

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 16,505

IN THE MATTER OF:

Served August 8, 2016

Petition for Amendment of)
Interstate Charges for WASHINGTON)
FLYER Taxicabs) Case No. MP-2016-129

This matter is before the Commission on a petition filed by the Metropolitan Washington Airports Authority (MWAA or Airports Authority) requesting that the Commission add a \$2.65 per trip surcharge to the authorized interstate fare on trips to and from Washington Dulles International Airport (Dulles Airport) in Washington Flyer taxicabs.

I. JURISDICTION

Under the Washington Metropolitan Area Transit Regulation Compact,¹ (Compact), the Commission is responsible for prescribing the rates, charges, regulations, and minimum insurance requirements for interstate taxicab trips in the Washington Metropolitan Area Transit District (Metropolitan District),² including interstate trips to and from Dulles Airport.³ The Commission last amended interstate rates and charges for Washington Flyer taxicabs in 2014.⁴

The Commission's interstate taxicab jurisdiction applies when the taxicab: (a) has a seating capacity of 9 persons or less, including the driver; and (b) provides transportation from one signatory to another within the Metropolitan District.⁵

The Metropolitan District includes: the District of Columbia; the cities of Alexandria and Falls Church of the Commonwealth of Virginia; Arlington County and Fairfax County of the Commonwealth of Virginia, the political subdivisions located within those counties, and that portion of Loudoun County, Virginia, occupied by the Dulles Airport; Montgomery County and Prince George's County of the State of

¹ Pub. L. No. 101-505, § 1, 104 Stat. 1300 (1990), amended by Pub. L. No. 111-160, 124 Stat. 1124 (2010) (amending tit. I, art. III) (codified at D.C. CODE ANN. § 9-1103.01 (2016); MD. TRANSP. CODE ANN. § 10-203 (2016); & VA. CODE ANN. § 33.2-3000 (2016)).

² Compact, tit. II, art. XI, §§ 1, 18.

³ Compact, tit. I, art. I.

⁴ *In re Interstate Rates and Charges for Wash. Flyer Taxicabs*, No. MP-14-004, Order No. 14,773 (May 20, 2014), amended by Order Nos. 14,789 (May 23, 2014) & 15,072 (Sept. 19, 2014).

⁵ Compact, tit. II, art. XI, §§ 1(b), 2, 3(f).

Maryland, and the political subdivisions located within those counties; and all other cities now or hereafter existing in Maryland or Virginia within the geographic area bounded by the outer boundaries of the combined area of those counties, cities, and airports.⁶

For the purpose of prescribing interstate taxicab rates, charges, regulations, and minimum insurance requirements, the Metropolitan District also includes that portion of Anne Arundel County, Maryland, occupied by the Baltimore-Washington International Thurgood Marshall Airport, (BWI), except that this expansion of the Metropolitan District to include BWI does not apply to transportation conducted in a taxicab licensed by the State of Maryland or a political subdivision of the State of Maryland or operated under a contract with the State of Maryland.⁷

II. PROPOSAL

On-demand taxicab service at Dulles Airport is available exclusively from three taxicab companies operating under the Washington Flyer brand name pursuant to contract with MWAA. According to the petition:

The Airports Authority currently collects a \$2.65 fee each time a Washington Flyer taxicab is dispatched from Dulles Airport or brings a passenger to the Airport. Similarly, at Ronald Reagan Washington National Airport (Reagan National Airport), the Airports Authority collects a \$3.00 fee each time a taxicab is dispatched from the Airport. These fees support the amortization and maintenance costs of the taxicab dispatch systems and facilities, the cost of the taxicab dispatch contracts, as well as some other Airports Authority expenses.

The petition notes that the Commission has approved pass-through treatment for taxicab dispatch fees paid by taxicab drivers at Reagan National Airport and proposes that the \$2.65 Dulles Airport access fee

paid by Washington Flyer taxicab drivers be added to the incidental charges included in the interstate rates and charges for Washington Flyer taxicab service within the [Metropolitan District] for all the same reasons that the Commission has allowed the dispatch fee at Reagan National Airport to be passed on to passengers.

The Commission entertained a similar proposal in 2008 from one of the taxicab companies under contract with MWAA at the time. MWAA supported a fuel surcharge in 2008 but not an airport access fee surcharge. As MWAA explained in 2008:

⁶ Compact, tit. I, art. I.

⁷ Compact, tit. II, art. XI, § 2.

Contractually, the Airports Authority does not believe any increase [in Washington Flyer interstate rates] is warranted because of the access fee. The Airports Authority addressed the economic impact of this access fee on Washington Flyer taxicab operators by reducing the stand dues they could be charged by Washington Flyer taxicab companies.⁸

The petition before us today does not address the issue of stand dues.

