

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 2721

IN THE MATTER OF:

Served June 19, 1985

Proposed Regulation Relating to)
 SECURITY FOR THE PROTECTION OF)
 THE PUBLIC)

Case No. MP-85-02

The Commission's present liability insurance requirements for certificated carriers have been in effect since October 1, 1976, as follows:

Kind of equipment	Limit for bodily injuries to or death of one person	Limit for bodily injuries to or death of all persons injured or killed in any one accident (subject to a maximum of \$100,000 for bodily injuries to or death of one person)	Limit for loss or damage in any one accident to property of others
Passenger equipment (seating capacity): 11 passengers or less	\$100,000	\$300,000	\$50,000
Passenger equipment (seating capacity): 12 passengers or more	\$100,000	\$500,000	\$50,000

By Order No. 2668, served February 25, 1985, and incorporated herein by reference, the Commission on its own motion instituted a formal investigation in the form of a rulemaking proceeding proposing to revise Commission Regulation No. 62-03(a) to prescribe minimum amounts of public liability insurance for WMATC certificated carriers as follows:

Manufacturer's Designed Maximum Seating Capacity (Includes the Driver)	COMBINED SINGLE LIMIT Effective Date November 19, 1985
15 persons or less	\$1,500,000
16 persons or more	\$5,000,000

The minimum liability insurance requirements proposed by Order No. 2668 are the same as those promulgated by the U.S. Department of Transportation ("US.DOT") to become effective November 19, 1985. */ Identical levels have been adopted by the Interstate Commerce Commission ("ICC"), by order entered January 5, 1984, also to become effective on November 19, 1985.

It has been the Commission's general practice over more than two decades to establish insurance requirements for WMATC certificated carriers at the same level as such requirements for ICC certificated carriers. However, the most recent ICC action resulted in an increase of such magnitude that we felt it necessary to exercise extra caution in assuring ourselves that such requirements were justified by the operating circumstances and exposure of certificated carriers within the Washington Metropolitan Transit District and, further, to analyze the economic impact of such requirements on WMATC certificated carriers and, hence, on the users of their services.

Order No. 2668 also summarized and incorporated into this investigation comments on this subject from a number of persons who had responded to an earlier request for informal comments. Those persons were also invited to submit additional comments if they chose to do so. The Commission staff published notice of the proposal in The Washington Post on February 28, 1985. Copies of Order No. 2668 were served on all WMATC certificated carriers as well as a broad spectrum of other persons who might be interested in the matter. Comments were required to be filed in writing on or before May 31, 1985.

Mr. George L. Booze, president of George's Limo Taxi, Inc., protested the proposed increase. Mr. Booze operates one 5-passenger limousine in contract service pursuant to Authorization No. SP-83-01. Mr. Booze stated that his insurance broker had been unable to locate an

*/ See Report of the Department of Transportation at 49 CFR Part 387, incorporated herein by reference.

insurance company that would insure Mr. Booze's operation for the proposed limits. Mr. Booze proposed, instead, insurance requirements no higher than \$300,000 for carriers operating only one vehicle seating no more than 5 passengers. Since this is the only WMATC carrier so situated, Mr. Booze's proposal could perhaps be interpreted as a request for an exception. However, we were subsequently advised that the contract underlying this carrier's authorization has been cancelled, so the matter raised by Mr. Booze is now moot.

Mr. Harry L. Eyre, president of Eyre Bus Service, Inc., responded that the WMATC insurance requirements should correspond identically with those imposed by the U.S. Department of Transportation and the Interstate Commerce Commission. According to Mr. Eyre, present levels are less than adequate, and uniformity of regulations promotes greater understanding and compliance.

In further aid of our consideration we sought the assistance of The Urban Institute, a nonprofit policy research organization, to undertake a study and submit a report on the matter. The Urban Institute's report, Insurance Requirements for Certificated Carriers ("the report"), recommends that WMATC increase its liability insurance requirements in two stages as follows:

For vehicles seating 16 or more persons (including the driver), to a combined single limit of \$5 million dollars, effective no earlier than November 19, 1985 when the Federal requirement will be raised to this same level.

For all vehicles seating 15 persons (including the driver) or less, to a combined single limit of \$750,000 or, at the carrier's option, to \$750,000 for personal injury (per person and per accident) and \$50,000 for property damage, effective no earlier than November 19, 1985 when the Federal requirement will be raised from \$750,000 to \$1.5 million.

