

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 3583

IN THE MATTER OF:

Served November 7, 1990

Application of ATE MANAGEMENT AND )  
SERVICE COMPANY, INC., for an )  
Expanded Certificate -- Charter )  
and Special Operations )

Case No. AP-90-25

By application filed June 27, 1990, and restrictively amended at public hearing held August 16, 1990, ATE Management and Service Company, Inc. (ATE or applicant), seeks a certificate of public convenience and necessity to transport passengers in charter operations between points in the Metropolitan District, restricted to transportation for the accounts of Fairfax County, VA; Arlington County, VA; Montgomery County, MD; and the Village of Friendship Heights, MD, and further restricted to transportation in vehicles having a manufacturer's designed seating capacity of 29 persons or less (including the driver). 1/

A public hearing on the matter was held August 16, 1990, pursuant to Order No. 3526, served July 10, 1990, and incorporated herein by reference. One operating witness testified on applicant's behalf; four public witnesses testified in support of the application. American Coach Lines, Inc., a Virginia corporation (ACL), timely protested the application. However, at the outset of the hearing, ACL withdrew its protest.

SUMMARY OF EVIDENCE

Mr. Richard Clair is ATE's senior vice president, transit contracting division. ATE is a Delaware corporation having its headquarters in Cincinnati, OH. ATE was established in 1969 for the purpose of providing professional management services to public transit systems. In 1984 the transit contracting division was created to provide passenger transportation services to the public sector on a "turnkey" basis. According to Mr. Clair, ATE is a wholly-owned subsidiary of Ryder System, Inc. (Ryder).

ATE currently provides shuttle service in the Crystal City area of Arlington, VA, for the County of Arlington (Arlington). That service is performed weekdays from 6:30 a.m. to 6:30 p.m., using trolley replicas owned by Arlington. For the County of Fairfax (Fairfax), ATE transports senior citizens and developmentally disabled

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1/ To the extent this application could be interpreted 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. 3526.

and "other handicap categories of passengers" participating in Fairfax's rehabilitation and education programs. Pursuant to WMATC Certificate No. 157, ATE transports passengers over specified routes for Montgomery County (the County) and runs a shuttle system for the Friendship Heights Village Council (the Council). Mr. Clair testified that ATE had committed itself to seeking the type of authority here under consideration for these governmental entities.

ATE proposes to respond to specific requests by the four government accounts "to move pre-formed groups or to provide transportation at publicly sponsored events." Applicant proposes to charge \$47.50 per hour of service, including "deadhead time," with a two-hour minimum. The proposed operations would be performed using 47 vehicles seating between four 2/ and 22 persons. Approximately 43 of these vehicles seat 12 or more persons. All vehicles would be owned by ATE; many would be equipped to transport wheelchair-bound passengers. Mr. Clair testified that although ATE is financially able to acquire it, he does not believe that additional equipment will be necessary to perform the proposed service. ATE's vehicles would be garaged and maintained in Gaithersburg, MD, and Lorton, VA. ATE has contracted with Ryder for maintenance. ATE's vehicles would be inspected for preventive maintenance purposes at 5,000-, 20,000-, and 40,000-mile intervals. The 5,000-mile check includes fluid changes, brake examination, and inspection of all safety equipment. The objective of the 40,000-mile inspection is to bring all operating components within 95 percent of their operating profile. Drivers inspect vehicles before each trip according to a three-part pre-trip inspection scheme. If the driver discovers a defect, the vehicle is either repaired before going on the road or is replaced by an alternate, acceptable "back up" vehicle. ATE's drivers are required to have appropriate licenses, no more than two moving violations or two chargeable accidents over a five-year period, and three verifiable employment records. In addition, every driver must complete a medical examination and drug and alcohol screen as prescribed by the United States Department of Transportation. At a minimum, new drivers undergo an eighty-hour training program.

ATE's balance sheet as of December 31, 1989, shows current assets of \$14,108,058; fixed assets after allowance for depreciation of \$11,811,773; and other assets of \$13,095,540, including goodwill in excess of \$9,000,000. Current liabilities of \$6,090,491; long-term liabilities of \$12,129,732 (including \$9,624,888 in inter-company payables used to finance equipment); and equity of \$20,795,148 are listed. Applicant's operating statement for the 12 months ended December 31, 1989, shows \$770,865 in WMATC operating income; \$62,482,290 in other operating income; and \$62,981,216 in operating expenses, including depreciation and taxes. During the first nine months of operations proposed as amended, ATE expects to generate income of \$5,875 and incur operating expenses, including depreciation and taxes, of \$5,581.

