WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 1052

IN THE MATTER OF:

Served June 26, 1970

Application of D. C. Transit System, Inc., for Authority to Increase Fares.

Application No. 613

Docket No. 216

APPEARANCES:

HARVEY M. SPEAR and MANUEL J. DAVIS, appearing on behalf of D. C. Transit System, Inc., applicant.

MALAKU J. STEEN, appearing on behalf of himself as a protestant.

MRS. PATRICIA WALD, appearing on behalf of the Willing Workers, a group of welfare recipients housed in the Arthur Kapper Housing Project, protestants.

JOEL YOHALEM, appearing on behalf of himself as a protestant.

EARLE PUTNAM, JONATHAN P. SINER, and HERMAN STERSTEIN, appearing on behalf of the Amalgamated Transit Union, and the Amalgamated Transit Union Local 689, protestants.

ALFRED S. TRASK, appearing on behalf of the D. C. Federation of Civic Associations, protestants.

CHRISTOPHER A. KANE, appearing on behalf of himself as a protestant.

C. BELDEN WHITE II, appearing on behalf of the District of Columbia, protestant.

DOUGLAS N. SCHNEIDER, JR., General Counsel, Washington Metropolitan Area Transit Commission.

BEFORE GEORGE A. AVERY, CHAIRMAN, WILLIAM O. DOUB, VICE CHAIRMAN, H. LESTER HOOKER, COMMISSIONER

I

THE PROCEDURAL BACKGROUND

On March 13, 1970, D. C. Transit System, Inc. (Transit) filed revisions to its Washington Metropolitan Area Transit Commission Tariffs No. 41 and No. 45, accompanied by supporting information as required by Commission Regulation 56-01(c), which was designated Application No. 613.

Transit's application proposed the following changes in Transit's rate structure:

1. Intra-District of Columbia:

   Cash fare of 40¢ for regular route service within the District of Columbia (presently 32¢).

   Five tokens for $2.00 for regular route service within the District of Columbia (presently 5 for $1.60).

2. Capitol Hill Express:

   Cash fare of 75¢ for Capitol Hill Express Service or 35¢ cash fare and a valid D. C. Transit transfer or one token (presently 70¢).

3. D. C. Downtowner (Minibus) cash fare of 20¢ (presently 10¢).

4. Maryland local intrastate service:

   40¢ cash fare for the first two zones of carriage, or any part thereof (presently 32¢). 15¢ additional for each succeeding zone or any part thereof (presently 15¢ for third zone and 5¢ additional for each succeeding zone or any part thereof).

5. Maryland - District of Columbia local interstate service:

   60¢ cash fare for regular route service within the District of Columbia and the first zone of carriage, or any part thereof, in Maryland (presently 47¢). 10¢ additional for the second zone, 15¢ additional for each succeeding zone or any part thereof, (presently 10¢ for each of the third and fourth zones and 5¢ additional for each succeeding zone or any part thereof).

6. Maryland - District of Columbia express interstate service:

   60¢ cash fare (or 20¢ cash fare and a valid D. C. Transit transfer or one token) between the District of Columbia and the Maryland - District of Columbia Line (presently 50¢). 10¢ additional for each of the first and second zones and 15¢ additional for each succeeding zone or any part thereof. (Presently 10¢ additional for each of the first, second, third and fourth zones and 5¢ additional for each succeeding zone or part thereof.)

7. RFK Stadium service:

   Cash fare of $1.00 or 20 ride ticket for $15.00 (presently cash fare of 75¢).

8. Virginia interstate zone:

   15¢ (presently 10¢).

At the same time Transit submitted a motion requesting that it be granted an interim increase in fares pending a decision on its application. Transit based its petition for an interim fare increase on an alleged shortage of operating funds exacerbated by the failure of fare box revenues to cover day-to-day expenses.

In Order No. 1031, issued March 26, 1970, we determined that the issues raised by Transit's motion should not be decided without giving the public an opportunity to be heard. As a public hearing involves giving due notice to the public, allowing an adequate period for preparation and presentation of rebuttal evidence, and time for us to deliberate on the questions presented, we determined that an expeditious consideration of Application No. 613 would be a wiser course for us to follow. The motion for interim relief was held sub judice, however, so that appropriate action in any developing emergency situation would be possible.

On April 10, 1970, Order No. 1035 suspended Transit's proposed tariff through July 10, 1970.

In light of our decision to expedite the application, Order No. 1031 set hearings on the matter to begin April 20, 1970. Eight formal protestants were admitted to the proceedings: Malaku J. Steen, pro se; the Government of the District of Columbia; the D. C. Federation of Civic Associations, Inc.; the "Willing Workers"; Joel Yohalem, pro se; the Amalgamated Transit Union, AFL:CIO; the Amalgamated Transit Union, Local Division 689; and Christopher A. Kane, pro se.

Notice of the hearing was given in accordance with Commission rules and regulations. Five sessions of formal hearings were held during which Transit presented testimony from six of its officers. In addition, the Deputy Mayor of the District of Columbia; the International President of Amalgamated Transit Union; the President of Division 689, Amalgamated Transit Union; and the Chief Engineer and Chief Auditor of the Commission staff presented evidence. An evening hearing to elicit comment from members of the public was also held. Three members of the public appeared and spoke.

II

PROJECTED FINANCIAL RESULTS

A. The Historical Period

Both the company and the Commission staff used the 12-month period ended November 30, 1969, as the historical year upon which to base forecasts for the future annual period. The staff concurred in Transit's statement of its operating revenues for that period. After thorough audit, however, the staff made adjustments to the company's statement of operating revenue deductions which had the net effect of reducing operating costs by $24,295.67.[1] As the adjustments by the staff were not challenged or rebutted, the figures presented by the staff in its Exhibit No. 3 will be accepted as the base for forecasting the operating results of the future annual period. Accordingly, we find that the operating results for the 12 months ended November 30, 1969 were:

TABLE I

	12 Months Ended November 30, 1969 Adjusted
Operating Revenues:	
Passenger	$ 35,266,744
Schoolfare Subsidy	1,518,729
Charter	2,192,448
Government Contracts	120,583
Station and Vehicle	161,269
Other	136,730
Total Operating Revenues	$ 39,396,503
Operating Revenue Deductions:	
Operating Expenses	$ 35,060,255
Taxes, Other Than Income Taxes	1,283,711
Income Taxes	6,491
Depreciation	2,404,916
Amortization of Acquisition Adjustment	(230,527)
Track Removal	9,652
Total Operating Revenue Deductions	$ 38,534,498
Net Operating Income (Loss)	$ 862,005
Operating Ratio	97.81%
Rate of Return on Operating Revenues	2.19%

The company incurred interest expense of $1,293,651 in the historical period. Hence, the net loss for the period amounted to $431,646. As of November 30, 1969, Transit had retained earnings of $1,241,203.58.

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[1] The major adjustments made by the staff were disallowance of a $6,220.38 unsupported office expense and a $10,000.00 legal fee for non-Transit services.

B. <u>Projections of Revenues and Expenses -- At Present Fares</u>

We turn next to projections of the operating results which Transit can expect in the future annual period at present fares. Although there is dispute between company and staff on various items of revenue and expense, both agree that the company will not obtain sufficient revenues under present fares, even to cover operating expenses. However, the company projected a loss about $440,000 higher than the staff. We will discuss the disputed items of revenues and expenses.

1. <u>Revenues</u>

Our first task is to determine projected revenues for the future annual period. There was dispute between the company and staff on several categories of revenue.

The first and most important category is passenger revenue. Projection of this figure depends in turn upon estimates of future ridership Staff and company each took a different approach in making their estimates in this proceeding. The company ascertained actual ridership in the 13-week period immediately following the last fare increase, i.e., the 13 weeks ending January 24, 1970. The annualization was made by determining what percentage of a year's revenue was made up by the equivalent 13-week period during the twelve months ended October 25, 1969. This percentage factor was then applied to the actual ridership experience for the 13 weeks following the latest fare increase, as mentioned above, to develop the annual ridership for the future period.

The staff's methodology made use of actual ridership figures under present fares for a longer period than the company. The staff used such figures for five months, rather than the thirteen weeks used by the company.

However, the staff used a different approach to annualizing. Rather than projecting the five month levels into the future, the staff looked at actual ridership for the seven months preceeding the last fare increase, i.e., that of October 25, 1969. A resistance factor of .32% was applied to those figures to determine the impact of the October 1969 fare increase. This adjusted figure for seven months was then added to the actual ridership for the five months following the increase to obtain an annual ridership

It should be noted that neither staff nor company gave effect to any declining trend in ridership other than that attributable to fare resistance.

