

Washington Metropolitan Area Transit Commission

Forty-Ninth Annual Report

Fiscal Year 2009
July 1, 2008 through June 30, 2009



**Washington Metropolitan Area
Transit Commission
8701 Georgia Avenue, Suite 808
Silver Spring, MD 20910-3700**

December 31, 2009

To: The Honorable Tim Kaine
Governor of Virginia

The Honorable Martin O'Malley
Governor of Maryland

The Honorable Adrian M. Fenty
Mayor of the District of Columbia

This report has been prepared in accordance with Title II, Article XIV, Section 5, of the Washington Metropolitan Area Transit Regulation Compact, Pub. L. No. 101-505, § 1, 104 Stat. 1300 (1990) (codified at VA. CODE ANN. §§ 56-529, 530; MD. CODE ANN., TRANSP. ARTICLE § 10-203; D.C. CODE ANN. § 9-1103.01), which provides:

The Commission shall make an annual report for each fiscal year ending June 30, to the Governor of Virginia and the Governor of Maryland, and to the Mayor of the District of Columbia as soon as practicable after June 30, but no later than the first day of January of each year, which may contain, in addition to a report of the work performed under this Act, other information and recommendations concerning passenger transportation within the Metropolitan District as the Commission considers advisable.

William S. Morrow, Jr.
Executive Director

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Commission Staff:

- William S. Morrow, Jr., Executive Director/General Counsel
- Jeffrey M. Lehmann, Assistant General Counsel
- Renee A. Bodden, Office Manager
- Eugene O. Okwodu, I.T. Specialist
- Christopher H. Aquino, Insurance Compliance Specialist
- LaTanya J. Peters, Temporary Receptionist

ABOUT THE COMMISSION

The Transit Commission has been licensing and regulating private-sector passenger carriers on a regional basis in the Washington Metropolitan Area since 1960 pursuant to the Washington Metropolitan Area Transit Regulation Compact, Pub. L.



Capital Transit Company Trolley - 1961

No. 86-794, § 1, 74 Stat. 1031 (1960), *as amended by* Act of Oct. 9, 1962, Pub. L. No. 87-767, 76 Stat. 764 (1962) *and* Pub. L. No. 101-505, § 1, 104 Stat. 1300 (1990) -- an interstate agreement among the Commonwealth of Virginia, the State of Maryland, and the District of Columbia. Early in its history, the Commission primarily regulated mass transit bus and trolley operators.

That changed in 1973 when the Washington Metropolitan Area Transit Authority (WMATA) acquired the four mass transit bus companies operating in the area at that time. Today, carriers licensed by the Transit Commission include sightseeing, tour and charter bus operators; airport shuttle companies; wheelchair van operators (including those operating under the District of Columbia's Medicaid program and WMATA's MetroAccess program); and some sedan and limousine operators. The Commission also prescribes interstate taxicab rates for the Metropolitan Area.

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In 1990, the signatories embraced economic deregulation in the Washington Metropolitan Area by amending the Compact to lower market entry barriers for carriers licensed by the Commission "while maintaining a regional approach to transportation and keeping those controls necessary for the security of the public." This was accomplished chiefly by eliminating the need for hearings on applications for operating authority while preserving the Commission's power to prescribe insurance and safety requirements.



MetroAccess Vehicles - Today

The 1990 amendments have succeeded in opening the Metropolitan District to competition as intended. Over one thousand four hundred applicants have been conditionally granted WMATC operating authority since 1990. By comparison, only one hundred seventy six carriers were granted WMATC operating authority in the Commission's first thirty years.

While the Commission's mandate has evolved over the years, the Commission has remained a steadfast guardian of the public interest and is poised to carry out its mission well into the twenty-first century.



Taxi Queue at Ronald Reagan Washington National Airport

THE COMMISSIONERS

The Compact provides for the appointment of three Commissioners. One member is appointed by the Governor of Virginia from the State Corporation Commission of the Commonwealth of Virginia. One member is appointed by the Governor of Maryland from the Public Service Commission of Maryland. One member is appointed by the Mayor of the District of Columbia from the Public Service Commission of the District of Columbia. The seat for the District of Columbia member has been vacant since January 1, 2009.

