

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 8273

IN THE MATTER OF:

Served September 20, 2004

Application of EXECUTIVE)
TECHNOLOGY SOLUTIONS, LLC, for)
a Certificate of Authority --)
Irregular Route Operations)

Case No. AP-2004-84

Applicant seeks a certificate of authority to transport passengers in irregular route operations between points in the Metropolitan District. The application is unopposed.

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.

Applicant's proposed tariff contains rates for on-call service under a contract with the Department of Homeland Security. Applicant proposes commencing operations with one sedan and one van and furnishing service in additional vehicles -- including mini vans, vans and up to three minibuses -- as required.

Applicant verifies that: (1) applicant owns or leases, or has the means to acquire through ownership or lease, one or more motor vehicles meeting the Commission's safety requirements and suitable for the transportation proposed in this application; (2) applicant owns, or has the means to acquire, a motor vehicle liability insurance policy that provides the minimum amount of coverage required by Commission regulations; and (3) applicant has access to, is familiar with and will comply with the Compact, the Commission's rules, regulations and orders, and Federal Motor Carrier Safety Regulations as they pertain to transportation of passengers for hire.

Normally, such evidence would establish applicant's fitness,¹ but in this case applicant has a history of regulatory violations. Applicant was investigated recently by the Colorado Public Utilities Commission (CPUC) and on March 29 of this year found in violation of eleven Federal Motor Carrier Safety Regulations (FMSCRs) published in

¹ In re VGA, Inc., No. AP-03-73, Order No. 7496 (Oct. 29, 2003).

Title 49 of the Code of Federal Regulations. Three of the violations were deemed critical.

When an applicant has a record of violations, the Commission considers the following factors in assessing the likelihood of future compliance: (1) the nature and extent of the violations, (2) any mitigating circumstances, (3) whether the violations were flagrant and persistent, (4) whether applicant has made sincere efforts to correct its past mistakes, and (5) whether applicant has demonstrated a willingness and ability to comport with the Compact and rules and regulations thereunder in the future.²

Applicant states that it has corrected the deficiencies noted in the CPUC report by implementing: an employee alcohol and drug testing program that complies with the pertinent FMCSRs in 49 C.F.R. Part 40; a new job application process for drivers; new procedures for maintaining required employee files; and renewed training of drivers with respect to the preparation of duty status records. Applicant also states that the CPUC has not issued any further pronouncements or findings regarding applicant.

We have approved the applications of certain noncompliant carriers in the past subject to the condition — imposed under Article XI, Section 7(d), of the Compact — that they serve a period of probation as a means of ensuring prospective compliance.³ We believe that probation would be appropriate here, as well, given the circumstances.

Based on the evidence in this record, and in consideration of the terms of probation prescribed herein, the Commission finds that the proposed transportation is consistent with the public interest and that 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.

THEREFORE, IT IS ORDERED:

1. That upon applicant's timely compliance with the requirements of this order, Certificate of Authority No. 985 shall be issued to Executive Technology Solutions, LLC, 8639-B 16th Street, #171, Silver Spring, MD 20910.

2. That applicant may not transport passengers for hire between points in the Metropolitan District pursuant to this order unless and until a certificate of authority has been issued in accordance with the preceding paragraph.

² Id.

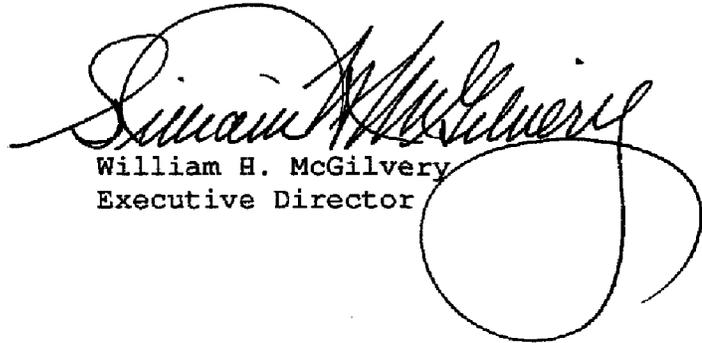
³ E.g., id. (one year); In re Shirlington Limo. & Transp., Inc., No. AP-02-20, Order No. 6709 (June 21, 2002) (one year); In re Adventures By Dawn L.L.C., No. AP-00-89, Order No. 6087 (Jan. 16, 2001) (same).

3. That applicant is hereby directed to file the following documents within the 180-day maximum permitted in Commission Regulation No. 66: (a) evidence of insurance pursuant to Commission Regulation No. 58 and Order No. 4203; (b) an original and four copies of a tariff or tariffs in accordance with Commission Regulation No. 55; (c) a vehicle list stating the year, make, model, serial number, fleet number, license plate number (with jurisdiction) and seating capacity of each vehicle to be used in revenue operations; (d) a copy of the for-hire vehicle registration card, and a lease as required by Commission Regulation No. 62 if applicant is not the registered owner, for each vehicle to be used in revenue operations; (e) proof of current safety inspection of said vehicle(s) by or on behalf of the United States Department of Transportation, the State of Maryland, the District of Columbia, or the Commonwealth of Virginia; and (f) a notarized affidavit of identification of vehicles pursuant to Commission Regulation No. 61.

4. That applicant shall be placed on probation for a period of one year commencing with the issuance of a certificate of authority in accordance with the terms of this order and that a willful violation of the Compact, or of the Commission's rules, regulations or orders thereunder, by applicant during the period of probation shall constitute grounds for immediate suspension and/or revocation of applicant's operating authority without further proceedings, regardless of the nature and severity of the violation.

5. That the grant of authority herein shall be void and the application shall stand denied upon applicant's failure to timely satisfy the conditions of issuance prescribed herein.

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


William H. McGilvery
Executive Director