WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 853

IN THE MATTER OF: Served August 15, 1968

Application of D. C. Transit System, Inc., for Authority to Increase Fares. ) Application No. 507

On July 17, 1968, D. C. Transit System, Inc., filed two separate and distinct fare increase applications and tariffs. The first tariff, No. 39, proposes basically a 30¢ cash and a 30¢ token fare structure (see Application No. 505), and has a proposed effective date of August 18, 1968. The other tariff (No. 40) proposes basically a 35¢ cash, 30¢ token, and a 1¢ transfer charge fare structure, and has a proposed effective date of September 1, 1968; it also provides that if Tariff No. 39 goes into effect on August 18, then this tariff is to be void and cancelled. The filing of these two applications raises the issue as to whether, under the Compact, a carrier may legally file two proposed tariffs at the same time even though they have different effective dates.

There is nothing in the Compact or in our Rules of Practice or Regulations which expressly permits or prohibits such action. In resolving this issue, then, we turn to the overall purpose of the Compact, the Rules and Regulations, and general case law as they purport to describe the rate-making process of establishing a fare structure. A noted authority in this field states:

> In theory, the tariff filing reflects the primary responsibility of management to establish its rates in the first instance, subject to the authority of the regulatory commission to inspect, suspend, or direct that changes be made in the tariffs filed. . . 1/

1/ Cases and Text on Public Utility Regulation, Welch, p. 515.

Hence, it appears that when a carrier determines that its existing fares should be supplanted with a different fare structure, it is incumbent upon the carrier to come to the agency with a proposed structure, not two or three or four. For when a utility files a proposed tariff, that act establishes a rate which is (if not suspended and allowed to go into effect) ". . .prima facie a reasonable rate." 2/

By its act of filing two different tariffs, Transit is in effect proposing the establishment of two fare structures -- each of which carries with it from the time of filing the precept of being prima facie a reasonable rate. It is our opinion that inherent in the concept of regulation is the duty and the obligation of the utility to propose a fare structure which it believes is the just and reasonable fare structure.

Both the Compact, Article XII, Sec. 4(e), and Regulations, Reg. 56-01, speak of a change in rates being filed in the ~~form of "a tariff," singular, which is in accord with and~~ supports the above-mentioned concept of the utility's duty to propose one fare structure.

The double filing presents a serious problem to both the Commission and the public, for it places both in the position of having to examine and analyze two contrary proposals. The Commission feels very strongly that the riding public has the right to be fully informed on fare increase proposals and, lacking the expertise of those who work in this industry daily, should not be burdened with conflicting applications.

It is the Commission's opinion and it so finds that under the concepts described by the Compact and our Rules and Regulations, a double filing of proposed tariffs seeking different fare structures is an unreasonable practice and, therefore, unlawful. Accordingly, the second application, encompassing the tariffs connected therewith, should be dismissed.

THEREFORE, IT IS ORDERED that Application No. 507 of D. C. Transit System, Inc., containing WMATC Tariff No. 40 and the other related tariffs for increase in fares be, and it is hereby, dismissed.

2/ Ibid, p. 518

BY DIRECTION OF THE COMMISSION:

Russell W. Cunningham

RUSSELL W. CUNNINGHAM
Acting Executive Director