

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 7303

IN THE MATTER OF:

Served July 17, 2003

Application of VGA, INCORPORATED, )  
for a Certificate of Authority -- )  
Irregular Route Operations )

Case No. AP-2003-73

By application accepted for filing June 3, 2003, VGA, Incorporated, a Maryland corporation, seeks a certificate of authority for irregular route operations in vehicles with a seating capacity of less than 16 persons only, including the driver.

Applicant proposes commencing operations with 2 vans. Applicant's proposed tariff contains rates for service under a contract with the U.S. Forest Service.

Applicant previously held Certificate of Authority No. 445 under the name VGA Enterprises Inc.<sup>1</sup> The certificate was revoked on January 16, 2002, for applicant's willful failure to comply with Regulation No. 58, the Commission's insurance regulation.<sup>2</sup> Applicant reapplied for a certificate of authority on March 12, 2002, but the application was denied without prejudice for lack of compliance fitness on July 22, 2002, based on findings that applicant had operated in the Metropolitan District while suspended, revoked and uninsured and that applicant had operated in Maryland without authority from the Maryland Public Service Commission (MDPSC).<sup>3</sup>

Under the circumstances, applicant will be directed to file an affidavit under oath, pursuant to Commission Regulation No. 54-04(c), swearing that applicant: (1) has not conducted passenger carrier operations in the Metropolitan District since May 23, 2002, the date applicant began subcontracting its operations in the Metropolitan District to Skyhawk Logistics, Inc., WMATC Carrier No. 406; and (2) has not conducted passenger carrier operations in MDPSC's jurisdiction since June 4, 2002, the date applicant has stated it ceased operating in Maryland.

In addition, because applicant did not answer the common control question on page 3 of the application form, applicant will be directed to file an amended page 3.

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<sup>1</sup> Applicant changed its name from VGA Enterprises Inc. to VGA, Incorporated, on September 10, 2002.

<sup>2</sup> In re VGA Enters., Inc., No. MP-01-110, Order No. 6492 (Jan. 16, 2002).

<sup>3</sup> In re VGA Enters., Inc., No. AP-02-34, Order No. 6736 (July 22, 2002), affirmed on reconsideration, Order No. 6806 (Sept. 20, 2002).

Finally, although applicant's proposed Forest Service contract tariff states that applicant will perform the contract using vehicles seating not fewer than fifteen passengers, applicant is currently leasing a 21-passenger minibus to Skyhawk Logistics, Inc., WMATC No. 406, for use in performing the Forest Service contract while this application is pending. Moreover, a copy of the Forest Service contract filed by Skyhawk Logistics in support of its subcontract with applicant states that the vehicle used to perform the contract shall have not less than a "twenty (20) passenger capacity." Neither "contract" appears to be complete, and the "fifteen passenger" version filed by applicant appears to have been created by deleting "twenty (20)" from the twenty-passenger version and typing "fifteen" in its place. Applicant will be directed to file a complete proposed Forest Service contract tariff and proof that the Forest Service has agreed to the proposed "fifteen passenger" amendment.

This proceeding is hereby initiated to determine whether applicant is fit and whether the proposed transportation is consistent with the public interest.

THEREFORE, IT IS ORDERED:

1. That applicant shall publish once in a newspaper of general circulation in the Metropolitan District, no later than July 31, 2003, notice in the form prescribed by the staff of the Commission.

2. That applicant shall file with the Commission, no later than August 21, 2003, an original and four copies of an affidavit that notice has been published as required in the preceding paragraph.

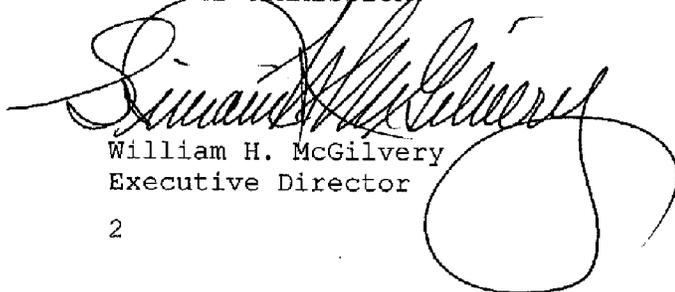
3. That applicant shall file with the Commission, no later than July 31, 2003, an original and four copies of an amended page 3 of the application form showing a response to the common control inquiry.

4. That applicant shall file with the Commission, no later than July 31, 2003, an original and four copies of an affidavit under oath swearing that applicant: (1) has not conducted passenger carrier operations in the Metropolitan District since May 23, 2002; and (2) has not conducted passenger carrier operations in Maryland since June 4, 2002.

5. That applicant shall file with the Commission, no later than July 31, 2003, an original and four copies of a complete proposed Forest Service contract tariff and proof that the Forest Service has agreed to applicant's proposed "fifteen passenger" amendment.

6. That the deadline for filing protests, comments, applications for intervention, and requests for formal hearing, is August 21, 2003, and that copies must be served on applicant's president, Vince Akins, 14625 Baltimore Avenue, #288, Laurel, MD 20707.

FOR THE COMMISSION:



William H. McGilvery  
Executive Director