

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 1061

IN THE MATTER OF:

Served July 8, 1970

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

Application No. 613

Docket No. 216

On July 1, 1970, the Washington Area Construction Industry Task Force requested us to reconsider our Order No. 1057 which had been issued 60 minutes earlier. The request alleged that we had erred as follows:

"A. That the Commission did not as required by the terms of Article XII, Section 6(a)(3) of the Interstate Compact for Mass Transportation [sic] give due consideration to the following factors:

1. A plan for reimbursement to those riders of D. C. Transit who were illegally forced to pay a higher fare even though the June 26, 1970 fare increase order had been stayed by the United States Court of Appeals for the District of Columbia; and

2. A plan for reimbursement to those riders of D. C. Transit who may be forced to illegally pay a higher fare after this order is to take effect, in the event that said order is stayed."

We will deny the request for reconsideration.

Order No. 1057 was itself a denial of petitions for reconsideration of Order No. 1052. As we said in Order No. 931 in response to an application for reconsideration of an order denying reconsideration of an earlier order:

"We do not believe that the Compact intended that an application for reconsideration could be filed with regard to an order denying reconsideration. At some point, the litigation must end. If the present motion lies, there could be an endless procession of applications for reconsideration and we would never be able to conclude a matter before us."

Although we are certain that this petition must be dismissed on this basis^{1/}, we are frankly unsettled by the court's ruling in Black United Front v. WMATC, decided June 27, 1970, as to the validity of any attempt by us to follow what might be considered normal procedural requirements in considering challenges by community groups to D. C. Transit rate increases. While we would hope that the application of orderly procedures and the even-handed application of our established rules of practice and procedure still is a laudatory objective, we have found the court disturbed when that results in the curtailment of attempts to challenge our Transit rate order. We are anxious that appellate attention be focused on the merits of that order and not on extraneous and misleading procedural issues. Therefore, we will comment on the merits of this petition before us.

The issues raised in this request for reconsideration were not issues which we had been asked to address by the petitions which we denied in Order No. 1057.

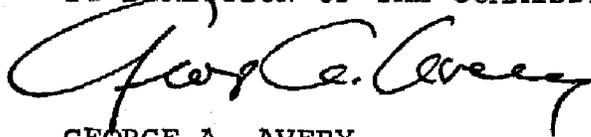
Further, only one of the grounds presented by this petition makes any sense. The second ground upon which reconsideration of Order No. 1057 was sought obviously anticipated that Order No. 1057 would restore the rates authorized in Order No. 1052 effective immediately. The indication is that those who filed this petition for the Washington Area Construction Industry Task Force had not read our order when they drafted this request. We hope in the future that requests be directed to our real actions rather than to the conjectures of counsel.

^{1/}There is another serious defect in this application. Section 16 of the Compact grants the right to seek reconsideration to "persons affected" by the order in question. There is no showing whatever in this application as to who these petitioners are and how they are affected by the order. This in itself would require us to deny this petition.

The application, in its first point, apparently alleges that some bus riders may have paid a 40-cent fare between 12:01 a.m., Sunday, June 26, 1970, and the time when all drivers were notified that the 40-cent fare had in fact been barred by the court at 11:24 p.m. on June 27. We have no indication whatever from any source that this is the case. The company was notified of the court action by 11:30 p.m. on June 27. A very small number of buses is on the street at that time and notification would not be complicated. We will ask the staff to investigate to see whether any problem of this kind arose. If there were such instances, we will explore means of adjusting them equitably.

THEREFORE, IT IS ORDERED that the petition for reconsideration of Order No. 1057 filed by the Washington Area Construction Industry Task Force on July 1, 1970 be, and it is hereby, dismissed.

BY DIRECTION OF THE COMMISSION:

A handwritten signature in cursive script, appearing to read "George A. Avery".

GEORGE A. AVERY
Chairman

