

Washington Metropolitan Area Transit Commission

Fifty-Sixth
Annual Report
Fiscal Year 2016
July 1, 2015 through June 30, 2016



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

October 14, 2016

To: The Honorable Terence R. McAuliffe
Governor of Virginia

The Honorable Lawrence J. Hogan, Jr.
Governor of Maryland

The Honorable Muriel Bowser
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), *amended by* Pub. L. No. 111-160, 124 Stat. 1124 (2010) (amending tit. I, art. III), (codified at VA. CODE ANN. § 33.2-3000 (2016); MD. CODE ANN. TRANSP. § 10-203 (2016); D.C. CODE § 9-1103.01 (2016)), 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
- Jeffrey M. Lehmann, General Counsel
- Constantine H. Kolouas, IT Specialist
- Renee A. Bodden, Office Manager
- Christopher H. Aquino, Motor Carrier Safety Specialist
- Shanelle N. Hayes, Receptionist/Administrative Assistant

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. No. 86-794, § 1, 74 Stat. 1031 (1960), *as amended by* Pub. L. No. 87-767, 76 Stat. 764 (1962), Pub. L. No. 101-505, § 1, 104 Stat. 1300 (1990), *and* Pub. L. No. 111-160, 124 Stat. 1124 (2010)—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.



Capital Transit Company Trolley - 1961

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 some sedan and limousine operators. The Commission also prescribes interstate taxicab rates for the Metropolitan Area.

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.



Taxicab Queue at Ronald Reagan Washington National Airport

The 1990 amendments have succeeded in opening the Metropolitan District to competition as intended. Over 2,700 applicants have been conditionally granted WMATC operating authority since 1990. By comparison, only 176 carriers were granted WMATC operating authority in the Commission's first 30 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.

THE COMMISSIONERS

The Compact provides for the appointment of three Commissioners, one from each signatory. The Virginia member is appointed by Virginia's governor from the Virginia Department of Motor Vehicles, the Maryland member is appointed by the Governor of Maryland from the Maryland Public Service Commission, and the District of Columbia member is appointed by the District's mayor from a District of Columbia agency with oversight of matters relating to the Commission. The following WMATC Commissioners held office in FY2016 and/or at the time of this report.



Honorable Richard D. Holcomb (Virginia)
(Term Began July 21, 2010) (Chairman as of October 14, 2016)

Richard D. Holcomb is the current WMATC member from the Commonwealth of Virginia. Commissioner Holcomb was appointed to WMATC on July 21, 2010, by Governor Robert F. McDonnell, and reappointed on May 23, 2014, by Governor Terry McAuliffe.

In his capacity as Commissioner of the Virginia Department of Motor Vehicles (VADMV), he manages a state agency with a budget of approximately \$240 million and a statewide workforce of over 2,000 employees. He oversees the collection of approximately \$2.5 billion dollars in revenue annually, which funds a significant portion of the state's new roads, and highway construction and maintenance.

Commissioner Holcomb also serves as the Governor's Highway Safety Representative. In addition, he is chairman of the Virginia Motor Vehicle Dealer Board and serves as immediate past chair of the American Association of Motor Vehicle Administrators International Board of Directors.

This is Commissioner Holcomb's second stint as the head of VADMV, which serves more than eight million customers each year and provides an impressive selection of service options to the citizens of the Commonwealth. Prior to his 2010 appointment by Governor McDonnell, Commissioner Holcomb was appointed VADMV Commissioner in 1994 by Governor George F. Allen and reappointed by Governor James S. Gilmore in 1998.

During his initial seven-year tenure at VADMV, Commissioner Holcomb revolutionized the agency to provide the ultimate in customer service, surpassing public and private sector service organizations. Under his leadership, Virginia became the first state in the world to offer secure online driver's license renewals.

During his most recent term as Commissioner, he has launched the robust DMV 2 Go program. Five customer service centers on wheels provide all VADMV transactions at convenient locations such as military bases, corporate and government complexes, and senior communities.

