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DECISION

Trippler Operations, Chicago Transit Authority]

Valley Transit, Inc.

Complainant

v.

Chicago Transit Authority

The Northeastern Illinois Regional Transportation Authority

Respondents

I. Summary

This decision is the conclusion of an investigation commenced as the result of a complaint received from Valley Transit, Inc. (VTC) against the Chicago Transit Authority (CTA) and the Northeastern Illinois Regional Transportation Authority (RTA). The Urban Mass Transportation Administration (UMTA) has concluded that, although certain assailed operations of CTA and RTA comply substantially with the requirements of the tripper service provision (49 CFR § 605.3) our investigation disclosed violations of the regulations. The respondent is ordered by this decision to correct the practices that do not comply with UMTA's requirements.

II. Background

VTC filed a complaint with this office on November 29, 1979 and submitted additional information and a video tape to UMTA on February 6, 1980. The complaint alleged, inter alia, that respondents CTA and RTA are engaging in school bus operations prohibited by UMTA's regulations (49 CFR Part 605).

Specifically, VTC alleged that the extension of two regular route services (CTA Routes 54b and 79) for an additional 3.5 to 4.0 miles to serve the St. Laurence/Queen of Peace High Schools (SLOP) is exclusive school bus service and is therefore prohibited by our regulations. In support of its contentions VTC avers that the service in question operates only during school hours and periods of the year when school

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is in session, that no public riders are carried on the extended portion of the regular routes (except school children and personnel), that students board and alight buses on school property and that these operations are beyond the Chicago city limits.

In support of these contentions VTC has supplied a video tape of the CTA and RTA operations as well as photographs of buses used to provide the service complained of. This is discussed infra, see Section IV.

VTC entered into a contract with the schools serviced by the disputed CTA routes on February 20, 1979. The contract service was to be provided through the 1984 school year. VTC shortly thereafter concluded terms for the purchase of 17 new buses which, in addition to several buses already in the VTC fleet, were to be used to provide the contract service. The CTA Routes 54b and 79 were extended to the schools on August 27, 1979. Because CTA student fares are well below the VTC subscription prices many students opted to ride the CTA service. Consequently, VTC ridership declined so that only two buses are required to service SIOP. To UMTA's knowledge the contracting schools have taken no official action to terminate the VTC agreement.

III. Response to the Complaint

The CTA filed its responses to the VTC complaint with UMTA on January 17, 1980 and April 10, 1980; the RTA response was received on January 17, 1980.

The CTA replied that its service is a "tripper" service as defined by 49 CFP § 605.3 and the service is therefore permitted by UMTA's school bus regulations. See 49 CFP § 605.3 and § 605.13. The CTA asserts that although the service in question extends beyond Chicago corporate limits, the tripper routes are nonetheless within the Authority's service area (Ch. 111-2/3, § 303, Illinois Revised Statutes).

The CTA admits that it terminates and originates tripper runs on school property and defends such practices citing undesirability of using residential streets for such purposes. Improper signing practices have been recognized by the CTA and corrective action has been taken.

The RTA responded that their involvement in the questioned operations was limited to encouraging the CTA to establish the 54b and 79 tripper services.

The subsequent receipt of information from the CTA on April 10, 1980 included company scheduling material furnished as background to the data originally submitted. It was necessary to acquire these data as the CTA publishes no public timetable for Routes 54b and 79.

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VTC responded to the RTA and CTA submissions on February 6, 1980. This response generally reiterated VTC's original assertions.

IV. Findings and Determinations

In order to determine whether the service is impermissible, it is necessary to compare the current operations of tripper Routes 54b and 79 with the tripper service criteria (49 CFR § 605.3). We have established the following findings and determinations on the basis of such an analysis.

A. Regularly scheduled mass transportation service

The CTA publishes timetables for only about one-half of all its routes and it has never published schedules for Routes 54b and 79. However, the tripper runs are regularly scheduled in the CTA employee timetable and other company information lists tripper as well as regular runs. To be considered regularly scheduled it is sufficient if tripper runs operate only while school is in session; a practice that is followed in the operation of Routes 54b and 79. Thus, we find that the tripper service provided on the Routes to SLOP is regularly scheduled, but in order that the public nature of the service be emphasized, these routes should be included in the published schedules.

B. Open to the public

VTC asserts that the general public is excluded from the tripper service in question, evidenced largely by the fact that there is little or no non-student use made of the tripper service although the route extensions traverse residential areas.

In order to satisfy this criterion it is only necessary that the buses be available to the general public; the volume or level of public (non-school) use is not controlling. However, it is necessary to ascertain from the operating circumstances whether or not the service is, in fact, open to the public, i.e., could members of the general public use the tripper service if they so desired?

Our investigation has revealed that there are no designated CTA bus stops along the route extension in question, hence it may not be possible for the public to be aware of and therefore use the tripper service.

