

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 844

IN THE MATTER OF:

Served July 26, 1968

Application of WMA Transit )  
Company to Amend Certificate )  
of Public Convenience and )  
Necessity to Extend Service )  
to the Southwest Mall Area. )  
)

Application No. 480

Application of D. C. Transit )  
System, Inc., to Amend Certi- )  
ficate of Public Convenience )  
and Necessity No. 5 to Add )  
Routes C3, C5 and C9. )  
)

Application No. 494

Application of D. C. Transit )  
System, Inc., to Amend Certi- )  
ficate of Public Convenience )  
and Necessity No. 5 to Add )  
Routes E3, E5, E7, E9, F3, )  
F5 and F7. )

Application No. 495

Docket No. 172

APPEARANCES:

STANLEY H. KAMEROW, attorney for WMA Transit Company.

MANUEL J. DAVIS and SAMUEL M. LANGERMAN, attorneys  
for D. C. Transit System, Inc.

RUSSELL W. CUNNINGHAM, General Counsel, Washington  
Metropolitan Area Transit Commission.

By Application No. 480, filed March 18, 1968, WMA Transit Company ("WMA") requested amendment of its Certificate of Public Convenience and Necessity No. 8 to extend service to the Southwest Employment Area on all routes destined to Washington, as more fully described in Order No. 793, issued March 22, 1968.

By Applications 494 and 495, filed April 8, 1968, D. C. Transit System, Inc., ("D. C. Transit") requested amendment of its Certificate of Public Convenience and Necessity No. 5 to add Routes C3, C5, C9, E3, E5, E7, E9, F3, F5 and F7, as more fully described in Order No. 800, issued April 10, 1968. This Order denied a motion of WMA Transit Company for continuance, and consolidated, in Docket No. 172, Applications 494 and 495 of D. C. Transit with Application No. 480 of WMA, and scheduled the matter for public hearing on April 22, 1968.

Subsequently, on April 11, 1968, WMA filed an application for reconsideration of Order No. 800. This application was denied by Order No. 807, issued April 19, 1968.

Hearings commenced on April 22, 1968 and continued on April 26, and May 1, 1968. During the hearings, both applicants were granted permission to amend their applications, to reflect minor adjustments in routing.

The evidence adduced in the proceeding consists of 513 pages of testimony of a dozen witnesses, and 56 exhibits. Public witnesses included Mr. Saul S. Finn, Project Director of the Southwest Urban Renewal Area Project; Mr. Dayton S. Ward, representing Federal Employees for Action on Transportation; Mr. Richard Althaus, Director of the Office of General Services, Department of Housing and Urban Development; Mr. C. F. Marmaduke, Office Services Manager of Group Hospitalization, Inc.; Mr. Henry G. Weeden, representing the National Capital Region of the National Park Service; Mr. Jack Gural, Coordinator of the Working Subcommittee of the Southwest Employment Area Transportation Committee; and Mr. John H. Kiracofe, City Manager of the City of Bowie, Maryland.

WMA presented the testimony of Mr. Woodrow W. Miller, President, and Mrs. Mary M. Matchett, Assistant Secretary-Treasurer and Administrative Assistant to the President.

D. C. Transit presented the testimony of Mr. William E. Bell, Vice President, Research and Development.

The Staff of the Commission presented the testimony of Mr. Charles W. Overhouse, Chief Engineer, and Mr. Hurvie E. Davis, Transportation Engineer.

WMA is a motor common carrier of passengers operating in and around the Washington Metropolitan Area primarily from Prince George's County, Maryland into the District of Columbia, pursuant to Certificate of Public Convenience and Necessity No. 8 from this Commission.

WMA proposes to operate ten trips into the Southwest Mall area; the origin on these routes will include such places as Heather Hill, Belair Section T1, Fairfax Village, Greenbelt, Andrews Field, Richie Store, Marlow Overlook, Marlow Heights, North Forestville, Capital Plaza, Maryland.

D. C. Transit System, Inc., is a motor common carrier operating pursuant to WMATC Certificate of Public Convenience and Necessity No. 5, in and around the Washington Metropolitan area. Origin points on the proposed services applied for by D. C. Transit include such places as Richie Store, Penn Mar, Andrews Air Force Base, Temple Hills, Suitland, Marlow Heights, Oxon Hill, Cafritz Hospital, Maryland, and Benning Road and East Capitol Street.

The issues in this proceeding are basically those raised by the application of WMA to extend certain of its routes to the Southwest section of the District of Columbia. D. C. Transit also has applications pending for new routes from the area now served by WMA to the Southwest. However, the position taken by D. C. Transit on its own applications<sup>1/</sup> makes it clear that the starting point for our analysis must be WMA's proposed new routes in the Southwest. The issues raised by those proposals are, first, those posed by Article XII, Sec. 4(b) of the Compact.

