

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 7619

IN THE MATTER OF:

Served December 16, 2003

Application of KAYO, LLC, for)
a Certificate of Authority --)
Irregular Route Operations)

Case No. AP-2003-08

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. 7156, served April 25, 2003.

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 October 22, 2003, applicant had not fully complied with the condition in Order No. 7156 that applicant file certain documents. Accordingly, the conditional grant became void on October 23, 2003.

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

As of October 30, 2003, applicant had filed the remaining required documents and an application for reconsideration. The application thus is timely,² but the application does not allege any error on the part of the Commission. Accordingly, the application for reconsideration is denied.

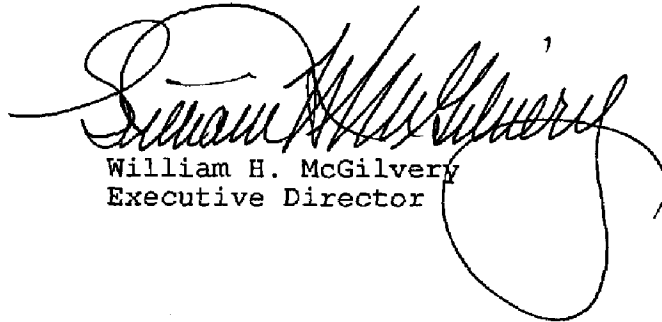
¹ In re Life Stride, Inc., No. AP-02-98, Order No. 7235 (June 11, 2003); In re Boone-McNair Transp., LLC, No. AP-02-66, Order No. 7063 (Mar. 4, 2003).

² See In re Worku G. Legesse, t/a Phyladelphia Transport, No. MP-03-80, Order No. 7514 (Nov. 5, 2003) (to be considered part of an application for reconsideration supporting documents must be filed within statutory period for filing the application itself).

However, considering that applicant has fully satisfied the condition of issuance prescribed in Order No. 7156, we will reopen this proceeding on our own initiative³ and issue Certificate of Authority No. 791.⁴

THEREFORE, IT IS ORDERED that Certificate of Authority No. 791 shall be issued to Kayo, LLC, 1857 3rd Street, N.W., Washington, DC 20001.

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



William H. McGilvery
Executive Director

³ Commission Rule No. 26-04.

⁴ See Order No. 7235 (proceeding reopened to issue certificate of authority); Order No. 7063 (same).