

—WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 1147

IN THE MATTER OF:

Served June 11, 1971

Cost Allocation Study of Fares)
Charged by D. C. Transit)
System, Inc.)

Docket No. 131R

APPEARANCES:

HARVEY M. SPEAR and FRANK LAKE, appearing on behalf
of D. C. Transit System, Inc.

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

MALAKU J. STEEN, pro se.

LONDON G. DOWDEY, appearing on behalf of Thomas B.
Payne individually and representing the Metropolitan
Citizens Advisory Council.

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

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

I

THE PROCEDURAL BACKGROUND

On October 17, 1966, D. C. Transit System, Inc. (Transit) filed Application No. 396 seeking authority to increase its fares for transportation of passengers intrastate within the District of Columbia and Maryland and interstate between the District of Columbia and Maryland. We suspended the proposed

rates and undertook an investigation into their lawfulness. Hearings were held, and on January 12, 1967, we issued Order No. 656, finding that the then-existing fare structure of Transit was unjust and unreasonable in establishing a new fare structure. However, the new fare structure was only an interim one. The record made to that point clearly indicated that some fare increase was required, but the record was not complete with regard to the question of appropriate rate of return. We wanted further evidence on that issue before determining what the final rate structure should be, and therefore established the interim rate structure to allow time for the presentation and analysis of that evidence. We scheduled a hearing for that purpose for February 23, 1967.

On January 20, 1967, Thomas E. Payne, who had been a party to the proceeding, filed a motion for reconsideration of Order No. 656, which we denied in Order No. 658, issued January 20, 1967. Payne thereupon petitioned the United States Court of Appeals of the District of Columbia for a stay of Commission Order No. 656, which stay was granted on January 27, 1967. In Order No. 667, we reinstated the procedural portions of Order No. 656 in order to allow the continued hearing process, and in Order No. 671 we scheduled a hearing for February 13, 1967. Hearings were held on the 13th, 14th and 15th of February. On February 23, 1967, Thomas Payne and the Metropolitan Citizens Advisory Council filed a motion requesting, inter alia, that we conduct a "scientific study" to determine an equitable and non-discriminatory fare structure.

In Order No. 684, served March 13, 1967, we disposed of the remaining issues in the proceeding and adopted a "final" fare structure. In that order we responded to the contention that the inner city riders are subsidizing the suburban riders. (This contention had been made in a motion to dismiss filed by Payne.) After considerable discussion in Order No. 684 (pp. 38-45), we concluded that the record did not support that contention, and that the fares adopted were just and reasonable. Payne then petitioned the United States Court of Appeals for the District of Columbia Circuit for review of Order No. 684. In Payne v. WMATC, 415 F.2d 901 (1968), the court rendered its opinion and order.

The conclusion of the court was that the possibility of discrimination in the fare structure warranted a detailed study. Therefore, the court remanded the case to the Commission for "further inquiry into and consideration of the question whether the fares charged by Transit are unduly discriminatory."
415 F.2d 922

We determined on reading the Payne opinion that the scope of the study required was such that the staff resources available to us at the Commission were too limited to allow a sufficient response to the court's remand. Therefore, we directed the staff to retain a consultant to do a study and prepare a report for us in accordance with the court's requirements. The staff sought proposals from 29 firms and received responses from 15. After review of those responses, we contracted with Alan M. Voorhees Associates, a well-known and respected transportation consulting firm, to do the study. The contract with Voorhees was entered into on April 16, 1969, and was to be completed in five months. Throughout the course of the study, the Commission staff was in frequent contact with the personnel of Voorhees respecting a variety of questions and matters that arose in the course of the study. We emphasize, however, that it was not the function of the Commission staff to perform a supervisory role in the study. The Voorhees organization was expected to, and did, reach its independent conclusions with respect to the questions studied.

The report, entitled "Report on the Relationship of Fares, Services and Costs for D. C. Transit System, Inc." was filed with the Commission in November 1969. The analysis contained in the report consisted basically of comparisons of the costs of service, the service provided, and the fares paid by the four basic groups of riders using the D. C. Transit System. The four groups were: those riding only within the District of Columbia, those riding from the District into Maryland (and return), those riding from Maryland into the District (and return), and those riding only within Maryland.