In our opinion, neither approach is fully satisfactory. The company used a data base of thirteen weeks. As we indicated in Order No. 984, this is an undesirably small period on which to base an annual projection. It can produce a distorted result. On the other hand, we have questions about the staff approach, particularly because it takes into account no declining trend other than that attributable to resistance. When we look at the weekly passenger reports, however, we see a continuing downward trend in ridership which exceeds that attributable to resistance factor relied on by the staff.[2]

To test the figure, we have performed an independent check, utilizing data in the record. Specifically, we have applied the annualization method we utilized in the last Transit rate case -- essentially that used by the company here -- to the five months of post-fare increase data utilized by the staff. This calculation indicates an annual ridership of 113,253,766, 513,724 less than the figure produced by the company and 933,427 less than the figure produced by the staff. We have also applied that same method to the very latest data available to us from regular reports filed by the company. This data, covering the period through May 31, 1970, gives seven months of actual ridership under present fares. Annualizing this figure by the method used in the last case indicates an annual ridership of 112,785,616, 981,874 less than the company figure and 1,401,577 less than the staff.

Based on all those factors, we are certain that we should not adopt the staff projection. Even the company figure might be too high. However, the burden of proving its entitlement to relief is on the company. We will not ask the rate payer to provide additional revenues which the company, in effect, did not seek. To the extent that revenues are not forthcoming because ridership is less than the company's own projection, the company must absorb that shortfall.[3] For purposes of projecting the future period's passenger revenues, therefore, we will rely on the company's projection of ridership.

The company projected school subsidy revenues of $1,868,633 while the staff projected only $1,772,709. The company's school ridership figure was developed by them on the basis of the same 13-week period used in determining regular route ridership. Similarly, the staff used the same period for its school ridership projection as it did for its regular route passenger projection. School ridership per monthly reports on file with the Commission, is on the up-trend and the staff's approach fails to give recognition to that fact. We think that the company's methodology, reflecting more current data, is preferable and we will adopt that figure.

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[2] The regular ridership reports for all of 1969 and for 1970 through February 28, are in evidence as Transit's Exhibit A. To ensure that the picture thus reported has not changed, we have taken official notice of the report which covers the period through May 31, 1970. It shows that the decline in question is continuing.

[3] This is not like the situation which we faced when we issued Order No. 900 in December, 1968. There, the ridership estimate was so far off that the company was actually operating at a loss. Here, even if the lower figures indicated by our analysis materialized, the company will still cover its expenses and interest. It will have to forego some profit only.

Another area in which company and staff were at variance was the amount of charter revenues which were predicted for the future annual period. Transit predicted a slight decline from the historical period based on the judgment of George Keyser, its Vice President in Charter of Operations, who stated that he made an educated guess of revenue for each month in the future annual period based on advance bookings, and totaled up the figures to reach his prediction.

The staff on the other hand, predicts an increase in charter revenue in the future. The staff figure was arrived at by annualizing the charter revenues in Transit's three most recent quarters.[4/]

The question of charter revenue projection is always a difficult one, since it is so much a matter of judgment. In the last case, we were willing to accept Mr. Keyser's estimate. However, subsequent experience has proven that that estimate was quite low.[5/] Mr. Keyser himself stated that his estimate here was conservative. In the present case, we believe that the staff's method of projecting a continuation of present trends is more likely to be accurate than that presented by the company. Staff Exhibit 1, Appendix I shows that Transit has experienced steady yearly increases in charter revenue with the lone exception of 1968, the year of the civil disturbance. Therefore, we will project Transit's charter revenue at the level suggested by the staff.

We will also accept the staff's figures for government contract, station and vehicle, and other revenues, in which a staff correction based on an error in computing expected Council of Governments routes revenues was the only controverted item.

2. Expenses

Our next task is to determine what expenses Transit would have if it operated in the future annual period at its present fares. Transit submitted projected operating revenue deductions totalling $43,988,134. The staff auditors suggested adjustments to those figures, all but one of which, a $375,000 difference as to the injuries and damages reserve, were acquiesced in by the company.

In addition, several policy issues were raised at the hearing, which would affect Transit's operating expenses in the future annual period. These included a proposed increase in Transit's maintenance force, the possible reinstitution of the bus purchase program and the treatment of certain management salary increases.

Finally, there is the matter of the proper allowance for the cost of streetcar track removal.

Each of these subjects requires discussion.

4/ A full year's actual figures were not used because an increase in charter rates was granted in September, 1969, making comparisons difficult.

5/ The charter estimate of D. C. Transit in Docket 201 for 12 months ended 6/30/70 was $1,948,021. Historical experience, 12 months ended 5/31/70 was $2,277,555, for 12 months ended 3/31/70, $2,285,464.

a) Injuries and Damages Reserve

One of the bases upon which Transit rests its claim for increased fares is its contention that the amount of $1,300,000 allowed annually as a credit to the injuries and damages reserve is no longer adequate and, therefore, the amount should be substantially increased.

We established the amount of $1.3 million to be credited to the reserve in Order No. 564, issued on January 26, 1966, and the figure has not been adjusted since that time. Transit asserts that the number of claims filed has increased each year and the cost of satisfying claims obligations has increased. The number of claims and suits pending on January 1, 1966, was 1,078 and at the close of the historical year, November 30, 1969, that number had increased by over 100%. Auto repair costs and the costs of hospitalization and medical treatment have likewise risen.

The company asked that the injuries and damages reserve allowance be increased to $2,250,000 annually. The staff witness, on the other hand, recommended that the reserve credit be increased to $1,850,000 annually.

The company witness estimated that expenditures in the future annual period would amount to $1,735,485 as opposed to the staff witness' estimate of $1,639,745. Both agreed that some deficiency in the reserve balance of $1,832,294 as of March 31, 1970, would develop by the end of the future annual period based on the current rate of expenditure plus the anticipated expenditure during the future period. The company estimated that deficiency would be $129,701; and the staff, $33,961. Thus, to restore the balance to the level of March 31, 1970, the staff estimates $566,000 will be needed in the future annual period in addition to the $1.3 million already allowed; and the company estimates an additional requirements of $662,000. The difference between the staff's estimate and the company's for expenditures during the future annual period is due to the staff's use of $1,900 as the average cost of judgments and compromise settlements, a figure rounded down from the average of $1,961, the average for the year 1969. The company, on the other hand, used an average cost of $2,185.79. We have some doubt about the fairness of using a figure rounded down and believe that rounding the figure to the nearest thousand, to $2,000, would be more reasonable. The staff figure, adjusted by using the $2,000 average for judgment and compromise settlements, would be approximately $1,900,000 annually.

This amount is in line with historical experience. In 1966, when we set the annual credit to the reserve at $1.3 million, the reserve balance stood at $1,872,037. The expenditures from the reserve fund for the next four years were as follows: for 1966, $1,068,619; for 1967, $1,127,373;

for 1968, $1,286,655; and for 1969, $1,587,211. While there was a relatively gradual increase in demand on the reserve between 1966 and 1967, and between 1967 and 1968, the increase between 1968 and 1969 was very sharp. We believe this experience indicates that a reserve allowance of $1,900,000 will be reasonable for the future.

One other aspect of the injuries and damages reserve issue involves the possibility of a reserve deficiency. The company requested an allowance to permit the amortization of a deficiency in the reserve that it says will result from satisfaction of claims outstanding prior to March 31, 1970. The company contends that deficiency will be $916,257.

This figure is based on an estimate of the cost of settling suits actually filed and expected to be filed, cost of settling claims not litigated and the estimated cost of liability for workmen's compensation. The staff witness concluded that the deficiency from settlement of past pending claims would not reach the level anticipated by the company, but his analysis admittedly did not take into account the possibility that some of the pending claims would develop into law suits which are costlier to the company, on the average, than satisfaction of claims not involving litigation. Therefore, we believe the company methodology to be sounder.

However, even though the method used by the company is the more complete, it is apparent that the estimates made are so speculative as to be unreliable as a basis for a finding as to what deficiency will actually develop. We will not attempt at this time to determine what deficiency in the reserve can be expected from pending claims. Rather, we will hire the services of a consultant to do a study to determine the extent of the deficiency and we will make whatever adjustments to the reserve allowance seem appropriate at the next opportunity.

Finally, with respect to the injuries and damages issue, the staff recommended that any increased amount in the injuries and damages reserve be funded to provide an assurance that the funds credited to injuries and damages will, in fact, be available for the purpose intended. The company witness agreed to the funding of the increased amount, but only with respect to amounts expected to be paid to claimants and not administrative costs. We agree that actual funding of the reserve is desirable and will require 70% of the entire $1,900,000 annual credit, the approximate portion of the fund paid to claimants, to be funded at the rate of $110,833 per month.

b) Maintenance Force

The company proposed an upward adjustment of $474,073 in its maintenance expense in the future annual period. The expense would be incurred to institute a night force of 20 mechanics and a foreman. There is no question that the company's maintenance program has been deficient and that, as a result, the number of buses available for service has been inadequate. The record shows that in the six months ending in April of this year, an average of 63 "blocks" per week have not been operated due to a lack of vehicles. At the same time, according to the record, there have been more than 100 buses per day held in the garages for repairs. On the average, it took 16 days between the time a bus went out of service and the start of repairs.