Commissioner Holcomb also believes that our dedicated military members who have given so much for our nation deserve every effort we can make to provide opportunities for their futures. He conceived the Troops to TrucksSM initiative, which provides testing, training, and potential career opportunities for military members after service. This outreach effort, recognized by the White House, is a collaboration between VADMV, Virginia military installations, and private transportation industry groups. The program helps provide employment opportunities to our military as truck or bus drivers, or in other transportation-related jobs after service.

Commissioner Holcomb is a former General Counsel and Senior Vice President for Law and Regulatory Affairs for the American Trucking Associations, the national trade association for the trucking industry. In this capacity, he managed the in-house staff of attorneys and outside counsel on an array of complex legal matters such as corporate compliance, tax, employment law, election law, patents, copyrights, trademarks and anti-trust. He advanced the association's interests through the court system, protected the association from legal action, managed legal defense through the interpretation of legal documents, and advised ATA leadership on legal and regulatory matters.

Commissioner Holcomb has served as Chief of Staff to Congressmen Craig T. James, D. French Slaughter Jr., and John Linder. In addition, he served as Deputy General Counsel to the 1992 Bush-Quayle Committee, Legal Counsel to the National

Republican Congressional Committee, and General Counsel to the U.S. Senate Judiciary Subcommittee on Security and Terrorism.

Commissioner Holcomb holds an undergraduate degree in political science from Hampden-Sydney College and a Juris Doctorate degree from the University of Richmond School of Law. He is also a graduate of Virginia Commonwealth University's Virginia Executive Institute.



**Honorable Leif A. Dormsjo (District of Columbia)
(Term Began January 2, 2015) (Vice-Chairman as of
October 14, 2016)**

Leif A. Dormsjo is the current WMATC member from the District of Columbia. Commissioner Dormsjo was appointed to WMATC on May 18, 2015, by Mayor Muriel Bowser, effective *nunc pro tunc* as of January 2, 2015.

He has served as Director of the District Department of Transportation (DDOT) since the beginning of 2015. Besides serving as DDOT Director, Commissioner Dormsjo also serves on the Board of Directors of the Washington Metropolitan Area Transit Authority.

Commissioner Dormsjo previously served as Deputy Secretary of the Maryland Department of Transportation (MDOT) from 2012 to 2015. In this capacity, he oversaw a \$4.8 billion annual budget as the Chief Operating Officer for the 10,000-employee department comprising the Baltimore/Washington International Thurgood Marshall Airport, the Port of Baltimore, the Maryland Motor Vehicle Administration, the Maryland Transit Administration, and the Maryland State Highway Administration.

Prior to that, he served as Senior Advisor to the Maryland Transportation Secretary. In that role, he focused on advancing real estate, infrastructure and transit-oriented development projects. He led MDOT's public-private partnership program, overseeing the Seagirt Marine Terminal, I-95 Travel Plazas, and Purple Line Light Rail projects.

Commissioner Dormsjo served as the Secretary's Chief of Staff from 2007 to 2010. He has significant experience in public-sector management, having served as the Chief of Staff for the Baltimore Department of Transportation as well as the Deputy Director of the CitiStat Program in the Baltimore Mayor's Office.

He received a bachelor's degree from Wesleyan University and a master's degree in public policy from Harvard University's Kennedy School of Government, with a concentration in transportation policy and urban affairs. During his graduate school study, he was selected to work with the Boston Public School System as a Rappaport Public Service Fellow. Early in his career, he interned with United States Senator Bill Bradley.



**Honorable Michael T. Richard (Maryland)
(Term Began May 2, 2016)**

Michael T. Richard is the current WMATC member from Maryland. He was appointed to WMATC on May 2, 2016, by Governor Lawrence J. Hogan, Jr.

Commissioner Richard has served as a member of the Maryland Public Service Commission since January 2016. Prior to that, he served as Deputy Chief of Staff to Governor Hogan, advising the Governor on a portfolio of issues and helping to manage cabinet agencies that included Agriculture, Energy, Environment, Lottery and Gaming, Natural Resources and Transportation.

Commissioner Richard worked for more than 10 years at the Nuclear Energy Institute as Legislative Programs Director and Congressional Information Program Director. He then served in Governor Robert Ehrlich's administration as Deputy Secretary of Appointments and as Director of the Maryland Energy Administration.

