

January 16, 2023



VIA EMAIL (WMSC.gov and DMayer@WMSC.gov)

David Mayer, Ph.D.
Chief Executive Officer
Washington Metrorail Safety Commission
750 First Street, N.E., Suite 900
Washington, D.C. 20002

Re: Petition for Reconsideration of January 13, 2023 Email of the Washington Metrorail Safety Commission (WMSC) Regarding Train Operator Training

Dear Dr. Mayer:

On January 13, 2023, WMATA received an email from Sharmila Samarasinghe, the Deputy CEO & Chief Operating Officer of the WMSC, directing WMATA to suspend certain train operators from operating trains unless or until certain actions have been taken. We note that, pursuant to Section 11.C.3.a of the Program Standard dated July 11, 2022 (“Program Standard”), the power to direct WMATA to suspend an individual from performing in a Safety Sensitive Position must be exercised by the WMSC CEO or the WMSC Board through an order or directive that is emailed to WMATA. The January 13 email from Ms. Samarasinghe does not comply with the Program Standard and, therefore, is ineffective. However, in order to foreclose any claim that WMATA has waived any rights, it is filing this Petition for reconsideration of the January 13 email, purported to be a directive (hereinafter the “Directive”), pursuant to Section 11.D.1 of the Program Standard and WMSC Compact §§ 46 and 47.

Request for Stay

In accordance with the Program Standard and WMSC Compact § 47, WMATA requests that the WMSC stay the execution of the Directive pending a determination on this Petition and, if necessary, exhaustion of all appeals and other remedies available to WMATA. In a prior decision on a WMATA petition, the WMSC arbitrarily and unreasonably determined that WMATA’s mandatory compliance with a WMSC order while a petition was pending mooted the relief requested by WMATA. A stay of the Directive referenced in this Petition would ensure that the WMSC, by seeking to force WMATA to comply with the Directive as required by the WMSC Compact and the Program Standard, does not again argue that such compliance moots WMATA’s challenge to the Directive and thereby wrongly deprive WMATA of a full and fair opportunity to be heard. Absent a stay, WMATA will suffer irreparable harm (e.g., limited rail service for customers, unsafe crowded platforms, and reduced revenue for WMATA), while there is no conceivable harm to the WMSC.

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Transit Partnership*

Furthermore, to the extent that the WMSC nevertheless denies a stay, WMATA will establish that it is likely to succeed on the merits and that the public interest favors a stay. See, e.g., *Sierra Club v. Jackson*, 833 F. Supp. 2d 11, 29–30 (D.D.C. 2012); *Cuomo v. U.S. Nuclear Regulatory Comm'n*, 772 F.2d at 974; see also *Winter v. NRDC*, 555 U.S. 7, 20(2008); *Munaf v. Geren*, 553 U.S. 674, 689–90 (2008); *Hilton v. Braunskill*, 481 U.S. 770, 776–77 (1987).

Request for Reconsideration

WMATA respectfully requests that the WMSC reconsider and rescind the Directive. As you know, WMATA has a robust process in place to train and certify train operators. This process includes a combination of classroom training, written examination, and a minimum of 38 hours of practical training and supervised operations of Metro trains. After completion of the training and supervised operations, this process culminates in an examination for certification conducted by an independent examiner.

As noted in the student guide for operators, the practical training is first performed on a rotating basis in the Metro yards over a series of weeks. During this multi-week rotation, students should spend 8 hours operating on the mainline in non-passenger service. After completion of this rotation, students spend a minimum of 30 hours operating trains in revenue service under the direction and oversight of a Line Platform Instructor (“LPI”). All student operators must have a minimum of 38 hours of practical training and supervised operations prior to examination for certification.

In 2022, WMATA was faced with limited access to trains to perform practical training and supervised operations due in large part to the WMSC’s ongoing restrictions on the use of the 7000 series trainsets. As such, operators in three classes received practical training and completed supervised operations under a modified process which maintained the total 38-hour requirement prior to examination but adjusted the ratio of 8:30 to allow for less than 8 hours of mainline non-passenger operations in the yard rotations by increasing the amount of time spent in supervised operations with an LPI. Importantly, the training was substantively the same. No changes were made to the certification process and all operators in active service are certified. Accordingly, the change in training sequence due to train shortage does not present an unacceptable safety risk.

WMATA is in the process of developing a program of enhancements to operator training that employ the use of advanced simulators to allow for observed operations to assess and improve operator proficiency. WMATA plans the initial deployment of this program with the operators who were affected by the train shortage to offer additional opportunities to refine their skills.

Finally, the WMSC fails to provide any support for the Directive. Instead, it simply notes anecdotal incidents involving newly certified operators and speculates on a causal connection between the changed training sequence and the increased probability of an incident without providing any supporting data or evidence. Moreover, the Directive implicitly concedes that there is no imminent safety risk posed by the change in training sequence given that it does not require the immediate removal of train operators, but instead imposes an arbitrary deadline of January 18, 2023.

For all these reasons, the Directive should be rescinded.

We look forward to your written response within the timeline set forth in the Program Standard. WMATA reserves all rights.

Sincerely,

A handwritten signature in black ink, appearing to read "Randy Clarke". The signature is fluid and cursive, with the first name "Randy" and last name "Clarke" clearly distinguishable.

Randy Clarke
General Manager & Chief Executive Officer