WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 1132

IN THE MATTER OF:

Served APR 20 1971

Application of WMA Transit Company for Authority to Increase Fares.

Application No. 655

Docket No. 222

On March 24, 1971, we issued Order No. 1127 authorizing the WMA Transit Company to increase its regular route fares. Gilbert Hahn, Jr., has filed an application for reconsideration alleging various Commission errors.[1]

The first error alleged is that we did not give due consideration to all of the factors named in Article XII, Section 6(a)(3) of the Compact. All of these factors were considered by the Commission in deciding the issues presented in this proceeding. As a matter of fact in Order No. 1127 we did discuss in considerable detail three of the factors named in the application for reconsideration, i.e., (1) the effect of rates upon the movement of traffic by WMA Transit, (2) the need in the public interest of adequate and efficient transportation service by WMA Transit at the lowest cost consistent with the furnishing of such service, and (3) to the need of revenue sufficient to enable WMA Transit, under honest, economical and efficient management, to provide such service. In Order No. 1130, in answer to the same contention made in another application for reconsideration, we pointed out where and how in Order 1127 we had dealt with those issues and we will not repeat that entire discussion here. With respect to the fourth factor in Section 6(a)(3), Mr. Hahn's petition has taken some liberty with the language of the Compact, for he says that we failed to give due consideration "to the inherent advantages of transportation by such carrier as

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[1] The petition is procedurally defective. Petitioner Hahn makes no showing that he is a user of the service in question or is otherwise a "person affected" by the order. Compact, Article XII, Sec. 16. In the absence of such a showing, he has no standing. Nonetheless, we have considered his allegations on their merits.

opposed to another carrier." The words "as opposed to another carrier" do not appear either expressly or, in our judgment, by implication in Section 6(a)(3).

The second contention of error is that Order No. 1127 is "arbitrary and capricious by reason of the Commission's reliance only upon the question of a reasonable rate of return for the company without due consideration to the other factors relevant to such consideration of a fare increase." We take it that the allegation is that we looked only to the question of the company's financial need while taking no other factors into account. We are not told, however, what those other factors might be. In Article XII, Section 16 of the Compact, it is stated that an application for reconsideration must state specifically errors claimed as grounds for reconsideration. We do not consider the statement quoted as providing a specific statement of error as it fails altogether to mention those factors which, it is alleged, we are in error for not having considered. Furthermore, we flatly reject the contention that our only concern is to provide the company with an adequate rate or return. We have, in fact, said that the return authorized was low (see Order No. 1130, p. 6). We were concerned in this case, as a reading of Orders Nos. 1127 and 1130 will bear out, with the quality of the service provided by this carrier and the efforts the carrier would be expected to undertake to improve that service, as well as with the question of appropriate compensation to the carrier.

The third contention, which we quote in its entirety, is "that the Commission failed to consider whether because WMA Transit was in the condition described by the United States Supreme Court in Market Street Railway Co. v. Railroad Commission of California, 324 U.S. 548 (1945), no fare increase should be granted." As with the contention of error just discussed, this contention is somewhat sparse and we can only guess as to its meaning. The facts in the Market Street Railway case cited are quite different from the facts presented to us in the WMA rate case and there is certainly no obvious parallel drawn by this contention of error. In any event, in the WMA case we did consider the question whether a fare increase was warranted under all the circumstances, and we found that an increase was necessary. We see nothing in this contention of error that would lead us to a different conclusion.

Finally, the petition asserts that the 45-cent intra-D.C. WMA fare constitutes an unnecessary burden on District riders of WMA who live in the District inasmuch as the D. C. Transit fare for an intra-D. C. ride is 40 cents. The disparity, it is alleged, "required the Commission to consider whether such service should be provided by another carrier." Under Article XII, Section 4(e), we are empowered to require a carrier to provide service over the routes of another carrier only after we have found that the service rendered by that other carrier is inadequate to the requirements of the public necessity and convenience, and then only after that other carrier has been given reasonable time and opportunity to remedy that inadequacy. Thus, even if we considered that a five cent difference on the intra-D. C. fare constitutes "inadequacy" on the part of WMA as the carrier authorized to charge the higher fare, we could not summarily add service by another carrier to the routes as served by WMA. Furthermore, we do not agree that a disparity of five cents in the intra-D.C. fare means that the carrier charging the higher fare is providing an inadequate service. As we pointed out in Order No. 1130, the services provided by WMA and D. C. Transit in the District of Columbia are not the same. The WMA service is in the nature of an express service for which a higher fare might reasonably be charged. Moreover, again as we pointed out in Order No. 1130, the fares of WMA and D. C. Transit for intra-D. C. service have rarely been the same in recent years. There are good reasons why they are not the same, the central reason being that a given company's fare for the District of Columbia must be viewed in the context of the fare structure for its overall system. Moreover, since the scope of the companies' operations are vastly different, it is not surprising that the fares are usually different.

Finding nothing in Mr. Hahn's application for reconsideration that would provide a basis for the relief he requests, and finding that his application contains no more than pro forma allegations of error without substantial argument or reasoning, we will deny it.

THEREFORE IT IS ORDERED that the application for reconsideration of Order No. 1127 filed by Gilbert Hahn, Jr., on April 20, 1971, be, and it is hereby, denied.

BY DIRECTION OF THE COMMISSION:

GEORGE A. AVERY
Chairman