

BEFORE THE
WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 751

IN THE MATTER OF:

Served October 24, 1967

Application of WMA Transit Company for Amendment of Certificate of Public Convenience and Necessity No. 8.)	Application No. 425
)	
)	Docket No. 160
)	
Application of WMA Transit Company for Temporary Authority to Extend its Routes in the District of Columbia from Present Terminal to Farragut Square Area.)	Application No. 424
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WMA Transit Company ("WMA") has filed an application to amend its Certificate of Public Convenience and Necessity No. 8, to authorize the extension of its routes from its Terminal at 11th Street and Pennsylvania Avenue, N. W., Washington, D. C., as more particularly described in the application.

Filed concurrently with the application for permanent authority was an application for temporary authority to engage in the transportation sought to be authorized.

These applications apparently emanate from prior proceedings; accordingly, a brief outline of the history of those proceedings will provide the launch pad for a discussion of the instant applications.

On March 25, 1966, this Commission issued Order No. 581, in which it found, after notice and hearing, that the public

interest required A. B. & W. Transit Company and WMA Transit Company to extend their routes so as to provide bus service to the 18th and L Streets, N. W. area of Washington, D. C. The Commission also found that the existing certificates of those carriers authorized the service extensions ordered therein.

The service extensions required by Order No. 581 were initiated in May and June of 1966.

On March 7, 1967, the United States Court of Appeals for the District of Columbia Circuit entered its opinion and order setting aside Order No. 581. However, that Court stayed the issuance of its mandate pending appeal by the Commission to the United States Supreme Court.

The Commission's Petition for Writ of Certiorari to the Supreme Court was denied on October 9, 1967, and certified ~~copy of the judgment of the United States Court of Appeals for the District of Columbia Circuit, in lieu of mandate, was received by this Commission today.~~

The Court of Appeals had held that before authorizing the route extensions here in question, we should have complied with the provisions of Section 4(e) of the Compact.

In its opinion setting aside our prior order, the Court said:

"We do not say that the Commission could under no circumstances do what it has done. What we do say is that such action must be taken in conformity with the statutory requirements and by reference to the statutory standards." [Emphasis supplied]

Hence, the Commission is clearly free to give consideration to these applications.

As hereinafter provided, the application for permanent authority will be set for hearing. We turn now to a consideration of the application for temporary authority to operate the service pending final determination.

As previously noted, the extended service became operational in May, 1966, and it has continued uninterrupted since that time. Based on information stated in the application, it appears that there are presently at least 8,000 passenger trips daily over the extended service routes. Independent staff investigations substantiate this information. Moreover, data supplied to the Commission by D. C. Transit System, Inc., indicates that the service extensions have had a minimal economic impact on that carrier.

The service in question has been in use since May, 1966. It is used daily by about 4,000 riders. If the service were discontinued while we consider the issues presented in the forthcoming hearing, these thousands of persons would not only be deprived of transportation they have come to use and depend upon; they would not know whether this deprivation was permanent or temporary. Severe disruption and hardship in work, travel, and living patterns would inevitably result, and would be compounded by the uncertainty as to the ultimate resolution of the problem.¹

In these circumstances, we are convinced that we should invoke the provisions of Article XII, Section 4(d)(3) of the Compact. That Section states:

"To enable the provision of service for which there is an immediate and urgent need to a point or points or within a territory having no carrier service capable of meeting such need, the Commission may, in its discretion and without hearings or other proceedings, grant temporary authority for such service. Such temporary authority unless suspended or revoked for good cause, shall be valid for such time as the Commission shall specify, but for not more than an aggregate of 180 days and create no presumption that corresponding permanent authority will be granted thereafter."

¹ In the few days between the announcement of the Court of Appeals' opinion and its subsequent stay thereof, when it appeared that termination of the service was imminent, WMATC was literally deluged with mail from riders protesting the cessation of the service. Some of the more ardent complaints emanated from people claiming to be former motorists.

There is, we believe, an immediate and urgent need for continuing through-bus service on the present routes between Farragut Square and the suburban areas of Maryland which have service to and from Farragut Square. The sheer number of passengers now using the service would, in itself, support this conclusion. The only carrier presently capable of meeting that need is the carrier now providing service. Thus, the granting of temporary authority to operate these routes is eminently appropriate.

We will, of course, expedite the hearing on a permanent resolution of the Farragut Square route extension problem. In the meantime, those who have depended on the service for the past 16 months need not suffer the severe inconvenience and disruption which immediate suspension of the service would engender.

On the other hand, information available to the Commission demonstrates that D. C. Transit, which has protested these extensions in the prior proceedings, will not suffer significant financial harm if the service continues while we hold further proceedings. For instance, in our last D. C. Transit rate case, Docket No. 131, D. C. Transit itself estimated a 3-1/2% reduction in interline passengers, which, if applied for a full year, would reduce its revenues only \$33,000. This data includes the impact upon D. C. Transit of similar service extensions by the A. B. & W. Transit Company; as that service is not involved in this proceeding, the figures are overstated.

For all these reasons, we will set an early hearing on the need for route extensions to Farragut Square; concomitantly, we will grant temporary authority to operate existing routes while these proceedings are pending.

THEREFORE, IT IS ORDERED:

1. That the application of WMA Transit Company to amend its Certificate of Public Convenience and Necessity No. 8 be, and it is hereby set for hearing on Tuesday, November 28, 1967, at 10:00 A.M., in the Hearing Room of the Commission, 1815 North Fort Myer Drive, Arlington, Virginia 22209.

2. That temporary authority be, and it is hereby, issued to WMA Transit Company to extend its routes in the manner set forth in the route authorization attached hereto and made a part hereof, for a period of not more than 180 days from the date of this order.

3. That applicant publish notice of the application for permanent authority and the hearing thereon in a newspaper of general circulation in the Metropolitan District, once, at least twenty-five (25) days prior to said hearing.

4. That any person desiring to be heard on this matter shall notify the Commission in writing with a copy to applicant's attorney of record, Stanley H. Kamerow, Esquire, 1025 Vermont Avenue, N. W., Washington, D. C., at least ten (10) days prior to said hearing.

BY DIRECTION OF THE COMMISSION:



MELVIN E. LEWIS
Executive Director

HOOKER, Commissioner, not participating.

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

Route Authorization No. 1 - 67

IN THE MATTER OF:

October 24, 1967

Establishment of Bus Routes)
for WMA Transit Company in)
Washington, D. C.)

By Order No. 751, served October 24, 1967, WMA Transit Company was granted temporary authority to extend its bus routes in Washington, D. C. to the vicinity of Farragut Square. To extend such routes within the District of Columbia, authority is hereby granted to WMA Transit Company to operate in the following manner:

Over regular route to the intersection of Pennsylvania Avenue and 11th Street, N. W., thence north on 11th Street, west on H Street, northwesterly on Connecticut Avenue, east on Eye Street, south on 13th Street, southeasterly on Pennsylvania Avenue, north on 11th Street, east on E Street and thence over regular route.

Over regular route to the intersection of E Street and 11th Street, N. W., thence north on 11th Street, west on H Street, northwesterly on Connecticut Avenue, east on Eye Street, south on 13th Street, east on E Street to 11th Street and thence over regular route.

FOR THE COMMISSION:



MELVIN E. LEWIS
Executive Director