

BEFORE THE
WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 524

IN THE MATTER OF:

Served September 8, 1965

Complaint of Montgomery)
Charter Service, Inc., vs.)
Airport Transport, Inc.)

Formal Complaint No. 13

Docket No. 90

APPEARANCES:

S. HARRISON KAHN, Attorney for Montgomery Charter Service, Inc., complainant.

L. C. MAJOR, Attorney for Airport Transport, Inc., respondent.

Montgomery Charter Service, Inc., filed a complaint against Airport Transport, Inc., alleging that the latter holds itself out to, and actually does, perform a scheduled service from certain points and places in Montgomery County, Maryland, to the Washington National Airport, without the requisite authority from this Commission.

Airport Transport, Inc., filed an answer, denying that it operated a scheduled service, and also claiming that its existing certificated authority authorized it to provide such a service.

The parties' failure to settle the issues required the Commission to order the matter to hearing. Two days of hearing produced a record comprised of 130 pages of transcript and 8 exhibits. The parties were permitted the opportunity to submit briefs outlining their legal positions, which were due on or before August 23, 1965. The respondent submitted its brief on that date. Subsequently, after the due date, complainant petitioned for an extension of time in which to file its brief. This request will be denied.

The facts disclosed during the hearing revealed that Airport Transport, Inc., holds Certificate of Public Convenience and Necessity No. 7. The facts further reveal that Airport Transport, Inc., holds itself out to pick up passengers at named locations in Montgomery County, Maryland, destined to the Washington National Airport, at predetermined times, e.g., Georgian Hotel, Silver Spring, Maryland, "hourly service".

After stopping at several motels, the vehicle continues to the Airport over routes determined by the driver en route. No arrival times at the Airport are predetermined or announced. If there are no passengers desiring service, the vehicle does not operate.

In Order No. 283, published July 3, 1963, the Commission granted a certificate of public convenience and necessity to Airport Transport, Inc., authorizing it to conduct irregular route, special, and charter operations between the Washington National Airport and points and places in that portion of Maryland, situated within the Washington Metropolitan Transit District. The Commission in that proceeding had this identical problem under consideration. It said therein: "Commission now finds that the operations of applicant from points in Montgomery County...to the Washington National Airport are not scheduled operations; no schedules are published; the operations are over irregular routes; no specific arrival time is quoted; and, perhaps, more important, on numerous occasions, the service is not operated. Mere departure time without these other ingredients is insufficient, under the facts in this record, to warrant a finding of scheduled operations."

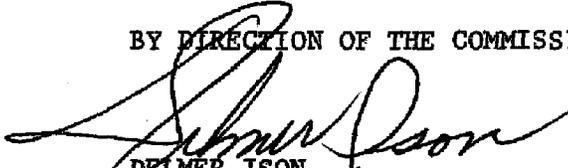
Thus, it appears that the transportation complained of is precisely that which the Commission has previously considered and has previously ruled to be non-scheduled service. It is indeed the very transportation upon which the language of the existing certificate was predicated. There is nothing in this record to warrant a different determination. On this record, it is unnecessary to determine whether or not Certificate No. 7 authorizes scheduled operations.

The Commission is of the opinion that the complaint should be dismissed, and the complainant be assessed the cost of the proceeding.

THEREFORE, IT IS ORDERED:

1. That the complaint of Montgomery Charter Service, Inc., against Airport Transport, Inc., be, and it is hereby, dismissed.
2. That Montgomery Charter Service, Inc., be, and it is hereby, assessed the cost of this proceeding.
3. That the petition of Montgomery Charter Service, Inc., for extension of time in which to file a brief be, and it is hereby, denied.

BY DIRECTION OF THE COMMISSION:


DELMER ISON
Executive Director