There is nothing which causes greater concern from the service standpoint than the cutting of runs for whatever reason. The lack of dependability and the overcrowding thus caused can only accentuate the problems which the company has in retaining ridership. We regard this as a situation which requires correction.

The staff called into question, however, the need for the institution of a night shift as proposed by the company. The staff took note of the fact that in February of this year, the company instituted a Saturday overtime shift in an effort to deal with the backlog of crippled buses. As a result, the average number of buses awaiting repair dropped from 88 in February to 52 in April. The staff felt that these facts indicated that the Saturday shift would be sufficient to cure the problem.

The company took substantial issue with the staff's view of the problem, however. For one thing, the Saturday shift is performed on the basis of voluntary overtime. There is serious question whether it is feasible to continue such a program for an indefinite period. In addition, the period in which the Saturday shift has been in effect is a period of improving weather conditions. This in turn leads to a lessening of the bus breakdown problem. It is questionable whether this solution would cope with problems which will arise when the weather worsens. Finally, the company's maintenance vice president asserted that the night shift would enable him not only to clear up the existing backlog of crippled buses, but also to institute an improved program of preventive maintenance which would alleviate to some degree the problems of breakdown while in service.

We have concluded that the staff's hope that the Saturday shift alone will solve the problem is unduly optimistic. There would seem to be serious limitations on the effectiveness of such a program over an extended period. Moreover, we would like to see the kind of improvement in the maintenance program which the night shift would make possible.

The amount we will allow for this activity is $517,200, which is the total cost of the expanded maintenance program after adding payroll fringe costs.

We wish to be certain, however, that the public gets what it is paying for. Accordingly, we will require the company to place the sum we are allowing for this purpose in a special escrow account. The escrowed funds may be used by the company to defray the cost of the added maintenance force once it demonstrates that it has actually instituted a night shift with a work force at the level for which we have made allowance. We will also require the company to demonstrate that there has been no simultaneous reduction in personnel, particularly in maintenance workers but generally in all areas of the company's employment. If the company fails to institute the program promptly or fails to maintain it at the projected level, so that excess sums accumulate in the fund at any time, the Commission can direct that the excess be used as a riders' fund for such purpose as appears appropriate. The staff will be directed to develop the necessary information as to existing work force levels and to require the submission of such reports as are necessary to ensure that the effort which we have authorized is in fact incremental to existing maintenance programs.

c) Bus Purchase

In Order No. 984, we suspended the company's bus purchase program and reduced depreciation expense and return levels accordingly. The company has purchased no buses since that time and has no present plans to do so.

We were not happy about our decision in this regard in Order No. 984 but we felt that it was in the best interest of the riding public at that time in light of then pending possibilities for solution of the problem of increasing fares. As discussed elsewhere in this opinion, we are now forced to the conclusion that there is no prospect for prompt action in the Congress to alleviate the economic problems afflicting this company. In our judgment, action of this kind seems unlikely in this session of Congress and we could not be optimistic about the next session.

Meanwhile, the average age of buses in the fleet is increasing. Buses more than 21 years old continue to be used in service. The program for providing an all-modern fleet of air-conditioned buses is stalled. We think that this is the time to face up to this problem realistically, and require the company to reinstitute a bus purchase program. Otherwise, the community faces the steady and ever-worsening deterioration of the fleet serving it. We are not willing to permit this to happen.

We will, therefore, require the company to purchase 85 buses annually and we will adjust depreciation expense accordingly.

We recognize the problems which the company may have in placing an order immediately in view of the financial problemsit has currently been facing. These problems will undoubtedly make it difficult to obtain the necessary financing at the first possible moment. The staff will monitor the company's efforts closely and will make independent checks of credit availability.

In order to exercise some control over the acquisition of the new buses, and see to it that the financial means to carry out the transaction are there, we will order the funding of the down payment requirement. This will sequester $620,000 of profit for down payment purposes to buy the buses.

d) Management Salaries

We have noted that the company's projected expenses include $15,000 for increases in salaries to top management officials of the company.[67] We have determined that this is an expense we must disallow for rate-making purposes.

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[67] Senior Vice President $5,000; Vice President and Comptroller $5,000; Vice President-Sales $5,000. Transit's President received a $10,000 increase, but no adjustment is made because the expenses projected by Transit, as well as by the staff, excluded this amount; if it were included, we would have disallowed it.

We wish to make it expressly clear that the action is in no way intended to cast aspersions upon the manner in which these officials are performing their duties. It may well be that those performances merit an increase in pay.

However, to give such increases at a time when the company is undergoing the financial problems being faced by D. C. Transit is not an action which we can condone nor which we can ask the riding public to pay for. If the management chooses to increase salaries in circumstances like these, that is a matter between it and its stockholders. We must disavow the action by placing the expense below the line.

e) Track Removal

Another item of expense that must be determined is the allowance for track removal. The company initially included $483,165.40 for track removal over and above its existing reserves. It based this figure on a February 1970 letter from the D. C. Department of Highways and Traffic which indicated that removal work costing $642,543.90 would be required in the period in question. Because track removal estimates are subject to change, the staff undertook to secure a more recent estimate than had been presented by the company. On May 2, 1970, the staff reported that the Highway Department estimate had indeed been revised. The anticipated cost had increased by $43,011.63. We will use the later figure since it is the more recent and accurate one. Thus, we will allow track removal expense in the future annual period of $526,177.03.

We should like to say again that this is an item of expense which, in our judgment, should not be borne by the ratepayers. The burden is growing substantially large as increased track removal is occasioned by subway construction. The amount we must allow for this expense in this case is more than 190% higher than in the rate case of last year. Indications are that the expense will grow even more steeply in the future. We call upon those who would assist us in providing some relief to the ratepayer from rising fares, particularly the city government, which was a protestant in this case, to join us in our efforts to have the track removal burden lifted from the ratepayer and assumed by the community at large.

It is perfectly apparent, therefore, that under present fares, the company will suffer catastrophic losses in the future annual period. Even with no purchase of new buses, its revenues will fall short of meeting operating revenue deductions by $2,676,115. It will, in addition, incur interest expense of $1,298,875 making a total loss of $3,974,990.[7/]

[7/] It should be noted that even if all questions concerning revenues and expenses were resolved in the manner most favorable to the ratepayer, it would still have to be concluded that an operating loss in the millions would be incurred.

These facts make adjustments in the fares not only necessary but imperative and we will turn to a discussion of the further questions concerning projected results which are raised by the fare adjustments we will authorize. We are not unmindful that, notwithstanding the bleak and unacceptable results which would follow from a failure to increase fares, that very course has been urged upon us in these proceedings. The questions thus raised will be discussed in an ensuing section of the order, at page 25, *infra*.

This completes our discussion of the disputed items of revenues and expenses in the future annual period.[8/] On the basis of that discussion, we can make the projection set out in Table II. We have indicated therein the projection with and without the bus purchase requirement in order that the impact of that amount can be clearly seen and understood.

TABLE II

Projected Operating Statement for
Future Annual Period
With No Change in Fares

Operating Revenue	No Purchase of Buses	Purchase of 85 Buses
Passenger	$36,684,224.00	$36,684,224.00
School Subsidy	1,772,709.00	1,772,709.00
Charter and Sightseeing	2,402,968.00	2,402,968.00
Government Contract	137,336.00	137,336.00
Station & Vehicle Privileges	137,869.00	137,869.00
Other	136,095.00	136,095.00
Total Operating Revenue	$41,271,201.00	$41,271,201.00
Operating Revenue Deductions		
Operating Expenses	$39,822,244.97	$39,822,244.97
Taxes,other than Income Taxes	1,425,761.80	1,425,761.80
Depreciation	2,226,217.00	2,439,225.30
Amort.of Acquisition Adjust.	(72,305.53)	(72,305.53)
Provision for Track Removal & Repaving	526,177.03	526,177.03
Income Taxes	19,221.19	19,221.19
Total O/R Deductions	$43,947,316.46	$44,160,324.76
Net Operating Income	(2,676,115.46)	(2,889,123.76)
Operating Ratio	106.48%	107.00%
Rate of Return on Operating Revenue	(6.48)%	(7.00)%

8/ There is one additional item of expense, for an improved marketing program, which is not reflected in Table II because it would not be feasible under present fares, but which is taken into account in projections under authorized fares. See page 24, *infra*.

