

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 8403

IN THE MATTER OF:

Served November 8, 2004

Application of NATIONAL COACH )  
WORKS, INC. OF VIRGINIA, to Acquire ) Case No. AP-2003-178  
Certificate No. 26 from NATIONAL )  
COACH WORKS, INC., and to Acquire )  
and Consolidate Assets from )  
FRANKLIN MOTORCOACH, INC., )  
WMATC No. 6, and TOURTIME AMERICA )  
MOTORCOACH, LTD., WMATC No. 250 )

This matter is before the Commission on applicant's request for reconsideration of the voiding of transfer and consolidation approval conditionally granted in Commission Order No. 7915, served April 6, 2004, which gave applicant the 180-day maximum permitted in Commission Regulation No. 66 to satisfy the conditions of approval.

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 October 4, 2004,<sup>1</sup> applicant had not fully complied with the condition in Order No. 7915 that applicant file certain documents. Accordingly, the conditional grant became void on October 5, 2004.

Under 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>2</sup>

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<sup>1</sup> The 180<sup>th</sup> day was October 3, 2004, but because that was a Sunday, the time for complying with Order No. 7915 was extended to October 4, 2004, by operation of Commission Rule No. 7-01.

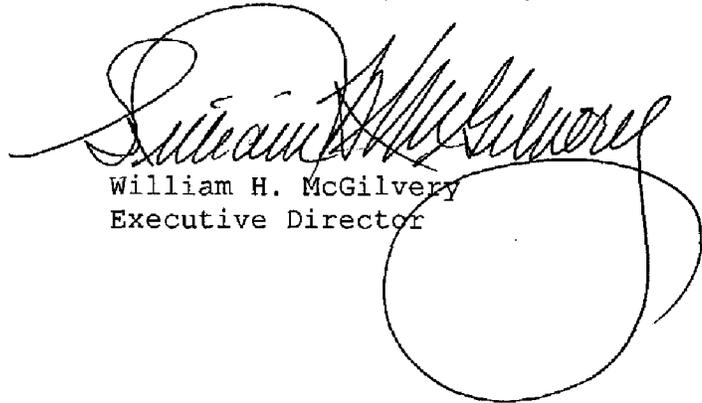
<sup>2</sup> In re Boone-McNair Transp., LLC, No. AP-02-66, Order No. 7063 (Mar. 4, 2003).

Respondent timely filed an application for reconsideration on October 12, 2004, but the application does not allege any error on the part of the Commission. The application therefore is denied.

However, considering that applicant has satisfied the condition of approval prescribed in Order No. 7915, we will reopen this proceeding on our own initiative<sup>3</sup> and reissue Certificate of Authority No. 26.<sup>4</sup>

THEREFORE, IT IS ORDERED that Certificate of Authority No. 26 shall be reissued to National Coach Works, Inc. of Virginia, 10411 Hall Industrial Drive, Fredericksburg, VA 22408.

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



William H. McGilvery  
Executive Director

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<sup>3</sup> Commission Rule No. 26-04.

<sup>4</sup> See Order No. 7063 (application proceeding reopened to issue certificate of authority).