When the Transit Commission was first created, each member had ongoing passenger carrier responsibilities in his home jurisdiction. Now, because of intervening governmental reorganizations, only the Maryland member is appointed from an agency with such responsibilities. The Compact signatories have enacted amendments to the Compact that would realign Virginia's and the District's representation on the Transit Commission with those responsibilities.

Under Section 2 of the legislation granting Congress's consent to the 1990 Compact amendments, Pub. L. No. 101-505, § 2, 104 Stat. 1314 (1990), the proposed member appointment amendments will not take effect unless and until Congress gives its consent to those amendments. That legislation is pending before Congress as of the date of this report.

Upon Congress's consent, future commissioners from Virginia will be appointed from the Virginia Department of Motor Vehicles instead of the Virginia

State Corporation Commission, and future commissioners from the District of Columbia will be appointed from a District of Columbia agency with oversight of matters relating to the Commission instead of the DC Public Service Commission. Members in office on the effective date of the amendments will not be affected.

The following Commissioners held office in FY2009.

Honorable Agnes A. Yates (term ended December 31, 2008)



Commissioner Yates joined WMATC in 1994 as the member from the District of Columbia Public Service Commission. She was elected Chairperson of WMATC shortly after her appointment and served in that capacity until her term ended December 31, 2008. She also chaired the DC Public Service Commission and was a member of the National Association of Regulatory Utility Commissioners' Electricity Committee and a Board Member of the Mid-Atlantic Conference of Regulatory Commissioners.

Commissioner Yates is a native of Washington DC. She received a Bachelor of Arts in political science from Howard University and a Juris Doctor from Georgetown University Law Center. Her legal experience includes the areas of energy, transportation, telecommunications, collective bargaining and labor management relations.

Honorable Mark C. Christie



Judge Christie joined WMATC in 2006 as the member from the Virginia State Corporation Commission. Born August 8, 1953, in Bluefield, West Virginia and raised in Welch, W. Va., Judge Christie was educated at Wake Forest University and the Georgetown University Law Center. He teaches constitutional law, public policy, and government at Virginia Commonwealth University, and has lectured on regulatory law at Duke and the University of Virginia law schools.

His service as an SCC Commissioner began in 2004. Prior to joining the SCC, he served as counsel to the Speaker of the House of Delegates of the Virginia General Assembly from 2000 to 2004. He was Counselor to the Governor and Director of

Policy in the Governor's Office from 1996 to 1998 and Deputy Counselor to the Governor from 1994-1996. He was in the private practice of law from 1989-1993 and again from 1998-1999. From 1997-2003, he was a member of the Virginia Board of Education serving as its president from 2002-2003.

Judge Christie is President of the Mid-Atlantic Conference of Regulatory Utility Commissioners, a ten-state regional organization of state utility commissions, and a Past President of the Organization of PJM States, Inc. (OPSI), a group of 13 states and the District of Columbia which provides oversight of the PJM regional transmission organization and wholesale electricity market.

A former officer in the U.S. Marine Corps, he is married to Anita Barnhart, a teacher in Hanover County public schools

Honorable Lawrence Brenner (Chairman)



Chairman Brenner joined WMATC in November 2008 as the member from the Public Service Commission of Maryland, to which he was appointed in April 2007. He was elected Chairman of WMATC in December 2009. Prior to his appointment to the Maryland PSC, he was Deputy Chief Administrative Law Judge for the Federal Energy Regulatory Commission (FERC) and a mediator in large complex cases.

Before his tenure at FERC, Chairman Brenner was a judge for the U.S. Department of Labor and the U.S. Nuclear Regulatory Commission (NRC). He was in private practice earlier and also had served in supervisory and attorney positions with the NRC. He is admitted to practice in Maryland, the District of Columbia and New York.

Chairman Brenner is First Vice President of the Mid-Atlantic Conference of Regulatory Utility Commissioners, a ten-state regional organization of state utility commissions.

Chairman Brenner received his JD from the State University of New York at Buffalo in 1973 and his B.A. in Economics from Brooklyn College in 1967. He won the best brief award in the annual law school moot court competition. He was in the Army from 1968-1970, and saw duty in Vietnam. He is a past president of The Federal Administrative Law Judges Conference (2002-03) and of the Forum of U.S. Administrative Law Judges (2003-05). He is married and has three adult children.