On this point the CTA has responded that: (1) in suburban areas it is the custom to flag down buses at any point along a designated bus route, and (2) the RTA, as operator of other services along the same highway as the tripper service is installing signs for its service (RTA service is not the subject of this complaint).

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As is discussed infra at IV.F., the signing practices employed by the CTA on Routes 54b and 79 have not been consistent and at this time tripper buses cannot be considered to have been clearly marked as open to the general public. Aware of the requirement and their disparate practices the CTA claims to have remedied the signing problem.

The absence of appropriate CTA bus stop signs or any signs on buses, the practice of using a terminus on school property and the lack of apparent non-school ridership render CTA claims that the service is open to the public unpersuasive. We are unable to find that the tripper service is known to and therefore open to the general public.

C. Designed or modified to accommodate the needs of school students and personnel

As stated previously, the extended service on Routes 54b and 79 is operated regularly during the times when school is in session. Further, the service is extended at hours calculated to coincide with school opening and closing times. This service continues beyond the normal route terminus, a distance of approximately 3.5 to 4.0 miles, to the SLOP parking lot where students are discharged (or boarded) and vehicles are turned to continue back to the regular route or to the bus garage. Fourteen buses are employed in the service and the vehicles are queued for departure from the parking lot at the end of the school day, an operation that is conducted under the supervision of two CTA employees stationed at SLOP. All tripper buses either start or terminate revenue service at SLOP and traverse the regular portion of their respective routes in addition to the tripper extension.

Currently, the general public could not board buses at the SLOP premises and no stops are made between SLOP and the first regular route stop. As a consequence we find that the public is excluded from use of the service between SLOP and the first stop of the regular route service.

D. Fare collection or subsidy systems

Students using tripper service pay the school fare charged to all students throughout the CTA service area. The complainant has not taken issue with fare collection procedures or charges and no evidence reviewed disclosed compliance problems in this area, thus we make no finding with respect to the fare arrangements for students utilized by the CTA for tripper runs.

E. Clearly marked as being open to the public

The complainant has produced evidence, both in the form of photographs and a video tape to demonstrate inconsistent and frequently improper practices employed by the CTA in the signing of buses. A

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variety of signs were observed on the destination indicator including: "Chartered" "CTA, the Spirit of Chicago" and "54b South Cicero/St. Laurence H.S. via 736 Central." These front signs were occasionally augmented by signs placed in the windshield reading "school." Some of these signs were handprinted and affixed to a window with tape and the "charter" designations were displayed on the side destination indicator.

Destination signs on buses such as "school" are not permitted by the regulations 49 CFR § 605.3. A handprinted "school" sign displayed in addition to an appropriate destination indicator is also not acceptable since it also gives the public the impression of exclusivity. Early in the investigation of this matter the CTA expressed to UMTA its awareness of the signing problem and claims to have corrected the problem.

We find that the CTA has employed inconsistent and frequently improper signing practices on Routes 54b and 79. Since these practices are now corrected no action will be recommended on this matter.

Improper designation, such as "school bus" or "school special"

See discussion in Section IV.E, "Clearly marked...", supra.

Regular service stops

See discussion in Section IV.B, "Open to the public," supra.

Regular route service, as indicated in published schedules

See discussion in Section IV.B., "Open to the public," supra.

V. Other Matters

The complaint has raised issue concerning VTC's existing contract with SLOP. However, UMTA is not vested with authority to adjudicate private contract rights and we cannot comment on the relationship of SLOP and VTC.

VI. Conclusions and Order

The CTA has conducted, and is continuing to conduct tripper service on its Routes 54b and 79 in contravention to certain provisions of UMTA's school bus regulations; however, the basic route configuration comports with UMTA requirements. The CTA has taken action to bring signing practices into compliance with the relevant UMTA requirements. Further corrections of operating practices are required.

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The CTA is order to make the following corrections to the tripper service within 60 days from the date of receipt of this order:

1) Bus stop signs shall be installed at regular intervals over the tripper portion of the subject routes.

2) CTA shall assure that no restrictive destination signs are displayed on vehicles employed in the provision of tripper service.

3) Although the CTA may continue to turn and queue buses in the parking lots of SLOP students may not be discharged or boarded on such private property, or, if desired, the respondent may place a publicly-accessible bus stop on the school premises where students board and depart the buses, with appropriate signs placed at the street indicating to the public where on the school premises the bus stop may be found.

4) The CTA must indicate in published timetables the schedules of the subject tripper service routes.

The respondent shall obtain the concurrence of UMTA on all modifications made to satisfy the changes mandated by this decision.

Submitted by

/s/ Sanford E. Balick
SANFORD E. BALICK, Regional Counsel
Region V Chicago

11/29/80
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Approved by

/s/ Margaret M. Ayres
Margaret M. Ayres
Chief Counsel
MARGARET M. AYRES, Chief Counsel

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