

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 6806

IN THE MATTER OF:

Served September 20, 2002

Application of VGA ENTERPRISES)
INC. for a Certificate of)
Authority -- Irregular Route)
Operations)

Case No. AP-2002-34

This matter is before the Commission on the application of VGA Enterprises Inc. (VGA) for reconsideration of Commission Order No. 6736, served July 22, 2002, denying VGA's application for reissuance of Certificate of Authority No. 445.

Under Title II of the Compact, 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.

I. BACKGROUND

Certificate No. 445 was issued to VGA October 1, 1998. It was suspended on September 25, 1999, for VGA's failure to comply with Commission's insurance regulation, Regulation No. 58-01.¹ The suspension lasted 45 days.²

Certificate No. 445 was suspended again on November 18, 2001, for VGA's failure to comply with Commission's insurance regulation, Regulation No. 58-01.³ Certificate No. 445, was revoked January 16, 2002, in Order No. 6492, for VGA's willful failure to comply with the insurance provisions of the Compact, the regulations thereunder and Commission Order No. 6430.⁴ In neither proceeding did VGA contest the Commission's findings through an application for reconsideration.

Turning to the instant proceeding, on July 22, 2002, in Order No. 6736, we denied VGA's application for a certificate of authority on compliance fitness grounds.⁵ Based on the record before us, we found

¹ In re VGA Enters., Inc., No. MP-99-57, Order No. 5717 (Sept. 27, 1999).

² In re VGA Enters., Inc., No. MP-99-57, Order No. 5743 (Nov. 9, 1999).

³ In re VGA Enters., Inc., No. MP-01-110, Order No. 6430 (Nov. 26, 2001).

⁴ In re VGA Enters., Inc., No. MP-01-110, Order No. 6492 (Jan. 16, 2002).

⁵ In re VGA Enters., Inc., No. AP-02-34, Order No. 6736 (July 22, 2002).

that VGA continued operating in the Metropolitan District while suspended and revoked for 186 days, and did so while uninsured for 127 days. We also found that VGA performed transportation between points in Maryland without proper authority from the Maryland Public Service Commission (MDPSC).

II. APPLICATION FOR RECONSIDERATION

VGA's application for reconsideration of Order No. 6736 was timely filed on August 21, 2002. The application alleges two errors.

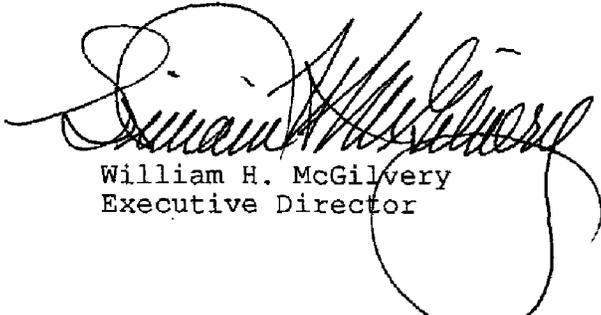
The first alleged error concerns the number of days VGA was uninsured while operating without WMATC authority. Our finding that VGA was without insurance for 127 of the 186 days it operated without WMATC authority was based on evidence showing that VGA was without insurance coverage from November 18, 2001, through February 21, 2002, and from April 22, onward. The evidence showed that although VGA had obtained coverage under a new policy effective February 22, 2002, the policy was later cancelled effective April 22, 2002. According to VGA, the February 22 policy was later reinstated without any lapse in coverage. Copies of insurance documents attached to the application for reconsideration appear to support VGA's contention.

The second alleged error concerns the number of days VGA operated without MDPSC authority. The evidence before the Commission indicated VGA had entered into a contract for service scheduled to commence March 1, 2002, and end February 28, 2003. Order No. 6736 described the service as having ended June 6, 2002. According to VGA, service did not commence until May 20, 2002, and the parties reached an agreement on June 4, 2002, to terminate service.

After considering VGA's new evidence, we have decided to affirm Order No. 6736. VGA's new evidence does not contradict our finding that VGA operated for over six months in the Metropolitan District while Certificate No. 445 was suspended and then revoked. Likewise, VGA's new evidence does not alter the fact that VGA operated while uninsured for more than three months. Finally, VGA's new evidence shows VGA discontinued its operations under MDPSC jurisdiction not out of any desire to bring its operations into compliance with MDPSC requirements but because the contractor could no longer afford VGA's services.

THEREFORE, IT IS ORDERED that Order No. 6736 is AFFIRMED.

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



William H. McGilvery
Executive Director