Data from a previously completed origin and destination survey was used to determine to what extent each group of riders used each of D. C. Transit's routes. The farebox

revenues provided by each group of riders were computed using this information. The cost of providing service to each group was not as simple to compute because there is no single accepted method of allocating costs.

Six different methods of allocating costs among the four groups of riders were used. In the first method, the variable costs were allocated on a system-wide basis in proportion to the amount of transit service used by each group. The second method allocated the costs of operating each line in proportion to the number of riders from each group on that line. The third method allocated the costs of operating each line in proportion to the number of passenger-miles and passenger-hours accumulated by each group on that line. In the fourth method, costs were allocated to either D. C. or Maryland in proportion to the amount of service furnished in each of the two jurisdictions; fares for interstate riders were split at the District line. The fifth cost allocation method assumed discontinuation of the Maryland service allocating the remaining costs to D. C. riders. In the sixth method, costs were allocated to each of the four groups in proportion to the amount of service available to that group.

After each of the six cost allocations was made, a "cost/revenue ratio" for each of the groups was calculated. This number, expressed as a percent, was the ratio of the percent of total system costs allocated to that group divided by the percent of total system revenues contributed by that group. A ratio close to 100 percent would indicate that, accepting the particular cost allocation method used, the particular group of riders was paying its fair share of the costs.

The report concludes that, regardless of the allocation method used, the fares paid by intra-D.C. riders come very close to matching the costs of service for that group. (Intra-D. C. riders constitute approximately 85 percent of the total.) Allocation method number five indicates that if all Maryland services were discontinued, the D. C. fare would not vary by one cent. The relationship of the other three groups varies with the different cost allocation method used but, wherever any consistent differences are indicated, they tend to be offset by differences in the service provided.

By letter of November 28, 1969, we transmitted a copy of the report to counsel for the parties in the Payne case. The letter asked counsel to conduct a detailed review of the study and indicated that the Commission would set a date for public hearing to assist it in reaching conclusions on the matter involved in the report. The report was also sent to all those persons and organizations who had appeared as formal parties in all rate proceedings subsequent to the issuance of Order No. 684, so that they would have special notice and a copy of the report available in the event any of them would want to participate formally in the remand proceedings. Finally, we issued a press release on November 28, 1969, in order that the existence of the report and our plans to hold public hearings on it would be as widely known as possible.

On February 13, 1970, we issued Order No. 1013 in which we set a prehearing conference for March 2, 1970, to establish a hearing schedule, define issues, and establish procedures. We also invited anyone interested in doing so to seek formal party status by writing to the Commission by Friday, February 27, 1970. The March 2nd prehearing conference was held as scheduled. The parties represented were D. C. Transit System, Inc.; the Willing Workers; the D. C. Federation of Civic Associations; Malaku J. Steen, pro se; Thomas E. Payne, individually and representing the Metropolitan Citizens Advisory Council (MCAC)^{1/} and the Commission staff. It appeared at the prehearing conference that it would be useful to the parties to have an informal discussion between counsel and the Voorhees people who had worked on the study to clarify certain questions raised at the prehearing conference. The meeting was held on March 10, 1970, and the second prehearing conference to discuss its results was scheduled and held on March 19, 1970. At that conference counsel for MCAC requested certain additional data and studies before proceeding to the hearing.

^{1/}Counsel for Payne and the MCAC also entered an appearance for the Democratic Central Committee, Emergency Committee on the Transportation Crisis, Bruce Terris, Marion Barry, Jr., Lawrence Aaronson, Sammie Abbott, Mrs. Lillian Green, Ralph Green, Mrs. Willie Hardy, Mrs. Dorothy Harrison, Lester McKinnie, Mrs. Robert Nash, Bernard W. Pryor, Mrs. Mary Ray, Mrs. Maria Worris, and Mrs. Phillip Young.

