Public Law 757 CHAPTER 669

July 24, 1956
[S. 3073]

AN ACT

To grant a franchise to D. C. Transit System, Inc., and for other purposes.

D. C. Transit System, Inc. Franchise.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

PART 1.—FRANCHISE PROVISIONS

SECTION 1. (a) There is hereby granted to D. C. Transit System, Inc., a corporation of the District of Columbia (referred to in this part as the "Corporation") a franchise to operate a mass transportation system of passengers for hire within the District of Columbia and between the District of Columbia and points within the area (referred to in this part as the "Washington Metropolitan Area") comprising all of the District of Columbia, the cities of Alexandria and Falls Church, and the counties of Arlington and Fairfax in the Commonwealth of Virginia and the counties of Montgomery and Prince Georges in the State of Maryland, subject, however, to the rights to render service within the Washington Metropolitan Area possessed, at the time this section takes effect, by other common carriers of passengers: *Provided*, That nothing in this section shall be construed to exempt the Corporation from any law or ordinance of the Commonwealth of Virginia or the State of Maryland or any political subdivision of such Commonwealth or State, or of any rule, regulation, or order issued under the authority of any such law or ordinance, or from applicable provisions of the Interstate Commerce Act and rules and regulations prescribed thereunder.

49 USC 27 and note.

Definitions.

(b) Wherever reference is made in this part to "D. C. Transit System, Inc." or to the "Corporation", such reference shall include the successors and assigns of D. C. Transit System, Inc.

(c) As used in this part the term "franchise" means all the provisions of this part 1.

Term.

SEC. 2. (a) This franchise is granted for a term of twenty years: *Provided, however*, That Congress reserves the right to repeal this franchise at any time for its non-use.

(b) In the event of cancellation of this franchise by Congress after seven years from the date this franchise takes effect for any reason other than non-use, the Corporation waives its claim for any damages for loss of franchise.

PUC certificate for competitive line.

SEC. 3. No competitive street railway or bus line, that is, bus or railway line for the transportation of passengers of the character which runs over a given route on a fixed schedule, shall be established to operate in the District of Columbia without the prior issuance of a certificate by the Public Utilities Commission of the District of Columbia (referred to in this part as the "Commission") to the effect that the competitive line is necessary for the convenience of the public.

Legislative policy.

SEC. 4. It is hereby declared as a matter of legislative policy that in order to assure the Washington Metropolitan Area of an adequate transportation system operating as a private enterprise, the Corporation, in accordance with standards and rules prescribed by the Commission, should be afforded the opportunity of earning such return as to make the Corporation an attractive investment to private investors. As an incident thereto the Congress finds that the opportunity to earn a return of at least 6½ per centum net after all taxes properly chargeable to transportation operations, including but not limited to income

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taxes, on either the system rate base or on gross operating revenues would not be unreasonable, and that the Commission should encourage and facilitate the shifting to such gross operating revenue base as promptly as possible and as conditions warrant; and if conditions warrant not later than August 15, 1958. It is further declared as a matter of legislative policy that if the Corporation does provide the Washington Metropolitan Area with a good public transportation system, with reasonable rates, the Congress will maintain a continuing interest in the welfare of the Corporation and its investors.

Rates.

SEC. 5. The initial schedule of rates which shall be effective within the District of Columbia upon commencement of operations by the Corporation shall be the same as that effective for service by Capital Transit Company approved by the Commissioners of the District of Columbia pursuant to the Act of August 14, 1955 (Public Law No. 389, 84th Congress; 69 Stat. 724), in effect on the date of the enactment of this Act, and shall continue in effect until August 15, 1957, and thereafter until superseded by a schedule of rates which becomes effective under this section. Whenever on or after August 15, 1957, the Corporation files with the Commission a new schedule of rates, such new schedule shall become effective on the tenth day after the date of such filing, unless the Commission prescribes a lesser time within which such new schedule shall go into effect, or unless prior to such tenth day the Commission suspends the operation of such new schedule. Such suspension shall be for a period of not to exceed one hundred twenty days from the date such new schedule is filed. If the Commission suspends such new schedule it shall immediately give notice of a hearing upon the matter and, after such hearing and within such suspension period, shall determine and by order fix the schedule of rates to be charged by the Corporation. If the Commission does not enter an order, to take effect at or prior to the end of the period of suspension, fixing the schedule of rates to be charged by the Corporation, the suspended schedule filed by the Corporation may be put into effect by the end of such period, and shall remain in effect until the Commission has issued an appropriate order based on such proceeding.

