

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 6147

IN THE MATTER OF:

Served March 16, 2001

Petition of DULLES TAXI SYSTEMS,)
INC., Trading as WASHINGTON FLYER,)
for an Interstate Taxicab Fuel)
Surcharge)

Case No. MP-2001-01

Investigation of Prescription of)
Interstate Taxicab Fuel Surcharges)
in the Metropolitan District)

Case No. MP-2001-02

Case No. MP-2001-01 was initiated on January 10, 2001, in Order No. 6083 to determine whether the Commission should prescribe a fuel surcharge that would apply to interstate taxicab trips conducted in the Washington Metropolitan Area Transit District by the taxicab concessionaire at Washington Dulles International Airport.

Dulles Taxi Systems, Inc., (DTS), the Dulles Airport concessionaire trading as Washington Flyer, has petitioned the Commission for a rate increase in the form of a \$1.25 fuel surcharge that would be added to the base fare of each Washington Flyer taxicab trip conducted within the Commission's jurisdiction as compensation for the increase in fuel costs in the Washington metropolitan area since 1998, when the Commission last adjusted the Dulles concessionaire's interstate rates.¹

In fairness to other taxicab companies operating in the Metropolitan District, we initiated a parallel proceeding in Order No. 6083 to consider whether they should be permitted to collect a fuel surcharge on interstate trips, as well.

We have received comments from the Metropolitan Washington Airports Authority, the other party to the Dulles Airport concession contract, and from D.C.X., Inc., dba Diamond Cab. Their comments are discussed below.

¹ In re Interstate Taxicab Rates, No. MP-98-04, Order No. 5335 at 6, ¶ 3 (May 13, 1998).

I. JURISDICTION

The Washington Metropolitan Area Transit Regulation Compact² confers on the Transit Commission³ jurisdiction over "the rates, charges, regulations, and minimum insurance requirements for taxicabs [with] a seating capacity of 9 persons or less, including the driver,"⁴ but only with respect to "transportation from one signatory to another within the Metropolitan District."⁵

The Compact mandates that "[the] Commission shall prescribe reasonable rates for transportation by taxicab" and emphasizes that this rate-setting jurisdiction shall apply "only when the trip is between a point in the jurisdiction of one signatory and a point in the jurisdiction of another signatory and both points are within the Metropolitan District."⁶

The Compact states that "[t]he fare or charge for taxicab transportation may be calculated on a mileage basis, a zone basis, or on any other basis approved by the Commission."⁷ This language is broad enough to include a fuel surcharge. Indeed, the Commission prescribed a temporary fuel surcharge for use by all taxicab companies operating in the Metropolitan District in 1990, including the taxicab company holding the Dulles Airport concession at that time, based on evidence of a marked increase in fuel costs over a three year period.⁸

II. DTS's PETITION

As the proponent of a change in the existing rate structure, DTS bears the burden of sustaining its proposal.⁹

According to DTS, from June 1, 1998, when the Commission last raised the Dulles concessionaire's interstate rates, to October 31, 2000, the average price of a gallon of gasoline in the Washington metropolitan area, all grades combined, rose \$0.45 - from \$1.11 to \$1.56. In support of its calculation, DTS has appended national price

² Pub. L. No. 101-505, § 1, 104 Stat. 1300 (1990), (codified at D.C. CODE ANN. § 1-2411 (1999); MD. TRANSP. CODE ANN. § 10-203 (1993); VA. CODE ANN. §§ 56-529, 530 (Michie 1995)).

³ Compact, tit. I, art. II.

⁴ Compact, tit. II, art. XI, § 1(b)(i).

⁵ Compact, tit. II, art. XI, § 1(b)(ii).

⁶ Compact, tit. II, art. XI, § 18(a).

⁷ Compact, tit. II, art. XI, § 18(b) (emphasis added).

⁸ In re Prescription of Fuel Surcharge on Interstate Taxicab Rates, No. MP-90-18, Order No. 3586 (Nov. 14, 1990).

⁹ In re Interstate Rates, Order No. 1314 (Mar. 26, 1974) (on reconsideration).

estimates for gasoline issued by the Energy Information Administration, United States Department of Energy, for the period May 4, 1998, to November 6, 2000.

In further support of its petition, DTS states that the "average Dulles trip is 22-25 miles one way, with only a very limited opportunity for a return trip," and that "the average trip consumes 2½ to 3 gallons of fuel."

On the basis of these statements, DTS requests that the Commission authorize DTS to collect a \$1.25 fuel surcharge for each interstate trip performed by DTS in the Commission's jurisdiction.

We agree with DTS that the record supports prescription of a fuel surcharge for interstate trips performed by DTS in the Metropolitan District. We do not agree, however, that DTS has established a need to set the surcharge at \$1.25 per trip.

