

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 6040

IN THE MATTER OF:

Served October 31, 2000

Application of DOUBLE DECKER BUS) Case No. AP-2000-78
TOURS W.D.C., INC., Trading as)
DOUBLE DECKER BUS WASHINGTON, D.C.,)
for Voluntary Termination of)
Certificate No. 314)

DOUBLE DECKER BUS TOURS W.D.C.,) Case No. MP-2000-26
INC., Trading as DOUBLE DECKER BUS)
WASHINGTON, D.C., Order to Show)
Cause Why Certificate No. 314)
Should Not be Revoked)

Application of DOUBLE DECKER BUS) Case No. AP-95-21
TOURS W.D.C., INC., Trading as)
DOUBLE DECKER BUS WASHINGTON, D.C.,)
for a Certificate of Authority --)
Irregular Route Operations)

On August 15, 2000, the Commission issued two show cause orders against Double Decker Bus Tours W.D.C., Inc., trading as Double Decker Bus Washington, D.C., Carrier No. 314.

Order No. 5964, issued in Case No. MP-2000-26, directed Double Decker to show cause why Certificate No. 314 should not be revoked for Double Decker's repeated failure to comply with the Commission's insurance requirements since Certificate No. 314 was issued in 1995 in Case No. AP-95-21.

Order No. 5963 reopened Case No. AP-95-21 and, on the basis of new evidence indicating that five of the seven vehicles Double Decker proposed operating in the Metropolitan District had been illegally imported into the United States by means of misstating the year of manufacture, directed Double Decker to show cause why Certificate No. 314 and the order conditionally granting its issuance should not be rescinded for Double Decker's lack of regulatory compliance fitness and failure to submit proof that its vehicles had passed a proper safety inspection, the validity of which depends in part on the inspector knowing the correct year of manufacture of each vehicle inspected.

On September 14, 2000, Double Decker filed its responses to the two show cause orders, a conditional application for voluntary termination of Certificate No. 314, (which has been assigned Case No. AP-2000-78), and a motion to consolidate the three proceedings.¹

¹ Double Decker certifies that copies of its responses, application and motion were served the same day by first-class mail on Old Town Trolley Tours of Washington, Inc., Carrier No. 124, the protestant in

Under Title II of the Compact, Article XI, Section 10(b), the Commission may terminate a certificate of authority upon application by the holder. In this case, the application for voluntary termination of Certificate No. 314 is conditioned on the Commission vacating the two show cause orders, after first declaring them moot and rescinding their directives. Double Decker's responses to those orders request the same relief and cite several Commission decisions in support.

The decisions cited by Double Decker support approval of its application for voluntary termination and recognition that termination renders the show cause orders moot.² Other Commission precedent not cited by Double Decker supports rescinding the directives in those orders.³ But Double Decker cites no authority that would support vacating either order, and we are unaware of any.

On the other hand, whether we simply declare the show cause orders moot or rescind their directives and vacate them as well, the result will be the same. Double Decker's operating authority will terminate, Double Decker will not be required to answer the Commission's charges at this time, and an airing of the charges at some point in the future will not be precluded if Double Decker, or anyone controlling, controlled by or under common control with Double Decker, applies for reinstatement or new WMATC authority.

THEREFORE, IT IS ORDERED:

1. That Cases Nos. AP-2000-78, MP-2000-26, and AP-95-21 are hereby consolidated.

2. That Certificate of Authority No. 314 is hereby terminated, effective this date.

3. That the issues raised in Orders Nos. 5963 and 5964 are rendered moot by the voluntary termination of Certificate No. 314.

4. That Double Decker is hereby directed to remove from its vehicle(s) the identification placed thereon pursuant to Commission Regulation No. 61.

Case No. AP-95-21. Old Town has not responded with any comment or objection.

² See E.g., In re James O. Ezeigwe, t/a UAC Transport, No. AP-00-21, Order No. 5847 (Mar. 21, 2000) (granting voluntary termination and terminating insurance investigation without comment); In re Madison Limo. Serv., Inc., t/a Madison Limo & American Servs. Int'l Co., No. MP-97-03, Order No. 5036 (Mar. 10, 1997) (finding further investigation into unauthorized common control unnecessary); In re APCOA, Inc., No. AP-97-17, Order No. 5061 (Apr. 21, 1997) (declaring as moot failure to file annual report).

³ See Transcontinental Enters., Inc. v. O&R Mgmt. Corp., No. FC-88-01, Order No. 3141 (Mar. 30, 1988) (rescinding directives upon withdrawal of complaint).

5. That Double Decker is hereby directed to file within 30 days from the date of this order a notarized affidavit verifying compliance with the preceding paragraph.

6. That these consolidated proceedings shall terminate upon Double Decker's compliance with the requirements of this order.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS ALEXANDER, LIGON, AND MILLER:



William H. McGilvery
Executive Director