

BEFORE THE
WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION
WASHINGTON, D. C.

ORDER NO. 597

IN THE MATTER OF:

Served April 22, 1966

Application of WMA Transit Company)
for Authority to serve its Routes)
1-9, 11-14, 22, 25-27, and 30-38.)

Application No. 341

Docket No. 100

On February 25, 1966, the Commission Order No. 572, authorizing the amendment of Certificate of Public Convenience and Necessity No. 8, which has been issued to WMA Transit Company (WMA). The amendment authorized WMA to transport school children and teachers only, during officially scheduled school sessions, over specified school routes.

D. C. Transit System, Inc., ("Transit") has filed an application for reconsideration of said Order, alleging the following errors:

1. The Commission erred in granting regular route authority where no need was shown for a regular route operation as defined in Section 51-06 of the Regulations of the Commission ("Regulations").

2. The Commission erred in granting authority to perform charter and special operations simultaneously as such operations are intended to be mutually exclusive under Sections 51-13 and 51-14 of the Regulations.

The gist of the two-fold attack on the Order may be summed up very succinctly: that the proposed transportation cannot be procedurally authorized. Transit argues that our definition of a regular route operation, as stated in Regulation 51-06, prohibits the restriction of a regular route operation. Regular route authority, it is asserted, must be issued without limitation to serve the general public. Transit then argues that since we cannot call the proposed transportation a "regular route operation," we must call it something else. The transportation scheme proposed contemplates the movement of school children and teachers

in the same vehicle in which the child either pays a cash fare or has his fare paid by the school which he attends. The former, says Transit, is a special operation, and the latter is a charter operation. It is Transit's opinion that our definitions of charter and special operations are mutually exclusive and that the two types of operation cannot be merged and performed in the same vehicle. Transit concludes its argument by contending that if the transportation cannot be regular route, charter, or special operations, ergo, it cannot be anything. Therefore, despite the need for the transportation, this Commission is powerless to authorize such operations; it must remain entangled in the mesh of definitions it itself has conceived and promulgated.

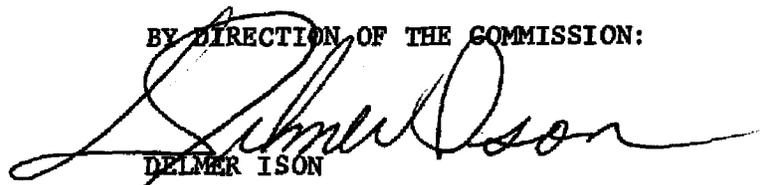
This application requires only a brief comment. This Commission has previously issued irregular route charter authority restricted to a particular class of passengers. The action of the Commission was upheld by the United States Court of Appeals for the Fourth Circuit, in *A. B. & W. Transit Company v. Washington Metropolitan Area Transit Commission*, 323 F.2d 777. The Court recognized therein that the limitations placed on the grant of authority in that case were not in excess of the Transit Commission's authority. The Court pointed specifically to Title II, Article XII, Section 4(b), of the Compact, which provides that: "The Commission shall have the power to attach to the issuance of a certificate and to the exercise of the rights granted thereunder such reasonable terms and conditions as the public convenience and necessity may require...." The restrictions placed on the certificate are not, said the Court, violative of the statutory prohibition. The Court went on to state that "if the transit commission properly found these limitations to be required by the public convenience and necessity, and they do not contravene the prohibition against limitations preventing additions, the restrictions are not illegal."

If the Commission has the power to restrict a charter authorization to a certain class of passengers, it follows that regular route authorization can be similarly conditioned. This limitation is not, in our opinion, inconsistent with or contrary to the definition of regular route operations as set forth in Regulation 51-06.

The Commission is of the opinion and finds that the application of D. C. Transit System, Inc., for reconsideration of Order No. 572 should be denied.

THEREFORE, IT IS ORDERED that the application of D. C. Transit System, Inc., for reconsideration of Order No. 572 be, and it is hereby, denied.

BY DIRECTION OF THE COMMISSION:


DELMER ISON
Executive Director