

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 1266

IN THE MATTER OF:

Served June 29, 1973

Investigation of Individually)	Consolidated Docket
Ticketed Sightseeing Service of)	Nos. 175-R and 251
D. C. Transit System, Inc. and)	
W. V. & M. Coach Company, Inc.)	

By Orders Nos. 1260 and 1261, we have today issued new certificates of public convenience and necessity to D. C. Transit System, Inc. (Transit) and Washington, Virginia and Maryland Coach Company, Inc. (W. V. & M.) authorizing individually ticketed sightseeing service over irregular routes within the Washington Metropolitan Area. As we indicated in those orders, there are reasonable grounds to believe that Transit and/or W. V. & M. may not be rendering reasonable, continuous and adequate service in accordance with their certificate authority. For the reasons set forth below, we have therefore decided to institute, on our own motion, an investigation into the individually ticketed sightseeing service of these carriers.

Transit holds, inter alia, certificate authority to provide individually ticketed sightseeing transportation:

"(b) From points in Montgomery County, Maryland and that portion of Prince Georges County, Maryland, north of the John Hanson Highway to points in the Metropolitan District."

The record in Docket No. 250 suggests that Transit may not be providing reasonable, continuous and adequate individually ticketed sightseeing service between the Maryland points set forth in sub-paragraph (b) of its certificate and the Metropolitan District, but that record does not adequately explore the service, if any, which Transit is now providing over this irregular route, nor does it reflect the company's plans to institute and maintain such service. This investigation will therefore

ascertain what service, if any, Transit is now operating over that irregular route; the company's plans to provide such service in the future; whether the service actually provided or contemplated is reasonable, continuous and adequate; and whether the public convenience and necessity requires suspension, change or revocation of this portion of Transit's certificate authority.

Transit also holds certificate authority to provide individually ticketed sightseeing transportation:

"(c) From points in Arlington and Fairfax Counties and the Cities of Falls Church and Fairfax, Virginia to points in Montgomery and Prince Georges Counties, Maryland."

Transit's currently effective Tariff No. 45, which contains the rules, regulations and charges applicable to its individually ticketed sightseeing service, does not provide for any individually ticketed sightseeing service whatever over the irregular route authorized by sub-paragraph (c) of Transit's certificate. It is, accordingly, undisputed that Transit is now providing no individually ticketed sightseeing service as authorized by sub-paragraph (c) of its certificate. Transit has not sought our permission to suspend service over that route and we can therefore only conclude that Transit is now in violation of the terms of its certificate of public convenience and necessity which require it to provide "reasonable, continuous, and adequate service to the public in pursuance of the authority granted [by its certificate]". We so find. Pursuant to Section 4(g) of the Compact, Transit will be ordered to comply with the terms of its certificate of public convenience and necessity by providing reasonable, continuous and adequate individually ticketed sightseeing service over the irregular route authorized by sub-paragraph (c) within forty days from the date of this order. This investigation will ascertain whether Transit has remedied this failure and, if not, whether the individually ticketed sightseeing authority granted to Transit by sub-paragraph (c) of its certificate should be suspended, changed or revoked.

The record of the hearing held in Docket No. 250 on May 3, 1973, establishes that, as of that date, W. V. & M. was providing no individually ticketed sightseeing service as authorized by its certificate of public convenience and necessity. This was

due, the company's treasurer explained, to the condemnation of the company's equipment by the Washington Metropolitan Area Transit Authority (WMATA). On June 4, 1973, W. V. & M. submitted an affidavit in which it alleged that it had acquired one bus by lease from Transit and had instituted what it alleged to be individually ticketed sightseeing service pursuant to a "through-route sightseeing operation jointly with D. C. Transit System, Inc." This raises the very questions pending before us in Docket 175-R pursuant to remand by the United States Court of Appeals. D. C. Transit System, Inc. v. Washington Metropolitan Area Transit Commission, 429 F.2d 197 (D.C. Cir. 1970). In that proceeding, the Court directed us to ascertain the exact details of the operation contemplated by W. V. & M. and Transit pursuant to their agreement and to decide, on the basis of the facts developed, whether such an operation constitutes a true "through route" within the meaning of Section 7(a) of the Compact. Pursuant to the remand, we set the matter for hearing but, by Order No. 1196, we granted the joint motion of W. V. & M. and Transit to postpone all further proceedings in Docket No. 175-R. In light of W. V. & M.'s assertion that a through sightseeing service has been instituted,^{1/} it is appropriate that we now proceed forthwith to disposition of the issues remanded to us by the Court. We will accordingly consolidate all pending matters in Docket No. 175-R with the investigation we have today instituted.