In Order No. 1084, served August 21, 1970, we indicated that the data sought by MCAC should be furnished and we ordered that it be done. However, we denied an MCAC request for an entirely new study. As we will indicate in a fuller discussion at a later point in this order, we consider that, for purposes of the requirements of the remand presented to us, altogether sufficient study has been made. Finally, in Order No. 1084 we established certain procedural dates, including a hearing date for October 29, 1970. That hearing was subsequently postponed to November 12, 1970. At the hearing, appearances were made by all those who had appeared at the prehearing conference except the Willing Workers.

As the first substantive step in the proceeding, the staff presented the study that had been done by the Voorhees organization and which had been distributed to all parties for their review. Mr. Robert A. Keith, Special Assistant to the President of Voorhees Associates, under whose charge the study had been conducted, was the main sponsor of the study and the conclusions reached therein. Counsel for MCAC refused to cross examine Mr. Keith on the ground that the Commission staff had an obligation to go beyond the mere presentation of the Voorhees study and the witness Keith. In fact, counsel for MCAC absented himself from the hearings from that point throughout the cross examination of Mr. Keith and another Commission staff witness. However, Mr. Keith did undergo extensive cross examination, first at the hands of counsel for D. C. Transit System, Inc., and then by Mr. Steen. In fact, Mr. Keith's cross examination covered five days.

In addition to the testimony offered by Mr. Keith in the form of the study performed by the Voorhees organization under his direction and his cross examination, the staff presented another witness, in this instance a member of the Commission staff itself, on the question of feasibility of and desirability of intra-D. C. fare zones. This was an issue which the protestants in the proceedings leading to the remand had not themselves addressed, but one to which the court made some reference in its opinion.

At the present time there is, and historically there has been, a flat fare for bus travel within the District of Columbia. In this opinion, the court had said "A uniform

fare undeniably has the salutary effect of enhancing the mobility of city residents. Moreover, simplicity and ease of collection are recognized ratemaking goals. These and other considerations might well lead the Commission to conclude that it would be undesirable to depart from the present uniform fare." [footnotes omitted] 415 F.2d 921. Therefore, the staff presented a study done by its Urban Transportation Planner which discussed in detail the problems involved in instituting a system of fare zones within the District of Columbia. The company presented its Senior Vice President who testified on the issue of intra-D. C. fare zones and reached the same general conclusions as the staff's Urban Transportation Planner.

During the course of the hearings, various criticisms were made of the Voorhees study to the effect that it was not completely responsive to the court remand. Motions were made by Mr. Steen and by counsel for the original protestants, Payne, et al., for further studies. Steen's proposal was that a study should be made as to the relationship between population density and the cost of providing bus service within the District of Columbia. The other proposal was for a somewhat more detailed study which would include an analysis of the various types of "density" considerations that might bear on ratemaking, an intra-D. C. zone feasibility study, and consideration of special rates for off-peak, elderly, or low-income riders.

We took the motions under advisement and will dispose of them in this order.

II

ANALYSIS OF THE STUDY

We can turn now to an evaluation of the record before us. Our task is to comply with the directives set out by the court in remanding the case to us. That task is delineated

in the court's lengthy discussion of the fare structure problem. 415 F.2d at 914-922 In its most particular terms, the court stated:

"... the question raised by petitioners in its pleadings before the Commission has, we think, a broader reach which deserves the Commission's earnest investigation in a proceeding for that purpose--the question whether and to what extent the design of Transit's fare structure should be revised to permit more equitable apportionment of the cost of service among customers and classes of customers.

* * *

... We do think, however, that the time has come for the Commission to make a thorough and painstaking evaluation of the whole problem of rate design throughout the metropolitan area, with a view toward such modifications--whether by creating new fare differentials or by adjusting those that now exist, or both--as are necessary to produce a fare structure that is rational, fair, and neither 'unduly preferential [n]or unduly discriminatory.'"

Thus, we were directed to undertake a study of Transit's rate structure--a study of the question whether revisions in that structure are necessary to produce a result that is rational, fair, and neither unduly preferential nor unduly discriminatory. Without such a study, said the court, we lack the basis upon which to determine whether the value of service concept and the need for area-wide service justify the division of the cost burden between intra-D. C. and Suburban services.

