

**Testimony Before**  
**Subcommittee on Energy Policy, Natural Resources, and**  
**Regulatory Affairs**

**Hearing On**

**How Can We Maximize Private Sector**  
**Participation in Transportation? Part II**

**By**

**OLETA COACH LINES, INC.**

Oleta Coach Lines, Inc., is a minority family owned and operated private bus operator. My father, Howard W. Smith, Sr., founded the company, in 1986 for the purpose of rendering a service to those who deserve to be treated with a taste of love.

In late 2000, my father and I discussed with the community the need to connect Virginia's Historic Triangle via a fixed route motorcoach service. Our research told us that there was an urgent need for this service. In 2001, we began work on this project by developing different routes to provide tourists with a convenient means to visit the three sites that make up Virginia's Historic Triangle – Colonial Williamsburg, Jamestown and Yorktown. By 2002 we began service to Jamestown & Yorktown from various hotels and resorts. We then saw the need for a mass transit/transportation service in addition to the tours that we offered to Jamestown & Yorktown. In January 2003 we began, with the help of a local Resort, trial runs of this new service. After our trial service had proven to be a success, we approached the press, state officials and members of the Virginia Tourism, Jamestown-Yorktown Foundation, National Park Service (NPS), Williamsburg Area Transport (WAT), a US Department of Transportation/Federal Transit Administration (FTA) grantee, and York County Tourism among many others and invited them on a Familiarization (FAM) Tour.

On March 4, 2003, representatives from each of these organizations participated in the FAM Tour. Our Master Plan was to have anyone who wanted to go to Jamestown or Yorktown, to drive to or ride a WAT bus to the Williamsburg Transportation Center (WTC), which was used as a transportation hub for Amtrak, WAT and Oleta. Passengers would then board the coach to Jamestown's Island & Settlement. The coach would then return to the WTC for those who did not want to continue on to Yorktown. After departing the WTC midday, passengers would arrive to Yorktown for the afternoon. At the end of the business day, the coach would return to the WTC where passengers would, once again, get into their cars or board a WAT bus.

Based on the extraordinarily positive comments we received by all who participated in the FAM Tour, Oleta began regularly scheduled bus runs to accommodate anywhere from one person to a full coach of people who were interested in going to Jamestown or Yorktown. Please note that *Oleta required no public taxpayer subsidy to operate this fixed-route open door service.*

We operated this service successfully until Memorial Weekend of this year. In March, 2004, we learned that WAT, a Department of James City County, was planning to use tax dollars to partner with the Colonial Williamsburg Foundation and the National Park Service (NPS), to begin a pilot transportation program *free of charge* for tourists interested in visiting Jamestown or Yorktown. The service would be provided during peak tourist season only from Memorial Day to Labor Day weekends. The operating expenses for WAT would be paid for by an enhancement grant from the U.S. Department of Interior totaling over \$44,000 for the first few months. WAT's federally funded buses, costing over \$200,000, would be purchased with federal DOT/FTA funds to operate this service, meaning that a local transportation service, once provided successfully by private enterprise, was now to be subsidized by the Federal government. In effect, private enterprise would be barred from competition since it could not compete with a *free service*.

On June 7, 2004 Oleta filed an official complaint with the Regional Office of the FTA. It wasn't until *almost two months later*, August 2, 2004 -- *more than halfway through the pilot period* -- that FTA ruled in favor of WAT. The FTA Regional Administrator, concluding that WAT was indeed operating mass transit service, failed to acknowledge that WAT, a DOT/FTA grantee, was violating several DOT/FTA Statutes and Regulations that: (1) prohibit competition by a grantee using DOT/FTA funded vehicles (49 CFR §18.32); (2) require proper grantee notification and consultation with affected local private bus operators (49 USC §5307); (3) require meaningful participation of private enterprise operators to the maximum extent feasible (49 USC §5306); and, (4) in the case of existing private operator service that WAT wanted to displace, a DOT Secretary finding of maximum private sector participation is required (49 USC §5323).

Further, the FTA ignored the fact that this service -- virtually identical to the service Oleta provided -- was offered by WAT on only a seasonal basis. Thus, the goal of WAT could not have been to provide needed mass transportation, but instead to compete unfairly, using DOT/FTA paid-for equipment, and lure passengers away from Oleta's service. Moreover, contrary to claims by WAT representative, *the service WAT provided was not open to the public, but, in fact, riders needed to possess an admission ticket to one of the four attractions in order to ride the WAT bus.* This fact was stated in all materials and information promoting WAT's free service.

