

applicants an opportunity to incorporate these basic *SECAC* safeguards into their application, agreement, and by-laws. Additionally, we directed applicants to clarify whether they were seeking approval for the pooling aspects of the proposed agreement, and, if they were, we asked them to address: (1) the substantive scope of an approval under section 10706(a)(5)(A);³ and (2) whether our authority under 49 U.S.C. 11342 to approve pooling agreements extends beyond rail carrier agreements.⁴

In their supplemental filing, applicants state that the proposed agreement was revised to comply fully with the *SECAC* standards and procedural requirements. As to the pooling aspects of the proposed agreement, applicants acknowledge that 49 U.S.C. 11342 is limited to approving agreements between or among carriers. Asserting that they seek approval under 49 U.S.C. 10706(a)(5)(A), and not under section 11342, applicants state that their application referred to section 11342 only to compare the benefits of coordination that are available to carriers with the benefits coordination would make available to applicants.

Applicants state that the primary objective of the proposed freight car pool is to eliminate the costly and inefficient 100% empty car return practice that characterizes the rail movement of carbon black and has become embedded in the overall rate structure (including car compensation) that applies to the movement of carbon black in producer-owned and leased cars. While acknowledging that activities under the proposed pool may resemble those of a typical rail pool, applicants contend that these activities in fact differ because they are integral to

the producers' ability to discuss among themselves car compensation rates and the specific factors (including utilization and maintenance) that affect these rates. Accordingly, applicants state that they seek, and maintain that the Board may issue, approval and antitrust immunity for all of the activities set forth in the proposed agreement, including those related to the proposed freight car pool.⁵

Interested persons are invited to comment on whether the Board may approve the proposed agreement, under 49 U.S.C. 10706(a)(5)(A), and whether approval will confer antitrust immunity on the agreement's pooling aspects, or whether approval can or should be granted under 49 U.S.C. 11342 to make available the antitrust immunity conferred by 49 U.S.C. 11341(a). Also, comments are invited on the proposed agreement, as revised, with special attention to the following issues and how they may be affected if the proposed freight car pool is, or is not, immunized from the antitrust laws:

(1) How will the agreement further the rail transportation policy of 49 U.S.C. 10101a?

(2) Are there any anticompetitive effects that may result from the agreement?

(3) Are any additional safeguards necessary to ensure that the agreement will not have undesirable anticompetitive effects or suppress competition among pool members?

(4) What other matters should the Board consider in determining whether to approve the agreement?

Copies of the original and revised applications under 49 U.S.C. 10706(a)(5)(A) may be obtained free of charge by contacting applicants' representatives. In the alternative, the applications may be inspected at the offices of the Surface Transportation Board, Room 1221, during normal business hours. [Assistance for the hearing impaired is available through TDD service on (202) 927-5721.]

While it does not appear that this action will have a significant effect on the quality of the human environment or conservation of energy resources, comments on these issues are also invited.

⁵ The agreement calls for a pooled fleet of freight cars to move carbon black. The pool is to be managed and distributed by a Pool Operator who is charged with seeking optimal operating efficiency, consistent with the equitable treatment of all pool participants. A car contribution plan is to be devised, and rules, procedures, and formulas are to be developed to govern: (1) either the calculation and processing of allowances or the collection and distribution of compensation; and (2) the apportionment of maintenance and repair expenses.

A copy of this notice will be served on the: (1) Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue, N.W., Washington, DC 20530; (2) Federal Trade Commission, Bureau of Competition, 6th Street & Pennsylvania Avenue, N.W., Washington, DC 20580; and (3) Department of Transportation, 400 Seventh Street, S.W., Washington, DC 20590.

Authority: 49 U.S.C. 10706(a)(5)(A).

Decided: August 1, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 96-20915 Filed 8-15-96; 8:45 am]

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Surface Transportation Board¹

[STB No. MC-F-19190 (Sub-No. 1)]

Adirondack Transit Lines, Inc., Pine Hill-Kingston Bus Corp. and Passenger Bus Corporation—Pooling—Greyhound Lines, Inc., and Vermont Transit Company, Inc.

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of proposed service pooling application.

