

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 6738

IN THE MATTER OF:

Served July 22, 2002

Application of ROBERT GONZALEZ,)
Trading as T.M.T, for a)
Certificate of Authority --)
Irregular Route Operations)

Case No. AP-2002-55

Applicant seeks a certificate of authority to transport passengers in irregular route operations between points in the Metropolitan District, restricted to transportation in vehicles with a seating capacity of less than 16 persons only, including the driver. The application is opposed by Answers, Inc., WMATC Carrier No. 488.

The Compact, Title II, Article XI, Section 7(a), authorizes the Commission to issue a certificate of authority if it finds that the proposed transportation is consistent with the public interest and that the applicant is fit, willing, and able to perform the proposed transportation properly, conform to the provisions of the Compact, and conform to the rules, regulations, and requirements of the Commission. If an applicant does not make the required showing, the application must be denied under Section 7(b).

The initial order in this proceeding directed applicant to publish notice of the application in a newspaper of general circulation in the Metropolitan District and file proof of publication no later than June 18, 2002. Applicant has yet to comply with this requirement.

An applicant bears the burden of establishing financial fitness, operational fitness, and regulatory compliance fitness.¹ To establish operational fitness, an applicant must demonstrate the willingness and ability to provide safe and adequate service.²

The initial order noted that applicant proposes commencing operations with twenty-three vehicles owned by LogistiCare Solutions, LLC, WMATC Carrier No. 524. Pursuant to Commission Regulation No. 54-04(c), applicant was directed to file no later than May 28, 2002, a written statement from LogistiCare confirming that these vehicles will be leased to applicant upon approval of this application. Applicant has yet to comply.

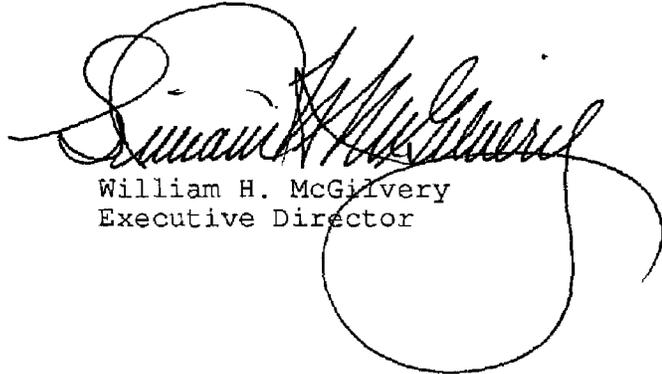
¹ In re Emad Mohamed Hassan, t/a Asalla Transportations, No. AP-02-02, Order No. 6622 (Apr. 23, 2002).

² Id.

Applicant's failure to meet the notice requirements of the initial order impugns applicant's compliance fitness. Applicant's failure to establish a clear right of possession in the only vehicles listed in the application prevents us from making a finding of operational fitness.³ Applicant's failure to make a prima facie showing of fitness precludes our reaching the merits of Answers' protest.⁴

THEREFORE, IT IS ORDERED that the application of Robert Gonzalez, trading as T.M.T, for a certificate of authority, irregular route operations, is hereby denied without prejudice.

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



William H. McGilvery
Executive Director

³ See In re Suburban Transit Co., No. 335, Order No. 1632 (Dec. 1, 1976) (applicant not operationally fit where no evidence of ownership or lease).

⁴ Once applicant has made his prima facie case, the burden shifts to protestant to contravene applicant's showing. In re Thomas B. Howell, t/a Presidential Ducks, No. AP-00-07, Order No. 5955 (Aug. 10, 2000).