In the interest of fairness to the parties, and in an effort to be of assistance to the court, should this matter reach them again, we wish to make our understanding of this directive as clear as we can. It was suggested in the remand proceeding that the court had, in effect, directed us to treat the fare structure as a clean slate. We were, in other words, to undertake studies on the basis of which an entirely new fare structure would be created. After careful and repeated review of the court's opinion, we concluded that this was not what the court

directed. We were, rather, to start with the existing fare structure and were to determine whether that structure met the statutory standards. To the extent it did not, we were to modify it or, if necessary, replace it completely.

The court's opinion made it clear that the most crucial part of the task was a thorough examination of the cost of service, particularly a study of costs fully allocated to pertinent classes of services. It was only this kind of study, said the court which would provide the necessary factual predicate for the theoretical treatment of value of service and need for area-wide service which we had set out in Order No. 684-- the order which had been before the court on review. In fact, we did not understand that the court rejected our analysis as a matter of ratemaking theory. Rather, they felt that more detailed factual background was needed before the theory could be applied.

It is with this understanding, therefore, that we approach the record now before us.

We think it best, first, to take up the question whether the studies undertaken pursuant to the remand meet the requirements imposed upon us by the court. That would be a vital question for us in any event. It is made doubly so by the suggestions discussed above that further studies be undertaken.

We consider the Voorhees study to be fully responsive to the court's directive. It was, in the first place, very carefully undertaken. Upon our very first review of the Payne opinion, we decided that, in undertaking the study directed by the court, we would obtain the very best assistance available to us. We directed the staff to engage the services of a top-flight consulting firm. They canvassed every leading firm of transportation consultants which they could find. The proposals received from 15 firms were thoroughly and carefully evaluated, not only by the staff, but with assistance of the transportation planning staff at the Metropolitan Washington Council of Governments. Through this process, the firm of Alan M. Voorhees Associates was selected to undertake the study. This is a nationally known firm of the highest reputation in the field of urban transportation. They have been

involved in many projects in the Washington area. Thus, they brought to the task not only their general expertise in transportation analysis, but also an intimate knowledge of transportation problems in this jurisdiction.

The Commission staff has ensured that the Voorhees firm had a thorough understanding of their assignment. The provisions of the Payne opinion were made available to the consultant, studied by them, and discussed between them and the staff. The staff made itself available for consultation and for the provision of information requested by the Voorhees firm. However, it was made very clear to the consultant that it was to exercise untrammelled judgment in the conclusions it reached in the study.

Once the study was completed and its results were embodied in a printed report, we made every effort to subject it to the searching scrutiny of the hearing process. The report was widely distributed--not just to those who had participated in the original proceeding reviewed in the Payne decision but to all persons and organizations which had participated in recent Transit rate proceedings before the Commission. After providing several weeks for review of the report, we scheduled pre-hearing conferences. The Voorhees personnel who had worked on the study were present at these conferences and available for questioning by and discussion with the parties. The parties were free to request background and basic data which underlay the study. A great quantity of information and material was furnished in response to such requests. Several informal meetings, attended by the parties, the staff, and Voorhees people, were held, both at the Commission offices and at the Voorhees headquarters. After this process was completed, the hearings themselves were held. The staff presented Mr. Robert Keith as a witness. He had been in charge of the study for Voorhees. He presented the report in evidence. He vouched for its accuracy, adopted it as his testimony, and expressed his readiness to answer any question concerning it. He was, in fact, cross-examined at great length by several parties to the proceeding.^{2/} We have, of course, thoroughly studied the report, the additional documentary material, and the testimony of record.

^{2/}We find the position taken by counsel for Payne at our hearings almost incomprehensible. Offered the opportunity to cross-examine Mr. Keith after the lengthy preparatory process

We have thus far discussed only the external circumstances surrounding the study. Our point has been to emphasize our concern with responding to the court's directive in a thorough and painstaking way. We believe that we have done so. Even more important, of course, is the validity of the study itself and of the conclusions it reaches. We turn, therefore, to a discussion of that subject.

