

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 1267

IN THE MATTER OF:

Served July 11, 1973

Petition of The Gray Line, )  
Inc., to Institute an In- )  
vestigation Into the Reason- )  
ableness of Sightseeing )  
Commissions. )

Docket No. 248

By petition, The Gray Line, Inc. (Gray Line) asks us to institute an investigation into the reasonableness of commissions paid by carriers to agents or representatives for the sale of individually ticketed and charter sightseeing service. In support of its petition, Gray Line alleges, inter alia, that some carriers holding certificates of public convenience and necessity to operate either individually ticketed or charter sightseeing service are paying commissions of up to forty percent (40%) of the applicable tariff charges to agents or representatives.

Under the Compact, it is the duty of each carrier to "establish, observe and enforce just and reasonable individual and joint fares, and just and reasonable regulations and practices relating thereto... ." Compact, Article XII, § 3. It is also the obligation of all carriers to publish and observe tariffs which set forth the charges for all transportation subject to the Compact and "to the extent required by regulations of the Commission, the regulations and practices of such carrier affecting such fares". Id. § 5(a). Finally, it is our responsibility to assure that the carriers subject to our regulatory jurisdiction fulfill their duties and obligations under the Compact, and we have the power to prescribe "just and reasonable fares and regulations and practices relating thereto... ." Id. § 6(a)(3). On its face, Gray Line's allegation raises serious issues of fact, of regulatory policy, and law. If up to forty percent (40%) of the carrier's tariff rate paid by the passenger for sightseeing service represents the selling agent's commission, there is a substantial question as to whether the published charge is just and reasonable.

While we agree with Gray Line that this matter is deserving of our serious consideration, we are not persuaded that a formal investigation is necessarily the best way to deal with the issue. It may be that the practices of which Gray Line complains have been revised or discontinued. It may also be that the matter of allegedly excessive commission rates is more appropriately dealt with by regulation or tariff provision as opposed to a more formal investigation. Accordingly, we have decided to hold Gray Line's petition in abeyance pending the filing and consideration of statements from all carriers holding certificate authority to perform individually ticketed and/or charter sightseeing service. The statements, which we shall require all such carriers to file, shall set forth clearly and in detail the following information:

- (a) The rate(s) of commission which the carrier has paid to agents or representatives for the sale of individually ticketed or charter sightseeing service during the period beginning July 1, 1972 and ending June 30, 1973;
- (b) If more than one rate of commission was paid during this period, the carrier shall specify the terms, conditions and circumstances under which different rates of commission are paid either to different agents or representatives or for the sale of different individually ticketed or charter sightseeing service;
- (c) With respect to each rate of commission which the carrier has paid during the relevant period, the carrier shall specify whether, in its opinion, such payment was just and reasonable within the meaning of the Compact and the Commission's implementing regulations and shall support that opinion with such relevant factual or economic data as may be pertinent;
- (d) The carrier shall also set forth its position with respect to the allegations contained in Gray Line's petition, the need, if any, for

Commission action to regulate the rates of commissions paid by carriers to agents or representatives for the sale of individually ticketed or charter sightseeing service, and, if such regulation be deemed appropriate, the most effective and feasible means of accomplishing such regulation.

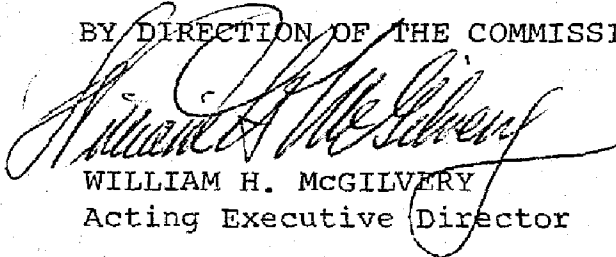
The term "rate of commission", as used herein refers to any fee, rebate, discount, bonus, incentive, remittance, allowance, remuneration, or any other amount or consideration of any kind, whether in cash, goods, services or anything else of value and whether paid directly or indirectly.

After such statements have been filed, and the Commission has had an opportunity to consider the factual, legal, and policy positions of the carriers, we shall decide what further steps, if any, are appropriate with respect to Gray Line's petition.

THEREFORE, IT IS ORDERED:

1. That each carrier holding a certificate of public convenience and necessity issued by the Commission authorizing individually ticketed and/or charter sightseeing service shall file a statement as required herein on or before August 10, 1973.
2. That further action on the petition to institute investigation filed by The Gray Line, Inc. be, and it is hereby, held in abeyance pending the receipt and consideration of the aforesaid statements.

BY DIRECTION OF THE COMMISSION:



WILLIAM H. MCGILVERY  
Acting Executive Director