

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 2457

IN THE MATTER OF:

Served August 31, 1983

Application of CBS TOURS, INC., )  
for Temporary Authority to Conduct )  
Charter Operations )

Case No. AP-83-40

By Order No. 2448, served August 10, 1983, the Commission, inter alia, scheduled this case for a public hearing.

On August 17, 1983, applicant filed an application for reconsideration. Babel Travel Service, Inc., and the Commission's General Counsel filed replies.

It is well settled that an order setting a reasonable time and place for the taking of evidence is not within the meaning of the word "order" for the purposes of judicial review. United States v. Illinois Central R. Co., 244 U.S. 82, 37 S.Ct. 584, 61 L.Ed. 1007 (1917). Orders relating to practice or procedure, such as Order No. 2448, are clearly distinguishable from "affirmative" orders. See New York, O. & W. Ry. Co. v. United States, 14 F.2d 850 (S.D.N.Y. 1926), affirmed 273 U.S. 652, 47 S.Ct. 334 (1926), Canadian River Gas Co. v. Federal Power Commission, 110 F.2d 350 (10th Cir. 1940), and Pacific Towboat & Salvage Co. v. I.C.C., 620 F.2d 727 (9th Cir. 1980).

Inasmuch as Title II, Article XII, Section 16 of the Compact provides that only a "final order or decision" of the Commission is subject to reconsideration, and Order No. 2448 is not such a "final order" within the meaning of the Compact, the application for reconsideration is improper.

Certain deadlines established by Order No. 2448 occurred while that Order was stayed as a result of the filing of the application for reconsideration. This dismissal reinstates the effectiveness of Order No. 2448. As appropriate, we shall reschedule those dates hereinbelow.

THEREFORE, IT IS ORDERED:

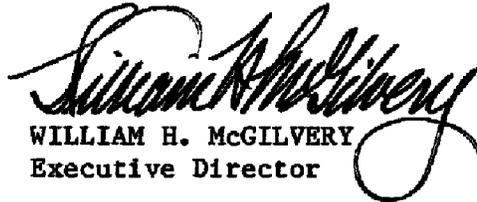
1. That the said application for reconsideration is hereby dismissed.
2. That CBS Tours, Inc., is hereby directed to produce for inspection and photocopying all records, books, manifests, service orders, lease agreements, checks, invoices, receipts and other business

documents for the period June 15, 1983, through July 15, 1983, at the office of the Commission on Friday, September 2, 1983, at 10 a.m.

3. That applicant file with the Commission at 10 a.m. on Friday, September 2, 1983, four copies of a statement of projected revenue and revenue deductions anticipated from its first 12-month period of operations, simultaneously serve one copy of such statement on each party of record as of August 26, 1983, and produce the original thereof at the public hearing.

4. That applicant is hereby assessed \$700 pursuant to Title II, Article XII, Section 19 of the Compact and is directed to deliver that sum in the form of a money order or certified check to the office of the Commission, Suite 316, 1625 I Street, N.W., Washington, D. C. 20006, at 10 a.m. on Friday, September 2, 1983.

BY DIRECTION OF THE COMMISSION, COMMISSIONERS WORTHY AND SCHIFTER.  
SHANNON, Commissioner, not participating.

  
WILLIAM H. MCGILVERY  
Executive Director