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2/ See Order No. 2559, served May 24, 1984.

Mr. Clair testified that ATE is currently in compliance with the Commission's rules and regulations and that he would assure ATE's continued compliance.

Ms. Leslie Strathmann, village manager for Friendship Heights Village Council, testified on behalf of the Council in support of the application. ATE provides shuttle bus service available to approximately 5,000 residents of the Village of Friendship Heights (the Village). The service is provided six days a week between 7 a.m. and 7 p.m., and transports residents between a series of apartment complexes, a shopping area, and the Metro. Ms. Strathmann testified that ATE has provided this service in an excellent manner. According to Ms. Strathmann, at the time the Council selected ATE to provide shuttle service for the Village, ATE agreed to seek charter authority to serve the Council. The Council maintains a community center and requires transportation for residents of the Village to ". . . art galleries, theaters, concerts, recreational activities of that sort" in Washington, DC, and possibly Montgomery County, MD. The Council would pay ATE for the transportation. The Council wants ATE to provide any charter service that it needs throughout the Metropolitan District. Service would be required approximately six times a year. Ms. Strathmann testified that a 28-passenger vehicle would be adequate to the Council's needs.

Mr. Marc D. Atz, section chief for service development and promotion, Division of Transit Services, Department of Transportation of Montgomery County, testified in support of the application on the County's behalf. Pursuant to WMATC Certificate No. 157, ATE provides service for the County six days a week over 11 fixed routes plus midday and Saturday service over some additional routes. These are low ridership routes located wholly within Montgomery County, MD. Mr. Atz has found ATE to offer good service. Mr. Atz testified that from the outset of the County's dealings with ATE, it was contemplated that ATE would seek charter authority from the Commission in order to transport pre-formed groups for the County. The County requires such service occasionally ("five to six times a year at most") between points in the Metropolitan District. Most travel is wholly within Montgomery County, MD. Transportation between Montgomery County, MD, and the District of Columbia might also be required. Mr. Atz testified that a 28-passenger vehicle would meet the County's needs in this regard. The proposed charter rate has been agreed to by the County and would be paid pursuant to its existing contractual relationship with ATE.

Mr. James R. Hamre, transit engineer for the County of Arlington's Traffic Engineering Division, Department of Public Works, testified on Arlington's behalf in support of the application. ATE operates a passenger shuttle service in the Crystal City area of Arlington as described by Mr. Clair. At the time ATE was retained to perform this service, it was agreed that ATE would seek any necessary authority to perform general charter service for Arlington County in the Metropolitan District. Arlington requires transportation between

Arlington County, VA, on the one hand, and, on the other, tourist attractions, art centers, museums, and medical facilities in the District of Columbia and, possibly, Montgomery and Prince George's Counties, MD. Demand would be generated by Arlington's own programs. The witness estimated that Arlington will require ATE's service between six and 20 times a year. Vehicles having a manufacturer's designed seating capacity of 28 passengers would be satisfactory for that transportation. Arlington would pay for all such service.

Mr. Steven R. Yaffe, chief of planning for Fairfax County's Office of Human Services, Transportation Services Branch, testified on Fairfax's behalf in support of the application. ATE operates FASTRAN, a service offered by Fairfax to transport transportation-disadvantaged individuals who are clients of various Fairfax agencies to program sites throughout Fairfax County. As an adjunct to this service, ATE, at the outset of its contractual relationship with Fairfax, agreed to obtain any charter authority it might need within the Metropolitan District. Fairfax requires transportation of pre-formed groups in charter service between Fairfax and points throughout the Metropolitan District. Mr. Yaffe testified that the service required is ". . . frequent . . . well over 20 [trips] a year," and involves transportation to cultural and recreational activities for groups of senior citizens, low income children, and persons with physical or mental impairments. Transportation in vehicles having a manufacturer's designed seating capacity of 28 passengers would be suitable to Fairfax's transportation needs in the Metropolitan District, and Fairfax is willing to pay the rates applicant proposes.

#### DISCUSSION AND CONCLUSIONS

This matter is governed by Title II, Article XII, Section 4(b) of the Compact which requires that an applicant for a certificate of public convenience and necessity prove that it is fit, willing, and able to perform the proposed transportation properly and to conform to the provisions of the Compact and the Commission's rules, regulations, and requirements thereunder. Section 4(b) further requires that an applicant prove the proposed service is required by the public convenience and necessity. After reviewing the entire record in this case, the Commission finds that ATE has met its statutory burden. Accordingly, the application shall be granted.