C. The Return To Be Allowed

Since July of 1968, we have heard three complete D. C. Transit rate proceedings, including the present one. In those proceedings we have heard testimony on rate of return from Mr. John F. Curtin, for the company, and from Mr. David Kosh and Mr. R. L. Banks, for the staff. In each of these proceedings, we have given very close scrutiny to the rate of return question. Our most recent review was conducted just eight months ago in connection with Order No. 984. In light of the history, it was generally agreed by the parties to this proceeding that a new review by yet another set of independent experts of the rate of return question would not be necessary in this proceeding. Instead, it was stipulated that we would take official notice of all rate of return testimony in the last two rate proceedings. Thus, that evidence forms the underlying basis of our decision in the instant case. The testimony in question has been described and summarized in our Orders Nos. 880, pp. 23-36 and 984, pp. 13-18. We will not repeat that discussion but herewith incorporate it by reference.

Because of the frequency of D. C. Transit rate cases in recent years, our views on their return are well-developed and repeatedly spelled out. Our guidepost is the decision of the court of appeals in D. C. Transit System, Inc. v. WMATC, 350 F.2d 753 (D.C. Cir. 1965). The court there stated that

> "A 'just and reasonable' rate is one that assures that all the enterprise's legitimate expenses will be met, and that enables it to cover interest on its debt, pay dividends sufficient to continue to attract investors, and retain a sufficient surplus to permit it to finance down payments on new equipment and generally to provide both the form and substance of financial strength and stability." 350 F.2d at 778.

We can focus our attention more narrowly on certain elements of this standard. The rates here granted will cover the company's legitimate expenses and the interest on its debt. Hence, we can look most closely at the amount remaining thereafter to determine whether it will permit the company to pay an adequate dividend, while leaving retained earnings which both provide sufficient internally generated capital to finance new equipment purchases and protect the company's financial integrity.

The fares here authorized will, after payment of legitimate expenses, leave a net operating income of $2,440,284. The company's outstanding debt will give rise to interest payments of $1,198,875. In addition, we are here requiring the reinstitution of the bus purchase program. The required purchase in the future annual period will cost a total of approximately $3,106,373. We estimate that $2,485,099 of this amount will be debt financing and that this debt will carry a charge of at least 10%. Thus, there will be additional interest expense, after allowing for the reducing balance of the notes given in payment for the new buses, in the amount of $234,263. In addition, it was brought out at the hearing that Transit had borrowed an additional $1,000,000 in April, 1970, at an interest rate of 10% in order to pay its contribution to the employee pension fund. There will be additional interest expense attributable to this loan, of $100,000.9/ There will thus be total interest expense in the future annual period of $1,533,138. The authorized fare structure will then produce a return to the equity holders of $907,146.

This amount would, on a theoretical basis, permit the payment of a "dividend sufficient to continue to attract investors." However, we think it is highly unlikely that any dividend would be paid at all. This company has operated at a loss for the past three years. Its current liabilities have risen to the level of $10,416,083, four times its current assets. It has accounts payable of $3,308,005, many of which have been outstanding for considerable periods. It is our expectation that prudent management would dictate that the cash flow represented by return on equity would, for the time being, be used in the company's financial recovery, rather than for the payment of dividends.

The return allowed will, we believe, restore the company's ability to finance new equipment purchases. Restoration of the company's ability to earn a profit, accompanied by a prudent program of cash management and reduction of current liabilities, should open up to the company sources of financing now closed. In addition, some portion of the return earned can be utilized for down payment purposes.

Looking at the future annual period alone, we cannot really say that the company will regain both the form and substance of financial strength and stability simply on the basis of the return we allow here. In recent years, the company has sustained repeated substantial losses which have weakened its general financial structure. No single determination of a proper level of return - such as we are making here - could restore the company's financial health *ipso facto*. That objective will be achieved by a record of sound operating results over a considerable period of time. However, we think the return allowed here will contribute to the company's recovery while not imposing an undue burden on the rate-paying public.

In most recent D. C. Transit cases, we have found that a dollar return on equity of about $750,000 to $800,000 would be adequate. The return we allow here is somewhat higher than that. 10/ We think that this fact

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9/The April loan expires December 31, 1970. However, we assume that at maturity it will have to be refinanced.

10/The impact of this additional amount on fares is minimal. The added $107,146 is only .26% of the total passenger revenues of $41,442,719.

is justified by a number of factors. First, we are here requiring renewal of the bus purchase program. In light of the company's recent financial history, we believe that a greater amount of internally generated capital will be needed to make those purchases possible. If the company can purchase the buses with 10% financing on an eight-year payout, it will require another $310,000 per year in principal payments, which is almost $100,000 greater than the funds to be generated by the allowance for depreciation. As noted above, p.11, supra, we will require the company to sequester $620,000 needed for the down payment on the bus purchase. Thus, some $720,000 in cash, beyond that produced from fares, will be required of the company to effect the bus purchase. This fact provides further justification for the small increase in return on equity which we here allow.

Further, whether the company will resort to new borrowings or equity sources, an analysis of the company's balance sheet shows an urgent need to meet over three million dollars' worth of accounts payable and over two and a half million dollars' worth of principal repayments, not counting the one million dollar temporary loan to cover pension fund payments, which expires December 31, 1970. After deducting the funds to be generated by the charges for depreciation, there still remains a need for at least four million dollars in new funds. There is no question but that the service charge for this kind of refunding will run at least $400,000 per year.

We are not unaware that this company has been facing a downward trend in ridership since late 1966. While we have used the company's projected ridership figures, we consider that there is some possibility that further reductions in ridership, not anticipated in the company figures may take place. While not flatly predicting this result, it is a sufficient possibility and we have weighed it in considering that the return here indicated is not excessive.

In addition, we have required the company, in another section of this order, to prepare for the institution of a senior citizens reduced fare in off-peak hours. We regard this a highly desirable and important program. We believe it can be done without a substantial adverse impact upon the company's revenue picture. However, there is no guarantee that this is the case and we have this additional risk in mind in allowing a dollar return on equity at a slightly higher level than we have authorized in the past.

Turning to certain tests of return levels, we find that the return allowed provides a return on system rate base of 9.87%. The return on capitalization of Transit as of November 30, 1969, is 10.87% Return on equity is 52.10%. This figure must be carefully assessed. The losses incurred by the company in recent years have reduced retained earnings from $2,890,848 in 1966 to $1,241,204 as of November 30, 1969. Were it not for special adjustments to retained earnings in the net amount of $605,008, during the past three years, the balance in retained earnings account would have stood at $636,196.

We believe that this factor must be heavily weighed in considering the significance of the percentage return on equity. In these circumstances, the percentage return is an unreliable indicator of adequacy. The central fact is that the dollar return which is our target has remained essentially the same for several years. Circumstances have prevented the company from earning that return, with a consequent effect on the level of retained earnings. We believe that the factors which made the dollar level appropriate at a time when those dollars meant 38.54% return on equity are equally valid today. Thus, since we are allowing a dollar return on equity which is only slightly higher than the levels we have found to be reasonable in other recent orders, and since we think that there are sound reasons for that slight extra allowance in this proceeding, we do not regard the percentage return on equity which that dollar return now represents as being an obstacle to our allowance here.

For all those reasons, we conclude that a net operating income of $2,440,284 is just and reasonable for this company.

D. Revenues and Expenses -- Under Fares Proposed by Applicant

We first consider the financial results projected under the company's proposed fare structure.

Before setting out the results, we should resolve a question concerning the resistance factor. This is the measure of the extent to which the increased price of bus transportation will cause some passengers to forego the use of buses.

In the present proceeding, the company suggested that a factor of .33% for the decrease in patronage for each 1% increase in fares be used. The company based its resistance factor on what it claimed was a conservative reading of a study of the decline in patronage between the thirteen week period directly following the last fare increase and the same period in the previous year.

The staff applied a resistance factor of .32% to its calculations. It also based its figure on a comparison of ridership levels before and after the most recent fare increase, but it chose as a test period the twelve weeks just prior to the submission of its evidence. We will accept the staff figure, as it is both more recent, and more likely to be free of distortion caused by the fluctuations in ridership patterns which occur in the period immediately following a fare increase.

There is one further point to be resolved. Transit asked that recognition be given to the diminution in revenue during future periods if tokens, purchased for 32¢ are used for a 40¢ ride. Transit's witness estimated that there were over 1.3 million tokens outstanding at the end of the historical period, November 30, 1969. At eight cents each, this would affect future revenues by $104,000. In view of the fact that there will be an additional diminution due to outstanding commuter tickets for interstate rides, we will allow the company's adjustment in its Exhibit No. 4, Schedule No. 1, in the amount of $105,192. A similar adjustment was recognized by the Commission staff in the last D. C. Transit Rate case.