COMMISSION

DEVELOPMENTS & ACCOMPLISHMENTS

NEW OFFICE LOCATION

The Commission moved its office from 1828 L Street, N.W., Suite 703, Washington, DC 20036, to 8701 Georgia Avenue, Suite 808, Silver Spring, Maryland, 20910, in FY2009 to take advantage of lower office lease rates. The new offices are within walking distance of a major commuter hub (Washington Metro rail station and bus terminal, Maryland Area Regional Commuter Train station, and Montgomery County Ride On bus terminal), near the intersection of major roads (Georgia Avenue, Colesville Road, and 16th Street, N.W.), close to the Capital Beltway, while still centrally located within the Metropolitan District.

FORMAL PROCEEDINGS

The Commission accepted 149 applications to obtain, transfer, amend or terminate a WMATC certificate of authority in FY2009 and one application for self insurance approval. The Commission also initiated 184 investigations of carrier compliance with WMATC rules and regulations in FY2009 and entertained one formal complaint.

In one of the applications, *In re Upscale Limousine Service LLC*, No. AP-08-142, Order No. 11,644 (Oct. 24, 2008), the Commission reinterpreted the Compact to hold that Article XII, Section 3(a)(iii), of Title II concerning carrier control acquisition transactions does not apply to simultaneous applications for operating authority filed by commonly-controlled applicants not operating in the Metropolitan District, and lacking any control relationship with any existing WMATC carrier, as of the time the applications are filed. Earlier cases to the contrary were overruled.

The Commission also initiated two interstate taxicab ratemaking proceedings in FY2009 in response to petitions for ratemaking, and two shortly after the end of FY2009 based in part on a petition for ratemaking filed in late FY2009. The first proceeding in FY2009 was a routine fuel surcharge proceeding for interstate taxicab trips originating at Washington Dulles International Airport. *In re Prescription of an Interstate Taxicab Fuel Surcharge for Washington Flyer Taxicabs*, Case No. MP-2008-169. The other three proceedings involved major policy changes. The second proceeding in FY2009, *In re Prescription of Dispatch Fee Surcharge for Interstate Taxicab Trips Originating at Ronald Reagan Washington National Airport*, Case No. MP-09-081, Order No. 12,062 (June 26, 2009), ended the Commission's policy of mandating pass-through treatment of the Reagan National Airport taxi gate fee for interstate trips originating in the Reagan National taxicab queue. Effective January 1, 2010, a taxicab driver may pass

through the gate fee to passengers on interstate trips only if the driver's licensing jurisdiction allows such treatment.

In the two post-FY2009 interstate taxicab ratemaking proceedings, the Commission approved the elimination of baggage, trunk, and personal service charges on interstate trips originating at Washington Dulles International Airport, *In re Petition of Metropolitan Washington Airports Authority for Amendment of Interstate Rates and Charges for Washington Flyer Taxicabs*, No. MP-09-103, Order No. 12,155 (Sept. 18, 2009), and stipulated that the minimum insurance requirement for interstate trips in Washington Flyer taxicabs shall be the same as the minimum insurance coverage required by the Washington Flyer licensing authority for intrastate trips, in accordance with Commission Regulation No. 58-02(a), and not the same as the minimum insurance requirement for District of Columbia taxicabs, as had been prescribed by some previous Commission orders. *In re Investigation of Minimum Interstate Insurance Requirements for Washington Flyer Taxicabs*, Case No. MP-09-104, Order No. 12,155 (Sept. 18, 2009).

In total, the Commission issued 625 orders in 337 formal proceedings in FY2009, as compared to 855 orders in 562 formal proceedings in FY2008. The decline in formal proceedings from FY2008 to FY2009 is due to fewer applications for operating authority as a result of the current recession and consolidation of Medicaid transportation operations in the District of Columbia and fewer insurance investigations as a result of fewer WMATC carriers missing their renewal deadlines.

CARRIER CERTIFICATES

The Commission issued 62 certificates of authority in FY2009. The Commission revoked 96 certificates of authority in FY2009. Most were revoked for willful failure to comply with the Commission's insurance requirements. The Commission terminated another 29 certificates of authority in FY2009 upon request by the carriers. The Commission reinstated 12 certificates of authority in FY2009.