The first question to which we must address ourselves is whether the transportation service proposed by WMA is "required by the public convenience and necessity." On this question we should first note the tremendous growth in the Southwest area.

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<sup>1/</sup> D. C. Transit admitted that its applications were not filed on the basis that it felt that the public convenience and necessity required the service proposed therein, but rather simply as a "protective" device to bring Sec. 4(g) into effect.

Only a few years ago, in the section south of Independence Avenue the number of employees was not large and the working population was fairly static. In recent years, a large number of office buildings have been built in this area. According to the record, there are now 38,000 employees working in the Southwest area. Additional large buildings are either under construction or well into the planning stage and the working population will increase significantly over the next few years. For instance, the United States Department of Housing and Urban Development has started moving into the area since the date of the hearing in this proceeding, and its building will eventually house 4,200 employees. The L'Enfant Plaza area, which has recently been occupied by its first tenants will eventually contain 3,700 employees. Group Hospitalization, Inc., will move 1,000 employees into the area in the near future. In addition, the Nassif Building and the Forrestal Building of the Defense Department are in varying stages of construction. The explosive effect all of this construction will have on the working population in this area is demonstrated by the fact that by 1970 there will be over 60,000 employees where, as previously stated, 38,000 are now employed. By 1973 there will be approximately 78,000 employees. And after the area is developed completely, there will be a total of 95,000 employees located in the Southwest employment area.

This enormous growth in working population in and of itself demonstrates the need for increased and improved bus service. The problem is made more acute, however, by the fact that new construction constantly diminishes the number of parking spaces available in the area as vacant lots become building sites. Studies by experts who have considered the problem demonstrate that the percentage of employees using mass transit must be increased significantly if the growth in working population is to be accommodated in a tolerable manner. The Federal agencies located in the Southwest area have established a Southwest Employment Area Transportation Committee and consultants to that Committee have determined that by 1970, 20,000 employees in the area will have to be provided with bus transportation. This is double the figure of those using bus service today. We find, therefore, a startling growth in the working population, a constant decrease in the facilities available for providing transportation, and an urgent need to get employees in the Southwest area to use mass transit. The necessary objectives can only be obtained by providing both increased service and improved service to those who work in the Southwest.

In this proceeding, as in the Farragut Square case, it is the position of D. C. Transit that adequate service can be provided to suburban bus riders merely by transporting them to the traditional terminal areas for the suburban companies and transferring them to D. C. Transit buses for carriage to their ultimate destination. We do not believe that such a transfer service will provide the standard of mass transportation which is required to meet the needs of the growing Southwest Employment Area. As was stated by several witnesses in this proceeding, mass transit to the Southwest will not be successful in meeting the standards required of it unless a direct, through service between home and office is available to the rider. Indeed, the Commission's Chief Engineer indicated not only that transfer service was inadequate on the ground that there was a demand for through service, but also that the D. C. Transit buses to which transfer would be necessary were already so overcrowded that transferring would be impractical.

In short, it is urgent that we maximize the use of mass transit by workers in the Southwest Employment Area. That end cannot be achieved if we require suburban riders to make inconvenient transfers to vehicles which are already heavily used by persons boarding within the District of Columbia. We must provide a high level of service and that can only be done if the rider, to the maximum extent possible, can obtain through service from his home to his place of employment in the Southwest. This is what is required by the public convenience and necessity.

It is established law, both by the Court of Appeals decision in D. C. Transit System, Inc. v. WMATC, \_\_\_ U.S. App. D. C. \_\_\_, 376 F2d 765; cert. denied, 88 S. Ct. 52 (1967), and by our own decision in Order No. 824 that, in considering the requirements of the public convenience and necessity, we must consider not only the needs and desires of WMA riders but also the impact of the service in question upon D. C. Transit and its riders. It is apparent that, from the point of view of passenger convenience and comfort, the D. C. Transit rider would benefit from the provision of direct service to the Southwest by WMA rather than transferring the WMA passengers to the already heavily used D. C. Transit buses.

Our next inquiry must be concerning the financial impact of the proposed service upon D. C. Transit. In the Farragut Square case, this was a relatively simple task because the service had been operating for some time and the actual financial impact could be determined. Here we are dealing with projections.