Charter and sightseeing services.

SEC. 6. The Corporation is hereby authorized and empowered to engage in special charter or sightseeing services subject to compliance with applicable laws, rules and regulations of the District of Columbia and of the municipalities or political subdivisions of the States in which such service is to be performed, and with applicable provisions of the Interstate Commerce Act and rules and regulations prescribed thereunder.

Conversion to bus operation.

SEC. 7. The Corporation shall be obligated to initiate and carry out a plan of gradual conversion of its street railway operations to bus operations within seven years from the date of the enactment of this Act upon terms and conditions prescribed by the Commission, with such regard as is reasonably possible when appropriate to the highway development plans of the District of Columbia and the economies implicit in coordinating the Corporation's track removal program with such plans; except that upon good and sufficient cause shown the Commission may in its discretion extend beyond seven years, the period for carrying out such conversion. All of the provisions of the full paragraph of the District of Columbia Appropriation Act, 1942 (55 Stat. 499, 533), under the title "HIGHWAY FUND, GASOLINE TAX AND MOTOR VEHICLE FEES", subtitle "STREET IMPROVEMENTS", relating to the removal of abandoned tracks, regrading of track areas, and paving abandoned track areas, shall be applicable to the Corporation.

Track removal.

Taxes.

SEC. 8. (a) As of August 15, 1956, paragraph numbered 5 of section 6 of the Act entitled "An Act making appropriations to provide for the expenses of the Government of the District of Columbia for the fiscal

year ending June thirtieth, nineteen hundred and three, and for other purposes", approved July 1, 1902, as amended (D. C. Code, sec. 47-1701), is amended by striking out the third and fourth sentences and inserting in lieu thereof the following: "Each gas, electric-lighting, and telephone company shall pay, in addition to the taxes herein mentioned, the franchise tax imposed by the District of Columbia Income and Franchise Tax Act of 1947, and the tax imposed upon stock in trade of dealers in general merchandise under paragraph numbered 2 of section 6 of said Act approved July 1, 1902, as amended."

68 Stat. 118.

61 Stat. 328. D. C. Code 47-ch. 15.

D. C. Code 47-1207.

Exemptions.

(b) Notwithstanding subsection (a) of this section, the Corporation shall be exempt from the following taxes:

(1) The gross sales tax levied under the District of Columbia Sales Tax Act;

63 Stat. 112. D. C. Code 47-2601 to 47-2629.

(2) The compensating use tax levied under the District of Columbia Use Tax Act;

63 Stat. 124. D. C. Code 47-2701 to 47-2714.

(3) The excise tax upon the issuance of titles to motor vehicles and trailers levied under subsection (j) of section 6 of the District of Columbia Traffic Act of 1925, as amended (D. C. Code, sec. 40-603 (j) (4));

63 Stat. 128.

(4) The taxes imposed on tangible personal property, to the same extent that the Capital Transit Company was exempt from such taxes immediately prior to the effective date of this section under the provisions of the Act of July 1, 1902, as amended; and

(5) The mileage tax imposed by subparagraph (b) of paragraph 31 of section 7 of the Act approved July 1, 1902, as amended (D. C. Code, sec. 47-2331 (b)).

47 Stat. 555; 68 Stat. 119.

Motor vehicle fuel tax.

SEC. 9. (a) Except as hereinafter provided, the Corporation shall not, with respect to motor fuel purchased on or after September 1, 1956, pay any part of the motor vehicle fuel tax levied under the Act entitled "An Act to provide for a tax on motor vehicle fuels sold within the District of Columbia, and for other purposes", approved April 23, 1924, as amended (D. C. Code, title 47, chapter 19).

43 Stat. 106. D. C. Code 47-1901 to 47-1919.

Definitions.

(b) For the purposes of this section—

(1) the term "a 6½ per centum rate of return" means a 6½ per centum rate of return net after all taxes properly chargeable to transportation operations, including but not limited to income taxes, on the system rate base of the Corporation, except that with respect to any period for which the Commission utilizes the operating ratio method to fix the rates of the Corporation, such term shall mean a return of 6½ per centum net after all taxes properly chargeable to transportation operations, including but not limited to income taxes, based on gross operating revenues; and

(2) the term "full amount of the Federal income taxes and the District of Columbia franchise tax levied upon corporate income" means the amount which would have been payable in the absence of write-offs in connection with the retirement of street railway property as contemplated by section 7 of this part, but only to the extent that such write-offs are not included as an operating expense in determining net earnings for rate-making purposes.