In 2005, he was appointed to a post at the U.S. Department of Energy—first serving as Executive Director of the Secretary of Energy Advisory Board and later as Deputy Assistant Secretary for Congressional and Intergovernmental Affairs where his issues included nuclear energy, radioactive waste management, and legacy environmental remediation.

In 2008, Commissioner Richard was hired by Westinghouse Electric Company as Director of Government and International Affairs. He rejoined Maryland state government in 2015.

Commissioner Richard earned his B.A. from Brigham Young University in Provo, Utah, and an M.B.A. from the University of Maryland, College Park. He attended a French language program at L'Université Laval in Québec City, Canada. Commissioner Richard lives in Fort Washington, Maryland.



**Honorable Lawrence Brenner (Maryland)
(November 25, 2008 to January 11, 2016)**

Commissioner Brenner joined WMATC in November 2008 as the member from the Public Service Commission of Maryland (MD PSC), to which he was appointed in April 2007. He was elected Chairman of WMATC in December 2009 and served in that capacity for the remainder of his term.

Commissioner Brenner was the MD PSC's representative on the Boards of the Organization of PJM States (President, 2014-15) and the Mid-Atlantic Conference of Regulatory Utility Commissioners (President, 2010-11). He also chaired (2011-15) the Mid-Atlantic Distributed Resources Initiative, formed by seven state utility commissions in collaboration with federal and regional authorities to facilitate cost-effective distributed resources, demand response and energy efficiency.

Prior to joining the MD PSC, Commissioner Brenner was the Deputy Chief Administrative Law Judge for the Federal Energy Regulatory Commission (FERC), where previously he had been an administrative law judge. In addition to deciding cases as a trial judge, he had extensive experience at FERC as a mediator in complex cases, serving at the joint request of opposing parties.

Previously, he was a judge for the U.S. Department of Labor and the U.S. Nuclear Regulatory Commission (NRC). Prior to his appointment as a judge, Commissioner Brenner had been in private practice and had served in supervisory and attorney positions with the NRC. He is admitted to practice in Maryland, the District of Columbia and New York.

Commissioner Brenner received his Juris Doctor law degree 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, including service in Vietnam.

Commissioner Brenner is a past president of two administrative law judge professional associations: The Forum of U.S. Administrative Law Judges (2003-05); and the Federal Administrative Law Judges Conference (2002-03).

DEVELOPMENTS & ACCOMPLISHMENTS

FORMAL PROCEEDINGS

The Commission accepted 277 applications to obtain, transfer, amend, or terminate WMATC operating authority in FY2016, down from the 317 accepted in FY2015. The Commission also initiated 218 formal investigations of carrier compliance with WMATC rules and regulations in FY2016, down from 219 in FY2015.

In total, the Commission issued 740 orders in 495 formal proceedings in FY2016, as compared to 825 orders in 536 formal proceedings in FY2015.

INFORMAL PROCEEDINGS

Commission staff processed 12 informal complaints against WMATC carriers in FY2016. This compares to 10 such complaints in FY2015. Commission staff processed 6 interstate taxicab complaints in FY2016. This compares to 12 such complaints in FY2015.

Commission staff also initiated 26 informal investigations in FY2016, which typically involve minor or technical violations committed by WMATC carriers. This compares to 14 informal investigations initiated in FY2015.

CARRIER CERTIFICATES & VEHICLES

The Commission issued 109 certificates of authority in FY2016, including 5 by reason of transfer and 4 by reason of amendment. This compares to 154 issued in FY2015. The Commission revoked 103 certificates of authority in FY2016. Most were revoked for willful failure to comply with the Commission's insurance requirements. The Commission terminated another 47 certificates of authority in FY2016 upon request by the carriers.

The Commission reinstated 11 certificates of authority in FY2016. The number of carriers holding a certificate of authority at the close of FY2016 stood at 621—down from 660 at the close of FY2015, but still more than 6 times the 97 that held authority at the end of FY1990, before the barriers to entry were lowered beginning in 1991.

The number of vehicles reported to WMATC in FY2016 stood at 5,348 as of June 30, 2016. This compares to 6,008 vehicles operated under WMATC authority as of June 30, 2015.

