

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 10,344

IN THE MATTER OF:

Served March 23, 2007

Investigation of Failure to Comply)
With Regulation Nos. 60 and/or 67,)
Governing Annual Reports, Annual)
Fees and Late Fees, Directed to:)
WASHINGTONIAN COACH CORPORATION,)
WMATC No. 247)

Case No. MP-2006-064

Certificate No. 247 was automatically suspended on May 3, 2006, as a result of respondent's failure to timely pay a \$150 annual fee for 2006 pursuant to Regulation No. 67-02 and the associated \$100 late fee pursuant to Regulation No. 67-03.

On May 9, 2006, the Commission warned respondent in Order No. 9537 that Certificate No. 247 would be subject to revocation if respondent did not comply with Regulation No. 67 within thirty days.

Respondent tendered a \$250 check and a motion to waive the \$100 late fee on May 12, 2006. The suspension was lifted in Order No. 9563, served May 17, 2006, but the order was silent with respect to respondent's motion to waive the late fee. Respondent has renewed that request by petition filed January 29, 2007.

The proper procedure would have been for respondent to file an application for reconsideration of Order No. 9563 on or before June 16, 2006. On the other hand, the Commission may reopen this proceeding under Rule No. 26-04 if it has "reason to believe that conditions of fact or of law have so changed as to require, or that the public interest requires, . . . reopening." We do not believe that standard has been met in this case.

The record shows that respondent was advised on or about March 13, 2006, that the Commission had yet to receive respondent's annual fee. Respondent responded by fax on March 22, 2006. The response included a copy of the front of a check drawn on respondent's account, dated January 23, 2006, and made payable to the Commission in the amount of \$150. The response, however, did not include a copy of the back of the check to show receipt of the check by the Commission and payment by respondent's bank. If the Commission had received the check and deposited it in the Commission's bank account prior to March 22, and had respondent's bank honored that check, the back of the check would bear distinctive markings showing acceptance by the Commission's bank and similar markings showing payment by respondent's bank.

After respondent's March 22 fax, the Commission received no further response from respondent prior to the issuance of Order No. 9563. Thus, when Order No. 9563 was issued, the record did not support a finding that respondent had timely paid its annual fee for 2006. Furthermore, inasmuch as respondent's May 12 motion was solely to waive the late fee and not also to refund double payment of the annual fee, it would appear respondent had conceded its failure to timely pay. In any event, the Commission still has no record of payment of respondent's 2006 annual fee prior to May 12, 2006.

In light of the foregoing, the Commission finds that neither the facts nor the law have changed since Order No. 9563 was issued and that the record does not support a finding that the public interest requires reopening this proceeding.

Accordingly, we decline to reopen this proceeding and shall not waive the \$100 fee for late payment of respondent's 2006 annual fee.

IT IS SO ORDERED.

FOR THE COMMISSION:

A handwritten signature in black ink, appearing to read 'William S. Morrow, Jr.', is written over a horizontal line.

William S. Morrow, Jr.
Executive Director