ATE is an established carrier experienced in providing commuter-type transportation. Applicant currently provides such service for Arlington and Fairfax Counties, VA; Montgomery County, MD; and the Village of Friendship Heights, MD, pursuant to contract with Friendship Heights Village Council. As an adjunct thereto, it seeks the capability of providing charter service throughout the Metropolitan District when required by these same accounts. 2/ The record

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2/ It would appear that, for proposed transportation, Friendship Heights Village Council and the Village of Friendship Heights are interchangeable, and they have been so treated in this order.

indicates that ATE has more than enough equipment to provide the proposed service. Vehicles are appropriately equipped, adequately maintained and repaired, and inspected before each use. ATE's drivers are properly licensed, trained, and monitored. ATE has demonstrated that it can operate within the Commission's regulatory framework. Applicant is a financially healthy company, and there is no indication that the proposed operations would be anything other than profitable.

A representative of each of the accounts ATE seeks authority to serve testified in support of the application. All testified to a need for the proposed transportation. The required transportation differs and, thus, is specific to each of the four accounts. The witnesses considered the required charter transportation to be an adjunct to the service ATE currently provides. This fact, the limited nature of this application and the authority contained in WMATC Certificate No. 157 have been considered when reviewing the extent of the need to which the witnesses testified.

THEREFORE, IT IS ORDERED:

1. That ATE Management and Service Company, Inc., is hereby conditionally granted, contingent upon timely compliance with the terms of this order, authority to transport passengers, over irregular routes, in charter operations between points in the Metropolitan District, restricted to transportation for the accounts of Fairfax County, VA; Arlington County, VA; Montgomery County, MD; and Friendship Heights Village Council, and further restricted to transportation in vehicles having a manufacturer's designed seating capacity of 29 passengers or less (including the driver).

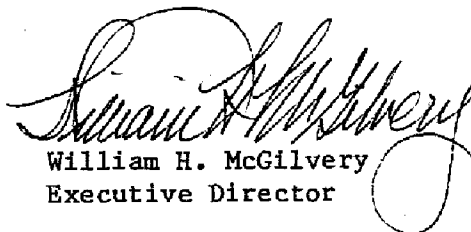
2. That in all other respects the application is denied.

3. That ATE Management and Service Company, Inc., is hereby directed within 30 days from the issuance of this order (a) to identify all vehicles to be used in revenue operations in accordance with Commission Regulation No. 67 for which purpose WMATC No. 157 has been previously assigned; (b) to file an affidavit of identification of vehicles in accordance with Commission Regulation No. 67; (c) to file an equipment list indicating make, model, serial number, vehicle number, and license plate number (with jurisdiction) for each vehicle to be used in revenue operations; (d) to file three copies of its WMATC Tariff No. 3 as proposed herein; and (e) to file a certificate of insurance in accordance with Commission Regulation No. 62.

4. That unless ATE Management and Service Company, 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 contained herein shall be void, and the application shall stand denied in its entirety upon the expiration of the said compliance time.

5. That upon timely compliance with the terms of this order, WMATC Certificate No. 157 shall be reissued 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. 157

ATE MANAGEMENT AND SERVICE COMPANY, INC.

By Order Nos. 3408, 3545, and 3583 of the Washington Metropolitan Area Transit Commission issued September 18, 1989; August 20, 1990; and November 7, 1990, respectively;

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 Nos. 3408, 3545, and 3583;

THEREFORE, IT IS ORDERED that the said carrier 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

PART A

CHARTER OPERATIONS pursuant to contract with Montgomery County, MD, between points in Montgomery County, MD, pursuant to contract dated March 6, 1989, together with any continuous extensions, amendments, or modifications thereto.

PART B

CHARTER OPERATIONS pursuant to contract with Friendship Heights Village Council, Montgomery County, MD, pursuant to contract dated February 15, 1990, together with any continuous extensions, amendments, or modifications thereto.

PART C

CHARTER OPERATIONS between points in the Metropolitan District, restricted (1) to transportation for the accounts of Fairfax County, VA; Arlington County, VA; Montgomery County, MD; and Friendship Heights Village

Council, Montgomery County, MD; (2) to transportation in vehicles having a manufacturer's designed seating capacity of 29 persons or less (including the driver); 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 this certificate.