



MEMORANDUM

August 24, 2006

TO: Gene Eckhardt, Regulatory Services
Assistant Director, Transportation and Water Section

FROM: Bonnie L. Allen, Regulatory Analyst 

SUBJECT: Application: D-79427 Docket: TC-060318

8/25/06
I agree.


Genie Service Company, Inc.
d/b/a Genie Tour Coaches
4083 West Van Giesen
West Richland, WA 99353

Discussion

On February 23, 2006, Genie Service Company, Inc., (Genie) filed application D-79427 in Docket TC-06318 for extension of Certificate of Public Convenience and Necessity C-1033 to provide passenger transportation service between Walla Walla and Pasco. Genie currently holds authority to provide service between Walla Walla and Seattle and between Seattle and Pullman with service to intermediate points. Genie provided service between Walla Walla and Pasco for 180 days under temporary certificate authority that expired March 23, 2006.

Application D-79427 appeared on the Commission's March 13, 2006, application docket. No one filed a protest or petition to intervene during the 20-day protest period.

Dan Wayne of the Washington State Department of Transportation (WSDOT) filed comments advising that the WSDOT grant agreement with Genie expired June 30, 2006, and would not be renewed or extended. Additional comments filed by Paula Hammond of WSDOT under Docket TC-060177 (Rulemaking to consider rate and ratemaking rules) state that a competitive process of selecting operators to provide intercity bus service is "critical" to their ability to implement the WSDOT new policy direction. Dick Fondahn, General Manager of Valley Transit, a public transportation benefit area serving the urban area surrounding College Place and Walla Walla, also submitted comments under Docket TC-60177 supporting the WSDOT comments. Mr. Fondahn stated that the contract between WSDOT and Genie for subsidy of operations in the Walla Walla to Pasco corridor will soon expire and the renewal will be eligible for competitive proposals. WSDOT might receive more proposals or have more options if the WUTC delays granting permanent route authority to Genie.

WSDOT and Valley Transit are not protesting the application or petitioning to intervene in a hearing on the application. Valley Transit has asked the commission to delay consideration of Genie's application on the probability that a provider, other than the applicant, may at some future date apply for and receive funding from WSDOT to provide the service that Genie is requesting. To date no one has filed an application for authority that overlaps the authority Genie has requested in its application.

In Order M.V.C. No. 2253 the commission addressed the question of denying an application on the basis that an applicant must first enter into an agreement with a local public transit authority (PTBA) as being "tantamount to abdicating responsibility for making determinations under RCW 81.68.040." The order further states that the local PTBA would become a "gatekeeper to the exercise of authority delegated by the Legislature to the Commission."

On May 26, 2006, Mr. Dan Carter, Owner of Genie Service Company, asked that staff delay consideration of his application to give him an opportunity to consider additional local funding options. At that time he stated that he held a federal grant of authority to provide service between Walla Walla and Pasco and agreed to send a copy to the commission.

On August 23, 2006, Mr. Carter asked that his application be processed as an application for certificate to provide intrastate service under his federal grant of authority. He understood that the certificate authority would be limited to service provided under that federal authority.

Under the provisions of WAC 480-30-101 and 49 U.S.C. §13902 the commission will grant an auto transportation company application for certificate consistent with the federal grant of authority and limited to intrastate operations that are conducted together with regularly scheduled interstate operations on the same route.

D-79427 is an uncontested application for certificate to provide intrastate passenger transportation services under a federal grant of authority and therefore no hearing is required.

Recommendation

No hearing is required in this application. The applicant holds federal authority to provide intrastate transportation over an interstate route. Staff finds no issues that would require the Commission to set the application for hearing.

Therefore, I recommend this application be sent to Licensing Staff to process and prepare an order to grant the application without a hearing.

NOTES TO STAFF:

- The certificate authority and order granting the application should reflect the applicant's federal grant of authority and limit the service to that authority.
- Because the federal motor carrier safety administration has already granted this authority no verified support statements are required.
- Under WAC 480-30-256(1) No tariff or time schedule is required for this company's service over the requested route.