Nevertheless, the record contains figures which enable us to give careful consideration to this problem. First, there is the question as to the financial results which WMA could expect from its proposed operation. WMA projected the revenues which could be expected from this increase in service by examining the results it has achieved when it has increased service during past periods. Figures were furnished showing the percentage increase in the number of rush hour trips and the percentage increase in revenues attributable to rush hour trips. WMA pointed out that, in the first quarter of 1968, the number of rush hour trips increased 5 percent over the number of trips in the equivalent period of 1967. This 5 percent increase in trips resulted in an increase in quarterly revenue of \$21,776. The service proposed in this proceeding constitutes a 9.3 percent increase in rush hour service. Applying the same percentage relationships, WMA projects an increase in revenues of \$40,000 per quarter. The expenses attributable to this increase in service are estimated by WMA to be \$11,801, leaving the company with a projected gross profit on the service of \$28,199. However, these expense figures do not include any allocation of certain overhead costs. Thus, the actual net profit to the company would be smaller if the fully allocated costs used in the Farragut Square case were applied here. The additional overhead cost, thus computed, would amount to \$2,915, leaving WMA with an estimated net profit of \$19,000 per quarter, attributable to this increase in service.

D. C. Transit sought to project the loss in revenue which it could expect as a result of WMA's proposed service. It stated that it would lose 22-1/2 cents per passenger -- this being D. C. Transit's share of an interline ticket which the passenger would presumably otherwise use. On the assumption that there would be 50 such passengers per trip, D. C. Transit estimated that it would lose \$22.50 per trip or \$225 per work day. Using 254 work days per year, the total loss they projected would be \$57,150. We believe these figures to be unrealistic since it is doubtful that as many as 50 passengers per trip would otherwise purchase an interline ticket. For one thing, many of these routes go within seven or eight blocks of the Southwest Employment area. Faced with the need to purchase an interline ticket, many passengers would simply walk this distance, and D. C. Transit would realize no income from these passengers. Moreover, 50 passengers per trip would be an extremely high load factor for this service. We do not think it is sound to project financial impact on the basis of such an assumption.

As in the Farragut Square case, we think the best indication of the actual financial impact upon D. C. Transit of the proposed service is D. C. Transit's willingness to enter into an interline agreement to permit WMA to provide this service upon payment to D. C. Transit of 3.4 cents per bus mile operated over the estimated portion of the WMA routes. We estimate that this would result, under the service proposed, in a payment to D. C. Transit of about \$3,300 per year. This is not the actual revenue which D. C. Transit would expect from use of its own service, of course. Rather, it reflects the fact that D. C. Transit would incur no cost in receiving this revenue. The company's willingness to settle on these terms indicates that the revenue loss it would actually expect to incur falls within the range of approximately \$3,000-4,000. Since D. C. Transit's present route revenues are approximately \$33,000,000 per year, the loss of revenue which the company actually expects to incur would impose no financial burden upon it or upon D. C. Transit's riders.

Having considered the comfort and convenience of the D.C. Transit rider and the WMA rider, as well as the financial interest of both WMA and D. C. Transit, as well as the riders of each, we conclude that the service proposed by WMA meets the requirements of the public convenience and necessity both from the point of view of the WMA rider and the D. C. Transit rider.

Having reached this determination, we must consider the issues raised by the provisions of Article XII, Sec. 4(e) of the Compact. That section provides that before amending a certificate of convenience and necessity to authorize a route extension to operate over the routes of another carrier, the Commission must find that the service of the existing carrier is inadequate and must provide the existing carrier with reasonable time and opportunity to remedy the inadequacy.<sup>2/</sup>

Our ruling that the public convenience and necessity requires through bus service for WMA patrons to the Southwest Employment area resolves the question of the adequacy of the service provided by D. C. Transit. The enormous growth of the Southwest area and the pressing need for the maximum use of

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<sup>2/</sup> Article XII, Sec. 4(g) contains language concerning remedying inadequacies identical to that set forth in Sec. 4(e). Since this proceeding concerns route extensions, we think that Sec. 4(e) is the more directly applicable provision. In any event, the procedures called for are identical.

public transportation in that area makes it so imperative to provide through service from home to work that we must conclude that transfer service to D. C. Transit cannot adequately meet the needs of WMA patrons. D. C. Transit presented evidence that theoretically, it can accommodate a substantial increase in the number of riders on the lines to which WMA patrons would transfer in order to reach the Southwest. We do not find this evidence convincing. For one thing, the counts were taken at the point at which the WMA patron would board the D. C. Transit bus. The more pertinent question is how heavily used are the D. C. Transit buses at the maximum load point between the point at which WMA patrons would board and the discharge point for the Southwest. D. C. Transit provided no evidence concerning this. On the other hand, the staff presented testimony indicating that D. C. Transit buses on the lines to which WMA patrons would transfer were very heavily used at present. In any event, we have little question that from the point of view of the patron it is a much more satisfactory level of service to have a bus which carries the passenger direct to its destination without transfer. In view of the need to attract more patrons in the Southwest Employment area to mass transit, we must see to it that this kind of service is available.