SUMMARY: By application filed June 7, 1996, the Adirondack Group [Adirondack Transit Lines, Inc. (Adirondack), and its corporate affiliates, Pine Hill-Kingston Bus Corp. (Pine Hill) and Passenger Bus Corporation (PBC), all of Kingston, NY] and the Greyhound System [Greyhound Lines, Inc. (Greyhound), of Dallas, TX, and its corporate affiliate, Vermont Transit Co., Inc. (Vermont), of Burlington, VT] jointly request approval of a service pooling agreement under 49 U.S.C. 14302 with respect to motor passenger transportation services between various points in New York, including services extending between New York City, NY, and Montreal, Quebec, Canada.

DATES: Comments must be filed by September 16, 1996, and applicants' rebuttal must be filed by October 7, 1996.

ADDRESSES: Send an original and 10 copies of comments referring to STB

¹ The ICC Termination Act of 1995, Pub. L. 104-88, 109 Stat. 803, which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission and transferred certain functions and proceedings to the Surface Transportation Board (Board). This notice relates to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 14302.

³ We noted that, in *Western Railroads—Agreement*, 1 I.C.C.2d 131, 133 n.3 (1984), the ICC, in addressing the scope of the immunity it could grant, stated:

The statute, in 49 U.S.C. 10706(a)(5)(A), provides for immunity under approved agreements between shippers to discuss the compensation to be paid shippers by rail carriers for use of rolling stock owned or leased by the shippers. It does not, however, provide immunity to shipper associations for other activities or for the discussion of rates generally.

⁴ We noted that, in *The Baltimore and Ohio Railroad Company, Et Al.—Pooling of Car Service Regarding Multi-Level Cars*, Finance Docket No. 29653 (Sub-No. 4) (ICC served Apr. 26, 1988), the ICC found that its authority did not extend beyond rail carriers. There, the railroad pool members requested an exemption from 49 U.S.C. 11342 to permit them to amend their agreement to include a Shipper Executive Committee within the existing pool management structure. The request was dismissed for lack of jurisdiction either to approve the proposed amendment or to exempt it from regulation. The decision specifically noted that, while the dismissal did not preclude the formation of a shipper committee, the shipper committee would not be immunized from the antitrust laws.

Docket No. MC-F-19190 (Sub-No. 1) to: Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, NW., Washington, DC 20423. In addition, send one copy of comments to each of applicants' representatives: (1) Lawrence E. Lindeman, Suite 311, 218 N. Lee Street, Alexandria, VA 22314-2531; (2) Mark E. Southerst, General Counsel, Greyhound Lines, Inc., P.O. Box 660362, Dallas, TX 75266-0362; and (3) Fritz R. Kahn, Suite 750 West, 1100 New York Avenue, NW., Washington, DC 20005-3934.

FOR FURTHER INFORMATION CONTACT: James Llewellyn Brown, (202) 927-5252, or Beryl Gordon, (202) 927-5660. [TDD for the hearing impaired: (202) 927-5721.]

SUPPLEMENTARY INFORMATION: In Adirondack Lines, Inc., and Pine Hill-Kingston Bus Corp.—Pooling—Greyhound Lines, Inc., No. MC-F-19190 (ICC served Feb. 8, 1989), a service pooling agreement was approved between Adirondack and Pine Hill, on the one hand, and Greyhound, on the other, over their routes between Albany, NY, and New York City.

Applicants now seek to extend the scope of their coordinated operations² over the following additional routes: (1) Between Buffalo, NY, and New York City; (2) between Albany and Buffalo; (3) between Albany and points on Long Island, NY; and (4) between New York City and Montreal.³ These routes also serve such intermediate points as Syracuse and Rochester, NY.

The Adirondack Group operates 6 eastbound and 7 westbound trips daily between Albany and either Buffalo or Syracuse. Greyhound operates 6 daily round trips between Buffalo and either Albany or Syracuse. Between Buffalo and New York City, the Adirondack Group operates 4 southbound trips and

3 northbound trips, and Greyhound operates 11 round trips. Between Albany and points on Long Island, the Adirondack Group operates 3 daily round trips and an additional weekend round trip on specified dates,⁴ and the Greyhound System operates 1 daily round trip. Between New York City and Montreal, the Adirondack Group operates 4 daily round trips,⁵ and Greyhound operates 5 daily round trips and 1 additional round trip on weekends.