The number of carriers holding a certificate of authority at the close of FY2009 stood at 316 – down from 367 at the close of FY2008, but still over three times the 97 that held authority at the end of FY1990, before the barriers to entry were lowered beginning in 1991.

Despite the reduction in the number of certificated carriers from FY2008 to FY2009, the total number of vehicles operated under WMATC authority increased as new carriers were issued operating authority and existing carrier fleets expanded, more than offsetting the reduction in the number of vehicles under WMATC authority resulting from revocations and terminations. The number of vehicles operated under

WMATC authority as of December 9, 2009, was approximately 3,900. This compares to approximately 3,452 vehicles operated under WMATC authority as of January 1, 2009.

WEBSITE

The Commission established its website in February 2005. The address is www.wmatc.gov. The website provides information about the Commission, the Commissioners, and pending proceedings. The Compact and Commission rules, regulations, orders, forms, and answers to frequently asked questions may be searched and downloaded directly from the website.

The website offers the public the means of estimating taxicab fares for interstate trips within the Washington Metropolitan Area. Basic information on carriers with WMATC operating authority – including carrier status, insurance information, and rate and vehicle summaries – is also available.

The Commission launched an electronic insurance filing program in late FY2008. Prior to 2008, the Commission only accepted original hard copy WMATC Insurance Endorsements. Changes to the Commission's insurance regulation in FY2008 now allow the Commission to accept filings through the Commission's website. This is more efficient for filers and the Commission and has resulted in more timely filings and consequently fewer carrier suspensions. The percentage of insurance certificates filed through the WMATC website is up to 81% as of the date of this report.

The Commission initiated a major redesign of the website in FY2009 to make site navigation easier and site searches more effective.

OTHER

Commission staff processed 27 informal complaints in FY2009, of which 17 concerned interstate taxicab violations, mostly overcharges. This compares to 50 informal complaints in FY2008, of which 39 concerned interstate taxicab violations.

Commission staff also initiated 26 informal investigations in FY2009, which typically involve minor or technical violations committed by WMATC carriers. This compares to 33 informal investigations initiated in FY2008.

Senior staff participated in Regional Taxicab Regulators task force meetings in FY2009 to help promote cooperation among local taxicab officials and aid enforcement throughout the Metropolitan Area. The task force is affiliated with the Metropolitan Washington Council of Governments and meets regularly every other

month. The Commission’s executive director was elected in November 2009 to chair the task force in calendar year 2010.

After the close of FY2009, the Commission initiated a new street enforcement program aimed at identifying carriers operating in the Metropolitan District without proper authority. Already the program has identified several such carriers, who have been contacted by Commission staff as the first step in bringing their operations into compliance with the Compact.

FINANCIAL INFORMATION

BUDGET

The Commission receives appropriations from the three Compact signatories: Virginia, Maryland, and the District of Columbia. The Commission allocates its expenses among the signatories in the proportion that the population of each signatory within the Metropolitan District bears to the total population of the Metropolitan District, based on the most recent census data available at the time the budget is proposed. Comparative budget numbers for FY2008 and FY2009 are as follows.

Total Budget

	<u>FY2008</u>	<u>FY2009</u>
Salaries	435,000	445,000
Benefits	90,000	93,000
Rent ¹	125,000	130,000
Other	<u>60,000</u>	<u>55,000</u>
Total	<u><u>710,000</u></u>	<u><u>723,000</u></u>

Allocated Budget

	<u>FY2008</u>	<u>FY2009</u>
DC	110,902	112,571
MD	337,960	343,280
VA	<u>261,138</u>	<u>267,149</u>
Total	<u><u>710,000</u></u>	<u><u>723,000</u></u>

¹ Although FY2009 rent was budgeted at the rate of \$10,833 per month, actual rent declined to \$5,500 per month for the final five months of the fiscal year under the Commission’s new office lease noted above in the Commission Developments & Accomplishments section of this report.

REVENUE

The Commission generated \$169,464 in non-appropriations revenue (fees and forfeitures) in FY2009, including \$5,519 in prior years' income previously unrecognized. The Commission does not retain any of the non-appropriations revenue it collects. All such revenue is distributed to the signatories following the formula used for allocating expenses as described above.