We could only conclude that WAT's sole intent was to use federal tax dollars to put a *small, minority-owned transportation provider out of business!*

Based on FTA's decision that this was mass transit service, it was obvious that several FTA non-compete Statutes and Regulations were violated as I have stated above. For example, please note that US DOT/FTA Statutes and Regulations require transportation service to be provided by private enterprise to the greatest extent feasible and in DOT's codification of its Grants Management Common Rule (GMCR), applying to all of the Department's assistance programs, forbids grantees or subgrantees from using equipment acquired with grant funds to provide service for a fee to compete unfairly with private companies providing equivalent services (49 CFR §18.32 Equipment).

From the record presented here, WAT clearly violated Federal Statutes, Regulations, and Grants Management Common Rule provisions. While the FTA failed in its responsibility to enforce such violations, James City County, the parent of WAT, voluntarily chose to withdraw the service in the future so as not to unfairly compete with private enterprise and further damage Oleta's business. Please see the attached September 14, 2004 letter from Anthony Conyers with James City County, which acknowledges the need for private enterprise participation in the future. In effect, this letter validates Oleta's claim that FTA abdicated its statutory

responsibilities to ensure that its grantees are not unfairly competing with and excluding local private transportation providers in the planning and provision of transportation services.

In closing, we must say that, as an American tax-paying family, we are very upset that our own tax dollars were used to compete against our family business. It not only damaged our company and our livelihood, but also the families of those we employ. We can only find consolation in that now that WAT has ceased this service, our ridership connecting Virginia's Historic Triangle has improved dramatically. The demand for more bus service is growing now that public funded buses are no longer operating a free service over the same routes.



## COMMUNITY SERVICES

HUMAN SERVICES CENTER, 5249-A OLDE TOWNE ROAD, WILLIAMSBURG, VIRGINIA 23188  
(757) 259-3116

E-MAIL: ocs@james-city.va.us  
FAX: (757) 259-3188

COLONIAL COMMUNITY CORRECTIONS  
HOUSING AND COMMUNITY DEVELOPMENT

PARKS AND RECREATION  
PUBLIC TRANSIT

SOCIAL SERVICES  
VIRGINIA COOPERATIVE EXTENSION SERVICE

September 14, 2004

Ms. Dorothy Geyer  
Colonial NHP  
P.O. Box 210  
Yorktown, VA 23690

Dear Ms. Geyer:

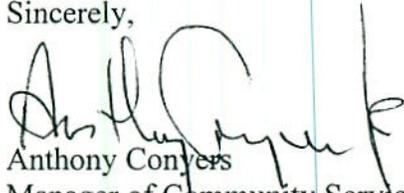
As we approach the completion of the first year of the Jamestown Area Shuttle, I think it is a good time to begin planning for the future of this service. Williamsburg Area Transport (WAT) has been pleased to operate this successful pilot project, but does not intend to operate the route in the future.

As you know, a private provider has alleged that WAT's provision of this service is illegal. WAT clearly received assurances at both the State and Federal level before implementation that WAT could legally provide this service and our legal authority to provide the service was upheld by the Federal Transit Administration after a formal complaint had been filed. However, we have determined that there has been a major administrative burden associated with the service. Much of that burden was due to the unsuccessful challenge.

I would recommend that the National Park Service make plans to contract with a private provider if you wish to continue the service in the future. WAT would be happy to assist you in this process and will do whatever we can to facilitate a successful partnership between the National Park Service and a private provider. If you find that there are no willing and able providers after pursuing a procurement process, then WAT would be willing to entertain the potential for operating the service in the future.

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I hope you understand our position. If you have any questions or want to discuss the matter further, please contact me.

Sincerely,



Anthony Conyers  
Manager of Community Services

cc: Nancy Greene, FTA  
Howard Smith, Oleta  
Sandy Wanner, County Administrator  
Mark Duncan, Colonial Williamsburg  
Danny McDaniel, Colonial Williamsburg

# Commonwealth of Virginia



## DEPARTMENT OF MOTOR VEHICLES REGULAR ROUTE COMMON CARRIER - PASSENGER CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

OLETA COACH LINES INC  
101 DOGWOOD DR  
WILLIAMSBURG VA 23185

This is to certify that the above named carrier is hereby issued a certificate to operate as a regular route common carrier - passenger service in the Commonwealth of Virginia provided such operation is in compliance with Chapter 20, Title 46.2 of the Code of Virginia, and the requirements and restrictions listed on the back of this certificate. Under this certificate, the carrier's service routes are limited to those listed on the attached appendix.

This certificate is effective January 3, 2003.

