

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 1662

IN THE MATTER OF:

Served March 18, 1977

Order to Show Cause Directed            )  
to the BALTIMORE AND ANNAPOLIS        )  
RAILROAD COMPANY                        )

Docket No. 334

In Washington Metropolitan Area Transit Commission v. The Baltimore and Annapolis Railroad Company, Civil Action No. 76-1690, the United States District Court for the District of Columbia (Court) concluded that Commission Order No. 1582 was improperly entered and the matter was remanded to the Commission.

The Commission had sought judicial relief in the nature of an injunction against The Baltimore and Annapolis Railroad Company (B&A) and enforcement of the cease and desist ruling contained in Order No. 1582, entered July 30, 1976. The Court framed the issue as ". . . whether B&A's charter operations performed within the Metropolitan District and allegedly ongoing before the effective date of the Compact are subject to the jurisdiction of the Commission and the provisions of the Compact." (Emphasis added and footnote omitted.)

In resolving the issue, the Court relied upon the decision in Montgomery Charter Service, Inc. v. Washington Metropolitan Area Transit Commission, 302 F.2d 906 (D. C. Cir. 1962). After setting forth its view of the similarities between the instant proceeding and the prior action involving Montgomery Charter Service, Inc., the Court ordered the same relief as previously ordered by the appellate court. The proceeding thus was remanded to the Commission.

The Court declined to enforce Order No. 1582 ". . .because B&A has conducted charter operations without challenge for many years and because of the limited record supporting the contested ruling by the Commission." The Court remanded the proceeding because "the Commission has not held a hearing, had made no findings of fact and had nothing before it except the application and the concurrent motion to dismiss."

The Commission deems it appropriate, as suggested by the Court, to ". . . order B&A to show cause why it should not be directed to cease and desist from continuing to conduct charter operations which the Commission believes to be unlawful, In this manner, a record can be developed

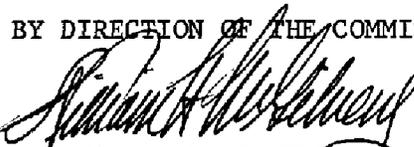
from which the Commission may make findings of fact upon which to base an order." The Commission accordingly shall schedule March 30, 1977, as the date to commence a hearing at which B&A may introduce evidence, as indicated by the Court, ". . . why it should not be directed to cease and desist from continuing to conduct charter operations." The Court further has mandated that ". . . at any show cause hearing ordered by the Commission, it shall consider its earlier 1968 order and compare B&A's charter operations at the time when that order was issued with the operations the carrier is now conducting." Therefore, B&A will be afforded the opportunity to introduce at the March 30, 1977, hearing evidence pertaining to its charter operations prior to Order No. 366, served June 17, 1964, and its current charter operations.

B&A shall be assessed an amount preliminarily estimated to be sufficient to cover the expenses it is required to bear according to the Compact, Title II, Article XII, Section 19.

THEREFORE, IT IS ORDERED:

1. That The Baltimore and Annapolis Railroad Company be, and it is hereby, directed to show cause why it should not be directed to cease and desist from continuing to conduct operations within the Metropolitan District which are subject to the Commission's jurisdiction.
2. That a public hearing be, and it is hereby, scheduled to commence March 30, 1977, at 9:30 A. M., in the Hearing Room of the Commission, Room 314, 1625 I Street, N. W., Washington, D. C., pursuant to the Memorandum Order of the United States District Court for the District of Columbia, Washington Metropolitan Area Transit Commission v. The Baltimore and Annapolis Railroad Company, Civil Action No. 76-1690, entered March 1, 1977, for the purpose of developing a record pertaining to the show cause order set forth in paragraph 1 and to The Baltimore and Annapolis Railroad Company operations within the Metropolitan District prior to Order No. 366, served June 17, 1964, and as currently rendered.
3. That The Baltimore and Annapolis Railroad Company be, and it is hereby, assessed the sum of \$500 pursuant to the provisions of the Compact, Title II, Article XII, Section 19, and directed to deliver said amount to the offices of the Commission, Room 316, 1625 I Street, N. W., Washington, D. C., on or before Friday, March 25, 1977.

BY DIRECTION OF THE COMMISSION:

  
WILLIAM H. MCGILVERY  
Executive Director