TRANSPORTATION NETWORK SERVICE RULEMAKING

In 2015, the District of Columbia, the State of Maryland, and the Commonwealth of Virginia joined the growing list of states and localities that authorize a type of for-hire passenger transportation service whereby passengers are connected via a digital dispatch service with drivers operating vehicles without for-hire license plates. Such service is known as private-vehicle-for-hire service in the District of Columbia and as transportation network service in Maryland and Virginia. The Commission uses the term transportation network service, as well.

In November 2015, when transportation network service was being offered in the Washington Metropolitan Area chiefly by two of the dominant members of the industry, Uber and Lyft, it appeared to the Commission that most transportation network service in the Washington Metropolitan Transit District met the Commission's definition of "bona fide taxicab service" in WMATC Regulation No. 51-09, a service that resembles taxicab service but is provided in vehicles other than taxicabs.

Like service in taxicabs, Article XI, Section 3(f), of the Compact, in conjunction with Article XI, Section 1(b), of the Compact, excludes bona fide taxicab service in non-taxicabs from the Commission's licensing requirements, and regulations pertaining thereto, while retaining the Commission's jurisdiction over interstate rates and insurance. In late 2015, Regulation No. 51-09 defined bona fide taxicab service as service

- provided only between points selected at will by the person or persons hiring the vehicle
- for their exclusive use
- priced at rates based on duration and/or distance
- in a vehicle engaged solely in rendering such service and seating eight passengers or less in addition to the driver.

It further appeared to the Commission that although transportation network service is a relatively recent invention that relies on arranging trips over the internet, which did not exist when the Compact was enacted in 1960 and the scope of the exclusion was amended in 1962, the legislative history of the Compact supported a determination that transportation network service is the kind of service the drafters of the Compact had in mind when crafting the exclusion.

These observations prompted the Commission to initiate a rulemaking proposing that the Commission officially recognize transportation network service as

bona fide taxicab service. After considering comments received during a 45-day notice and comment period, the Commission expanded the definition of bona fide taxicab service under Regulation No. 51-09 to specifically include transportation network service to the extent such service is affiliated with a transportation network company as defined by and duly authorized by Maryland or Virginia, or a private-vehicle-for-hire company as defined by and duly authorized by the District of Columbia.

The Commission also amended Regulation No. 58-02(b) to clarify the interstate insurance requirements for all bona fide taxicab service, particularly with respect to interstate operations conducted by operators authorized to perform intrastate trips in more than one jurisdiction.

OTHER

Mutual Commission cooperation with the Virginia Department of Motor Vehicles, the Maryland Public Service Commission, the District of Columbia Department of Motor Vehicles, and the District of Columbia Taxicab Commission has enhanced Compact enforcement throughout the Washington Metropolitan Area.

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 FY2015 and FY2016 are as follows.

	Total Budget	
	<u>FY2015</u>	<u>FY2016</u>
Salaries	\$524,000	\$535,500
Benefits	151,000	152,000
Rent	83,000	86,000
Other	46,750	46,500
Total	<u>\$804,750</u>	<u>\$820,000</u>

	Allocated Budget	
	<u>FY2015</u>	<u>FY2016</u>
DC	\$125,943	\$129,396
MD	375,577	381,792
VA	303,230	308,812
Total	<u>\$804,750</u>	<u>\$820,000</u>

REVENUE

The Commission does not retain any of the fees, forfeitures, and other non-appropriations revenue that it collects. All such revenue is returned to the signatories according to the proportions used for allocating expenses. For FY2016, the Commission received \$308,764 in non-appropriations revenue for return to the signatories. This compares to \$224,275 in non-appropriations revenue returned for FY2015. After adjusting for the return of non-appropriated revenue, the net FY2015 and FY2016 allocated budgets, before return of unexpended appropriations, are as follows:

	Net Allocated Budget	
	<u>FY2015</u>	<u>FY2016</u>
DC	\$90,844	\$80,673
MD	270,908	238,031
VA	218,723	192,532
Total	<u>\$580,475</u>	<u>\$511,236</u>