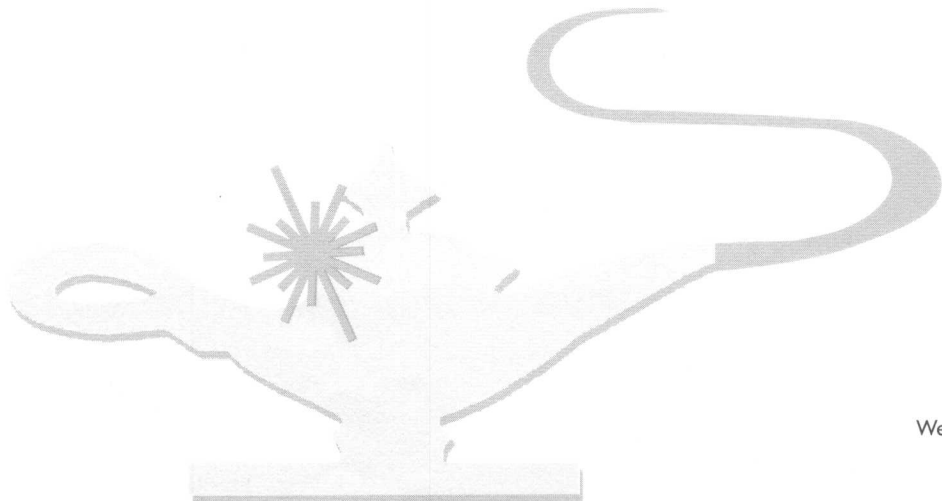
RECEIVED
JUL 24 2006
WASH. UT. & TP. COMM

July 22, 2006

Bonnie,

I have enclosed a copy of operating certificate issued by FMCSA to Genie Service Company, Inc. for your information.

Da Cart



4083 West Van Giesen
West Richland, WA 99353
(509) 967-2902
Fax (509) 967-2964



U.S. Department of Transportation
Federal Motor Carrier Safety Administration

400 7th Street SW
Washington, DC 20590

Service Date

January 06, 2006

CERTIFICATE

MC-315161-C

GENIE SERVICE COMPANY, INC
D/B/A GENIE TOURS
WEST RICHLAND, WA

This Certificate is evidence of the carrier's authority to engage in transportation as a **common carrier of passengers** by motor vehicle in interstate, intrastate and foreign commerce.

This authority will be effective as long as the carrier maintains compliance with the requirements pertaining to insurance coverage for the protection of the public (49 CFR 387) and the designation of agents upon whom process may be served (49 CFR 366). The carrier shall also render reasonably continuous and adequate service to the public. Failure to maintain compliance will constitute sufficient grounds for revocation of this authority.

The transportation service to be performed is described on the reverse side of this document. Authority to transport passengers over regular routes includes authority to serve all intermediate points on these routes, as specified at 49 CFR 356.3.

Angeli Sebastian, Chief
Information Systems Division

NOTE: Carrier is authorized to provide regular-route passenger transportation in intrastate commerce and also must comply with requirements at 49 USC § 13902(b)(5) to establish rates, rules, and practices under applicable State laws.

CONDITION: The carrier is authorized to provide intrastate passenger transportation service under this certificate *only* if the carrier also provides substantial regularly scheduled interstate passenger transportation service on the same route.

TACKING AND JOINDER: Any irregular route authority in this Certificate *may not* be tacked or joined with other irregular route authority unless joinder is specifically authorized. Any *regular* routes authorized in this Certificate *may* be tacked or joined with one another and with other interstate regular route authority you hold, at any common service points, unless joinder is specifically prohibited.

NOTE: Willful and persistent noncompliance with applicable safety fitness regulations as evidenced by a DOT safety fitness rating of "Unsatisfactory" or by other indicators, could result in a proceeding requiring the holder of this certificate or permit to show cause why this authority should not be suspended or revoked.

CPA

Interstate common carrier of passengers over regular routes:

BETWEEN PASCO, WA AND WALLA WALLA, WA: FROM PASCO TO NORTH ON 7TH AVENUE TO WEST BROWN STREET, OVER WEST BROWN STREET ONTO WEST COURT STREET, OVER WEST COURT STREET ONTO NORTH 4TH AVENUE, OVER NORTH 4TH AVENUE TO US HWY 12 EAST, OVER US HWY 12 TO US HWY 395 TO SPOKANE, WA, OVER US HWY 395 TO SPOKANE TO 2ND AVENUE TO CITY CENTER, OVER NORTH 2ND AVENUE TO WEST ALDER STREET, OVER WEST ALDER STREET TO WALLA WALLA, WA, AND RETURN OVER THE SAME ROUTE; SERVING ALL INTERMEDIATE POINTS. NOTE: (1) APPLICANT SEEKS TO PROVIDE REGULAR-ROUTE SERVICE IN INTERSTATE OR FOREIGN COMMERCE AND IN INTRASTATE COMMERCE UNDER 49 U.S.C. 13902 (B) (3) (1996 CODIFICATION) OVER THE SAME ROUTES.