

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 8362

IN THE MATTER OF:

Served October 28, 2004

Application of J & S TRANSPORTATION )  
for a Certificate of Authority -- )  
Irregular Route Operations )

Case No. AP-2003-151

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. 7834, served March 12, 2004.

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 September 8, 2004, applicant had not fully complied with the condition in Order No. 7834 that applicant file certain documents. Accordingly, the conditional grant became void on September 9, 2004.

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. 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 the application for reconsideration on October 6, 2004, but the application does not allege any error on the part of the Commission. The application therefore is denied.

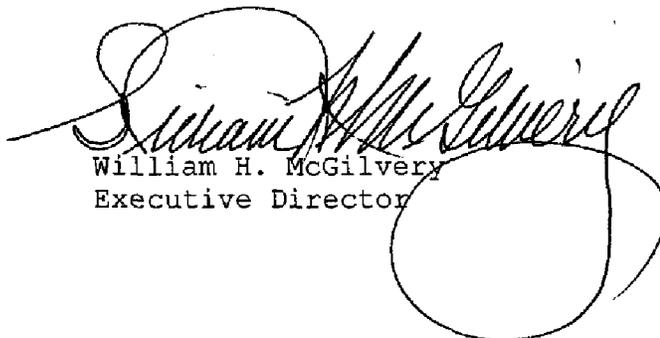
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<sup>1</sup> In re Boone-McNair Transp., LLC, No. AP-02-66, Order No. 7063 (Mar. 4, 2003).

However, considering that applicant has fully satisfied the condition of issuance prescribed in Order No. 7834, we will reopen this proceeding on our own initiative<sup>2</sup> and issue Certificate of Authority No. 881.<sup>3</sup>

THEREFORE, IT IS ORDERED that Certificate of Authority No. 881 shall be issued to J & S Transportation, 219 O Street, S.W., #24E, Washington, DC 20024.

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



William H. McGilvery  
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).