

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 5074

IN THE MATTER OF:

Served May 5, 1997

Application of ALL AMERICA BUS &)
LIMOUSINE SERVICE, INC., for a)
Certificate of Authority --)
Irregular Route Operations)

Case No. AP-97-14

Applicant seeks a certificate of authority to transport passengers, together with mail, express and baggage in the same vehicles as passengers, in irregular route operations between points in the Metropolitan District. The application is unopposed.

The Compact, Title II, Article XI, Section 7(a), authorizes the Commission to issue a certificate of authority if it finds that the proposed transportation is consistent with the public interest and that the applicant is fit, willing, and able to perform the proposed transportation properly, conform to the provisions of the Compact, and conform to the rules, regulations, and requirements of the Commission.

Applicant proposes commencing operations with one minibus. Applicant's proposed tariff contains an hourly charter rate and airport transfer rates.

Applicant filed a balance sheet as of February 28, 1997, showing assets of \$93,000; liabilities of \$92,000; and equity of \$1,000. Applicant's projected operating statement for the first twelve months of WMATC operations shows revenue of \$96,500; costs and expenses of \$68,975; and net income of \$27,525. Although applicant's debt/equity ratio is high, the Commission has found highly leveraged carriers financially fit where, as here, the shareholders are the principal source of debt.¹

Applicant certifies it has access to, is familiar with, and will comply with the Compact and the Commission's rules and regulations thereunder.

Based on the evidence in this record, the Commission finds that the proposed transportation is consistent with the public interest and that applicant is fit, willing, and able to perform the proposed transportation properly, conform to the provisions of the Compact, and conform to the rules, regulations, and requirements of the Commission.

Because applicant is under common control with America Limousine Service, Inc., which operates limousines in the metropolitan area under a certificate from the Virginia Department of Motor

¹ E.g., In re Double Decker Bus Tours, W.D.C., Inc., No. AP-95-21, Order No. 4642 (Aug. 9, 1995); In re The Airport Shuttle, No. AP-94-22, Order No. 4331 (July 6, 1994).

Vehicles, this case is also governed by Title II, Article XII, Section 3(a)(iii),² which provides that a "carrier or any person controlling, controlled by, or under common control with a carrier shall obtain Commission approval to . . . acquire control of another carrier that operates in the Metropolitan District through ownership of its stock or other means." The Commission may approve such a transaction if it is consistent with the public interest.³ The public interest analysis under Article XII, Section 3, focuses on the acquiring party's fitness, the resulting competitive balance and the interests of affected employees.⁴

Our current finding of applicant's fitness permits an inference of the acquiring party's fitness.⁵ There should be no adverse effect on competition. Each carrier will be operated independently of the other, and the Commission's records show that many other carriers operate in the markets to be served by applicant and its affiliate. Applicant avers that approval of this application will have no effect on the employees of America Limousine Service, Inc.

The Commission finds that the proposed common control is consistent with the public interest.

The record indicates that applicant will share office space with its affiliate. Each carrier is admonished to keep its assets, books and operations completely separate from the other's. Sharing of office space is permissible, but this should not be construed as permission to share revenue vehicles or operating authority.⁶

THEREFORE, IT IS ORDERED:

1. That upon applicant's timely compliance with the requirements of this order, Certificate of Authority No. 389 shall be issued to All America Bus & Limousine Service, Inc., 3166 Ellenwood Drive, Fairfax, VA 22031.

2. That applicant may not transport passengers for hire between points in the Metropolitan District pursuant to this order unless and until a certificate of authority has been issued in accordance with the preceding paragraph.

² In re Executive Coach, Ltd., No. AP-91-12, Order No. 3666 (Apr. 2, 1991); In re George A. Coupe, Bernard Resnick & Executive Limo. Serv., Inc., No. AP-81-23, Order No. 2278 (Nov. 16, 1981).

³ Compact, tit. II, art. XII, § 3(c).

⁴ In re LCG, Inc., t/a Laurel Consulting Group, No. AP-96-63, Order No. 4991 (Jan. 6, 1997).

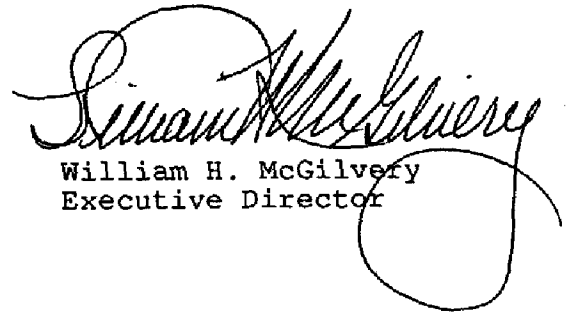
⁵ Id.

⁶ Id.

3. That applicant is hereby directed to file the following documents within thirty days: (a) evidence of insurance pursuant to Commission Regulation No. 58 and Order No. 4203; (b) an original and four copies of a tariff or tariffs in accordance with Commission Regulation No. 55; (c) an equipment list stating the year, make, model, serial number, vehicle number, license plate number (with jurisdiction) and seating capacity of each vehicle to be used in revenue operations; (d) evidence of ownership or a lease as required by Commission Regulation No. 62 for each vehicle to be used in revenue operations; (e) proof of current safety inspection of said vehicle(s) by or on behalf of the United States Department of Transportation, the State of Maryland, the District of Columbia, or the Commonwealth of Virginia; and (f) a notarized affidavit of identification of vehicles pursuant to Commission Regulation No. 61.

4. That the grant of authority herein shall be void and the application shall stand denied upon applicant's failure to timely satisfy the conditions of issuance prescribed herein.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS ALEXANDER, LIGON, AND MILLER:



William H. McGilvery
Executive Director

