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BEFORE THE  
WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 323

IN THE MATTER OF:

Served October 25, 1963

Application of Henry G. Bartsch, )  
d/b/a Airport Dispatching Service, )  
for a Certificate of Public )  
Convenience and Necessity. )

Application No. 232

Docket No. 45

On August 26, 1963, by Order No. 296 the Commission denied the application of Henry G. Bartsch, d/b/a Airport Dispatching Service, for a certificate of public convenience and necessity.

The applicant has filed an application for reconsideration of said order, and has claimed three grounds as error. The first two allegations relate to factual recitations of the processing of the application. While the Commission feels the order correctly states the facts, they are of no importance and had no effect on the decision entered therein.

The third alleged error is a claim that denial of the application rested on an interpretation of Sections 1(c) and 2(d), Article XII, of the Compact, and that this "cannot be substantiated in the face of the opposite ruling in Order No. 283", and that this deprives applicant of his right to equal protection of the law provided for by United States Code, Title 42, Section 1981, and the Fourteenth Amendment of the Constitution of the United States.

Based on the facts in this proceeding, the Commission found the operations of the applicant to be a taxicab operation. (Order No. 296, Page 5). If the Commission misinterpreted the law or the facts in another proceeding, adversely affecting the applicant, his remedy lies in seeking a correction of that order as provided for by law. The Compact does not provide for a collateral attack on an order -- indeed, the administrative and judicial review provisions specifically preclude it.

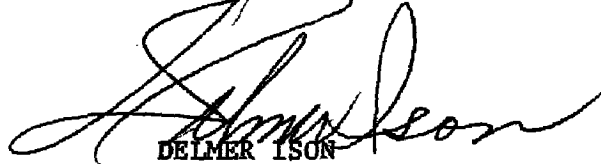
The Commission is of the opinion that the interpretation given Sections 1(c) and 2(d) has been consistent in every order it has entered. Its interpretation of those sections in this proceeding is consistent with prior rulings. The applicant has not described in

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his application for reconsideration specifically where and how the Commission has ever been inconsistent in its interpretation of those sections (in spite of the requirement of Section 16 to "stat(e) specifically the errors claimed...."). Obviously, different factual situations often result in dissimilar decisions. If the Commission has erred in another proceeding, that does not render its Order No. 296 in this proceeding invalid. The applicant's attack really goes to a claim that the Commission has misconstrued the facts. We cannot agree. The Commission is of the opinion that its Order No. 296 is legal and factually correct and that, therefore, the application for reconsideration should be denied.

THEREFORE, IT IS ORDERED that the application of Henry G. Bartsch, d/b/a Airport Dispatching Service, for reconsideration of Order No. 296 be, and it is hereby, denied.

BY DIRECTION OF THE COMMISSION:



DELMER ISON  
Executive Director