used in revenue operations.

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

4. That the temporary authority granted herein shall expire March 16, 1991, unless otherwise ordered by the Commission.

5. That unless RAPIDTRANS, Inc., complies with the requirements of this order within 30 days from date of issuance or such additional time as the Commission may direct or allow, the grant of authority contained herein shall be void, and this application shall stand denied in its entirety, effective upon the expiration of the said compliance time.

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


William H. McGilvery
Executive Director