Except for the alleged through route sightseeing service which W. V. & M. represents it is conducting with Transit, the record in Docket No. 250 does not indicate that W. V. & M. is operating any individually ticketed sightseeing service. Thus, the investigation will also ascertain the nature of the individually ticketed sightseeing service now operated by W. V. & M.;

1/ Neither Transit nor W. V. & M. has a currently effective tariff on file with this Commission for a joint fare or through individually ticketed sightseeing service, and Section 5(d) of the Compact expressly prohibits a carrier to charge "any fare other than the applicable fare specified in a tariff filed by it. . . and in effect at the time." It thus appears that, if a joint sightseeing service is, in fact, being operated by W. V. & M. and Transit, such a service is in violation of law. See Compact §§ 4(g), 18. This matter will also be explored in the investigation instituted today.

the company's plans to institute and maintain such service; and whether the actual or contemplated operations constitute reasonable, continuous and adequate service within the meaning of W. V. & M.'s certificate.

Finally, we take official notice of the fact that many of the points from which W. V. & M. is now authorized to provide individually ticketed sightseeing service may be entirely inappropriate for such authority.^{2/} The investigation instituted today will also consider what certificate changes, if any, are appropriate in W. V. & M.'s currently effective certificate of public convenience and necessity to enable the carrier, if it is otherwise fit, to provide an efficient and economical individually ticketed sightseeing service.

We shall assign this matter to a Hearing Examiner and we shall direct the Examiner to call a pre-hearing conference, on suitable notice to the parties, for the purposes set forth in Rule 17 of our Rules of Practice and Procedure and to recommend what further proceedings are necessary or appropriate to accomplish the purposes of this investigation.

^{2/} W. V. & M.'s individually ticketed sightseeing authority is now keyed to its former regular route operation. This is because the company's former Certificate of Public Convenience and Necessity No. 4 authorized "special operations" between any point in Virginia (except Dulles International Airport) on the company's regular routes and points within the District of Columbia. Following condemnation, W. V. & M. retained only so much of its "special operations" authority as permitted in individually ticketed sightseeing service. See Order No. 1261 (June 29, 1973). Many, indeed most, of the points on W. V. & M.'s former regular routes are residential neighborhoods and some of the points on its former regular routes are uninhabited. These are unlikely points from which to conduct an individually ticketed sightseeing service. On the other hand, W. V. & M.'s former regular routes authorized a service over public streets which are near major hotels and motels in the suburban Virginia area, but its regular route did not authorize service directly to hotels and motels which are the most likely and convenient pick-up points for individually ticketed sightseeing passengers.

THEREFORE, IT IS ORDERED:

1. That an investigation of the individually ticketed sightseeing services of D. C. Transit System, Inc. and Washington, Virginia and Maryland Coach Company, Inc., be, and it is hereby, instituted for the purposes set forth herein.

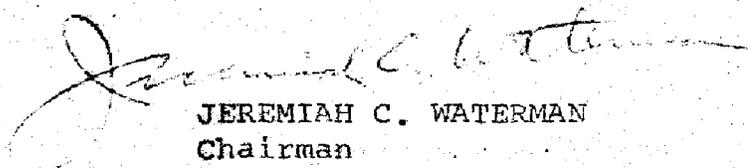
2. That D. C. Transit System, Inc. and Washington, Virginia and Maryland Coach Company, Inc. be, and they are hereby, made parties to this investigation.

3. That D. C. Transit System, Inc. be, and it is hereby, directed to institute and provide reasonable, continuous and adequate individually ticketed sightseeing service from points in Arlington and Fairfax Counties and the Cities of Falls Church and Fairfax, Virginia, to points in Montgomery and Prince Georges County, Maryland, within forty (40) days from the date of this order.

4. That all proceedings pending in Docket No. 175-R be, and they are hereby, consolidated with the investigation instituted herein.

5. That this matter be, and it is hereby, assigned to a Hearing Examiner for the purpose of conducting a pre-hearing conference, on suitable notice to the parties, in accordance with Rule 17 of our Rules of Practice and Procedure.

BY DIRECTION OF THE COMMISSION:



JEREMIAH C. WATERMAN
Chairman