For vehicles seating 15 persons or less and operated by charter carriers or regular route carriers, to a combined single limit of \$1.5 million, effective no earlier than November 19, 1986. No further change in limits is recommended in 1986 for vehicles seating 15 persons or less and certificated only for individual-fare special operations.

Before discussing the report further we should note that the operating authority of WMATC certificated carriers is dynamic. Carriers come and carriers go, and the operating authority of the others may expand or contract. Certificates of insurance are also dynamic. Upon expiration of underlying insurance policies, new

certificates of insurance are filed which may show increased or decreased coverage. Such changes are acceptable to the extent that the coverage continues to meet our minimum requirements. The report is based on a body of 80 certificated carriers and their insurance coverage at the time the study was undertaken. Though changes have necessarily occurred in the ensuing weeks, they are minor and would not undermine the data base on which The Urban Institute predicated its analysis and report.

With regard to operators of vehicles seating 16 or more persons, the report indicates that of the 32 WMATC certificate holders in this class, 21 also hold ICC certificates and are subject to the Federal minimum insurance requirements. Five more WMATC carriers in this class voluntarily carry at least the \$5 million of liability coverage called for under the Federal requirements. Thus, only 6 of these 32 carriers would have to obtain additional insurance if WMATC increased its requirements to the Federal level.

The report notes that considerable disruption has occurred in the motor vehicle liability insurance market within the past year. The price of bus insurance has risen substantially over 1983 levels and is not expected to stabilize fully until 1986. Nevertheless, the report concludes that the proposed and recommended coverage for vehicles in this class is widely available provided that the carrier has a reasonable safety record and maintains its equipment adequately. For such carriers the report estimates that the increased cost of coverage would be roughly \$1,500 per vehicle to increase coverage from \$100,000/\$500,000/\$50,000 to a combined single limit of \$5 million. For carriers judged by insurers not to have good accident experience and adequate maintenance and driver training, the cost could be significantly higher. However, the report indicates that WMATC certificated carriers in this class have an excellent safety record.

The report's analysis of the accident experience and operating conditions of WMATC certificated carriers in this class, along with those of ICC certificated carriers in the District of Columbia, Maryland, and Virginia, indicates the desirability of a \$5 million liability requirement. This relationship and conclusion are reinforced by the fact that 21 of the 32 WMATC carriers in this class are also ICC carriers. The report concludes that the six carriers in this class that will not be obliged to have \$5 million coverage because of Federal requirements and that do not voluntarily carry at least that much coverage already, are primarily new or marginal carriers that could not satisfy a large liability claim except through insurance.

With regard to operators of vehicles seating 15 persons or less, the report indicates that

the 48 WMATC certificate holders that operate only vehicles seating 15 persons or less include 18 medi-van operators, 21 carriers conducting individual fare (special) operations, and 13 charter carriers. (Four certificate holders conduct both charter and special operations.) The medi-vans and carriers that conduct only special operations generally carry only the insurance coverage required by WMATC. Five of the 13 charter carriers either are ICC-certificated or voluntarily carry at least the \$1.5 million coverage limit prescribed by the ICC, and three others carry \$1 million in coverage. Thus, only four charter carriers (31 percent) will be required to modify their insurance coverage substantially if WMATC increases the required liability limits [to the levels recommended in the report]. (Report, at p.7.)

Concerning the liability insurance market for vehicles in this class, the report states that

the consensus of the insurance industry representatives interviewed was that a carrier with only one or two vehicles and no other major assets requiring insurance almost certainly would find it virtually impossible to raise existing coverage to a \$1.5 million limit before mid-1986.

As mentioned in the discussion of insurance for larger vehicles, the motor vehicle insurance industry is currently unsettled, and that is especially true of those companies providing reinsurance or coverage in excess of a primary cover. This situation is expected to continue until mid-1986 and, in the opinion of several knowledgeable experts . . . would make it difficult and expensive for small carriers to obtain even \$1 million in coverage before then. The cost for a combined single limit of \$750,000 in coverage (the ICC's interim limit until November, 1985) probably would exceed the cost of \$500,000 of coverage in the current market by 15 to 20 percent. It probably would exceed the cost of \$300,000 of coverage by 30 to 50 percent for a carrier with just one or two vehicles. If an insurer could be found, another 25 to 35 percent increment over the cost for \$750,000 in coverage probably would be required to raise coverage to the Federally mandated limit of \$1.5 million. These costs should drop as the market stabilizes in 1986.

