

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 1055

IN THE MATTER OF:

Served July 1, 1970

Application of D. C. Transit)
System, Inc., for Authority)
to Increase Fares)

Application No. 613

Docket No. 216

On June 26, 1970, we issued Order No. 1052 which authorized D. C. Transit System, Inc., to increase the basic bus fares in the District of Columbia from 32 cents to 40 cents and to increase Maryland fares commensurately, all to be effective at 12:01 A.M. Sunday, June 28, 1970. Late on June 27, the U. S. Court of Appeals for the District of Columbia Circuit stayed the effectiveness of Order No. 1052 until final action by the Commission on pending petitions for reconsideration.

In Order No. 1052, we authorized sale of tokens and commutation tickets at the higher rate immediately on the issuance of the order. We did not feel that it was proper to provide an opportunity for the purchase of large amounts of tokens and tickets at the old price to be used after the new rate had gone into effect. Now that Order No. 1052 has been stayed, that possibility is once again open and we feel that we must deal with it by authorizing the suspension of token sales for the time being. Several considerations support that action in the public interest.

First, this action does not require anyone to pay a higher fare. The cash and token fares are the same. Suspending token sales simply means that the fare will be paid in cash by those who do not have tokens available.

Second, if, when we rule upon the petitions for reconsideration, those petitions are denied, the fares authorized in Order No. 1052 would be reinstated. Without disposing of that

question here,^{1/} we must at least recognize it as a possibility. In that event, it would be unfair to permit a situation where those riders who could get to a token outlet while tokens lasted would thereupon pay one fare while others, not so fortunate, would pay the higher fare.

Third, there is a good possibility that secondary token markets would be established by would-be profiteers who could secure the purchase of a large amount of tokens. It seems to us basic to utility law that a uniform, non-discriminatory price should be paid by all users of a utility service in the same class. That objective would be destroyed if a cheaper price could be obtained by those having access to a supply of lower priced tokens purchased for speculation.

Finally, the forecast of revenues upon which the order and fare structure was based did not provide for the substantial sale of any tokens or tickets in the time intervening between issuance and effectiveness of the order; thus, if a substantial number of tokens were sold at 32 cents each, the revenue estimates would be invalidated.

These concerns are not theoretical. The company has filed a letter with us which indicates that it is receiving extraordinary numbers of requests for tokens in unusually large amounts. Our staff has confirmed that a Federal Government agency has sought to purchase 10,000 tokens. In our own offices, which act as a token outlet, at least one request for the purchase of \$100 worth of tokens has been received. The company alleges that, if it is required to continue to sell the tokens at the 32-cent rate pending the action of the Commission on petitions for reconsideration regarding the 40-cent fare, the company and its riders will suffer irreparable harm.

We believe that the potential harm that could flow from the continued sale of tokens and commutation tickets at the old rates is apparent. We further believe that suspending the sale

^{1/}We wish to give careful consideration to the questions presented by those petitions. We also wish to have some latitude in the timing of our action on those petitions. The action we take here relieves us of one element of pressure for quick action on the petitions so that the timing will not create problems of the kind created in connection with Order No. 1052.

of tokens and commutation tickets, pending a determination of the effectiveness of the fares which have been suspended by court order, will not work a serious detriment to the public. While the token is a convenience to the bus rider, it is not essential that he have tokens in order to obtain a ride. Balancing the degree of inconvenience that may be caused by the unavailability of tokens against the degree of harm that could be inflicted on the riding public and the company by the continued sale of tokens and tickets at the old rate pending a final determination of the effectiveness of the new rate, we must conclude that suspending token sales is much the wiser course.

The Black United Front (BUF) by letter of June 29, 1970, has urged that token sales not be suspended. They argue that the company has offered no evidence that there have been extraordinary requests for the sale of tokens in unprecedented amounts or that a large number of requests are being made for the apparent purposes of hoarding or resale, as the company has asserted. Further, the BUF states that the company's assertions are probably false, inasmuch as they were made on Monday morning before such experience could be had as would justify them.

We had expressed to the company the same concern that its assertions be corroborated. They have now submitted a sworn affidavit of their Vice-President and Comptroller detailing the extraordinary requests for token purchases which they have been receiving. The affidavit states that there have been long lines formed at the token sales desk at D. C. Transit itself throughout Monday. The line had formed as early as 6:55 a.m. on Monday morning. The company has been advised by its token outlets that similar situations exist there. Government agencies have been requesting the purchase of enormous numbers of tokens including a request by the D. C. Government for the purchase of 325,000 tokens. The statements in the affidavit are supported by press reports including photographs of the lines at the sales counter of D. C. Transit.

In addition, as we have already indicated, the Transit Commission office is also a token outlet and our staff has had corroborating experience with respect to the number and amounts of token requests. Thus, we think that the factual basis for our action here has been adequately established.

The BUF also contends that in its order of June 27, 1970, the Court of Appeals "intended to return the fare scheme to the status quo" prior to the issuance of our Order No. 1052 of June 26, 1970. They say:

"Since the use of tokens is obviously a convenience to the public, it is certain that an inherent part of the status quo is the right of D. C. Transit riders to purchase and use tokens instead of exact change. If the Commission allows the Company to halt the sale and redemption of tokens, there would not be a return to the status quo as envisaged by the Court in its Order; rather, the Company will have achieved indirectly what the Court has forbidden the Commission to do."

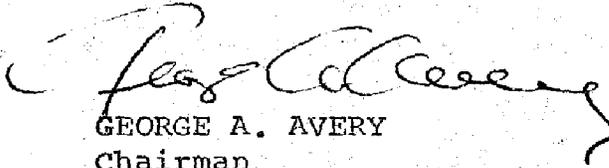
The whole point of our order today is that once we have notified the public of fare increase, and that increase is not effected immediately, there is the probability that unless token sales are immediately discontinued at the old price, serious and irreparable harm will result. The problem is such that once the announcement of a fare increase is made, there is no possibility of returning to the status quo of the period prior to the announcement. Nor do we consider that by suspension of token and ticket sales the company will have achieved indirectly what the court has forbidden. The basic fare structure as reinstated by the court is not affected by our order and the action we are taking here is fully consistent with the order of the court of June 27, 1970.

Finally, we should like to explain why we are suspending the sale of tokens and tickets rather than limiting the number of tokens or tickets that can be purchased by each buyer. Limiting the sale would not preclude the evils we seek to eliminate, inasmuch as a buyer could purchase his quota and either return to the same outlet several times or visit several outlets throughout the city and thus avoid the quota. Further, all of the token outlets in the city, except those maintained by the company, are volunteer outlets and those who operate them receive no compensation for the service they provide in selling tokens. During this period of indefiniteness and high demand for tokens, we are not inclined to impose upon those volunteers the burdens that necessarily flow to them from changing price policies and policies respecting restrictions on the number of

tokens that might be sold. The company has experienced great difficulty in maintaining voluntary outlets and to place additional burden on the outlet operators would create further discouragement to provide this voluntary service in the public interest.

THEREFORE, IT IS ORDERED that D. C. Transit System, Inc., be, and it is hereby, authorized to suspend the sale of bus tokens and commutation tickets effective immediately and until further order of this Commission.

BY DIRECTION OF THE COMMISSION:



GEORGE A. AVERY
Chairman