

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 8985

IN THE MATTER OF:

Served September 15, 2005

Application of EMKAY GROUP )  
CORPORATION to Acquire Certificate ) Case No. AP-2004-148  
No. 496 from MEMUNA K. KAMARA, )  
Trading as EMKAY TRANSPORTATION )

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. 8436, served November 29, 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 May 31, 2005, applicant had not fully complied with the condition in Order No. 8436 that applicant file certain documents. Accordingly, the conditional grant became void on June 1, 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 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 an application for reconsideration on June 29, 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. 8436, we will reopen this

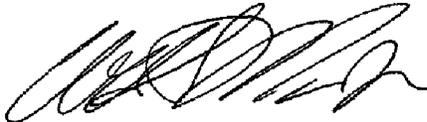
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<sup>1</sup> In re Boone-McNair Transp., LLC, No. AP-02-66, Order No. 7063 (Mar. 4, 2003).

proceeding on our own initiative<sup>2</sup> and reissue Certificate of Authority No. 496.<sup>3</sup>

THEREFORE, IT IS ORDERED that Certificate of Authority No. 496 shall be reissued to EmKay Group Corporation, 104 Graiden Street, Upper Marlboro, MD 20774.

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



William S. Morrow, Jr.  
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).