

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 7725

IN THE MATTER OF:

Served February 2, 2004

Application of ALTERNA-TRANS INC.)
for a Certificate of Authority —)
Irregular Route Operations)

Case No. AP-2003-36

This matter is before the Commission on applicant's motion for partial waiver of Regulation No. 61 and request for reconsideration of the voiding of authority conditionally granted to applicant in Commission Order No. 7245, served June 16, 2003.

I. REGULATION NO. 61

Commission Regulation No. 61 requires each WMATC carrier to display on both sides of each revenue vehicle the carrier's name or trade name and the carrier's WMATC number.¹ The carrier's name must be preceded by the phrase "Operated By" if some other name also appears on the vehicle.² The markings must be legible during daylight hours from a distance of fifty feet.³ Markings less than two and one-half inches in height are presumed not to be legible from fifty feet.⁴

Applicant leases its vehicles from LogistiCare Solutions, LLC, WMATC Carrier No. 524.⁵ Displayed on both sides of each vehicle are LogistiCare's name, applicant's name preceded by the words "Operated By," and applicant's WMATC number. LogistiCare's name and the words "Operated By" are displayed at a height of one inch. Applicant's name and WMATC number are displayed at a height of two and one-half inches and three inches, respectively. The legibility standard does not apply to LogistiCare's name inasmuch as the owner's name need not be displayed. Respondent has requested that we waive the legibility requirement as to the phrase "Operated By." The purpose of preceding the carrier's name with the phrase "Operated By" when two names appear on the vehicle is, obviously, to signal which is the carrier. But if the other name is not readily legible, it hardly matters.⁶ Therefore, under the circumstances, we will grant the request.⁷

¹ Regulation No. 61-01.

² Regulation No. 61-01(a).

³ Regulation No. 61-02.

⁴ *Id.*

⁵ LogistiCare has a contract with the Washington Metropolitan Area Transit Authority to operate a transportation service for disabled passengers under the name "MetroAccess." LogistiCare primarily operates a reservation system and subcontracts the bulk of the transportation function to other carriers.

⁶ In re Metro Health-Tech Servs. Inc., No. MP-03-66, Order No. 7420 (Sept. 24, 2003).

⁷ See *id.* (waiving legibility standard as to "Operated By").

II. REGULATION NO. 66

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 13, 2003, applicant had not fully complied with the condition in Order No. 7245 that applicant file certain documents. Accordingly, the conditional grant became void on December 14, 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.⁸

As of January 13, 2004, applicant had filed the remaining required documents and an application for reconsideration. The application thus is timely,⁹ but the application does not allege any error on the part of the Commission. Accordingly, the application is denied.

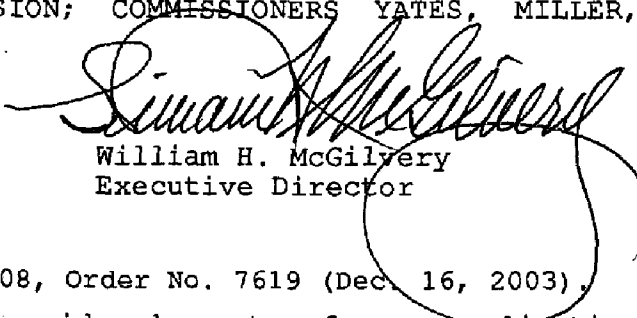
However, considering that applicant has fully satisfied the condition of issuance prescribed in Order No. 7245, we will reopen this proceeding on our own initiative¹⁰ and issue Certificate of Authority No. 810.¹¹

THEREFORE, IT IS ORDERED:

1. That the legibility standard of Regulation No. 61 is waived with respect to the phrase "Operated By" as currently configured on applicant's LogistiCare vehicles.

2. That Certificate of Authority No. 810 shall be issued to Alterna-Trans Inc., 8210 Beechcraft Avenue, Gaithersburg, MD 20879.

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



William H. McGilvery
Executive Director

⁸ In re Kayo, LLC, No. AP-03-08, Order No. 7619 (Dec 16, 2003).

⁹ See id. n.2 (to be considered part of an application for reconsideration supporting documents must be filed within statutory period for filing the application itself).

¹⁰ Commission Rule No. 26-04.

¹¹ See Order No. 7619 (same).