The object of the study was, we repeat, to determine whether, and to what extent, Transit's rate structure should be revised to bring it into compliance with the statutory standards. The principal thrust of the study was to make appropriate cost allocations among Transit's classes of service to determine whether Transit's riders were bearing their proper share of the cost of operations.

The methods employed in the study appear sound. In basic terms, the consultant grouped riders into classes. The revenues produced by those groups were computed. These revenues were then compared with costs allocable to the group. We have considered each of these steps and will discuss them in turn.

^{2/} (continued) described in the text, he absolutely refused to do so. Indeed, despite our expressions of disapproval that counsel for a major party would propose such a course of action, he absented himself from the hearings during the entire time while Mr. Keith was cross-examined. Counsel offered an explanation of sorts, claiming that the offer of the Voorhees report in evidence and the presence of Mr. Keith as a witness to sponsor that report and be cross-examined on it, did not provide the proper basis for cross-examination. Counsel appeared to suggest that it was incumbent upon the staff to place the study results in the record through oral testimony. Indeed, he seemed to suggest that the staff was derelict in failing itself to attack the report. The position taken by counsel was, in our judgment, entirely lacking in merit. The offer of the report, particularly following the lengthy prehearing process described in the text, was an appropriate method of placing the study results in the record. It would have been pointless for Mr. Keith to duplicate the report by oral testimony on the same material. The staff made it clear that Mr. Keith was fully prepared to be cross-examined on all aspects of the report and the study generally. Indeed, we were keenly disappointed that we were not provided with the insight into the position taken by counsel for Payne which would have been shown by his cross-examination of Mr. Keith.

Riders were grouped into four classes: intra-D. C.; D. C. to Maryland; Maryland to D. C.; intra-Maryland. This was, we think, a significant and useful breakdown. It is obvious that some categorization is needed in studying the discrimination question. At one extreme, it might be suggested that the cost of carrying each rider should be determined. This would, of course, be a practical impossibility. The groupings used by Voorhees represent a sensible choice. It reflects the operational realities of the system. There are intra-District routes; there are routes connecting suburban area with the District; and there are routes serving the suburban area. These service categories are not rigid, of course. Some routes provide all three types of service. However, the general pattern of the company's operations is consistent with this breakdown. We believe that this classification also reflects the demand for service. Finally, it is directly responsive to the problem presented to the court when it issued the Payne opinion. It was then argued to the court that the suburban rider was being subsidized by those paying the intra-D.C. fare. The categories employed by the consultant made it possible to examine that question directly. For all these reasons, we consider that the classes of service employed in the study are appropriate.

While cost allocations are usually the thorniest problem in a study of this kind, it was a difficult problem in this instance even to determine the revenues provided by the chosen categories of service. D. C. Transit uses a lock-box rather than a registering type of farebox. The money in the box on a given bus may have come from one or all of the rider classes used in the study. Hence, it was not possible to make a direct determination of the fares collected in each category. Faced with this problem, the consultant came up with a creative and useful solution. An exhaustive survey of bus passenger origins and destinations had been undertaken in 1966 in connection with planning for the subway. The data had been placed on computer tapes. The Voorhees firm had itself made the survey, hence was thoroughly familiar with it and with the computer techniques which could be applied to the data. Accordingly, they constructed a computer program which enabled them to distribute the total farebox revenues among the various classes of service being studied. The technique employed was described in detail in an appendix to the report. The only serious question which

is raised by this approach is the validity of comparing revenue distributions calculated from 1966 passengers and 1969 fares with expense distributions based on 1968 expenses. This question was addressed by the consultant in a supplementary report which was placed in the record by the staff. The consultant compared data for passengers, revenues and bus miles for the years in question. The percentage of those factors falling into the intra-D. C. category--the largest and most important one--was examined. Since there was little variation from year to year, the consultant felt, and we agree, that the difference in years used did not significantly affect the result.

