

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 12,347

IN THE MATTER OF:

Served March 30, 2010

Application of MARION MICHELLE)
WATKINS, Trading as DIPSO)
TRANSPORTATION, for a Certificate)
of Authority -- Irregular Route)
Operations)

Case No. AP-2009-080

Application of MARION MICHELLE)
WATKINS, Trading as DIPSO)
TRANSPORTATION, for Restrictive)
Amendment of Conditional Grant)

Case No. AP-2010-034

This matter is before the Commission on applicant's request for reconsideration of the voiding of unrestricted operating authority conditionally granted to applicant in Commission Order No. 12,125, served August 18, 2009, and on applicant's March 15, 2010, request to amend the conditional grant from unrestricted authority to restricted authority.

Applicants seeking a certificate of authority must indicate on the application form whether they are seeking "Restricted" authority or "Unrestricted" authority. A carrier with restricted authority may only operate vehicles seating 15 persons or less, including the driver. A carrier with unrestricted authority may operate vehicles of any size. The application form informs applicants that the minimum insurance requirement is \$1.5 million for restricted authority and \$5 million for unrestricted authority. In this case, applicant selected "Unrestricted" authority.

Order No. 12,125 granted applicant's application for unrestricted operating authority on the condition that applicant present her vehicle(s) for inspection by Commission staff and file certain documents, including proof of insurance, within 180 days. Applicant did not fully comply within the allotted time. Applicant failed to present any vehicle(s) for inspection and filed proof of only \$1.5 million of insurance instead of the \$5 million required for unrestricted authority. The conditional grant consequently became void on February 17, 2010. Under Article XIII, Section 4(a), applicant had until March 19, 2010, to file an application for reconsideration.¹

¹ See *In re Boone-McNair Transp., LLC*, No. AP-02-66, Order No. 7063 (Mar. 4, 2003) (30-day reconsideration filing period begins running on the day the conditional grant becomes void).

Applicant timely filed an application for reconsideration on March 15, 2010, but the application does not allege any error on the part of the Commission as required by statute.² The application therefore is denied.

The Commission may reopen this proceeding on its own initiative,³ however, and issue Certificate No. 1633, provided that as of March 19, 2010, applicant is found to have substantially satisfied the conditions of issuance prescribed in Order No. 12,125.⁴

The record shows that applicant proposes commencing operations with a single 15-person van. The record also shows that applicant's van passed inspection by staff on March 15, 2010. Finding that applicant has substantially satisfied the conditions of issuance as of March 19, 2010, therefore depends on whether the conditional grant is amended from unrestricted authority to restricted authority, thereby lowering the minimum insurance requirement from \$5 million to \$1.5 million and rendering the \$1.5 million WMATC Endorsement filed by applicant on January 28, 2010, proof of the required minimum.

As the Commission has said in the past, "It would not be in the public interest to require an applicant properly before the Commission on reconsideration to consume additional resources, its own as well as the Commission's, prosecuting a new application when the substantive conditions of the grant have been satisfied." "Reopening on the basis of compliance documents timely submitted in support of an application for reconsideration strikes an appropriate balance between the public interest in conserving resources . . . , on the one hand, and the need for closure and maintaining the integrity of the Commission's fitness findings . . . , on the other."

Applicant's request to amend the conditional grant from unrestricted authority to restricted authority does not raise any fitness issues. The Commission has approved numerous applications to add a seating capacity restriction to an existing certificate of authority without requiring the carrier to make any showing of fitness beyond assuring the Commission that the carrier does not possess any vehicles seating more than 15 persons, including the driver.⁵ The Commission likewise has approved restrictive amendment of

² Compact, tit. II, art. XIII, § 4(a).

³ Commission Rule No. 26-04.

⁴ See *In re City Sightseeing Buses LLC*, No. AP-06-013, Order No. 10,305 (Mar. 6, 2007) (Commission may reopen proceeding and issue certificate of authority if applicant satisfies conditions within time for requesting reconsideration).

⁵ See e.g., *In re Capital City Limo., Inc.*, No. AP-07-002, Order No. 10,268 (Feb. 1, 2007); *In re Skyhawk Logistics, Inc.*, No. AP-05-144, Order No. 8989 (Sept. 16, 2005); *In re Shamim's Sons, Inc.*, t/a Crescent Transp. Group, No. AP-04-22, Order No. 7783 (Feb. 24, 2004).

conditionally granted authority that has not been issued yet upon such assurance.⁶

Although the instant request to amend was filed after applicant's 180 days had run, in a similar situation last year, an applicant for a certificate of authority was permitted to amend a conditional grant of authority on reconsideration where no fitness issue was raised.⁷

In consideration of the foregoing, we find that applicant has substantially satisfied the conditions of the grant, as amended to restrict applicant's operations to vehicles with a seating capacity of 15 persons or less, including the driver.

THEREFORE, IT IS ORDERED that Certificate of Authority No. 1633 shall be issued with a 15-person seating capacity restriction to Marion Michelle Watkins, trading as Dipso Transportation, 5111 H Street, S.E., Washington, DC, 20019-5845.

FOR THE COMMISSION:



William S. Morrow, Jr.
Executive Director

⁶ See e.g., *In re Morcho, Inc., t/a 2M Medical Servs.*, No. AP-06-215, Order No. 10,100 (Nov. 27, 2006); *In re Felicia E. Medlock*, No. AP-06-154, Order No. 9875 (Aug. 29, 2006); *In re Comfort Transit Inc.*, No. AP-06-093, Order No. 9618 (June 6, 2006).

⁷ See *In re Haymarket Transp., Inc.*, No. AP-09-104, Order No. 12,186 (Oct. 8, 2009) (approving trade name application filed on reconsideration of voiding of conditional grant).