Using the .32% resistance factor, then, the company's proposed fares would produce the following results:

TABLE III

Projected Operating Statement For Future Annual Period At Fares Proposed By The Applicant

Operating Revenue	
Passenger	$41,597,524.00
Schoolfare Subsidy	2,548,136.00
Charter and Sightseeing	2,402,968.00
Government Contract	137,336.00
Other	273,964.00
Total Operating Revenue	46,959,928.00
Operating Revenue Deductions	
Operating Expenses	39,822,244.97
Taxes, Other Than Income Taxes	1,425,761.80
Depreciation	2,439,225.30
Acquisition Adjustment	(72,305.53)
Track Removal and Repaving	526,177.03
Additional Expense for Marketing Program	150,000.00
Income Taxes	83,024.06
Total Operating Revenue Deductions	44,374,127.63
Net Operating Income	$ 2,585,800.37
Operating Ratio	94.49%
Rate of Return on Operating Revenue	5.51%

We are unwilling to accept these projected results for two reasons. First, the return is somewhat higher than that which, in our judgment, is fair and reasonable. More important in this instance, however, we believe that the fare structure proposed by the company includes some increases which do not merit our approval. We will turn next to these rate structure problems.

III

THE APPROPRIATE RATE STRUCTURE

There are five problems concerning rate structure with which we must deal: First, the magnitude of the proposed increases in Maryland fares; second, the question of the downtown minibus fare; third, senior citizen fares; fourth, the question of zone fares within the District of Columbia; fifth, the interrelationship between Maryland and District fare levels.

A. The Proposed Maryland Fare Increases

The company proposes a schedule of fares for Maryland which would raise the fares for Maryland local riders from 8¢ for riders in the first two zones to 78¢ for riders in the last zone. Similarly, interstate local passengers would pay increases ranging from 13¢ to 83¢ per rider; and interstate express riders would pay from 10¢ to 70¢ additional per ride. This magnitude of increase cannot be approved. While the proposed increase in the beginning zones is not unreasonable, the cumulative effect on riders' fares in the fourth zone and beyond for interstate passengers, and in the third zone and beyond for local Maryland riders, is intolerable. Pushing the fares upward to the levels proposed in the middle and outer zones of Maryland service would undoubtedly cause a drastic ridership decline and quite likely a reduction, rather than an increase in revenue. The lost riders would go to private cars, thus adding to the familiar cycle of higher fares required from the remaining riders for slower service caused by heavier automobile traffic. Moreover, no justification whatever has been put forward for the very large percentage increases sought to be imposed on the Maryland middle and outer zone rider.

We believe that a reasonable approach to the Maryland fare structure would be to increase the local Maryland fare from 32¢ to 40¢ for the first two zones so that it will remain comparable to the D. C. fare and to limit the increase in each of the other zones to 8¢ over what is paid today. Likewise, the interstate local fares will be raised 8¢, and express fares will be raised 10¢

B. The Minibus

The company has applied for an increase in fare on the Downtown Shopper Minibus from 10¢ to 20¢. The effect of this increase, as shown in Company Exhibit No. 4, Schedule No. 1, would be a reduction in ridership of approximately 280,000 coupled with an increase in revenues of approximately $28,000. Although the figures presented in staff Exhibit No. 1 differ slightly from these, they are similar in magnitude. These figures indicate that the proposed fare increase would cause one-third of the present minibus riders to cease to ride in order to provide a relatively small increase in revenue.

In Order No. 1030 (served March 24, 1970), we granted D. C. Transit's application to increase the headway on this service from three to four minutes. We stated in that order that the operation should be closely scrutinized for a period of six months to determine what further adjustments are required to insure a responsive service. Meanwhile, a doubling of the fare causing one-third of the passengers to stop using the service would undoubtedly bring about increased pressure for a further reduction in the service which, in turn, would cause a further reduction in patronage. This cycle would eventually lead to the complete destruction of the operation.

The minibus got its start in Washington with a 5¢ fare and very frequent service. Retail trade at downtown stores was to be stimulated because a person shopping at one end of downtown would be able to patronize stores at the other end with a minimum of time and cost involved.

The typical ride is of very short duration and the value of service provided is thus different than that which prevails on the company's regular route service. In addition, we believe that we should give consideration in weighing this fare to the role which the service plays in the overall economic health of the downtown area or, to be more precise, to the impact of the destruction of that service on that health.

For these reasons, we will not take action to raise the minibus fare at this time. However, we think both the company and the business community of downtown Washington should recognize the need to seek innovative means to provide proper financial support for this service. We do not feel at this point that the general rider is being unduly burdened to support the minibus service. However, that judgment may not be valid indefinitely.

Since the minibus service is of a definite benefit to the downtown merchants in that it makes it easy for persons to get from store to store, and since the amount of revenues that D. C. Transit expects to realize from the proposed fare increase is only in the neighborhood of $28,000, it occurs to us that Downtown Progress might be willing to provide a subsidy in order to prevent the present operation from deteriorating and eventually disappearing. Certainly it seems logical to us that the merchants who are benefited by the service should provide financial support to the extent the minibus cannot support itself at a fare level which provides an inducement to ride. Furthermore, since the lower the fare, the more likely are people to use the minibus to travel to additional stores once they are downtown, it might prove to the advantage of Downtown Progress to provide an even larger subsidy in order to bring about the return of five-cent fares.

We will make available a copy of this Order to officials of Downtown Progress. We will expect the company to follow up the matter with them. In addition, if the staff of the Commission can be of assistance in exploring the possibility of an eventual subsidy by the merchants, their aid will be made available.

C. Reduced Off-Peak Fares for Elderly

In our recent rate orders involving the W. V. & M. Coach Company, and the W. M. A. Transit Company, we indicated that we will direct each of the area mass transit bus operators to develop an experimental program for the provision of reduced fares for senior citizens during non-rush hours. We do not view such a program necessarily as a financial imposition on the company inasmuch as it is our belief that a reduced off-peak fare could produce more revenue than is now produced during the off-peak period through greater ridership. At any rate, we believe the matter deserves to be tried. Many cities already have the reduced fare for the elderly, and there is, therefore, a wide range of possible fare schemes and experience that can be drawn upon. We will direct the company to submit, within 60 days, a plan for implementation of such a program for the elderly as we have described.

D. Zone Fares Within The District

There was discussion in this record, as in the last, about the feasibility of fare zones within the District of Columbia. There was, however, little dispute on the point. Company witnesses discussed in somewhat more detail the serious problems which such a proposal would raise. Their testimony was not seriously disputed by any other party. As in Order No. 984, we do not believe there is any basis in this record for requiring the institution of a zone fare system within the District of Columbia.

We should note, however, that this question which we are also examining in the proceedings on remand of Docket No. 131R pursuant to Payne v. WMATC, 415 F.2d 901 (D.C. Cir. 1968). The status of that proceeding is described in the next section of this order.

E. Balance Between Maryland and D. C. Fares

We are careful in each Transit rate case to consider the impact of the fares we authorize on the balance between Maryland and the District of Columbia. For several years, the Maryland and interstate service have provided about 15% of the company's passenger revenues, while D. C. fares have provided the balance. In Payne v. WMATC, supra, the court of appeals directed us to consider whether this balance between Maryland and D. C. fares was justified by cost allocation studies. Pursuant to the court directive, we engaged the services of an independent consultant to study the question. In November, 1969, the consultant filed its report on the subject, concluding generally that the Maryland and D. C. services of Transit each met their properly assigned costs. This study must be subjected to the scrutiny of the hearing process before we will accept it as valid. Steps toward the hearing have been initiated. The study was made available to all interested parties and a period of time for their review was provided. Thereupon, a series of pre-hearing conferences was held, at which issues were defined and procedures for the hearing were established. The next step is the issuance of a pre-hearing order embodying the agreements reached and disposing of the disputed questions. The extremely heavy press of other Commission business, including the processing of three rate cases simultaneously, has prevented us from issuing that order to date. However, it will be forthcoming in the very near future and the remand proceedings will then move to their conclusion. In the meantime, we feel that the consultant's study, although we do not accept it as final, provides an adequate basis to adjust fares once again, as was allowed by the court in the Payne decision. We feel, however, that the same general relationship between interstate, Maryland, and D. C. revenues should be maintained. We have examined that question and find that the fares we authorize produce the following result:

TABLE IV

D. C. Transit System, Inc.
D. C./Maryland Revenues
Contribution to Total Revenues

	Future Annual Period At Present Fares	%	Future Annual Period At Authorized Fares	%
Intra-D.C. (1)	$ 32,669,775	84.95	$ 37,704,633	85.71
Intra-Maryland	2,189,483	5.69	2,259,111	5.14
Interstate	3,597,675	9.36	4,027,111	9.15
Total (1)	$ 38,456,933	100.00%	$ 43,990,855	100.00%
(1) Includes School Fare Subsidy	$ 1,772,709	4.61%	$ 2,548,136	5.79%

The new schedule of fares will have intra-D.C. riders (including the schoolfare subsidy) contributing 85.71% of total regular route revenue, intra-Maryland riders contributing 5.14%, and interstate riders contributing 9.15%, compared to the respective contributions by each segment of 84.95%, 5.69%, and 9.36%, if fares had remained unchanged. In no instance does the impact of the new fare schedule disturb the existing relationship between the major segments to the extent of as much as one percent.

