



The Commonwealth of Massachusetts

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DEPARTMENT OF PUBLIC UTILITIES

JUN 8 11 04 AM '82

June 1, 1982

CAMBRIDGE, MASS.

D.P.U. 948

Joint petition of Boston & Middlesex Transportation Company, Inc. (Proposed Transferor), and Winston Airport Services, Inc. (Proposed Transferee), for approval of the Department of Public Utilities to transfer Certificate No. 3669.

APPEARANCES: Arthur M. White, Esq.
Bikofsky, Walker & Tuttle
281 Pleasant Street
Framingham, Massachusetts 01701
FOR: BOSTON & MIDDLESEX TRANSPORTATION, INC.
Transferor

Sydney Leskin, Esq.
Three East 54th Street
New York, New York 10022
FOR: WINSTON AIRPORT SERVICES, INC.
Transferee

Paul E. Healy, Esq.
City Clerk
City Hall
Cambridge, Massachusetts 02139

Proceedings in this matter were brought before the Department of Public Utilities ("Department") by the joint petitioners, Boston & Middlesex Transportation Company, Inc. ("Boston & Middlesex" or "Transferor"), and Winston Airport Services, Inc. ("Winston" or "Transferee"), of 294 Great Road, Acton, Massachusetts, under the provisions of G.L. c. 159A, §7A, as amended, seeking the Department's approval of the transfer and assignment of Certificate No. 3669 dated October 16, 1979, from said Transferor to said Transferee.

A public hearing on this matter was held on December 3, 1981, in an office of the Department in Boston.

The Transferor and the Transferee have entered into a written agreement dated October 28, 1981, under which the Transferee is to acquire all right, title and interest in and to the business of the Transferor under the aforementioned Certificate No. 3669. Upon acquisition of the certificate, it is the purpose and intent of the Transferee to carry on the business in the same manner as it has been conducted in the past by the Transferor, in order to satisfy the requirements of the public for common carrier operations in the area covered by this certificate. It is also the intent of the Transferee to establish and maintain its principal place of business and garaging in Acton, Massachusetts, under the certificate being transferred.

Edward J. Kenney, President of Boston & Middlesex, and Christopher M. Kelly, Vice President of Winston, both appeared and testified in favor of the joint petition.

The joint petitioners submitted into evidence the following six documents: (a) a copy of D.P.U. Certificate No. 3669 dated October 16, 1979 (Exh. 1); (b) a copy of a schedule of routes entitled "The Logan Liner, B&M" serving the Cambridge area (Exh. 2); (c) a copy of the agreement, dated October 28, 1981, between Boston & Middlesex and Winston (Exh. 3); (d) a copy of the Articles of Organization of Winston (Exh. 4); (e) a document entitled "Winston Coach Corporation, Financial Statements, December 31, 1980 and 1979" (Exh. 5); and (f) a document entitled "Winston Limousine Services, Inc., Financial Statements, June 30,

1981" (Exh. 6).

Mr. Kenney testified that Boston & Middlesex operates under authority of a certificate issued in 1976 (D.P.U. No. 3669), which gives it the authority to operate over certain routes in various cities and towns listed in the certificate. He stated that the certificate was originally issued to the Hospital Transportation Service, which was owned by Mr. Kenney, and was transferred to Boston & Middlesex when the name of the corporation was changed. He also testified that at present Boston & Middlesex conducts business activities pursuant to Certificate No. 3669 in the Towns of Lexington, Belmont and Arlington and the Cities of Boston and Cambridge, as indicated in the published schedule (Exh. 2).

Six trips are operated daily by Boston & Middlesex, and stops are made at Smith Street, Lexington, at Arlmont Village, Arlington, in Cambridge at Howard Johnson, Harvard Square and Kendall Square, and at Logan Airport in Boston. All of these routes are authorized by Certificate No. 3669. All passengers are dropped off or picked up at Logan Airport. When operating toward Logan the only discharge of passengers is at Logan. When operating from Logan, passengers can only be discharged, not picked up. Two buses approved by the D.P.U., one a sixteen- and one an eighteen-passenger, operate over these routes. Boston & Middlesex has a leased garage at 276 Great Road, Acton, where the buses are garaged and maintained. There is a telephone at this location

with a 24-hour answering service.

This service has been operating since September, 1981. Mr. Kenney signed an agreement, dated October 28, 1981, which provides for Boston & Middlesex to transfer all the business and all the right, title and interest in the certificate and business conducted thereunder to Winston for a financial consideration of \$8,600 (Exh. 3).