First, we are not persuaded by DTS's national numbers. Local experience is more relevant. For example, data available from the American Automobile Association (AAA) show that average gasoline prices in the DC area tend to be more stable than prices nationwide.¹⁰ The AAA data also show that average gasoline prices in the DC area have been trending steadily downward since July, 2000.¹¹

Second, it is important to understand the methodology the Commission employs when it sets interstate taxicab rates for the Dulles Airport concessionaire. The Commission sets those rates by periodically surveying the rates set by jurisdictions in the Washington metropolitan area and setting the concessionaire's rates at or above the median.¹² As we explained in Order No. 5335, "[t]he Commission has never believed it should lead the way in setting taxicab rates."¹³ "We further believe that the essential element in our determination of the appropriate rate structure should be comparability with prevailing local rates."¹⁴

DTS's own numbers show that a \$1.25 fuel surcharge is not comparable with prevailing local rates. According to DTS, last year two jurisdictions (Alexandria and Fairfax) approved a \$0.50 per trip fuel surcharge, one (DC) passed a \$0.75 per trip fuel surcharge and one (Montgomery) authorized a \$1.00 per trip fuel surcharge.

¹⁰ See <http://208.13.208.31/DCavg.asp>.

¹¹ Id.

¹² See Order No. 5335 (setting odometer rates based on survey results & adapting for use on Dulles Airport concessionaire's meters).

¹³ Order No. 5335 at 4.

¹⁴ Order No. 5335 at 4.

On the other hand, DC subsequently raised its fuel surcharge to \$1.00,¹⁵ and Prince George's set its at \$1.00,¹⁶ as well. We recognize that taxicab rates have risen throughout the region since we set interstate rates in 1998. In fact, the taximeter rates DTS may charge on interstate trips in the Metropolitan District are now among the lowest in the region.¹⁷ Accordingly, we find that a \$1.00 per trip fuel surcharge is justified by the record.

The Airports Authority supports a temporary flat surcharge but urges the Commission to permanently increase the mileage rate for Washington Flyer cabs since this would more closely correlate with the variable nature of fuel expense.

We agree that an adjustment to DTS's mileage rate would more closely track DTS's actual fuel cost experience, but a permanent adjustment of DTS's base rates is outside the scope of this proceeding, and there is insufficient evidence in the record to make a finding on the appropriate rate level, in any event. By separate order issued today, however, we are initiating an investigation into whether an increase in base rates is warranted at this time.

III. OTHER TAXICAB COMPANIES

The Airports Authority requests that the Commission clarify whether fuel surcharges are already authorized for interstate trips in taxicabs licensed by jurisdictions that have prescribed such charges for local trips. The Commission's taxicab rate orders could be interpreted to authorize the use of local fuel surcharges on interstate trips. The language in those orders with respect to the Commission adopting local "charges" for use on interstate trips is broad enough to permit that construction. The fact that we prescribed a uniform fuel surcharge in 1990 suggests otherwise. Diamond Cab urges the Commission to end the speculation for taxicab operators licensed in the District of Columbia and expressly adopt a \$1.00 fuel surcharge, the same as that prescribed by DC.

¹⁵ 47 D.C. Reg. 9,774 (Dec. 8, 2000).

¹⁶ Exec. Order No. 23-2000 (Dec. 31, 2000).

¹⁷ For example, Prince George's County was on the bottom rung of the meter rate hierarchy in this region when Order No. 5335 was issued in May 1998 -- \$1.20 for the first 1/7 mile and \$0.20 for each additional 1/7 mile. Today, Prince George's rates are the highest in the Metropolitan District at \$1.50 for the first 1/7 mile and \$0.25 for each additional 1/7 mile. Notwithstanding the increased rates, the Prince George's taxicab ordinance prescribes a \$1.00 fuel surcharge as long as the average retail price of regular gasoline fuel in the region exceeds \$1.45 per gallon. PRINCE GEORGE'S COUNTY, MD., CODE, Subtitle 20, § 20-160.01 (2000).