We feel, therefore, that these fares meet the requisite standards in this regard.

With these questions resolved, we can turn to a description of the rate structure here authorized. We will raise the intra-District fare to 40 cents. The fares for Maryland local and interstate local service will also be raised by eight cents. In order to maintain the differential relationship between fares for local and express service, the interstate express fare will be raised ten cents. The other increases authorized are: Capitol Hill Express, 5 cents (to 75 cents); D. C. Stadium, 25 cents (to $1.00), but 20-ride ticket available at $15.00 (75 cents per trip). The company has requested authority to sell tokens in quantities of five for $2.00. It is our opinion that purchases by the public should be permitted in quantities of four for $1.60, as this permits the passenger to purchase quantities good for an even number of round trips; the purchase of any amounts beyond four should also be permitted.

This fare structure will produce the following operating results:

TABLE V

Projected Operating Statement For
Future Annual Period
At Fares Authorized By The Commission

Operating Revenue	
Passenger	$41,442,719.00
Schoolfare Subsidy	2,548,136.00
Charter & Sightseeing	2,402,968.00
Government Contract	137,336.00
Other	273,964.00
Total Operating Revenue	$46,805,123.00
Operating Revenue Deductions	
Operating Expenses	$39,822,244.97
Taxes, other than Income Taxes	1,425,761.80
Depreciation	2,439,225.30
Acquisition Adjustment	(72,305.53)
Track Removal & Repaving	526,177.03
Additional Expense for Marketing Program	150,000.00
Income Taxes	73,735.76
Total Operating Revenue Deductions	$44,364,839.33
Net Operating Income	$ 2,440,283.67
Operating Ratio	94.79%
Rate of Return on Operating Revenue	5.21%

One item in the Table V projection requires further discussion. It involves a program requiring added operating expenses which Transit can afford to undertake at its authorized fares. We have repeatedly expressed our concern in recent years with the inadequacy of the company's marketing program. We believe that its efforts to maintain its existing ridership and to obtain new ridership have been impaired by its failure to promote adequately the use of its service.

We should make it clear that we mean by marketing a soundly conceived and well-carried out program of imparting information to riders and potential riders about the specifics of the company's service -- its routes, its schedules, its terminal and stop locations, its transfer points and other items of similar information. We do <u>not</u> mean a program of "image-building" or "public relations" without substance.

We think that the public would benefit greatly from such a program. We are well aware that the company's financial condition in recent years has been such that it was not possible to undertake any significant improvement in this area. However, we think that with the fare structure here authorized, there will be funds available for this purpose. We think that the program, if it is to provide real benefits should be of significant magnitude. Hence, we feel that the company should spend at least $150,000 on new marketing efforts in the future annual period. To this end, we will require that amount to be earmarked and set aside in an escrow account to be spent only for those purposes.

We have in mind efforts of the following kind, among others: 1) Constant availability on each bus, timetables for the specific line on which the bus is then being operated; 2) Forms available on each bus which riders can mail in to obtain timetables for other lines; 3) Route map or maps which are substantially improved and are readily available to riders again perhaps by mailing in a card available on each bus; 4) A program of signing at bus stops which makes available at that point route and schedule information; 5) Pamphlets listing current locations where tokens can be purchased; 6) The creation of information displays to be placed in public locations; 7) A substantial upgrading in the telephone information service so that all calls are promptly and efficiently handled. There are undoubtedly other types of marketing activity which would be helpful. To the maximum degree possible, they should be oriented to the dissemination of hard information about routes and services. We will allow the escrowed funds to be used to a limited degree to obtain the services of top quality qualified assistance in creating marketing programs.

The use of the funds for any given activity will be subject to our review and approval. The staff and company will be directed to work out procedures toward this end. We are firmly convinced that significant strides can be made in the marketing area and we will expect a first rate performance by the company in response to this directive.

For the reasons discussed above, we find these fares and these projected results to be just, reasonable and not unduly discriminatory.

We must discuss at this juncture the arguments presented to us that no increase whatever be authorized despite the financial facts we find.

IV

ALTERNATIVES TO FARE INCREASES

We face once again in this proceeding, as we did in the last D. C. Transit rate case, the contention that we should take no action to adjust fares despite the clear and urgent showing of financial need. Once again, the District of Columbia Government, through its Deputy Mayor, appeared before us to urge that we take no action on fares because of the pendency of legislation permitting public takeover of the bus system. He was joined this time by representatives of the Amalgamated Transit Union, which represents Transit's workers, who urged upon us the same course of action.

We discussed the possibility of pursuing this course at considerable length in Order No. 984, our last D. C. Transit rate order. Much of that detailed discussion is applicable to the questions which have been raised here, and we herewith incorporate it by reference. See Order No. 984, pp. 24-32. Some further review of questions raised would be appropriate, however.

The Deputy Mayor, Mr. Watt, strongly opposed any further increases in fares until such time as the public takeover legislation is passed. We asked for his views on the very difficult question which this suggestion raises, i.e., what should we do about the prospect that our failure to act could lead to a cessation of service due to the company's deteriorating financial condition. However, in Mr. Watt's view this question need not be faced. He made it very clear that his position was based on the specific premise that there is a reasonable prospect for prompt enactment of that legislation by the Congress.[11] Unfortunately, this is not a premise which we are in a position to accept. We informed Mr. Watt at the hearing that the Chairman of the Commission had met with members of the House District Committee, which must pass upon the takeover legislation. It is the Commission's judgment, on the basis of the Chairman's discussions, that there is little, if any, chance that the House will act on public takeover at any time in the immediate future. Certainly chances of action in this session are almost non-existent. We are not even certain of a possible change beyond that period. Our assessment of the situation, as expressed at the hearings, was confirmed by press reports concerning subsequent contacts with key members of the House. Moreover, having informed District representatives as to our assessment of the situation, we urged them to demonstrate otherwise, if possible. No action has occurred in the House since that time.

Since we cannot accept the premise on which the District's position is based, we must face up to the consequences of our failure to adjust fares.

The union, in its presentation, frankly acknowledged what those consequences would be. The company would eventually be unable to continue operations. Further, the union urged us not to let that fact deter us from refusing a fare adjustment. Only such a threat, they urged, would produce action by Congress. We discussed this proposition at length in Order No. 984, at pp. 29-30. We will not repeat that discussion. Suffice it to say that we will not pursue the course suggested by the union for two reasons:

(1) We do not have the legal right to do so. Both the Compact and the case law require us to provide sufficient revenues so that the company can cover its expenses and have an adequate return.

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[11] At this juncture, the Senate has passed a bill but no action has been taken in the House.

(2) We think that subjecting the community to the reality, or even the substantial risk, of a cessation of service would not be in the public interest, even for a laudable goal of achieving legislation which would alleviate the problem of rising fares.

This is not to say that we are satisfied with the transit fare situation in which we find ouselves. We have repeatedly discussed, in our opinions, in Congressional testimony, in City Council hearings, in public speeches, and in private discussions with members of Congress and others, the extremely undesirable effects of increasing transit fares. We have urged that action be taken to solve these problems. We have pointed out that the problem lies in the fact that transit, as a labor intensive business with little or no opportunity for increased productivity, faces constantly rising costs. Because economic, cultural, and social forces preclude a significant natural growth in ridership, these rising costs must be met by increased fares. The only alternative is to provide revenues from a source outside the farebox. We believe that a subsidy from public funds is an appropriate response to this problem. That possibility has, in the case of D. C. Transit, been tied to public ownership. We deplore the fact that no action has yet been taken concerning this serious problem, and the further fact that there is no reasonable prospect that action will be taken. However, we are left to live with the consequences of this inaction and we must exercise our judgment accordingly.

In this posture, we must face the economic realities, and the legal requirements, and the demands of the public interest. If they require an increase in fares, we must, and we will, grant it.

We should consider one further alternative -- the possibility of cost reductions through service cutbacks.