Finally, we come to the allocation of costs. Again, we think that the consultant has provided us with a useful and creative approach. In Order No. 684, the decision being reviewed in the Payne opinion, we had discussed the judgmental nature of allocating joint costs. There is no single "right" way to perform this task. The court agreed with our observations on the difficult nature of this kind of inquiry but expressed the view that a useful study could nonetheless be made. 415 F.2d at 919-921. The consultant responded to the problems of cost allocation by providing us, not with a single method but with six. They are described above (see p. 4, supra) and we will not repeat that description. We will simply say that we were most interested and pleased by this approach, both because it enabled us to evaluate the question of discrimination on a variety of bases and because it recognizes and deals with the problem of the judgment element in allocating joint costs.

Thus, in all of its major elements, i.e., the classes of customers studied, the allocation of revenues, and the allocation of costs, the Voorhees study appears soundly conceived and well executed. The next question is what conclusions we should draw from it. The report itself is helpful in this regard. It gives us, first, the consultant's factual conclusion: while there is some variation between costs and revenues among the classes studied, it can generally be said that the fares paid by each of the four classes of riders matches the cost of providing them service. The consultant went on to study the legal significance of the cost revenue relationships found. The analysis of the cases with which

the report provides us clearly demonstrates that other commissions and courts, in determinations of fare discrimination questions, have not required a one-to-one relationship between costs and revenues. Rather, the requirement has been that costs bear some reasonable relationship to revenues. The cost-revenue relationships which were developed in the Voorhees study, with regard to the D. C. Transit fare structure, are well within the limits of reasonableness as defined in the cases summarized for us. Hence, there is no need at the present time to make basic alterations in Transit's fares insofar as they distribute the cost burden between intra-D. C. riders, riders to and from Maryland, and riders within Maryland.^{3/}

We must deal with one further subject covered in the record of this proceeding. The staff presented a further study, undertaken by the Commission's Urban Transportation Planner, which dealt with a subject not directly taken up by the Voorhees report, i.e., the question whether the flat fare for intra-District riding should be revised to provide for zone fares within the District of Columbia. The subject is of interest because the court commented on it in the Payne opinion saying,

"For example, we note that the present fare structure contains a uniform fare for travel within the District of Columbia. Thus no allowance is made, as to travel within the District, for such obvious cost-affecting factors as distance travelled or passenger density. A uniform fare undeniably has the salutary effect of enhancing the mobility of city residents. Moreover, simplicity and ease of collection are recognized rate-making goals. These and other considerations might well lead the Commission to conclude that it would be undesirable to depart from the present uniform fare."^{4/} [footnotes omitted] 415 F.2d 921

^{3/}While no need for change was shown, we were struck by certain facts brought out in the Voorhees report because they are so indicative of the problems which would have to be faced should we decide at some other time to make changes in the fare structure. We refer to the fact that the ridership is so heavily intra-D. C. that in order to produce the same total revenues suburban riders would have to pay six to seven cents more per ride for every one-cent reduction in intra-D. C. fares.

^{4/}We must confess that we have never been sure of the thrust of that statement in connection with the study directed by the court. The court might have been indicating that the factors

The staff report included discussions of the relative feasibility and desirability of various types of fare zones, the problems of fare collection under a zone system, the potential effects of fare zones on the community, and the practices of other cities. The report indicates that it is dubious whether any real advantage would be gained for significant numbers of riders from instituting a zone system within the District. In fact, one real possibility in that overall mobility for city residents would be decreased since higher fares would be charged for longer trips, thereby discouraging residents of one part of the city from finding jobs and services in other neighborhoods. Further investigation of travel patterns as related to income characteristics of residents of various neighborhoods showed that a fare zone system is likely to cause the people with the lowest incomes to be paying the highest fares.

Any benefit to be derived from a fare zone system is based on the assumption that, with operating costs remaining the same, some passengers would pay lower fares while others would pay higher fares. However, the report points out that operating costs would rise substantially if an intra-D. C. zone system were implemented. Finally, the staff report points out that our practice here is consistent with what is being done in other cities around the country.

We, therefore, see no basis on this record for altering the present structure of a flat fare for intra-D. C. riding.

