

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 8531

IN THE MATTER OF:

Served January 28, 2005

Application of BEVERLY HEALTH AND)
REHABILITATION SERVICES, INC.,)
Trading as NORTHWEST HEALTHCARE)
CENTER, for a Certificate of)
Authority -- Irregular Route)
Operations)

Case No. AP-2004-58

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. 8071, served June 8, 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 181st day." As of December 6, 2004,¹ applicant had not fully complied with the condition in Order No. 8071 that applicant file certain documents. Accordingly, the conditional grant became void on December 7, 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 181st day, when an applicant knows or should know that the Commission now considers the conditional grant void, is reasonable under the circumstances.²

Respondent timely filed the application for reconsideration on January 4, 2005, but the application does not allege any error on the part of the Commission. The application therefore is denied.

¹ Because the 180th day fell on a Sunday, December 5, 2004, applicant had until Monday, December 6, 2004, to comply. Commission Rule No. 7-01.

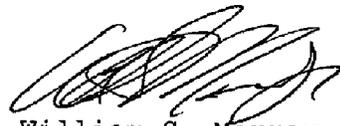
² In re Boone-McNair Transp., LLC, No. AP-02-66, Order No. 7063 (Mar. 4, 2003).

However, considering that applicant has fully satisfied the condition of issuance prescribed in Order No. 8071, we will reopen this proceeding on our own initiative³ and issue Certificate of Authority No. 945;⁴ provided, that applicant shall present its vehicles for inspection by Commission staff and that upon applicant's vehicles passing said inspection, Certificate No. 945 shall be issued.

THEREFORE, IT IS ORDERED:

1. That the application for reconsideration is denied.
2. That this proceeding is reopened pursuant to Commission Rule No. 26-04.
3. That within thirty days from the date of this order, applicant shall present its vehicles for inspection by Commission staff.
4. That upon applicant's vehicles passing staff inspection, Certificate of Authority No. 945 shall be issued to Beverly Health and Rehabilitation Services, Inc., trading as Northwest Healthcare Center, 3333 Wisconsin Avenue, N.W., Washington, DC 20016.
5. That upon applicant's failure to comply with this order within thirty days, the decision to reopen shall stand rescinded and the proceeding shall be deemed closed.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS YATES AND MILLER:



William S. Morrow, Jr.
Executive Director

³ Commission Rule No. 26-04.

⁴ See Order No. 7063 (proceeding reopened to issue certificate of authority).