Because their competing services, in many instances, operate at nearly the same times of day with buses that are only partially loaded, applicants assert that their operations are inefficient, costly, and, as a consequence, unable to compete effectively with Amtrak, airline service, and private automobiles.

The Adirondack Group operates over 1,500 miles of intercity bus routes, predominantly in New York, under the following operating authorities: No. MC-28356 (Adirondack); No. MC-2060 (Pine Hill); and No. MC-276393 (PBC).⁶

The Greyhound System operates over 90,000 miles of intercity bus routes throughout the nation. Greyhound holds operating authority under No. MC-1515, and Vermont holds operating authority under No. MC-45626.

Applicants contend that there is substantial intermodal competition between points on the affected routes. They assert that Amtrak operates daily passenger train service between New York City and Buffalo, New York City and Montreal, and New York City and Albany. Additionally, they identify numerous air flights⁷ and contend that the region's highway network makes

private automobile travel relatively quick and inexpensive.

The proposed pooling of services, according to applicants, will enable them to increase their passenger load per bus. This, in turn, will reduce their unit costs and make their services more competitive. Additionally, they emphasize that the proposed pooling of service will permit them to spread their schedules out more evenly throughout the day, affording the traveling public a greater choice of departure times and enhancing the convenience of bus travel.

Applicants already operate from common terminals in Schenectady and White Plains, NY. They assert that these joint terminal operations have reduced their unit costs and improved their competitive posture. Joint terminals, they note, are more convenient for passengers as well. With joint terminals, passengers may board the next bus to their destination without regard to which carrier operates the particular schedule. Connections are enhanced as well because passengers can transfer between buses of the different carriers without changing terminals.

Applicants assert that they are not domiciled in Mexico and are not owned or controlled by persons of that country. In addition, they assert that approval of the service pooling agreement will not significantly affect either the quality of the human environment or the conservation of energy resources. Although it does not appear that significant environmental or energy conservation effects will result from approval of this application, comments are also invited on this issue.

Copies of the pooling application may be obtained free of charge by contacting applicants' representatives. In the alternative, the pooling application may be inspected at the offices of the Surface Transportation Board, Room 1221, during normal business hours. [Assistance for the hearing impaired is available through TDD service on (202) 927-5721.]

A copy of this notice will be served on the Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue, N.W., Washington, DC 20530.

Decided: August 7, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,
Secretary.

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²The application indicates that applicants intend only to pool their services over these routes, and not to pool revenues or share expenses (except, perhaps, to the extent that use of common terminal facilities would result in sharing certain overhead expenses). Additionally, the application states that package express traffic is expected to be the subject of a later agreement. The appended agreement, however, purports to cover all "bus operations" and explicitly contemplates both passenger and package express traffic. Applicants should clarify this matter by the date comments are due.

³These routes are all operated in interstate or foreign commerce. The New York City-Buffalo route traverses New Jersey and serves Ridgeview, NJ. The Albany-Buffalo route is part of through services between such points as Boston, MA, and Toronto, Ontario, Canada. The Albany-Long Island route provides advertised connections to and from points in Connecticut and Massachusetts, and it connects with the New York City-Montreal route.

⁴The application states there are 5 daily round trips. However, footnotes in the bus schedules appended to the application indicate that two of these round trips operate only on specified dates and one of the two operates only between Kingston, NY, and Long Island.

⁵The Adirondack Group proposed to begin operations to and from Montreal in June 1996.

⁶The appendices or exhibits attached to the application appear to indicate that PBC operates under the trade name New York Trailways, but the record is not clear on this point. Applicants should either confirm or correct this point, as well, by the date comments are due.

⁷Applicants state that there are at least 75 daily flights in each direction between New York City and Buffalo or intermediate points, via American Airlines, Continental Airlines, Delta Airlines, U.S. Air, and United Airlines; 9 daily flights in each direction between Albany and Buffalo or intermediate points, via U.S. Air; 27 daily flights in each direction between New York City and Montreal, via American Airlines, Air Canada, Continental Airlines, and Delta Airlines; and 6 daily flights in each direction between Albany and points on Long Island, via U.S. Air.