There remains for discussion only the question as to the possibility of a further study of Transit's rate structure. Suggestions in this regard were made by various parties. We have viewed this question in a dual context: first, is the study suggested a necessary step to achieve compliance with the directive of the court in the Payne opinion? Second, apart from the court's directive, would the study be a useful undertaking?

We think that the study sought by protestants is certainly not required in order to comply with the Payne remand. As we have indicated, the studies and reports submitted to us were a

^{4/} (continue) discussed justified a structure within the District which was not so closely tied to the cost of service for each rider or even each route. On the other hand, it might have been saying that the subject was one which it wanted us to study. In any event, the staff did provide us with an analysis of the problem.

painstaking, thorough, and useful response to the views expressed by the court. Hence, we will in this order close the record in this remand docket and this proceeding.

On the other hand, simply because we have performed one study at the behest of the court, that does not mean that we can turn our backs for all time, or even for a brief period, on the question of rate structure. It is one of the most difficult and complex subjects with which we must deal. It is, in addition, a subject which has great impact on the riding public. Hence, we certainly feel justified in giving it continuing attention apart from this proceeding brought about by the Payne opinion. Protestants have suggested an additional line of inquiry which might be explored. Transit has not opposed undertaking a further study, suggesting only that the cost be assessed against an escrow fund created for the benefit of the riding public by our Order No. 773.

We have reviewed the memorandum submitted by counsel for protestant Payne. We are frank to say that in our judgment, that document, in and of itself, is too sketchy and imprecise to provide a basis on which to go forward on the design of a new study. On the other hand, counsel offered to make his associates available for consultation with the staff and the company to make the proposals more specific.

We think that the appropriate course of action at this time is to indicate our willingness to proceed with further studies of rate design. To implement this desire, we will direct the staff to undertake further discussions with those who have been active in this proceeding about the design and conduct of a new study. To assist it in this endeavor, we will authorize the staff to engage the services of Mr. Keith through the Voorhees firm. He is now thoroughly familiar with the subject matter. The cost of Mr. Keith's services will be assessed against Transit and may be paid from the escrow fund established by Order No. 773. If these discussions lead to the development of a sound proposal for a study, the staff may seek authority from us to seek out qualified consultants to perform the work. We should make our intent clear. If this is to be a study for which the Commission is responsible; we will expect the staff to have responsibility for the conduct thereof. We desire, however, that the staff maintain active

contact with protestants to the end that their ideas may be reflected in the study. The Commission itself will be available for informal discussion of any problems which may arise and cannot be resolved at the staff level. If a soundly conceived and potentially useful study proposal results from these efforts, we will proceed with it. We have considered setting a time limit for the submission to us of a report on the possibilities of a new study. However, as the staff will not have complete control of the discussions and the participation of all the parties concerned, we will not impose any strict time limit on the staff. On the other hand, we will expect the staff to give this matter immediate and continuing attention to insure that no time is lost unnecessarily.

Finally, there is the matter of an obligation of \$9,849.40 owed to Alan M. Voorhees Associates, Inc. for services rendered in connection with this case. We will take this occasion to assess Transit that amount, following the method we have used to pay the other consultant fees in this proceeding.

III

FINDINGS

On consideration of the record in this remand proceeding and the conclusions heretofore set out, we find:

1. The basic fare design of D. C. Transit System, Inc., including interstate, intra-Maryland and intra-D. C. fares, is not unduly preferential nor unduly discriminatory, either between riders or between sections of the Metropolitan District.

2. The adoption of intra-D. C. fare zones at this time would not be advantageous.

THEREFORE, IT IS ORDERED:

1. That the record in this proceeding be, and it is hereby, closed.

2. That D. C. Transit System, Inc., be, and it is hereby, assessed \$9,849.40 which it is directed to deposit in the name and to the credit of the Washington Metropolitan Area Transit Commission in the American Security and Trust Company, 1612 K Street, N.W., Washington, D. C., on or before June 25, 1971.

3. That the Commission staff is directed to pursue discussions with the parties to this proceeding to a point which will permit the staff to present a report to the Commission, either describing a study which the staff recommends be undertaken or stating why no such study has been developed.

BY THE COMMISSION:



GEORGE A. AVERY
Chairman