The Maryland Automobile Insurance Fund, which provides liability insurance for hard-to-insure risks

in Maryland, indicates that conditions in the market also mean that it can be noticeably more expensive to obtain a policy with a combined single liability limit of \$1 million than to obtain a policy with a property damage liability limit of \$50,000 and a liability limit of \$1,000,000 for personal injuries. Essentially, the fund has found it necessary to obtain separate reinsurance policy riders, on a company-specific basis, for each liability component, rather than buying added coverage with a combined single limit.

Conditions in the liability insurance market, thus, are such that WMATC should not consider requiring carriers with vehicles seating 15 persons or less to have more than \$1 million in liability coverage before mid-1986. WMATC also should not structure its liability insurance requirements so that split limits are precluded. (Report, at pp.8, 9.)

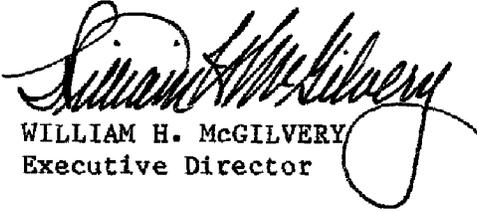
While the report concludes that \$1.5 million is generally appropriate for operators of vehicles in this class, it recommends an interim level of \$750,000 from November 19, 1985, to November 19, 1986, while the insurance market stabilizes; it recommends that a split-limit option of \$750,000/\$50,000 be maintained because it may be more readily available than a combined single limit; and it recommends that \$750,000 is adequate for carriers who conduct only special operations, even after November 19, 1986, because of their operating circumstances. The report concludes that the increased cost of the recommended coverage would be affordable to carriers in this class without undue impact on their finances or rates.

With regard to availability, we are convinced that, in absolute terms, the liability limits required by U.S.DOT and ICC will be available. Effective November 19, 1985, those limits will be required of all carriers operating under Federal jurisdiction. The issue, for us, revolves around the adequacy of the liability insurance requirement. In considering this issue we must, of course, be mindful of the effect of the costs involved upon passenger rates and carrier finances. We find that the liability insurance requirements recommended by the report are necessary, available, adequate, and cost justified.

We find the conclusions in the report to be adequately founded. We are not troubled by the variations from the Federal requirements because we find the variances to be soundly based on the particular circumstances in the Metropolitan District and upon the economic adjustments now occurring in the motor vehicle insurance industry. Accordingly, we shall adopt the two-stage increase as recommended in the report.

THEREFORE, IT IS ORDERED that Regulation 62-03(a) is hereby amended as set forth in the Appendix attached hereto.

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


WILLIAM H. MCGILVERY
Executive Director

Regulation 62-03. Minimum Amounts.

(a) For carriers other than operators of taxicabs:

EFFECTIVE NOVEMBER 19, 1985:

TYPE OF AUTHORITY	VEHICLES SEATING 16 PERSONS OR MORE	VEHICLES SEATING 15 PERSONS OR LESS
REGULAR ROUTE	\$5,000,000 CSL	\$750,000 CSL or \$750,000/\$50,000
CHARTER	\$5,000,000 CSL	\$750,000 CSL or \$750,000/\$50,000
SPECIAL	\$5,000,000 CSL	\$750,000 CSL or \$750,000/\$50,000

EFFECTIVE NOVEMBER 19, 1986:

TYPE OF AUTHORITY	VEHICLES SEATING 16 PERSONS OR MORE	VEHICLES SEATING 15 PERSONS OR LESS
REGULAR ROUTE	\$5,000,000 CSL	\$1,500,000 CSL
CHARTER	\$5,000,000 CSL	\$1,500,000 CSL
SPECIAL	\$5,000,000 CSL	\$750,000 CSL or \$750,000/\$50,000

NOTES:

1. CSL = Combined Single Limit for all personal injuries, deaths, and property damage resulting from one occurrence.
2. \$750,000/\$50,000 = \$750,000 for all personal injuries and deaths, and \$50,000 for all property damage, resulting from one occurrence.
3. For carriers holding more than one type of authority, the higher limit applies.
4. "Persons" includes the driver.