

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 9169

IN THE MATTER OF:

Served December 7, 2005

Application of KIRK N. PROCTOR,            )  
Trading as K C TRANSPORTATION,            )  
for a Certificate of Authority --            )  
Irregular Route Operations                 )

Case No. AP-2004-168

This matter is before the Commission on applicant's request for reconsideration of the voiding of authority conditionally granted to applicant in Commission Order No. 8494, served January 10, 2005.

Commission Regulation No. 66 provides that: "The time for compliance with the requirements for a conditional grant of authority will not be extended beyond a maximum of 180 days from the date the conditional grant of authority is issued. Such conditional grant of authority shall be considered void effective on the 181<sup>st</sup> day." As of July 11, 2005, applicant had not fully complied with the condition in Order No. 8494 that applicant file certain documents. Accordingly, the conditional grant became void on July 12, 2005.

Under Article XIII, Section 4(a), a party to a proceeding affected by a final order or decision of the Commission may file within 30 days of its publication a written application requesting Commission reconsideration of the matter involved, and stating specifically the errors claimed as grounds for the reconsideration. Although publication of a final decision is normally accomplished by issuing an order, the voiding of a conditional grant occurs automatically by application of Regulation No. 66. There is no tangible utterance other than the rule itself. Deeming publication to occur on the 181<sup>st</sup> day, when an applicant knows or should know that the Commission now considers the conditional grant void, is reasonable under the circumstances.<sup>1</sup>

Respondent timely filed an application for reconsideration on July 27, 2005, but the application does not allege any error on the part of the Commission. The application therefore is denied.

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<sup>1</sup> In re Boone-McNair Transp., LLC, No. AP-02-66, Order No. 7063 (Mar. 4, 2003).

However, considering that applicant has fully satisfied the condition of issuance prescribed in Order No. 8494, we will reopen this proceeding on our own initiative<sup>2</sup> and issue Certificate of Authority No. 1027.<sup>3</sup>

THEREFORE, IT IS ORDERED that Certificate of Authority No. 1027 shall be issued to Kirk N. Proctor, t/a K C Transportation, 4417 Falls Terrace, S.E., #2, Washington, DC 20019.

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



William S. Morrow, Jr.  
Executive Director

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<sup>2</sup> Commission Rule No. 26-04.

<sup>3</sup> See Order No. 7063 (proceeding reopened to issue certificate of authority).