

BEFORE THE
WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 527

IN THE MATTER OF:

Served September 8, 1965

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

Formal Complaint No. 12

Docket No. 85

APPEARANCES:

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

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

Airport Transport, Inc., filed a formal complaint against
Montgomery Charter Service, Inc., (hereinafter "Montgomery Charter"),
charging violations of the Compact and Commission Rules and Regulations
in the following manner:

- (1) Montgomery Charter is operating without
a tariff.
- (2) There are variations in fares charged by
Montgomery Charter for transportation between the
same points.
- (3) Montgomery Charter is not operating the trans-
portation authorized by its certificate, but has leased
out its operating rights.
- (4) Montgomery Charter is conducting unauthorized
operations between Montgomery County, Maryland, and non-
airport points within the Transit District.
- (5) Montgomery Charter is advertising limousine
service from Montgomery County, Maryland, to any point
in the Transit District for other than airline passengers.
- (6) Montgomery Charter does not operate between
8:00 P.M. and 6:00 A.M., and is thus failing to provide
continuous and reasonably adequate service.

Montgomery Charter answered as follows:

- (1) Charge No. 1 denied.
- (2) Charge No. 2 denied.
- (3) Charge No. 3 denied.
- (4) Charge No. 4 admitted, but claims that a certificate holder is not prohibited from providing exempt service.
- (5) Charge No. 5 is admitted, but see (4) above.
- (6) Charge No. 6 denied.

As the parties failed to resolve their issues, the Commission ordered the matter to hearing. The transcript of the hearing comprises 80 pages and 11 exhibits.

The complainant, Airport Transport, is a carrier devoted exclusively to transporting airline passengers to and from the airports located in the Metropolitan District. Part of its operations is conducted pursuant to a certificate, and part is conducted as a taxicab service; the latter is exempt from the Section 4(a) certificate requirement, but is subject to rate regulation (Section 1(c)).

The respondent also has a certificate from this Commission, to transport airline passengers to the Washington National Airport.

Two witnesses testified for the complainant. Mr. Fultz testified that he was employed by Airport Transport, Inc., as a dispatcher, that he had a background of extensive experience in investigation work, and that he had been instructed by his employer to check the service provided by Montgomery Charter. Pursuant to these instructions, he had engaged the services of Montgomery Charter for certain trips, from Montgomery County to Dulles International Airport in Virginia, and Washington National Airport and return; from Dulles Airport to Wheaton, Maryland; from Wheaton, Maryland, to Washington, D. C.; from Wheaton, Maryland, to Bethesda, Maryland (Exhibits 1-4, 6). Most of the transportation was solicited over the telephone. He also stated that he had called Montgomery Charter on April 15, 1965, between the hours of 9:25 P.M. and 9:40 P.M., but received no answer, and on April 20, 1965, between 2:00 P.M. and 4:00 P.M., with the same negative results.

Witness Lerner, Vice-President and General Manager of Airport Transport, testified as to his company's authority and described his operations. He stated that Montgomery Charter was engaging in transportation not authorized by its certificate, and was guilty of fare irregularities, including overcharges, undercharges, and operating without

a tariff on file with and approved by this Commission.

His contention was based on two premises: first, that Montgomery Charter did not hold authority to operate between Dulles and Montgomery County, and from Washington National Airport to Montgomery County and within Montgomery County. Thus, none of that transportation could be carrier-directed and operated, under the language of its certificate. Second, that if the transportation was not certified transportation, the only basis on which it could legally be rendered was if it were a bona fide taxicab operation. Mr. Lerner then stated that if it were taxicab service, he had computed the mileage of each trip and applied the Commission-prescribed (Order No. 67) taxicab fare, and found, in each instance, that the fare charged was over or under that which should have been charged per the prescribed rate.

Finally, the complainant called Mr. Arthur Simon, President of the respondent. He stated that he was primarily responsible for the actual operations of Montgomery Charter; that the drivers work on a commission basis; and he denied that Montgomery Charter rents vehicles to its drivers on a flat rate per day.

Subsequent to the hearing, Montgomery Charter filed a tariff which was acceptable to and approved by the Commission. Prior to this filing, Montgomery Charter had, over a period of months, attempted to file several tariffs, all of which were rejected on various grounds. The respondent continued to operate from the effective date of the issuance of its "grandfather" certificate without, in the Commission's opinion, an appropriate tariff on file.

The Commission is of the opinion, and so finds, that Montgomery Charter Service was operating without an appropriate tariff on file; that it is operating an airport limousine service pursuant to the terms of its certificate, and, in addition, is providing both intra-and interstate taxicab service; that the interstate taxicab fares charged are not in accord with the rate of charge prescribed by the Commission; that the complainant failed to develop evidence to prove its allegation that Montgomery Charter is not operating the transportation authorized, but is, instead, leasing out its operating rights; that the transportation service provided by Montgomery Charter Service between Montgomery County, Maryland, and non-airport points is on-call, passenger-directed taxicab service, which is exempt from the certificate requirement of Section 4; and that complainant failed to prove its sixth charge.

The Commission is of the further opinion that this complaint should be dismissed, with the admonition to Montgomery Charter Service that any future rate violations, either of its tariff provisions or the

taxicab fare prescription, will be promptly and severely dealt with.

THEREFORE, IT IS ORDERED:

1. That the complaint of Airport Transport, Inc., against Montgomery Charter Service, Inc., be, and it is hereby, dismissed.

2. That the complainant and respondent shall share the cost of this proceeding equally.

BY DIRECTION OF THE COMMISSION:



DELMER ISON
Executive Director