III. TAXICAB RATE POLICY AND METHODOLOGY

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.⁹ Today, this means that in the case of a trip in a locally-licensed taxicab, the interstate rates and charges are the same as those prescribed by the jurisdiction in which the taxicab is licensed.¹⁰

Washington Flyer taxicabs, on the other hand, are licensed by the Commonwealth of Virginia, and Virginia does not prescribe intrastate rates and charges for Washington Flyer taxicabs that the Commission might adopt for use on interstate trips.¹¹ The Commission instead sets interstate meter rates for Washington Flyer taxicabs by reference to the prevailing local meter rates.¹² The Commission has found comparability with local rates to be the "essential element" in devising an appropriate interstate rate structure for Washington Flyer taxicabs.¹³

Incidental charges (i.e., waiting time, snow emergency, tolls) are similarly set by reference to prevailing charges in the Metropolitan District. This was not always the case. For many years, The Commission adopted for Flyer taxicabs the incidental charges prescribed by the District of Columbia Taxicab Commission for District taxicabs. The rationale was that those charges represented the "dominant" charges within the Metropolitan District after factoring in the number of taxicabs licensed by local jurisdictions in the Metropolitan District.¹⁴ The Commission abandoned that rationale in

⁸ *In re Airport Access Fee Surcharge*, No. MP-08-125, Order No. 11,444 at 2 (July 1, 2008).

⁹ Order No. 14,773 at 3; *In re Interstate Rates and Charges for Wash. Flyer Taxicabs*, No. MP-09-103, Order No. 12,155 at 3 (Sept. 18, 2009).

¹⁰ Order No. 14,773 at 3; Order No. 12,155 at 3.

¹¹ Order No. 14,773 at 3; Order No. 12,155 at 4.

¹² Order No. 14,773 at 3; Order No. 12,155 at 4.

¹³ Order No. 14,773 at 3; Order No. 12,155 at 4.

¹⁴ Order No. 12,155 at 4.

2009 in favor of "maintaining comparability of Washington Flyer rates and charges with those set by [all] local licensing jurisdictions."¹⁵

The Commission's treatment of airport-fee surcharges has a bit different history. From 1975 to 2009, the Commission issued a series of individual rulings approving pass-through treatment for taxicab dispatch fees charged by MWA (and its predecessor) at Reagan National Airport, beginning with initial implementation of the fee and continuing thereafter as the fee was periodically increased.¹⁶ Each time the dispatch fee was increased the Commission increased the surcharge to match.¹⁷ Then in 2009, citing the aforementioned policy of deference to local rate setting jurisdictions, the Commission declared that effective, January 1, 2010, non-Flyer taxicab drivers would be permitted to pass through airport dispatch fees on interstate trips to the extent their respective licensing jurisdictions approved such treatment,¹⁸ "thus more fully upholding our policy of adopting for interstate taxicab trips the rates and charges a local licensing jurisdiction has determined to be appropriate."¹⁹ Currently, the District of Columbia, Montgomery County, Maryland, and the Cities of Alexandria and Falls Church and Counties of Arlington and Fairfax in Virginia allow taxicab drivers to pass through the current Reagan Airport dispatch fee of \$3.00.²⁰ Only Prince George's County, Maryland, does not provide for pass through of the Reagan Airport dispatch fee.²¹

The Commission followed a policy of deference again in 2014 when the Commission approved pass-through treatment for highway tolls incurred on interstate trips in Flyer taxicabs. The Commission first observed that the incidental charges approved by Fairfax County for trips in Fairfax taxicabs included a provision for pass-through treatment of tolls and that this provision stood adopted for interstate trips in Fairfax taxicabs by operation of WMATC Order No. 9240.²² The Commission then remarked that it could "see no reason to recognize pass-through treatment of tolls for one approving political subdivision (Fairfax County) and not another (MWA)."²³

¹⁵ *Id.* at 9.

¹⁶ *In re Dispatch Fee Surcharge for Interstate Taxicab Trips Originating at Ronald Reagan Wash. Nat'l Airport*, No. MP-09-081, Order No. 12,062 at 1-2 (June 26, 2009).

¹⁷ *Id.* at 2.

¹⁸ *Id.* at 2-5.

¹⁹ Order No. 14,773 at 5.

²⁰ See ALEXANDRIA, VA., CODE § 9-12-132(a)(9); 31 DCMR § 801.7(c)(2)(D); ARLINGTON COUNTY, VA., CODE § 25.1-12(H) (as amended Dec. 12, 2015); FAIRFAX COUNTY, VA., CODE § 84.1-6-3(c)(6); FALLS CHURCH, VA, CODE § 46-15(a)(7); MONTGOMERY COUNTY, MD., COMCOR § 53.17.01.01(H).

²¹ See PRINCE GEORGE'S COUNTY, MD., CODE § 20-160.

²² Order No. 14,773 at 5-6 & n.21.

²³ Order No. 14,773 at 6.

IV. INVITATION FOR COMMENTS

The Commission invites comments on whether to amend the authorized interstate taxicab rates and charges for Washington Flyer taxicab service within the Metropolitan District, currently set out in the appendix to WMATC Order No. 15,072, by adding the following text:

Trip surcharge:

There shall be a \$2.65 surcharge on each trip originating at or terminating at Washington Dulles International Airport. Only one surcharge may be collected per trip irrespective of the number of passengers in the vehicle.

THEREFORE, IT IS ORDERED:

1. This proceeding is hereby initiated under Title II of the Compact, Article XI, Section 18.

2. That Commission staff shall cause notice of this proceeding to be posted immediately to the Commission's website.

3. That any person may file written comments in this proceeding within 30 days of the date of this order by emailing them to taxi-rates@wmatc.gov, or delivering them to 8701 Georgia Avenue, Suite 808, Silver Spring, MD 20910-3700.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS HOLCOMB, DORMSJO, AND RICHARD:



William S. Morrow, Jr.
Executive Director