There was considerable discussion in the record of the possibility of service reductions as an alternative to increases in fares. We have reviewed that evidence thoroughly and have concluded that this is not a viable alternative at this time. The magnitude of the reductions which would be required to overcome the company's increasing costs should first be understood. A one-cent increase in fares, at projected ridership levels, assuming no fare resistance, would produce $1,125,000 in additional revenues. To reduce the revenues required by an equivalent amount by means of service cutbacks would require the elimination of 5% of the driver pay hours, i.e., about 236,000 driver pay hours. Thus, the record here shows a projected increase in labor costs in the future annual period of $3,415,000. If we were to conclude that, rather than meeting this increased cost with additional revenues produced through a fare increase, we should require reductions in service sufficient to avoid any increase in labor cost, it would be necessary to eliminate about 717,000 driver pay hours, or about 16% of the total.[12] This would mean tremendous reductions in service.

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[12] These calculations are rough. They ignore the attendant reductions in cost of fuel, tires, etc. However, since labor costs are a very high percentage of total costs, these figures provide a picture of the order of magnitude of the cuts which would be necessary.

This fact, in turn, raises serious problems. First, the testimony of both staff and company is that the pattern of ridership loss is diffused throughout the system and is not concentrated by route or time of day, although night ridership has particularly suffered in recent years. Moreover, the fact that there is a heavy concentration of ridership during rush hours complicates the problem. Even though a significant percentage is lost in those periods, the remaining loads being carried are sufficiently high that significant cutbacks are not possible. Second, the spiralling effect of service cutbacks must be considered. A cutback of 16% might very well affect not only the costs but the revenues produced. As service becomes less frequent and less widespread, decisions may be made by riders to turn to other forms of transportation. This possibility was discussed by witness in this proceeding and is familiar to all of us from the history of railroads in this country.

This is not to say that cutbacks in service have not been considered in the past and should not be further considered. Transit's Director of Traffic Research gave a detailed description of the company's procedures for ascertaining where cutbacks in service are justified and listed those cutbacks which have been made since December, 1968. It is apparent that this is a subject of continuing concern to the company and that procedures for adjusting service as needed do exist.

The Commission staff did suggest at the hearing that the company undertake special studies to determine whether further cuts are appropriate. They focused particular attention on night and Sunday service. They made clear, however, first, that they were recommending only that a study be made, without suggesting that significant reductions would, in fact, be possible. They recognized, for instance, that the requirements of the union contract that each man be given two consecutive days off limited the company's ability to achieve substantial cost reductions. They also recognized that the completion and implementation of such a study would consume significant time. Accordingly, they did not suggest it as an alternative to fare adjustments as a means of meeting the company's current financial needs. We agree with the staff's assessment that continuing studies of possible service reductions are both necessary and appropriate. We will expect the company to make such studies and make their results known to us.

In summary, therefore, we have heard testimony from both staff and company about the possibility of service reductions as an alternative to a fare increase. The evidence makes the following facts clear:

(1) In light of the company's current financial condition, and projected revenue needs, only reductions of a very substantial nature could serve as an effective alternative to a fare increase.

(2) The pattern of loss in ridership does not offer any readily available opportunity for reductions of the magnitude which would be needed.

(3) The company has not been ignoring the effect of reductions in ridership and has been making reductions in service where it feels they are justified.

(4) Consideration of a major program of service cutbacks would raise many difficult and complex issues; much data would have to be collected and analyzed; the effects of various alternative schemes on both adequacy of service and revenues would have to be assessed; implementation of any changes decided upon would require significant time.

(5) Continuing studies of possible reductions in service are both necessary and appropriate. Such studies would have to consider not only identification of service which is not economically self-supporting but which cannot be justified in social and cultural terms.

In light of all these facts, we do not consider that we can avoid an increase in fares by requiring service reductions which would obviate the need for such an increase. We will, however, require continuing review and reports on the possibilities of significant service reductions.

V

SERVICE PROBLEMS

The staff testified that a cause of missed service is Transit's inability to maintain its full quota of drivers. It was recommended that the company be ordered to increase its quota of operators by ten, in order to ensure that a sufficient number would be available at all times. We do believe that a problem exists in this area as runs continue to be cut due to lack of drivers. However, rather than direct Transit to hire a set increase in personnel at this time, we prefer to direct management to take all necessary steps to alleviate the problem forthwith. In the same way, we expect Transit to take the necessary steps to maintain its force of traffic checkers, another deficiency scored by the staff. We have provided, in this order, sufficient funds to allow Transit to solve the problems of personnel and equipment shortage, and having provided the wherewithal, we expect to see the intended result.

The staff has questioned the adequacy of the number of token outlets. Under an exact-fare system, such as we have in Washington, it seems to us important to the convenience of the riding public that token outlets be accessible and numerous. We are aware of the difficulty the company has had in maintaining outlets through banks and chain stores; these sources, which were once used, are apparently no longer available. The result is that whereas in September, 1968 there were 382 token outlets, as of March, 1970 there were only 111, and 68 of those were in government offices.

The staff recommendation was to establish new token outlets at the terminals maintained by the company at 13th Street and Pennsylvania Avenue, Friendship Heights, Chevy Chase Circle and Mount Ranier. All but the 13th & Pennsylvania Avenue location have permanent terminal buildings which could easily house a token sales facility. We believe the staff suggestion has merit.

The staff also suggested that the company institute a stopover privilege whereby a bus patron could leave the bus at a company division office or terminal token sales outlet to buy tokens, then resume his bus journey without payment of additional fare. This is done successfully by another area company and we believe it should be undertaken by D. C. Transit.

We will direct the company to report within 60 days a plan for providing token sales outlets at the terminals we have named, and to provide the stopover privileges at those and other company-maintained facilities.

The fares we establish by this order will become effective at 12:01 a.m., June 28, 1970. The company's current financial condition makes prompt institution of the new rates imperative.

FINDINGS OF FACT

We have stated our findings of fact on the issues in the proceeding in our discussion hereinbefore.

CONCLUSION OF LAW

The Commission concludes as a matter of law:

1. That the present fare structure of applicant is unjust and unreasonable in that it will not produce sufficient revenues in the future to enable the carrier to meet operating expenses and earn a reasonble return.

2. That the fare structure proposed by applicant would be unjust and unreasonable in that it would cause excessive disproportionate increases for multi-zone trips in Maryland.

3. The Commission under the applicable law, including the Compact, is required to prescribe a lawful fare whenever existing fares are found to be unjust and unreasonable.

4. That the fares authorized by this order are just and reasonable. They are not unduly preferential nor unduly discriminatory either between riders or sections of the Metropolitan District, and they are necessary to enable this carrier, under honest, economical, and efficient management, to provide an adequate and efficient

transportation service. They provide the means whereby this carrier may provide an adequate and efficient transportation service in the lowest cost consistent with the furnishing of such service, while affording it the opportunity of earning that return which we have found is necessary to make it an attractive investment to private investors.

THEREFORE, IT IS ORDERED:

1. That the fares proposed by D. C. Transit System, Inc., in tariff revisions filed March 13, 1970, be, and they are hereby, denied.

2. That D. C. Transit System, Inc. be, and it is hereby, authorized to file appropriate revisions to Tariffs No. 41 and No. 45 on or before June 26, 1970, to become effective at, or after, 12:01 A.M., June 28, 1970, setting forth fares shown in the Appendix attached hereto, and made a part hereof.

3. That all outstanding tokens and commutation tickets shall be honored as if purchased at the new rates prescribed herein.

4. That the requirement of Order No. 773 that D. C. Transit System, Inc., annually purchase an average number of new air-conditioned buses equal to 1/14 of its fleet, which was suspended by Order No. 984, be and it is hereby, reinstated effective July 1, 1970.

5. That D. C. Transit System, Inc., make six monthly payments of $103,333, commencing in September 1970, into a special fund to be used for down payments for the purchase of new buses. Any monies in the fund not used for the express purpose described will be subject to disposition as directed by the Commission for the benefit of the riding public.

6. That applicant's account for Track Removal and Repaving Expense be charged the amount of $526,177.03 equally over the 12-month period beginning August, 1970, with a monthly contra-credit to the Reserve for Track Removal and Repaving of $43,848.08; that the monthly entries to these accounts per Order No. 984 be discontinued after July, 1970.

7. That the applicant place in a special fund $517,200, in monthly deposits of $43,100, beginning July, 1970, to be used for the purpose of financing the maintenance program described in this Order, page 10, supra, involving a night shift of twenty-one men. Expenditures from this fund will be authorized by the Executive Director of the Commission after the staff has received pertinent reports from Transit, and the staff is satisfied that the expenditures requested from the fund represent costs incremental to the pre-existing maintenance program of Transit. Any monies in the fund not used for the express purpose described, will be subject to disposition as directed by the Commission for the benefit of the riding public.

