

BEFORE THE
WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D.C.

ORDER NO. 553

IN THE MATTER OF:

Served December 23, 1965

D. C. Transit System, Inc.)

Formal Complaint No. 11

Complainant,)

Docket No. 82

v.)

Atwood's Transport Lines,)
Inc.,)

Respondent.)

This matter arises upon the application of D. C. Transit System, Inc. ("Transit"), for reconsideration of Order No. 541, issued October 27, 1965, wherein the Commission suspended that portion of Certificate of Public Convenience and Necessity No. 14, authorizing Atwood's Transport Lines, Inc. ("Atwood"), to perform regular route transportation between Washington, D. C. and the United States Atomic Energy Commission.

Transit specifically complains that the Commission erred by failing to suspend Atwood's charter authority along with "its underlying regular route authority." The question as proposed by Transit is whether Atwood's charter authority has a viability independent of its regular route authority so that any suspension of the said regular route authority does not per se affectuate a corresponding suspension of the charter authority. Order No. 541 itself answered this question affirmatively.

Transit contends that Atwood's charter authority, insofar as material here, was derived from the Interstate Commerce Act grant of incidental charter authority to the holders of regular route authority and that under that law, a suspension or revocation of the regular route authority took with it all incidental charter rights.

While this may or may not be true, it is immaterial to this conflict. This Commission's statutory law as set forth in the Washington Metropolitan Area Transit Regulation Compact ("Compact"), contains no language comparable to the Interstate Commerce Act. The Compact does not

confer any so-called incidental charter or special operating rights upon the holder of regular route authority. This view has been consistently recognized by this Commission. See Order No. 186, issued August 16, 1962, Application Of D. C. Transit for Certificate of Public Convenience and Necessity (p. 5, finding 5); Order No. 215, issued November 2, 1962, Application of W. V. & M. Coach Company (p. 3); Order No. 251, issued April 25, 1963, Application ("Grandfather") of Airport Transport, Inc.

When this Commission came into existence, it was necessary to process many "grandfather" applications. Most of the carrier applicants had, in addition to operating rights from the signatories, extensive authority from the Interstate Commerce Commission. Under the Interstate Commerce Act, charter authority came from three general sources: (1) Section 203(b)(8), known as the Commercial Zone exemption; (2) Section 207(a) by specific grant; and (3) Section 208(c), conferring the "incidental" rights.

The orders issued by this Commission have recognized the divergent sources of charter rights, and clearly reveal the Commission policy to grant separate and severable charter and regular route rights. The above-cited orders clearly enunciate this proposition. The "grandfather" certificates, including that of Transit, have merged all of the charter rights, regardless of source, of a carrier into one single, comprehensive grant of authority. We will not now go back and attempt to pinpoint the various sources of these rights. Absent any ambiguity the certificate stands as printed. There is no ambiguity in the Atwood certificate insofar as this proceeding is concerned.

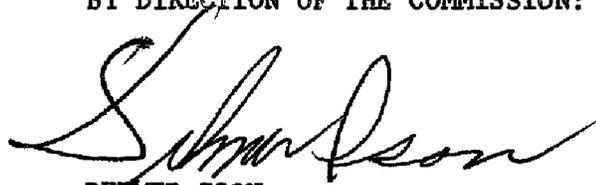
Obviously, for convenience and accuracy, the Commission utilized Atwood's regular route as a method of describing the scope of the origin territory of its charter operations. The same result would have been accomplished, for example, if the regular route streets had been named and no reference made thereto as relating to regular route operations. It should be further noted that nowhere in the charter section of Atwood's certificate did the Commission state that said rights were dependent upon the existence or rendition of regular route transportation. Nor does any such statement appear in any certificated issued by this Commission.

The Interstate Commerce Commission cases cited by the applicant for reconsideration in support of its proposition have no materiality because of the difference in techniques used by that Commission and this Commission in the writing of certificates. For example, the I.C.C. makes no attempt to incorporate the incidental or exempt transportation within a certificate. On the other hand, neither of those factors are elements in our law, hence all operating rights must be affirmatively stated under the Compact law.

The Commission is of the opinion and finds that the application for reconsideration should be denied.

THEREFORE, IT IS ORDERED that the application of D. C. Transit System, Inc., for reconsideration of Order No. 541 be, and it is hereby, denied.

BY DIRECTION OF THE COMMISSION:

A handwritten signature in cursive script, appearing to read "Delmer Ison".

DELMER ISON
Executive Director