



U.S. Department
of Transportation

**Federal Transit
Administration**

Administrator

400 Seventh St., S.W.
Washington, D.C. 20590

OCT - 4 2005

Mr. Mark R. Obtinario
Cowlitz Coach
420 Suthard Road
Castle Rock, WA 98611

Re: Charter Service Docket Number 2004-06

Dear Mr. Obtinario:

I write in response to your appeal from the September 8, 2004, decision by the Oregon Department of Transportation (ODOT) which dismissed the charter service complaint filed by your company, Cowlitz Coach (Cowlitz), on the basis that neither Cowlitz nor you, as the owner of Cowlitz, were an interested party within the meaning the charter service rule at 49 CFR Part 604. As you know, ODOT issued this decision on behalf of Mr. Richard Krochalis, the Regional Administrator of the Region 10 Office of the Federal Transit Administration (FTA). As noted in ODOT's decision, only *interested parties* may file complaints regarding charter service. See, 49 CFR 604.15. Furthermore, ODOT determined that even if you or Cowlitz had been an *interested party*, your complaint and supporting documentation failed to show a violation of the charter service regulation. I apologize for the delay in this response to your appeal, but I find no reason to overturn ODOT's decision.

Standard of Appeal

FTA's Charter Service regulation states that:

The Administrator will only take action on an appeal if the appellant presents evidence that there are new matters of fact or points of law that were not available or not known during the investigation of the complaint. 49 CFR 604.19(b).

Interested Party Status

The ODOT decision dismissed the complaint on the basis that Cowlitz Coach does not qualify as an interested party. The request for appeal did not address the issue of the status of Cowlitz Coach as an interested party which is a prerequisite to filing a complaint. Thus, Cowlitz Coach has not presented any "new matters of fact" or "points of law" within the meaning of 49 CFR 604.19(b) that would constitute grounds for me to consider this appeal because you are not an interested party.

New Matters of Fact

In its request for appeal Cowlitz Coach stated that all SETD buses are serviced and garaged with the use of FTA funds. In addition, Cowlitz Coach asserted that all of the drivers are supervised, trained, and employed through the use of FTA funds.

ODOT's decision found to the contrary on both issues. Cowlitz failed to substantiate any of its allegations regarding SETD's funding sources, nor did it offer any new matters of fact on this issue as required by 49 CFR 604.19(b). Furthermore, FTA's records indicate that there was no Federal funding involved in the equipment or facilities used to provide the service.

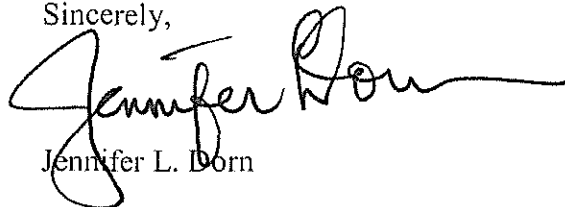
New Points of Law

Cowlitz Coach has not presented any new points of law that would constitute grounds for me to act on this appeal.

Conclusion

Neither you nor Cowlitz Coach is an interested party within the meaning of 49 CFR 604.15. For that reason alone, your appeal must be dismissed. In addition, having thoroughly examined the evidence presented by Cowlitz Coach of new matters of fact or points of law, I find that there are no new matters of fact or points of law that were not available during the time the original investigation was pending. See, 49 CFR 604.19(b). Accordingly, I will not take any action on the appeal.

Sincerely,



Jennifer L. Dorn

cc: Cindy Howe, Executive Director
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