8. That applicant be authorized to charge to the Reserve for Injuries and Damages the sum of $1,900,000 per year, in equal monthly installments, beginning July, 1970; provided, however, that seventy percent of the amount of each monthly installment be placed in a special fund at or before the end of each month, expenditures therefrom to be limited to payment for judgments and claims for injuries and damages, exclusive of charges for administrative costs and legal fees chargeable against the Injuries and Damages Reserve.

9. That Transit immediately undertake a survey of senior citizen ridership patterns during off-peak hours to determine to what extent such persons presently ride during those times.

10. That within ninety days of the date of this Order, Transit shall file with the Commission a proposal for instituting a reduced, off-peak fare for senior citizens on an experimental basis, provided, however, that such plan need not be filed if Transit has not operated at a profit during that time.

11. That tokens are to be sold at the newly authorized rate beginning immediately upon the issuance of this Order.

12. That commutation tickets are to be sold at the newly authorized rates immediately upon the issuance of this Order, except for purchases made by mail and bearing a postmark as of the date of this Order or any date previous thereto.

13. That Transit submit a report on its plans to improve its marketing performance no later than thirty days after the issuance of this Order.

14. That Transit set up a special fund in the amount of $150,000, in equal monthly installments, beginning July, 1970, for the purpose of financing its marketing program as described in this Order, page 25, supra. Expenditures for this purpose from this fund may be made after receiving approval of the Commission. Any monies in the fund not used for the express purpose described will be subject to disposition as directed by the Commission for the benefit of the riding public.

15. That the staff of the Commission engage the services of a qualified consultant to determine the amount of deficiency, if any, in Transit's Reserve for Injuries and Damages, the cost of such study to be assessed against Transit.

16. That Transit report to the Commission, within sixty days from the date of this Order, a plan to provide token sales outlets at Transit terminals at Thirteenth and Pennsylvania Avenue, N. W., Friendship Heights, Chevy Chase Circle, and Mt. Rainier. Transit shall include in this report provision for changing its tariff to permit stop-over privileges for patrons desiring to purchase tokens.

17. That any interest earned by funds set aside under the provisions of this Order shall be credited to Account No. 1214, "Other Operating Revenue."

18. That the Commission shall retain jurisdiction in this proceeding for the purpose of adjusting the special funds established herein as such adjustments may appear necessary in the future.

BY DIRECTION OF THE COMMISSION:

GEORGE A. AVERY
Chairman

DOUB, Vice Chairman, CONCURRING: Applications by D. C. Transit System, Inc., for fare increases have been before the Washington Metropolitan Area Transit Commission on three occasions since I became a member of the Commission in September, 1968. Prior to that date on behalf of the State of Maryland, I participated as People's Counsel, representing Maryland riders, in still another proceeding involving the fares of this company. In each of these proceedings the Commission, in the exercise of its judgment, based upon the individual case records, has found it necessary to grant this carrier fare increases.

Again, in this case, the Commission has authorized a fare increase. The constant pattern of decreasing riders and increasing expenses as evidenced in cases before the Commission presents a problem of grave concern to me (as I am sure it does to my colleagues on the Commission). Even a most casual review of the prior opinions of this Commission indicates that the Commission is faced with what appears to be an unsolvable dilemma.

The primary statutory responsibility of this Commission is to regulate the carriers in the public interest so as to insure adequate service at reasonable fares, while permitting the carrier to earn a fair return on its investment. In carrying out this mandate, the Commission has decided the various fare increase applications of this carrier within the limitations imposed upon the Commission by the Compact between the three jurisdictions entered into in 1961.

Again, in this case the Commission, in my judgment, has met its responsibility, albeit the public must now assume an even greater burden in insuring the financial stability of the carrier through increased fares and in turn its ability to render adequate public service.

In considering the evidence in this case, I gave great attention to the testimony of several protestants (notably the Deputy Mayor of Washington) who urged that this fare application be denied in its entirety. In substance, the protestants argued that the level of fares has already reached a point which imposes an intolerable burden upon the riding public. When faced with the choice between another round of fare increases or the prospect of an eventual insolvency proceeding, the argument was made by the intervenors, which I cannot discount lightly, that the long-range public interest may be better served by a denial of this application. If such a denial were possible under the law and would have the effect of providing an impetus to Congress to enact legislation for a prompt public takeover, it could well be a desirable action. This Commission has testified in favor of such legislation before the House and Senate District Committees on several occasions.

Unfortunately, under the terms of the Compact, the Commission has no choice but to award another fare increase. Any other action would be an evasion of my responsibilities under the law. However, I do express again the need for legislation that will either permit lower fares through permanent public subsidy or public ownership. This would be the only real insurance against the prospect of any further increases by a continuation of "regulation by crisis."

I find little comfort in passing the Commission's order in this case. If there is any solace to be gained whatsoever, it is perhaps our direction to the company to propose a schedule of reduced fares applicable to service for the elderly residents riding within the service area of the carrier. However, this action may be termed by some, and perhaps the Commission itself, as nothing more than making the best of a "bad" situation.

The Compact delineates clearly the latitude within which this Commission must decide such fare application proceedings. Our order meets fully this responsibility under the law. These comments express nothing more or less than my personal concern that because of a legal requirement we have provided at best another short-term period of relief at the expense of the riding public, many of whom should not be taxed as riders for the maintenance of an essential public service. Permanent relief must come from sources other than the fare box.

PRESENT, PROPOSED AND AUTHORIZED FARES

Application No. 613

	Present Fares	Proposed Fares	Authorized Fares
District of Columbia			
Cash	$ .32	$ .40	$ .40
Token	.32(5/$1.60)	.40(5/$2.00)	.40*
Interline - To D. C. Transit	.27	.35	.35
From D. C. Transit	.32	.40	.40
Capitol Hill Express	.70 (a)	.75(e)	.75(e)
Minibus	.10	.20	.10
School	.10	.10	.10
Transfer	Free	Free	Free
Maryland			
Zone 1	.32 (b)	.40 (f)	.40 (f)
2	.32 (b)	.40 (f)	.40 (f)
3	.47 (b)	.55 (f)	.55 (f)
4	.52 (b)	.70 (f)	.60 (f)
5	.57 (b)	.85 (f)	.65 (f)
6	.62 (b)	1.00 (f)	.70 (f)
7	.67 (b)	1.15 (f)	.75 (f)
8	.72 (b)	1.30 (f)	.80 (f)
9	.77 (b)	1.45 (f)	.85 (f)
10	.82 (b)	1.60 (f)	.90 (f)
D.C.-Md. Interstate Local			
Zone 1	.47 (c)	.60 (g)	.55 (g)
2	.57 (c)	.70 (g)	.65 (g)
3	.67 (c)	.85 (g)	.75 (g)
4	.77 (c)	1.00 (g)	.85 (g)
5	.82 (c)	1.15 (g)	.90 (g)
6	.87 (c)	1.30 (g)	.95 (g)
7	.92 (c)	1.45 (g)	1.00 (g)
8	.97 (c)	1.60 (g)	1.05 (g)
9	1.02 (c)	1.75 (g)	1.10 (g)
10	1.07 (c)	1.90 (g)	1.15 (g)

* Minimum purchase, four; purchases permitted in any quantity beyond four.

	Present Fares	Proposed Fares	Authorized Fares
D.C.-Md. Interstate Express			
D. C.-Md. Line	$ .50 (c)	$ .60 (g)	$ .60 (g)
Zone 1	.60 (c)	.70 (g)	.70 (g)
2	.70 (c)	.80 (g)	.80 (g)
3	.80 (c)	.95 (g)	.90 (g)
4	.90 (c)	1.10 (g)	1.00 (g)
5	.95 (c)	1.25 (g)	1.05 (g)
6	1.00 (c)	1.40 (g)	1.10 (g)
7	1.05 (c)	1.55 (g)	1.15 (g)
8	1.10 (c)	1.70 (g)	1.20 (g)
9	1.15 (c)	1.85 (g)	1.25 (g)
D. C. Stadium			
Cash	.75	1.00	1.00
20-ride ticket -- $15.00	None	.75	.75
Virginia Interstate Zone	.10 (d)	.15 (d)	.15 (d)

(a) Or valid transfer or token plus 38¢ cash
(b) Valid token has 32¢ value toward total cash fare
(c) Valid transfer or token has 32¢ value toward total cash fare
(d) Available only in addition to D.C.-Md. Interstate or Md. Intrastate fare
(e) Or valid transer or token plus 35¢ cash
(f) Valid token has 40¢ value
(g) Valid transfer or token has 40¢ value

Note: Combination of tokens may be used for payment of fare.