

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 3222

IN THE MATTER OF:

Served August 25, 1988

Investigation of Compliance of)
AMERICAN COACH LINES, INC.)

Case No. MP-87-08

Application of AMERICAN COACH)
LINES, INC., for Revocation of)
Certificate No. 1)

Case No. AP-88-23

By motion filed May 25, 1988, the Office of General Counsel (OGC) requests that WMATC Certificate No. 1 of American Coach Lines, Inc., a District of Columbia corporation (ACL-DC), be revoked for willful failure to comply with the Compact, the Commission's rules, and lawful Commission orders. The motion is made pursuant to Commission Rule No. 15-01 and implicates the standards set forth at Title II, Article XII, Section 4(g) of the Compact. As grounds for the motion OGC relies on the report of SG Associates, Inc. (SG), entitled "Inspection of Dispatch and Charter Records of American Coach Lines, Inc.," filed in Case No. MP-87-08 on April 1, 1988.

OGC notes that this investigation was instituted to determine whether ACL-DC had willfully violated the Compact or the Commission's rules, regulations, or orders and whether WMATC Certificate No. 1 should be suspended, changed, or revoked. In Order No. 3079, served October 9, 1987, the Commission held, based on evidence adduced at three days of hearing plus briefs addressing certain legal issues in the case, that ACL-DC had knowingly and willfully violated the Compact, Commission regulations, Commission orders, and the terms of WMATC Certificate No. 1. Consequently, by the same order the Commission suspended WMATC Certificate No. 1 for three months and established a nine-month audit period for the purpose of examining ACL-DC's compliance. OGC asserts that the report proves ACL-DC continued to operate between points in the Metropolitan District while WMATC Certificate No. 1 was suspended. It is OGC's position that, ACL-DC having failed to comply with the terms of Order No. 3079 and its own certificate, revocation is the appropriate and only remedy available within the confines of the Compact.

In response ACL-DC states that it does not agree that it ". . . is in violation of any substantive provision of any law, rule, or regulation, and specifically denies such allegations." (Emphasis added.) However, ACL-DC supports OGC's request for revocation of WMATC Certificate No. 1 by means of a corporate resolution to that effect.

Thus, the issue before us is whether during the three-month suspension period ACL-DC continued to violate the Compact, the Commission's regulations, and the terms of WMATC Certificate No. 1 as discussed in Order No. 3079. We have examined SG's report, and we take official notice of the affidavit of Sydney Chase filed by OGC in Case No. AP-87-20. We find that between December 11, 1987, and March 9, 1988, ACL-DC routinely transported passengers for hire between points in the Metropolitan District, including round-trip sightseeing tours within the District of Columbia. We note further that these operations were performed despite an order of the United States Court of Appeals for the District of Columbia Circuit, issued December 18, 1987, refusing to stay Order No. 3079 pending appeal. In light of these facts, we believe that any action other than revocation of WMATC Certificate No. 1 would be futile.

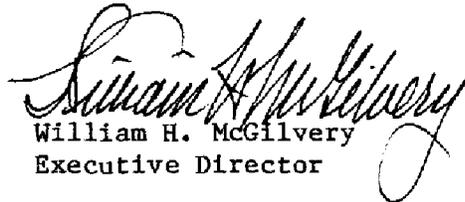
In a related matter, ACL-DC's president requested without elaboration on June 14, 1988, that WMATC Certificate No. 1 be revoked in its entirety. The request was made on behalf of ACL-DC and pursuant to the Compact, Title II, Article XII, Section 4(g). The request was docketed as Case No. AP-88-23, Application of American Coach Lines, Inc., for Revocation of Certificate No. 1. It would appear that the purpose of the request is to remove any possible ambiguity regarding ACL-DC's position as to the fate of its WMATC operating authority. ACL-DC's request shall be granted. We perceive no bar to revocation of a certificate for more than one reason, even though one would suffice.

THEREFORE, IT IS ORDERED:

1. That Certificate of Public Convenience and Necessity No. 1 is hereby revoked pursuant to the Compact, Title II, Article XII, Section 4(g) for the willful failure of the certificate-holder, American Coach Lines, Inc., a District of Columbia corporation, to comply with the Compact, Title II, Article XII, Section 4(a); the terms and limitations embodied in its WMATC Certificate No. 1; and Order No. 3079 commanding obedience thereto.

2. That the request of American Coach Lines, Inc., a District of Columbia corporation, for revocation of Certificate of Public Convenience and Necessity No. 1 is hereby granted.

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


William H. McGilvery
Executive Director