Determination of tax by operating ratio.

(c) As soon as practicable after the twelve-month period ending on August 31, 1957, and as soon as practicable after the end of each subsequent twelve-month period ending on August 31, the Commission shall determine the Corporation's net operating income for such twelve-month period and the amount in dollars by which it exceeds or is less than a 6½ per centum rate of return for such twelve-month period. In such determination the Commission shall include as an operating expense the full amount of the motor vehicle fuel tax which would be due but for the provisions of this section on the motor fuel purchased by the Corporation during the twelve-month period, and

the full amount of the Federal income taxes and the District of Columbia franchise tax levied upon corporate income. The Commission shall certify its determination to the Commissioners of the District of Columbia or their designated agent. If the net operating income so certified by the Commission equals or is more than a 6½ per centum rate of return, the Corporation shall be required to pay to such Commissioners, or their designated agent, the full amount of the motor vehicle fuel taxes due on the purchases of motor fuel made by the Corporation during such twelve-month period. If the net operating income so certified is less than a 6½ per centum rate of return, the Corporation shall pay to such Commissioners, or their designated agent, in full satisfaction of the motor vehicle fuel tax for such period an amount, if any, equal to the full amount of said motor vehicle fuel tax reduced by the amount necessary to raise the Corporation's rate of return to 6½ per centum for such period, after taking into account the effect of such reduction on the amount of the Federal income taxes and the District of Columbia franchise tax levied upon corporate income payable by the Corporation for such period. Within thirty days after being notified by the said Commissioners or their designated agent of the amount of the motor vehicle fuel tax due under this section, the Corporation shall pay such amount to the said Commissioners or their designated agent.

Collection. Penalties.

(d) If not paid within the period specified in subsection (c), the motor vehicle fuel tax payable under this section and the penalties thereon may be collected by the Commissioners of the District of Columbia or their designated agent in the manner provided by law for the collection of taxes due the District of Columbia on personal property in force at the time of such collection; and liens for the motor vehicle fuel tax payable under subsection (c) and penalties thereon may be acquired in the same manner that liens for personal property taxes are acquired.

Interest.

(e) Where the amount of the motor vehicle fuel tax payable under subsection (c), or any part of such amount, is not paid on or before the time specified therein for such payment, there shall be collected, as part of the tax, interest upon such unpaid amount at the rate of one-half of 1 per centum per month or portion of a month.

Exemption certificates.

(f) The Commissioners of the District of Columbia or their designated agent are hereby authorized and directed to issue to the Corporation such certificates as may be necessary to exempt it from paying any importer the motor vehicle fuel tax imposed by such Act of April 23, 1924, as amended, or as hereafter amended.

43 Stat. 106. D. C. Code 47-1901 to 47-1919.

Real estate taxes.

(g) (1) From and after the time fixed in paragraph (2) of this subsection the Corporation shall not be required to pay real estate taxes upon any real estate owned by it in the District of Columbia and used and useful for the conduct of its public transportation operations to the extent that the Commission has determined under such rules and regulations as it may issue that the Corporation's net operating income in the previous year was insufficient, after giving effect to the tax relief provided in the preceding subsections, to afford it a 6½ per centum rate of return.

Effective date.

(2) This subsection shall take effect upon the completion of the program contemplated in section 7 of this part, as certified by the Commission to the Commissioners of the District of Columbia, or at such earlier time as the Commission may find that the said program has been so substantially completed that the taking effect of this subsection would be appropriate in the public interest and shall so certify to the Commissioners of the District of Columbia.

Snow removal, etc.

SEC. 10. (a) The Corporation shall not be charged any part of the expense of removing, sanding, salting, treating, or handling snow on

the streets of the District of Columbia, except that the Corporation shall sweep snow from the streetcar tracks at its own expense so long as such tracks are in use by the Corporation.

(b) The paragraph which begins "Hereafter every street railway company" which appears under the heading "STREETS" in the Act entitled "An Act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and thirteen, and for other purposes", approved June 26, 1912 (D. C. Code, sec. 7-614), is hereby repealed.

37 Stat. 152.

Merger or consolidation.

