

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 16,720

IN THE MATTER OF:

Served December 2, 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.

Order No. 16,505, served August 8, 2016, sought comments on the Airports Authority's proposal. Notice of the order was posted to the Commission's website that day and remained posted throughout the comment period. No comments were received.

For the reasons explained below, the Commission hereby adopts a per-trip surcharge of \$2.65 for each interstate passenger trip that begins or ends at Dulles Airport and is conducted in a Washington Flyer taxicab.

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,

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).

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 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 the Airports Authority. 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

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

⁶ Compact, tit. I, art. I.

⁷ Compact, tit. II, art. XI, § 2.

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 the Airports Authority at the time. The Airports Authority supported a fuel surcharge in 2008 but not an airport access fee surcharge. As the Airports Authority explained in 2008:

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.⁹

III. TAXICAB RATE POLICY AND METHODOLOGY

Under the Compact, the fare or charge for interstate taxicab transportation may be calculated on a mileage basis, a zone basis, or on any other basis approved by the Commission.¹⁰

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.¹¹ 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.¹²

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

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

⁹ Although the reason for the Airports Authority's shift in position on this issue is unstated, consistent with our policy of deferring to local taxicab authorities' rate determinations, discussed below, we accept that the Airports Authority no longer opposes pass-through treatment for the Dulles Airport access fee.

¹⁰ Compact, tit. II, art. XI, § 18(b).

¹¹ 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).

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

Commission might adopt for use on interstate trips.¹³ The Commission instead sets interstate meter rates for Washington Flyer taxicabs by reference to the prevailing local meter rates.¹⁴ The Commission has found comparability with local rates to be the "essential element" in devising an appropriate interstate rate structure for Washington Flyer taxicabs.¹⁵

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.¹⁶ The Commission abandoned that rationale in 2009 in favor of "maintaining comparability of Washington Flyer rates and charges with those set by [all] local licensing jurisdictions."¹⁷

The Commission's treatment of airport-fee surcharges has a different history. From 1975 to 2009, the Commission issued a series of individual rulings approving pass-through treatment for taxicab dispatch fees charged by the Airports Authority (and its predecessor) at Reagan National Airport, beginning with initial implementation of the fee and continuing thereafter as the fee was periodically increased.¹⁸ Each time the dispatch fee was increased the Commission increased the surcharge to match.¹⁹ 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,²⁰ "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."²¹ 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

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

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

¹⁵ Order No. 14,773 at 3; Order No. 12,155 at 4.

¹⁶ Order No. 12,155 at 4.

¹⁷ *Id.* at 9.

¹⁸ *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).

¹⁹ *Id.* at 2.

²⁰ *Id.* at 2-5.

²¹ Order No. 14,773 at 5.

\$3.00.²² Only Prince George's County, Maryland, does not provide for pass through of the Reagan Airport dispatch fee.²³

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. 9240.²⁴ 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 (MWAA)."²⁵

IV. DISCUSSION

The Commission has made an effort over the years "to neither unduly restrain nor enhance the rate scheme which the local jurisdiction has determined to be appropriate", provided that the proposed rate scheme not be "unduly preferential or unduly discriminatory . . . between riders".²⁶

Commission precedent supports deferring to the Airports Authority's determination that the \$2.65 per-trip Dulles Airport fee should be passed through to passengers. In 1965, the Commission entertained a rate increase request from the taxicab company holding an exclusive contract with the federal government for providing on-demand taxicab service at the two airports now operated by the Airports Authority. In its decision upholding the request, the Commission recognized two exceptions to the rate "comparability" rule:

To be "reasonable", a rate must not be unjust, unreasonable, unduly preferential or unduly discriminatory. Does this preclude minor deviations in fares? We think not. Conditions, both economic and practical, may require minor variances. Two economic considerations have a direct bearing on the relationship of the taxicab rates levied by Airport Transport, Inc., of Virginia, with the rates levied by the taxicab industry in the area in general. Airport Transport, Inc., of Virginia, performs taxicab service only to and from the two Airports. Insofar as taxicab service is

²² 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).

²³ See PRINCE GEORGE'S COUNTY, MD., CODE § 20-160.

