

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 1521

IN THE MATTER OF:

Served March 17, 1976

Investigation to Determine the)
Nature of Joint Operations, if Any,)
between D. C. TRANSIT SYSTEM, INC.,)
and WASHINGTON, VIRGINIA AND MARY-)
LAND COACH CO., INC., and Order)
Directing Compliance)

Docket No. 320

The annual report of the Washington, Virginia and Maryland Coach Co., Inc. (W.V.&M.) for the year ended December 31, 1974, does not set forth any revenues or expenses resulting from transportation operations performed pursuant to W.V.&M.'s Certificate of Public Convenience and Necessity No. 4-A. W.V.&M. is a wholly owned subsidiary of D. C. Transit System, Inc. (D. C. Transit). W.V.&M.'s annual report contains the following statement:

NOTE: Due to operating agreement between WVM & D.C.T. income and expenses for WVM is recorded for Account purposes by D.C.T.

The D. C. Transit annual report for the same period does not purport to show the results of operations for any carrier other than itself. If such operations are reported, they are not differentiated.

The Compact, Title II, Article XII, Section 12, states in pertinent part:

12. (a) It shall be unlawful, without approval of the Commission in accordance with this section --

(1) for two or more carriers, any one of which operates in the Metropolitan District, to consolidate or merge their properties or franchises, or any part thereof, into one person for the ownership, management, or operation of properties theretofore under separate ownership, management, or operation; or

(2) for any carrier which operates in the Metropolitan District or any person controlling, controlled by,

or under common control with, such carrier (i) to purchase, lease, or contract to operate the properties, or any substantial part thereof, of any carrier which operates in such Metropolitan District, or (ii) to acquire control, through ownership of its stock or otherwise, of any carrier which operates in such Metropolitan District.

(b) Any person seeking approval of any transaction to which subsection (a) applies shall make application to the Commission in accordance with such regulations as the Commission shall prescribe. If, after hearing held upon reasonable notice, the Commission finds that, subject to such terms, conditions, and modifications as it shall find to be necessary, the proposed transaction is consistent with the public interest, it shall enter an appropriate order approving and authorizing such transaction as so conditioned.

(c) It shall be unlawful to continue to maintain or exercise any ownership, management, operation or control accomplished or effectuated in violation of subsection (a) of this section.

No currently valid agreement between D. C. Transit and W.V.&M. has been approved by the Commission.

A public hearing shall be scheduled to determine whether an operating agreement exists between D. C. Transit and W.V.&M. and, if so, the nature of that agreement. It also shall be determined whether operations have been conducted pursuant to that agreement and whether such operations, if any, constitute a wilful failure to comply with any lawful order, rule, or regulation of the Commission, or with any term condition, or limitation of Certificate of Public Convenience and Necessity No. 4-A issued to W.V.&M. or Certificate of Public Convenience and Necessity No. 5-A issued to D. C. Transit. A determination shall be made whether such violation(s), if found, warrant suspension, change, or revocation, in whole or in part, of either or both certificates. See Compact, Title II, Article XII, Section 4(g).

In view of the mandate of the Compact, Title II, Article XII, Section 12(c) both D. C. Transit and W.V.&M. are admonished to comply with the provisions of their respective certificates and tariffs. It shall be determined at the hearing whether these carriers have complied with this directive.

D. C. Transit and W.V.&M. shall be prepared to present at the public hearing and support with competent witnesses:

- (1) The "operating agreement" alluded to in the annual report of W.V.&M. for the year ended December 31, 1974.
- (2) A detailed allocation of revenues and expenses between D. C. Transit and W.V.&M. for the year ended December 31, 1974.
- (3) A complete statement of the services presently offered by W.V.&M. and the prices at which these services are offered.
- (4) A complete statement of the revenue equipment of W.V.&M., indicating whether owned or leased.
- (5) A complete statement of the revenue equipment of D. C. Transit, indicating whether owned or leased.
- (6) A complete list of the employees of W.V.&M. during the year ended December 31, 1974.
- (7) A complete list of the employees of D. C. Transit during the year ended December 31, 1974.
- (8) A complete list of the properties owned or leased by W.V.&M., other than revenue equipment, during the year ended December 31, 1974.
- (9) A complete list of the properties owned or leased by D. C. Transit, other than revenue equipment, during the year ended December 31, 1974.

D. C. Transit and W.V.&M. shall share equally the expenses of this investigation, and shall be assessed an amount preliminarily estimated to cover the reasonable cost of this proceeding in accordance with the provisions of the Compact, Title II, Article XII, Section 19.

THEREFORE, IT IS ORDERED:

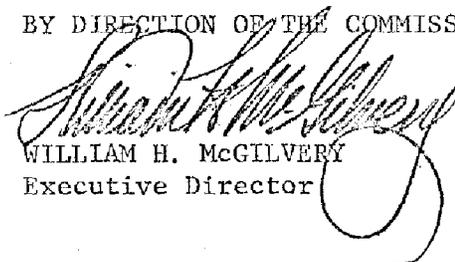
1. That D. C. Transit System, Inc., be, and it is hereby, directed to comply with its Certificate of public Convenience and Necessity No. 5-A, with its WMATC Tariff No. 46 and Supplements thereto, and with all applicable rules, regulations and orders of the Commission.

2. That Washington, Virginia and Maryland Coach Co., Inc., be, and it is hereby, directed to comply with its Certificate of Public Convenience and Necessity No. 4-A, with its WMATC Tariff No. 40 and Supplements thereto, and with all applicable rules, regulations, and orders of the Commission.

3. That a public hearing be, and it is hereby, scheduled for Friday, April 16, 1976, at 10:00 A. M. in the Hearing Room of the Commission, Room 314, 1625 I Street, N. W., Washington, D. C. 20006, for the purpose of determining the matters set forth hereinbefore in the body of this order, and to determine whether D. C. Transit System, Inc., and Washington, Virginia and Maryland Coach Co., Inc., have wilfully failed to comply with this order.

4. That D. C. Transit System, Inc., and Washington, Virginia and Maryland Coach Co., Inc., be, and they are hereby, assessed the sum of \$150 each pursuant to the provisions of the Compact, Title II, Article XII, Section 19, and directed to deliver the said amounts to the office of the Commission, 1625 I Street, N. W., Washington, D. C. 20006, on or before Monday, April 12, 1976.

BY DIRECTION OF THE COMMISSION:



WILLIAM H. MCGILVERY
Executive Director