This brings us to the question of remedying the inadequacy of service. Our consideration of this same question in the recent Farragut Square decision (Order No. 824) makes our task in the present proceeding easier. Here, as in the Farragut Square case, D. C. Transit proposes as one remedy that it be given authority to duplicate the service proposed by WMA, going deep into the area now served by WMA in order to do so. We pointed out in the Farragut Square order that such proposed duplications of service do not, in our view, fall within the scope of "remedy" as that term is used in Section 4(e) of the Compact. If WMA cannot make route changes in the District of Columbia without permitting D. C. Transit to operate in WMA's service area, then conversely D. C. Transit cannot operate in WMA's area without permitting WMA to remedy the inadequacy in its service. Acceptance of this theory of "remedy" would create an impasse which would block any solution to route extension problems. Hence, we reject D. C. Transit's competing applications as inadequate "remedy" under Section 4(e) of the Compact.<sup>3/</sup>

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<sup>3/</sup> In any event, the financial impact upon WMA of D. C. Transit's proposal would be significantly more severe than the impact of WMA's proposal upon D. C. Transit. This raises serious question as to whether D.C. Transit's proposal would be a remedy which meets the requirements of the public convenience and necessity.

As in the Farragut Square case, D. C. Transit has suggested an alternative "remedy" -- an interline agreement between D. C. Transit and WMA. We pointed out in our Farragut Square opinion that any remedy accepted pursuant to Section 4(e) must meet the standards of the public convenience and necessity. We need not, and will not, accept any alternative offered by one operator to avoid the allowance of service by another operator over routes of the first. Rather, we must test any proposed remedy by the standard of public convenience and necessity. Here, as in the Farragut Square case, an interline agreement satisfies that standard. D. C. Transit indicated its willingness to enter into an interline agreement on the same terms as its Farragut Square agreement with WMA. It would, that is, agree to a payment of 3.4 cents per bus mile for mileage operated by WMA in providing the new WMA service. In this case, the parties have not as yet agreed between themselves as to the route mileage involved in the route extensions here in question. We will direct WMA and D. C. Transit to submit a report to us stating whether they can reach agreement on this point and, if so, the route mileage involved. If no agreement is worked out between WMA and D. C. Transit as to the route mileage, we will address ourselves to that question pursuant to our powers under Section 7 of the Compact.

We will direct D. C. Transit and WMA to enter into an interline agreement substantially similar to that worked out in the Farragut Square case. We believe that such an agreement, calling for a payment of 3.4 cents per bus mile operated in the extended portion of the route, is a remedy which satisfies the requirements of the public convenience and necessity. The amount of compensation, and its method of computation, are reasonable. They are related to the level of service provided and have a reasonable relationship to the amount of revenue which D. C. Transit might experience in the absence of interline service. The payment called for does not impose a burden on WMA or upon its riders. It will not constitute a deterrent to the growth of the through service in question nor to the institution of other service improvements. As in the Farragut Square case, the interline agreement shall continue in effect without change until amendment is approved by order of this Commission.

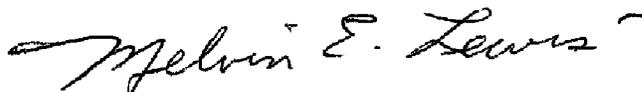
With this determination, our consideration of the issues in this proceeding is complete. WMA seeks authority to extend its routes to serve the Southwest Employment area. The applicant

is fit, willing, and able to provide the service. The service is required by the public convenience and necessity. The alternative service to the Southwest Employment area by transferring to D. C. Transit is inadequate to the requirements of the public convenience and necessity. D. C. Transit's proposal to remedy this inadequacy by providing the service encompassed by its Application 494 and 495 is not a "remedy" within the meaning of Article XII, Sec. 4(e) of the Compact. Moreover, even if it were a remedy, this proposal would not serve the public convenience and necessity. D. C. Transit's proposal to remedy the inadequacy by entering into an interline agreement on the terms and conditions discussed above is a remedy which serves the public convenience and necessity.

**THEREFORE, IT IS ORDERED:**

1. That Application No. 480, filed by WMA Transit Company, as modified by the finding that an interline agreement between the parties is required, be, and it is hereby, granted.
2. That WMA Transit Company and D. C. Transit System, Inc., be, and they are hereby, directed to submit to the Commission on or before August 5, 1968, a written report stating whether they have agreed to the number of revenue route miles involved. If an accord is reached, the report shall indicate the total mileage and how it was derived; if not, each party shall set forth the data it relies upon.
3. That WMA Transit Company and D. C. Transit System, Inc., shall enter into an interline agreement in the form established in Order No. 824, served June 4, 1968.
4. That Applications Nos. 494 and 495, filed by D. C. Transit System, Inc., be, and they are hereby, denied.

**BY DIRECTION OF THE COMMISSION:**



**MELVIN E. LEWIS**  
Executive Director