Number: 2678

DEPARTMENT OF MOTOR VEHICLES

BY:

*Asbury W. Quillian*  
Asbury W. Quillian  
Commissioner

APPENDIX

OLETA COACH LINES INC  
CERTIFICATE: 2678  
EFFECTIVE DATE: January 3, 2003  
SERVICE ROUTES

DEPARTING WILLIAMSBURG, VIRGINIA, AT 468 BOUNDARY STREET, TO ROUTE 60 EAST, TO ROUTE 31 SOUTH, TO JAMESTOWN/JAMESTOWN ISLAND, THEN ONTO THE COLONIAL PARKWAY PAST THE INFORMATION CENTER OF COLONIAL WILLIAMSBURG ONTO ROUTE 132 SOUTH TO LAFAYETTE STREET, TURNING RIGHT ONTO NORTH BOUNDARY STREET INTO THE WILLIAMSBURG TRANSPORTATION CENTER, 468 BOUNDARY STREET, WILLIAMSBURG, VIRGINIA, BACK TO LAFAYETTE STREET TURNING LEFT ONTO ROUTE 132 NORTH, TO THE COLONIAL PARKWAY, TURNING LEFT CROSSING ROUTE 238 AND INTO THE VICTORY CENTER OF YORKTOWN, AND INTO YORKTOWN, VIRGINIA, AND THE NATIONAL PARK SERVICE VISITOR CENTER. RETURNING TO WILLIAMSBURG, VIRGINIA, FROM THE NATIONAL PARK SERVICE VISITOR CENTER ONTO THE COLONIAL PARKWAY WEST PAST THE INFORMATION CENTER OF COLONIAL WILLIAMSBURG ONTO ROUTE 132 SOUTH, TURNING RIGHT

ONTO LAFAYETTE STREET, NORTH TO BOUNDARY STREET<sup>6</sup>  
AND INTO THE WILLIAMSBURG TRANSPORTATION CENTER,  
468 NORTH BOUNDARY STREET, WILLIAMSBURG, VIRGINIA.

MCCORMICK & CO.

## REQUIREMENTS

0A423 (07/02)

**CERTIFICATE RENEWAL** This certificate must be renewed annually. A renewal notice will be sent from DMV to the most recent mailing address you have reported to DMV's Motor Carrier Services. If you do not receive a renewal application by your renewal month, contact DMV to obtain an application. If you do not renew your certificate, it will be unlawful for you to continue to operate under the terms of the certificate.

**ADDRESS CHANGE** If any of your business addresses change, you must report the new address to DMV's Motor Carrier Services within 30 days.

**DISCONTINUING SERVICE** If you go out of business or stop providing the service authorized by this certificate, you must notify DMV within 30 days.

**INSURANCE** You were required to file proof of liability insurance with DMV's Motor Carrier Services before this certificate was issued. You are required to maintain liability insurance in the amount listed below. This certificate may be revoked if you fail to keep proof of your insurance on file with DMV's Motor Carrier Services.

Required minimum liability insurance amount:

\$350,000	Bodily Injury and Property Damage	1 to 6 passengers (including the driver)
\$1,500,000	Bodily Injury and Property Damage	7 to 15 passengers (including the driver)
\$5,000,000	Bodily Injury and Property Damage	16 or more passengers (including the driver)

## RESTRICTIONS

- Under this certificate, you can operate only within Virginia.
- You must provide services to the general public without discrimination.
- You may not refuse service without good cause.
- You are limited to:
  - ▶ operating only on the routes listed on this certificate or the attached appendix.
  - ▶ operating only on the time schedule on file with DMV.
  - ▶ charging no more for your services than the rates on file with DMV.
- You must have authorization from DMV to:
  - ▶ discontinue operating on any or all of the service routes, or
  - ▶ lease or transfer your authority to operate over any or all of the service routes.
- Before you can change your time schedules, you must:
  - ▶ notify DMV at least 10 days before you wish to make the change, and
  - ▶ receive authorization from DMV, and
  - ▶ post the changes in a public place.
- Before you can change your rates, you must:
  - ▶ make the changes available for public inspection, and
  - ▶ notify DMV at least 30 days before you wish to make the change, and
  - ▶ receive authorization from DMV.
- You may occasionally deviate from your service routes after you request and receive authorization from DMV for each occasion.
- You or your agent and another carrier(s) may publish a joint tariff if a power of attorney or notice of concurrence is filed with DMV. Neither document may be revoked until a 60 days notice is filed with DMV.
- You must notify DMV of all interruptions of service that may last more than 24 hours. Interruptions due to an act of God need not be reported for 72 hours. All interruptions must be promptly reported to your agents on the affected routes.
- The number on this certificate or any other certificate, permit, or license that you hold must appear in any advertisement for your services.
- Advertisements for your services may not contain untrue, misleading or deceptive information.