²⁴ Order No. 14,773 at 5-6 & n.21.

²⁵ *Id.* at 6. The Airports Authority is considered a political subdivision. D.C. CODE § 9-1006(b)(2)(2014).

²⁶ Order No. 14,773 at 3.

concerned, practically all of the return trips (more than 90%) to the Airports are non-revenue producing dead-head trips. The second economic consideration is that applicants must pay a franchise fee [to the federal government] of between 15% and 18% on all revenues for transportation originating at the Airports. These factors, in our opinion, are sufficient to justify a separate proceeding involving the taxicab rates of the present applicant.

* * *

Consistent with our discussion supra, the Commission further finds that the fare differential between the area taxicab industry generally and Airport Transport, Inc., of Virginia, [in particular,] is within the zone of reasonableness and reflects, at the least, the special fee paid by applicant to the Federal agency [operating the two airports].

In re Airport Transport, Inc., No. 83, Order No. 486 (May 28, 1965), *aff'd per curiam sub nom. Bartsch v. WMATC*, 357 F.2d 923 (4th Cir. 1966).

The current base rates for Washington Flyer taxicabs went into effect on June 19, 2014,²⁷ and are comparable to the taxicab base rates prevailing in the Washington Metropolitan Area today. The minimum interstate trip for Washington Flyer taxicabs is approximately 20 miles one way.²⁸ Adding \$2.65 to a 20-mile trip would increase the total base fare by 5.7%, from \$46.16²⁹ to \$48.81. We consider that a minor deviation.

V. CONCLUSION

Given our policy of favoring a rate scheme that a local jurisdiction has determined to be appropriate and considering that approving a \$2.65 per-trip surcharge, for the purpose of passing through to passengers the current Dulles Airport on-demand taxicab access fee, will produce a minor deviation from the current base fare for a 20-mile trip, and keeping in mind the absence of any comments in opposition, the Commission hereby approves said surcharge for each passenger trip originating at or terminating at Dulles Airport and conducted in a Washington Flyer taxicab; provided, that only one surcharge may be collected per trip irrespective of the number of passengers in the vehicle.

²⁷ *Id.* at 6.

²⁸ *Id.* at 4.

²⁹ *Id.* at App. A.

THEREFORE, IT IS ORDERED:

1. That effective January 1, 2017, the base rate and incidental charges for an interstate trip between points in the Metropolitan District in a Washington Flyer Taxi taxicab shall be the base rate and incidental charges specified in the appendix to this order.

2. That effective January 1, 2017, the interstate rates and charges specified in the appendix to this order shall be displayed in the right rear window of each Washington Flyer taxicab.

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

A handwritten signature in black ink, appearing to read 'W. S. Morrow, Jr.', is positioned above the printed name.

William S. Morrow, Jr.
Executive Director

INTERSTATE TAXICAB RATES AND CHARGES
FOR WASHINGTON FLYER TAXICAB SERVICE WITHIN THE
WASHINGTON METROPOLITAN AREA TRANSIT DISTRICT

- \$3.50 First 1/4 mile or fraction
- .54 Each additional 1/4 mile or fraction
- .54 Each 81 seconds of waiting time (\$24.00/hour)
- 1.50 Each additional passenger in a pre-formed party
(provided, however, that one child five (5) years of age
or younger shall be transported without charge when
accompanied by an older person)

Snow Emergency Surcharge:

There shall be a surcharge of \$2.50 per trip during periods of
snow emergency declared by the District of Columbia.

Waiting time shall include:

- 1) time consumed while a taxicab is waiting for passengers beginning
5 minutes after the time of arrival at a pick-up location. No
time shall be charged for premature pick-up;
- 2) time consumed while a taxicab is stopped or slowed to a speed of
less than 10 m.p.h.; and
- 3) time consumed for stopovers en route at the direction of the
passenger.

Tolls:

Tolls paid by a driver on a passenger-selected route may be
added to a passenger's fare; provided, that before taking that
route the passenger was informed of the toll(s) and given the
option of taking an alternative route not requiring payment of
a toll. A driver may not recover more than the toll amount
actually paid regardless of the number of passengers being
transported.

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.