

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 13,085

IN THE MATTER OF:

Served December 15, 2011

Rulemaking to Amend Rules of)
Practice and Procedure and) Case No. MP-2011-106
Regulations, Regulation)
No. 67, Fees)

Pursuant to Title II of the Compact, Article XIII, Section 3, and Commission Rule No. 30, the Commission hereby initiates a rulemaking for the purpose of proposing amendments to Commission Regulation No. 67, which lists the Commission's various fees.

The proposed amendments would increase the Commission's late fees, permit payment by credit card and debit card, add a dishonored payment fee, and codify the fees for reproducing and certifying Commission records that the Commission has been charging since 1991 but which have not been published by order or regulation.

I. LATE FEES

The Commission's late fees are published in Regulation No. 67-03 as follows:

67-03. Late fees. The following late fees shall be due and payable upon the failure of a carrier to:

(a) Timely file an annual report -- \$100.

(b) Timely pay an annual fee -- \$100.

(c) Timely file a WMATC Certificate of Insurance and Policy Endorsement -- \$50.

These late fees were proposed in Order No. 9088, served November 2, 2005, for the following reasons:

Since 1995, the Commission has permitted carriers to file annual reports and/or pay annual fees several months after the due date without sanction. Only those few who still have not complied after six months -- in some cases more than six months -- are assessed a civil forfeiture of \$100 for each violation. This approach has done little to reduce the overall delinquency rate and does not compensate the Commission for the extra effort expended in pursuing the delinquent carriers who are late but not so late as to be subject to a civil forfeiture.

Those who late-file insurance certificates cause extra work for the Commission as well and, therefore, should not be treated any differently.¹

These late fees were adopted in Order No. 9208, served December 22, 2005, and became effective January 1, 2006.² Since then, the Commission has taken several steps to simplify compliance with annual report, annual fee, and insurance requirements, including implementing electronic insurance filing procedures and furnishing carriers with annual report forms that have been prepopulated with existing carrier information from the Commission's database. And yet, even with these improvements, delinquency rates remain unacceptably high.

In 2011, 60 carriers out of 344, or 17%, failed to tender a 2011 annual report and/or 2011 annual fee on or before the January 31, 2011, deadline. And more than 80 insurance filings were deemed late under Regulation No. 67-03(c) during the 12 months ended June 30, 2011 - for an average annual delinquency rate of 22% relative to the average base of approximately 360 carriers for that time period.

The Commission therefore proposes increasing from \$100 to \$150 the late fee for tardy annual reports and the late fee for tardy annual fees - late fees that essentially have not changed since 1995.

The Commission also proposes increasing from \$50 to \$100 the late fee for failing to file a WMATC Insurance Endorsement on time.

II. DISHONORED PAYMENT FEE

As with delinquent filings and payments, checks returned for nonpayment and dishonored credit and debit card transactions can cause additional work for the Commission. The Commission therefore proposes adopting a \$25 dishonored payment fee.

III. REPRODUCTION AND CERTIFICATION FEES

Since at least 1991, the Commission has charged fees for making copies of Commission records, certifying copies of Commission records, issuing duplicate original certificates of authority, and issuing certificates of good standing, as follows:

Copies of records (per side)	\$0.25
Certificate of authenticity	2.00
Certificate of good standing	5.00
Duplicate certificate of authority	10.00

¹ *In re Rules of Prac. & Proc. & Regs.*, No. MP-05-169, Order No. 9088 (Nov. 5, 2005).

² *In re Rules of Prac. & Proc. & Regs.*, No. MP-05-169, Order No. 9208 (Dec. 22, 2005).

These fees were inadvertently omitted from Regulation No. 67 when it was adopted in 2005. The Commission proposes codifying these four fees with one change: because the amount of effort required to issue a certificate of authenticity is roughly equivalent to the amount of effort required to issue a certificate of good standing, the Commission proposes increasing the certificate of authenticity fee to \$5.00.

It should be noted that the Commission has in the past also levied a \$1 handling charge plus estimated postage when fulfilling reproduction and certification requests by mail. The Commission will continue to collect estimated postage but does not propose retaining the \$1 handling charge, finding it no longer necessary.

THEREFORE, IT IS ORDERED:

1. That a rulemaking is hereby initiated for the purpose of proposing amendments to the Commission's Rules of Practice and Procedure and Regulations, Regulation No. 67.

2. That Commission staff shall publish notice of this proceeding on the Commission's website beginning on the date of issuance and continuing through the deadline for comments.

3. That written comments must be submitted within 30 days of the date of this notice by emailing them to rulemaking@wmatc.gov, faxing them to (301) 588-5262, or mailing them to WMATC Rulemaking, 8701 Georgia Avenue, Suite 808, Silver Spring, MD 20910-3700.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS BRENNER AND HOLCOMB:



William S. Morrow, Jr.
Executive Director