Mr. Christopher M. Kelly, Vice President of Winston, testified that he is also an employee of that company and that he will generally oversee the operations Winston intends to conduct under Certificate No. 3669. Winston Airport Services, Inc., the Transferee, is an affiliate of Winston Coach Corporation of New York and the Winston Limousine Service, also of New York.

Winston Airport Services, Inc. was incorporated to do business in Massachusetts on October 28, 1981. Mr. Kelly stated that Winston is familiar with taking members of the public to and from the airport. Should the transfer be approved, Winston would continue the operation as shown on the Schedule (Exh. 2). The sole stockholder of Winston is Martin Laschever. He further stated that, should the certificate be transferred, the first thing Winston intends to do is to increase the service to the communities currently being served and, shortly thereafter, to expand so as eventually to encompass all of the cities the certificate-holder is entitled to serve. The corporation that is the proposed Transferee also owns Winston Coach Corporation and Winston Limousine Service, and the assets of these other corpora-

tions are available for use in the proposed operation.

It was established that the operation as shown on the schedule, including the City of Cambridge (Exh. 2), may be operated under the authority granted under Certificate No. 3669.^{1/}

After a study of the evidence in this proceeding, we are of the opinion that the proposed transfer is consistent with the public interest. We believe that the Transferee is adequately qualified to carry on the business in question. We also determine that the proposed transfer is made in connection with the bona fide sale to the Transferee of the business of the Transferor, and that the Transferee is fit, willing and able to properly carry on the business.

We find that the granting of the Department's approval of and consent to this petition for said transfer will have no adverse effect upon the environment.

^{1/} The City Clerk of Cambridge, at the direction of the Cambridge City Council, appeared at the hearing. He did not oppose the Petition but called to the Department's attention a pending suit in Middlesex Superior Court involving the Transferor and the City of Cambridge. However, this suit has no bearing upon the present Petition.

Accordingly, after due notice, public hearing and consideration, it is

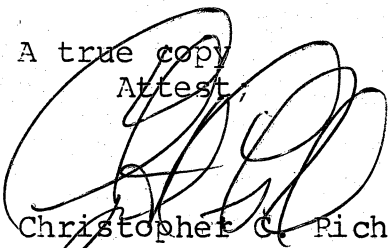
ORDERED: That the Department hereby GRANTS ITS APPROVAL AND CONSENT under the provisions of G.L.c. 159A, § 7A, as amended, to the transfer and assignment of Certificate No. 3669 issued by the Department on October 16, 1979, from Boston and Middlesex Transportation Company, Inc. (Transferor), to Winston Airport Services, Inc. (Transferee), of Acton.

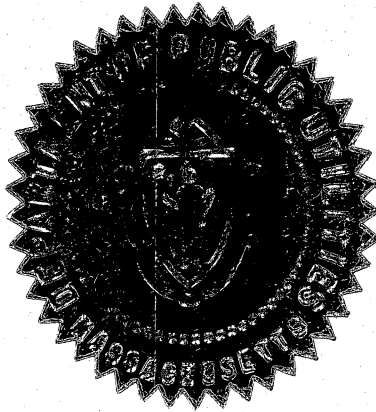
By Order of the Department,

/s/ JON N. BONSALL

Jon N. Bonsall
Chairman

A true copy
Attest,


Christopher C. Rich
Secretary



Appeal as to matters of law from any final decision, order or ruling of the Commission may be taken to the Supreme Judicial Court by an aggrieved party in interest by the filing of a written petition praying that the Order of the Commission be modified or set aside in whole or in part.

Such petition for appeal shall be filed with the Secretary of the Commission within twenty days after the date of service of the decision, order or ruling of the Commission, or within such further time as the Commission may allow upon request filed prior to the expiration of twenty days after the date of service of said decision, order or ruling. Within ten days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court sitting in Suffolk County by filing a copy thereof with the Clerk of said Court. (Sec. 5, Chapter 25, G.L. Ter. Ed., as most recently amended by Chapter 485 of the Acts of 1971).

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S-474

Comm. from Paul E. Healy, City Clerk, transmitting a copy of the minutes of a hearing held by the D.P.U. on December 3, 1981 Re: joint petition of Boston & Middlesex Trans. Co., Inc. and Winston Airport Services, Inc. for the approval of said dept. to transfer Certificate No. 3669.

In City Council,

~~June 14, 1982~~

June 21, 1982

6/14/82

- Placed on File -