SEC. 11. The provisions of law set forth in Title 43, sections 501 through 503 of the District of Columbia code shall not be deemed to restrict any merger or consolidation of the Corporation with any other company or companies engaged in mass transportation in the District of Columbia or the Washington Metropolitan Area: *Provided, however*, That any such merger or consolidation shall be subject to the approval of the Commission.

Future transfer to another agency.

SEC. 12. Nothing in this part shall prevent the transfer, by or under the authority of any other Act of Congress, to any other agency of any of the functions which are by this part granted to or imposed upon the Commission.

Securities.

SEC. 13. (a) The Corporation is hereby authorized to issue or create loans, mortgages, deeds of trust, notes or other securities to any banking or other institution or institutions and to Capital Transit Company, with respect to the acquisition of assets of Capital Transit Company (including any corporation controlled by Capital Transit Company), provided that the interest rate thereon shall not exceed 5 per centum per annum, but the aggregate principal shall not exceed the cost of acquiring the assets of Capital Transit Company.

Interest rate.

54 Stat. 905.
49 USC 5.

(b) (1) Section 5 of the Interstate Commerce Act shall not be construed to require the approval or authorization of the Interstate Commerce Commission of any transaction within the scope of paragraph (2) of such section 5 if the only parties to such transaction are the Corporation (including any corporation wholly controlled by the Corporation) and the Capital Transit Company (including any corporation wholly controlled by the Capital Transit Company). The issuance or creation of any securities provided for in subsection (a) shall not be subject to the provisions of section 20a of the Interstate Commerce Act.

41 Stat. 494.
49 USC 20a.

(2) No approval of the acquisition of assets referred to in subsection (a), or of the issuance or creation of any securities provided for in subsection (a) in connection with such acquisition, shall be required from any District of Columbia agency or commission.

(c) This section shall not apply to any issuance of securities constituting a public offering to which the Securities Act of 1933 applies.

48 Stat. 74.
15 USC 77a.

(d) Notwithstanding the provisions of section 409 (a) of the Civil Aeronautics Act of 1938—

52 Stat. 1002.
49 USC 489.

Officers and directors.

(1) no air carrier shall be required (because of the fact that a person becomes or remains an officer, director, member or stockholder holding a controlling interest of the Corporation, or of any common carrier controlled by the Corporation which is engaged in mass transportation of passengers for hire in the Washington Metropolitan Area, or is elected or reelected as an officer or director) to secure the authorization or approval of the Civil Aeronautics Board in order to have and retain such person as an officer or director, or both, of such air carrier if such person is an officer or director of such air carrier at the time this section takes effect; and

(2) no person who, at the time this section takes effect, is an officer or director of an air carrier shall be required to secure the approval of the Civil Aeronautics Board in order to hold the position of officer, director, member or stockholder holding a controlling interest of the Corporation or of any common carrier controlled by the Corporation which is engaged in mass transportation of passengers for hire in the Washington Metropolitan Area.

As used in this subsection, the term "air carrier" has the same meaning as when used in section 409 (a) of the Civil Aeronautics Act of 1938.

"Air carrier".
49 USC 489.

(e) Notwithstanding section 20a (12) of the Interstate Commerce Act, authorization or approval of the Interstate Commerce Commission shall not be required in order to permit a person who is an officer or director of the Corporation to be also an officer or director, or both, of any common carrier controlled by the Corporation which is engaged in mass transportation of passengers for hire in the Washington Metropolitan Area.

41 Stat. 496.
49 USC 20a.

SEC. 14. The Corporation, at the time it acquires the assets of Capital Transit Company, shall become subject to, and responsible for, all liabilities of Capital Transit Company of whatever kind or nature, known or unknown, in existence at the time of such acquisition, and shall submit to suit therefor as though it had been originally liable, and the creditors of Capital Transit Company shall have as to the Corporation all rights and remedies which they would otherwise have had as to Capital Transit Company: *Provided, however*, That the Corporation shall not be liable to any dissenting stockholder of Capital Transit Company for the fair value of the stock of any such stockholder who shall qualify to be entitled to receive payment of such fair value. No action or proceeding in law or in equity, or before any Federal or District of Columbia agency or commission, shall abate in consequence of the provisions of this section, but such action or proceeding may be continued in the name of the party by or against which it was begun, except that in the discretion of the court, agency, or commission the Corporation may be substituted for the Capital Transit Company. In any and all such actions or proceedings, the Corporation shall have, and be entitled to assert, any and all defenses of every kind and nature which are or would be available to Capital Transit Company or which Capital Transit Company would be entitled to assert.

