

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 8725

IN THE MATTER OF:

Served May 19, 2005

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

Case No. AP-2004-84

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. 8273, served September 20, 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 March 21, 2005, applicant had not fully complied with the condition in Order No. 8273 that applicant file certain documents. Accordingly, the conditional grant became void on March 22, 2005.

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.¹

Respondent timely filed an application for reconsideration on April 5, 2005, but the application does not allege any error on the part of the Commission. The application therefore is denied.

However, considering that applicant has fully satisfied the condition of issuance prescribed in Order No. 8273, we will reopen this proceeding on our own initiative² and consider whether it would be in the public interest to issue Certificate of Authority No. 985 at this time.³

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

² Commission Rule No. 26-04.

³ See Order No. 7063 (proceeding reopened to issue certificate of authority).

According to applicant's proposed contract tariff with the United States Department of Homeland Security, U.S. Citizenship & Immigration Services (USCIS), shuttle service was to commence October 1, 2004. Inasmuch as Certificate No. 985 has not been issued to applicant yet, it would be in the public interest to determine whether applicant commenced performing the contract as scheduled or made other arrangements, such as subcontracting with an existing WMATC carrier, so that the contract could commence legally while this application was pending. This issue is particularly relevant because Order No. 8273 provides that applicant shall serve a one year period of probation commencing with the issuance of Certificate No. 985 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."

THEREFORE, IT IS ORDERED:

1. That the application for reconsideration is denied.
2. That this proceeding is reopened on the Commission's own initiative.
3. That within 30 days from the date of this order applicant shall state to what extent, if any, applicant has commenced performing the USCIS contract and to what extent, if any, applicant has made other arrangements, such as subcontracting with an existing WMATC carrier, for the legal performance of the USCIS contract pending issuance of a certificate of authority to applicant; provided, that any such other arrangements shall be substantiated through submission of third party documents showing when such arrangements became effective.
4. That applicant may not transport passengers for hire between points in the Metropolitan District unless and until otherwise ordered by the Commission.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS YATES AND MILLER:



William S. Morrow, Jr.
Executive Director