

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 7845

IN THE MATTER OF:

Served March 12, 2004

Investigation of Failure to File)
Annual Report, Assessment of Civil)
Forfeiture, and Notice of Automatic)
Suspension and Revocation,)
Directed to: METRO DAY TREATMENT)
CENTER, INC., WMATC No. 635)

Case No. MP-2003-138

This matter is before the Commission on respondent's application for reconsideration of Order No. 7723, served January 30, 2004.

I. BACKGROUND

This proceeding was initiated on November 10, 2003, in Order No. 7525 for the purpose of investigating respondent's failure to file an annual report for 2002. The order gave respondent until December 10, 2003, to file the report and pay a civil forfeiture of \$100. The order further provided that Certificate No. 635 would stand suspended and subject to revocation upon respondent's failure to timely comply. Respondent did not comply.

On December 19, 2003, in a separate proceeding, the Commission revoked Certificate No. 635 for respondent's failure to comply with the Commission's insurance requirements.¹

This proceeding was then terminated on January 30, 2004, in Order No. 7723, subject to the provision that both respondent's 2002 annual report and the \$100 forfeiture assessed in Order No. 7525 would be due if Certificate No. 635 were subsequently reinstated.

II. RECONSIDERATION OF ORDER NO. 7723

Under Title II of the Compact, Article XIII, Section 4(a), an application for reconsideration of a Commission order must be filed within thirty days of its publication and state specifically the errors claimed as grounds for reconsideration. Respondent timely filed the application for reconsideration on February 13, 2004, but the application does not allege any error on the part of the Commission. The application therefore is denied.

¹ In re Metro Day Treatment Center, Inc., No. MP-03-154, Order No. 7636 (Dec. 19, 2003).

However, inasmuch as the application for reconsideration is accompanied by respondent's 2002 annual report and a check for \$100 payable to the Commission, we will reopen this proceeding on our own initiative pursuant to Rule No. 26-04 and accept the report and forfeiture in satisfaction of Order No. 7525.

III. REJECTION OF 2003 ANNUAL REPORT AND 2004 ANNUAL FEE

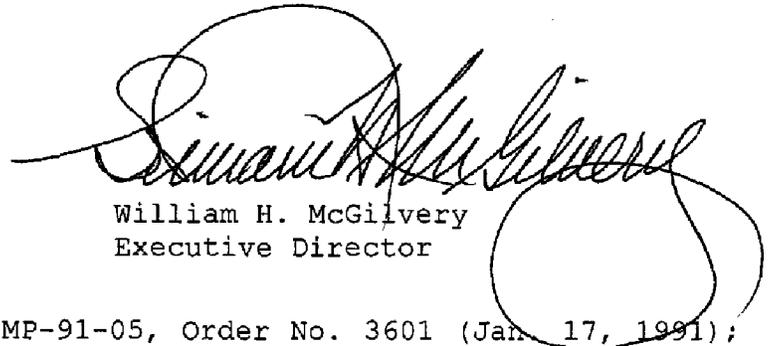
Also accompanying the application for reconsideration are a 2003 annual report and check for \$200 payable to the Commission, which appears to represent an overpayment of the annual fee for 2004.

A 2003 annual report and 2004 annual fee are due from each carrier holding any operating authority from this Commission as of January 1, 2004.² Respondent did not hold any operating authority from this Commission on January 1, 2004. As noted above, Certificate No. 635 was revoked in a separate proceeding on December 19, 2003. That proceeding is closed, and the revocation order, Order No. 7636, is no longer subject to reconsideration.³

Therefore, the 2003 annual report shall be returned and the \$200 refunded.

IT IS SO ORDERED.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS YATES, MILLER AND MCDONALD:



William H. McGilvery
Executive Director

² In re Fee Schedule, No. MP-91-05, Order No. 3601 (Jan. 17, 1991); see In re Failure to File Annual Report, No. MP-03-127, Order No. 7525 (Nov. 10, 2003) (2002 annual report form mailed to each WMATC carrier holding authority as of January 1, 2003).

³ The thirty-day period for filing an application for reconsideration is jurisdictional/mandatory and may not be waived. In re Capitol Bus Rental, Inc., t/a Capitol Tours, No. MP-95-04, Order No. 4694 (Nov. 9, 1995); In re Atwood's Transport Lines, Inc., No. 389, Order No. 1730 (Aug. 5, 1977) (on reconsideration); In re Atwood's Transport Lines, Inc., No. 258, Order No. 1327 (May 14, 1974) (on reconsideration); In re Washington, Va. & Md. Coach Co., No. 72, Order No. 819 (May 21, 1968) (on reconsideration); In re D.C. Transit Sys., Inc., No. 131, Order No. 705 (Apr. 27, 1967), appeal dismissed per curiam, sub nom., Powell v. WMATC, No. 20,939, order (D.C. Cir. June 1, 1967); In re D.C. Transit Sys., Inc., Order No. 672 (Feb. 7, 1967), aff'd on reconsideration, Order No. 686 (Mar. 13, 1967), aff'd per curiam, No. 20,899, slip op. (D.C. Cir. Jan. 29, 1968).