Capital Transit Company, liabilities.

PART 2.—MISCELLANEOUS PROVISIONS

SEC. 21. (a) Section 14 of the joint resolution entitled "Joint resolution to authorize the merger of street-railway corporations operating in the District of Columbia, and for other purposes", approved January 14, 1933 (47 Stat. 752), as amended (Public Law 389, Eighty-fourth Congress), is hereby repealed to the extent that such section repeals the charter of Capital Transit Company, without thereby affecting the termination of its franchise.

69 Stat. 724.

(b) Upon the taking effect of part 1 of this title, Capital Transit Company shall not be authorized to engage in business as owner or operator of electric railway, passenger motor bus, public transportation of passengers, or common carrier of passengers within, to, or from, the Washington Metropolitan Area.

(c) Capital Transit Company shall continue to exist as a corporation incorporated under the provisions of subchapter 4 of chapter 18 of the Act entitled "An Act to establish a code of laws for the District of Columbia", approved March 3, 1901, as amended (D. C. Code, title 29, ch. 2), under its certificate of incorporation, as amended, and Capital Transit Company may amend its charter in any manner provided under the laws of the District of Columbia and may avail itself of the provi-

31 Stat. 1284.

sions of the District of Columbia Business Corporations Act in respect to a change of its name and may become incorporated or reincorporated thereunder in any manner as therein provided. Nothing referred to in this title, or the sale and vesting of the assets of Capital Transit Company, referred to therein, shall cause or require the corporate dissolution of Capital Transit Company.

SEC. 22. Nothing in this title shall be deemed to extend the franchise of Capital Transit Company beyond August 14, 1956, or, except as otherwise provided in this section, to relieve Capital Transit Company of any obligation to remove from the streets and highways at its own expense all of its property and facilities and to restore the streets and highways in accordance with the provisions of the District of Columbia Appropriation Act, 1942 (55 Stat. 499, 533) in the event the Corporation fails to acquire the assets of Capital Transit Company. If part 1 of this title takes effect, Capital Transit Company shall thereupon be relieved of all liability to remove from the streets and highways of the District of Columbia all of its properties and facilities and to restore such streets and highways.

SEC. 23. The powers and jurisdiction of the Public Utilities Commission of the District of Columbia with respect to Capital Transit Company shall cease and be at an end upon the taking effect of part 1 of this title.

TITLE II

Effective dates.

SEC. 201. (a) Part 1 of title I shall take effect on August 15, 1956, but only if prior thereto D. C. Transit System, Inc. (referred to in this title as the "Corporation") has acquired the assets of Capital Transit Company and has notified the Commissioners of the District of Columbia in writing that it will engage in the transportation of passengers within the District of Columbia beginning on August 15, 1956. If the Corporation has not acquired the assets of Capital Transit Company prior to August 15, 1956, but does thereafter acquire such assets, the Corporation shall, on the date of such acquisition, give written notice thereof to the Commissioners, and part 1 of title I shall take effect upon such date of acquisition.

(b) Part 2 of title I, and this title, shall take effect upon the date of the enactment of this Act.

SEC. 202. If it is determined by the Commissioners of the District of Columbia that, due to any act or omission on the part of the Corporation, the Corporation has not acquired the assets of Capital Transit Company and if such Commissioners approve a valid contract, ratified and approved by the required number of stockholders of Capital Transit Company, between Capital Transit Company and some other corporation providing for the acquisition of such assets and if such other corporation is also approved by such Commissioners as capable of performing the operation contemplated by the franchise provisions of part 1 of title I, then the terms "D. C. Transit System, Inc." and "Corporation" as used in this Act shall be deemed to mean such other corporation for all purposes of this Act.

Temporary transit system.

SEC. 203. If part 1 of title I of this Act does not take effect on August 15, 1956, the Commissioners of the District of Columbia may authorize (including authorization of such contractual agreements as may be necessary) such mass transportation of passengers within the District of Columbia, beginning on and after August 15, 1956, and until such date as part 1 of title I of this Act takes effect, as may be necessary for the convenience of the public. Such transportation shall be furnished to the public at such rates and under such terms and regulations as may be recommended by the Public Utilities Commission and approved by the Commissioners of the District of Columbia.

Approved July 24, 1956.