

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 2709

IN THE MATTER OF:

Served June 4, 1985

WASHINGTON MOTOR COACH COMPANY, )  
INC., Suspension and Investigation )  
of Revocation of Certificate No. 97)

Case No. MP-85-06

By Order No. 2678, served March 7, 1985, and incorporated herein by reference, the Commission suspended the operating authority of Washington Motor Coach Company, Inc. (Washington Motor Coach or respondent), for failure to maintain appropriate evidence of insurance coverage in violation of the Compact, Title II, Article XII, Section 9(a) and Commission Regulation No. 62. Washington Motor Coach was directed by Order No. 2678 to file no later than April 6, 1985, appropriate evidence of insurance or to show cause why its Authorization No. SP-97-01 should not be revoked. When neither filing was made, the Commission by Order No. 2695, served April 8, 1985, set the matter for hearing in order to determine whether Authorization No. SP-97-01 should be revoked for failure to comply with a Commission regulation.

The hearing was scheduled for Tuesday, April 30, 1985, at 9 a.m. Because no representative from Washington Motor Coach was then present, the Administrative Law Judge refrained from calling for appearances until 9:35 a.m. At that time Counsel for the Commission entered an appearance and indicated a readiness to go forward. No appearance was entered by respondent, and the hearing was recessed for one hour. At 10:40 a.m., the Administrative Law Judge reconvened the hearing. No representative appeared for respondent, and the staff was allowed to present its case.

SUMMARY OF THE EVIDENCE

The Commission's executive director, William H. McGilvery, testified that, since he had served Order No. 2695 setting the case for public hearing, a representative from Washington Motor Coach had submitted an insurance certificate to the Commission which was unacceptable in that it failed to comply with Commission Regulation No. 62. Specifically, the certificate of insurance at issue provided for 10 days' notice of cancellation to the Commission as opposed to the required 30-day notice. Moreover, the cancellation clause contained exculpatory language for the insurance carrier which the Commission requires be deleted before accepting a certificate of insurance.

Mr. McGilvery explained that the certificate of insurance presented by respondent contains a cancellation clause by which the insurance company informs the Commission that it will endeavor to give 10 days written notice, but failure to mail such notice shall impose no obligation or liability of any kind upon the insurance company. Given the shortened time period and the exculpatory language contained in the cancellation clause, Mr. McGilvery is concerned that the Commission might get less than adequate notice or no notice at all from the insurance company in the event of cancellation. In light of the respondent's past history, which includes four cancellations in the prior insurance year and one cancellation during the current insurance year, Mr. McGilvery considers such cancellation a definite possibility.

#### DISCUSSION AND CONCLUSIONS

This matter is governed by Title II, Article XII, Section 9(a) of the Compact which provides that

No certificate of public convenience and necessity shall . . . remain in force unless the person . . . holding such certificate complies with such reasonable regulations as the Commission shall prescribe governing the filing and approval of . . . policies of insurance . . . .

Commission Regulation No. 62-09 provides

62-09. Cancellation Notice. Except as provided in Regulation 62-10 herein [dealing with termination of insurance certificates by replacement], surety bonds, certificates of insurance and other securities or agreements shall not be cancelled or withdrawn until after thirty (30) days' notice in writing by the insurance company, surety or sureties, motor carrier, or other party thereto, as the case may be, has first been given to the Commission at its office which period of thirty (30) days shall commence to run from the date such notice is actually received at the office of the Commission.

Taking official notice of the Commission's records, we note that a new certificate of insurance for respondent was submitted subsequent to the hearing which includes a 30-day notice clause with the same exculpatory language which was discussed by Mr. McGilvery on the record. The cancellation clause reads as follows:

Cancellation: Should any of the above described policies be cancelled before the expiration date thereof, the issuing company will endeavor to mail 30 days written notice to the below named certificate holder, but failure to mail such notice shall impose no obligation or liability of any kind upon the company. (emphasis added)

This certificate of insurance was as unacceptable as the certificate of insurance discussed on the record. It is incumbent on all carriers to have on file with the Commission at all times evidence of adequate insurance. As a means of assuring that the evidence of insurance on file with it is current, the Commission by Regulation No. 62 requires that it be given 30 days' notice of any change or cancellation of insurance. An unequivocal 30-day cancellation clause accomplishes this purpose thereby providing assurance to the extent that such assurance is within the Commission's power and that the public is protected to certain minimum limits in the event of an accident. There is ample basis for concern as to the stability of respondent's insurance coverage. Washington Motor Coach's insurance has been cancelled five times in the last five consecutive calendar quarters.

On May 16, 1985, yet another certificate of insurance was filed. On this certificate the language "but failure to mail such notice shall impose no obligation of any kind upon the company" had been stricken. However, the "30 days" had been changed back to "10 days", and the words "endeavor to" remained. This certificate was no more acceptable than its predecessors.

Finally, on May 28, 1985, another certificate of insurance was filed by the insurance carrier, and we find this latest insurance certificate to be acceptable for filing.

Respondent failed to pay the assessment to cover the cost of this investigation required by Order No. 2695. The suspension of respondent's operating authority will not be lifted until the cost of this investigation is paid.

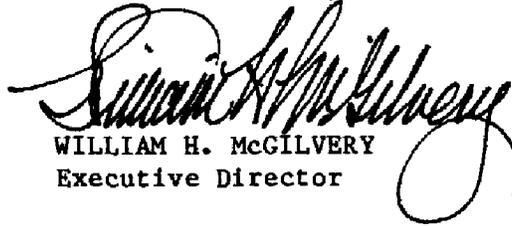
**THEREFORE, IT IS ORDERED:**

1. That Washington Motor Coach Company, Inc., is hereby directed pursuant to Title II, Article XII, Section 19 of the Compact to deliver \$50 to the office of the Commission, 1625 I Street, N.W., Room 316, Washington, D.C. 20006, within 30 days of the date of this Order.

2. That, upon timely compliance with Ordering Paragraph No. 1 above the investigation in Case No. MP-85-06 shall be terminated and the suspension of respondent's operating authority shall be lifted.

3. That, upon failure timely to comply with Ordering Paragraph No. 1 above, the operating authority of respondent shall stand revoked in its entirety for wilful failure to comply with the requirements of this Order.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS WORTHY, SCHIFTER, AND SHANNON:



WILLIAM H. MCGILVERY  
Executive Director