It has been the Commission's practice since 1961 to "prescribe the rates and charges presently in effect in the local jurisdictions as the interstate rates and charges to the greatest extent possible."¹⁸ For the most part, this has meant that in the case of a trip in a locally-licensed taxicab with a taximeter, the interstate rates and charges are the same as those prescribed by the jurisdiction in which the taxicab is licensed.¹⁹ For trips in other taxicabs, those without meters and those not licensed locally, the Commission has prescribed rates and charges that are comparable to local rates and charges throughout the region.²⁰

This approach makes sense for fuel surcharges, as well, notwithstanding our departure from this practice in 1990. As we have noted in the past "[e]ach of the local rate setting jurisdictions is especially familiar with the requirements of both the users and providers of taxicab service in the local market. Each carefully establishes its rates through appropriate proceedings."²¹ "From a regulatory point of view, an effort should be made to neither unduly restrain nor enhance the rate scheme which the local jurisdiction has determined to be appropriate."²²

We therefore hold that our taxicab rate setting orders should be interpreted such that in the case of locally-licensed taxicabs with taximeters, the local "charges" adopted for use in connection with interstate trips should be deemed to include "fuel surcharges." This means that whenever a taximeter jurisdiction in the Metropolitan District prescribes a fuel surcharge for use in conjunction with its base rates, the fuel surcharge shall be automatically approved for use on interstate trips, just as the base rates are.

Fuel surcharges for interstate trips in other taxicabs cannot be set in the same manner inasmuch as the question of whether and to what extent a fuel surcharge is warranted cannot be determined without reference to the authorized base rates. Thus, whenever the authorized base rates are those affirmatively promulgated by the Commission, as opposed to those merely adopted by the Commission, a fuel surcharge may be levied only if the Commission has specifically authorized such a charge.

Consistent with our finding that a \$1.00 fuel surcharge is comparable to fuel surcharges authorized throughout the region, and considering that the interstate rates affirmatively set by the Commission are now among the lowest in the region, we shall prescribe

¹⁸ In re Interstate Taxicab Rates, No. 3, Order No. 67 (Oct. 9, 1961).

¹⁹ See Order No. 5335 at 6, ¶ 8.

²⁰ See Order No. 5335 at 6, ¶¶ 2, 5.

²¹ Order No. 5335 at 4.

²² Order No. 5335 at 4.

a \$1.00 fuel surcharge for use on interstate trips in the Metropolitan District in taxicabs licensed by the District of Columbia and in those not licensed locally.

IV. CONCLUSION

The fuel surcharge for an interstate trip in a locally-licensed taxicab with a taximeter shall be the fuel surcharge set by the licensing jurisdiction for local trips.

A \$1.00 fuel surcharge shall be prescribed for interstate trips in taxicabs without taximeters and taxicabs not licensed locally, including taxicabs operated by DTS. This surcharge shall remain in effect through May 31, 2001, unless rescinded at an earlier date by Commission order.

Notwithstanding any provision of this or any other Commission order to the contrary, consistent with Order No. 3586, applicability of all fuel surcharges shall be limited to trips carrying one person or one preformed party. As the Commission explained in Order No. 3586: "Multiple party interstate taxicab trips are permitted under very specific circumstances. However, these trips result in full-fare charges for each party. This relatively rare situation is considered sufficiently compensatory for the operator to be able to absorb the additional fuel cost."²³

THEREFORE, IT IS ORDERED:

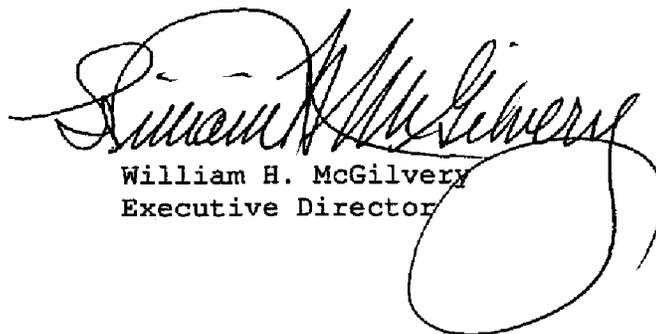
1. That the local charges adopted by the Commission for application to interstate trips in locally-licensed taxicabs with taximeters shall be deemed to include fuel surcharges.

2. That beginning at 4:00 a.m., March 19, 2001, and ending at 4:00 a.m., June 1, 2001, unless rescinded at an earlier date by Commission order, a \$1.00 fuel surcharge shall apply to passenger transportation by taxicab between a point in the jurisdiction of one signatory and a point in the jurisdiction of another signatory, where both points are within the Metropolitan District and the transportation is conducted in a taxicab without a taximeter or in a taxicab not licensed locally, including a taxicab operated by Dulles Taxi Systems, Inc., trading as Washington Flyer.

²³ Order No. 3586 at 4; cf., In re Dispatch Fee for Interstate Taxicab Trips Originating at Ronald Reagan Washington National Airport, No. MP-99-29, Order No. 5633 (June 23, 1999) (surcharge for National Airport gate fee only applicable to one-person, one-party trips).

3. That no fuel surcharge authorized by this or any other Commission order, whether adopted or specifically prescribed, may be applied to a multiple-party trip.

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



William H. McGilvery
Executive Director