

**Authority:** 23 U.S.C. 403; 49 CFR 1.50; 49 CFR part 501.

Issued on: June 11, 2012.

**Jeff Michael,**

*Associate Administrator, Research and Program Development, National Highway Traffic Safety Administration.*

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**BILLING CODE 4910-59-P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[Docket No. AB 303 (Sub-No. 39X)]

#### Wisconsin Central Ltd.—Abandonment Exemption—in Manitowoc County, WI

Wisconsin Central Ltd. (WCL) has filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments* to abandon 6.8 miles of rail line extending from milepost 69.0 in Newton to milepost 62.2 in Cleveland in Manitowoc County, WI. The line traverses United States Postal Service Zip Codes 53015 and 53063, and there are no stations on the line.

WCL has certified that: (1) No local traffic has moved over the line for at least two years; (2) any overhead traffic previously handled on the line could be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7(c) (environmental report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on July 14, 2012, unless stayed pending reconsideration. Petitions to stay that do

not involve environmental issues,<sup>1</sup> formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),<sup>2</sup> and trail use/rail banking requests under 49 CFR 1152.29 must be filed by June 25, 2012. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by July 5, 2012, with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to WCL's representative: Jeremy M. Berman, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 920, Chicago, IL 60606-2832.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

WCL has filed a combined environmental and historic report that addresses the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by June 19, 2012. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423-0001) or by calling OEA at (202) 245-0305. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), WCL shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by WCL's filing of a notice of consummation by June 14, 2013, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at "[www.stb.dot.gov](http://www.stb.dot.gov)."

<sup>1</sup> The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. See *Exemption of Out-of-Serv. Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

<sup>2</sup> Each OFA must be accompanied by the filing fee, which is currently set at \$1,500. See 49 CFR 1002.2(f)(25).

Decided: June 11, 2012.

By the Board.

**Rachel D. Campbell,**

*Director, Office of Proceedings.*

**Derrick A. Gardner,**

*Clearance Clerk.*

[FR Doc. 2012-14575 Filed 6-13-12; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[Docket No. MCF 21043]

#### Academy Express, L.L.C.—Acquisition of the Properties of Entertainment Tours, Inc.

**AGENCY:** Surface Transportation Board, DOT.

**ACTION:** Notice Tentatively Approving and Authorizing Finance Transaction.

**SUMMARY:** Academy Express, L.L.C., a motor carrier of passengers (Academy), has filed an application under 49 U.S.C. 14303 for its acquisition of the properties of Entertainment Tours, Inc., also a motor carrier of passengers (Entertainment).<sup>1</sup> The Board is tentatively approving and authorizing the transaction, and, if no opposing comments are timely filed, this notice will be the final Board action. Persons wishing to oppose the application must follow the rules under 49 CFR 1182.5 and 1182.8.

**DATES:** Comments must be filed by July 27, 2012. Academy may file a reply by August 13, 2012. If no comments are filed by July 27, 2012, this notice shall be effective on that date.

**ADDRESSES:** Send an original and 10 copies of any comments referring to Docket No. MCF 21043 to: Surface Transportation Board, 395 E Street SW., Washington, DC 20423-0001. In addition, send one copy of comments to Academy's representative: Fritz R. Kahn, Fritz R. Kahn, P.C., 1919 M Street NW., 7th Floor, Washington, DC 20036.

**FOR FURTHER INFORMATION CONTACT:** Julia M. Farr, (202) 245-0359. Federal Information Relay Service (FIRS) for the hearing impaired: 1-800-877-8339.

<sup>1</sup> Academy filed its application for acquisition of the properties of Entertainment on April 5, 2012. However, the Board determined that the information provided was not sufficiently complete to provide the required notice to the Board and to the public as to the nature of the proposed transaction. In a Board decision served on May 4, 2012, Academy was directed to supplement its application, which it did on May 15, 2012. The filing date of an application is deemed to be the date on which the complete information is filed. See 49 CFR 1182.4(a). Thus, we will treat Academy's application as having been filed on May 15, 2012.

**SUPPLEMENTARY INFORMATION:** Academy is a limited liability company established under the laws of New Jersey. It holds authority from the Federal Motor Carrier Safety Administration (FMCSA) as a motor carrier providing interstate charter passenger services to the public (MC-413682). Academy is indirectly controlled by the Tedesco Family ESB Trust, which directly controls the following noncarriers: Academy Bus, L.L.C.; Franmar Leasing, Inc.; Franmar Logistics, Inc.; Academy Services, Inc.; and Log Re, Inc. The Tedesco Family ESB Trust also indirectly controls Academy Lines, L.L.C., a motor carrier of passengers principally rendering commuter operations, and No. 22 Hillside, L.L.C., a motor carrier of passengers rendering a variety of services. Entertainment, a corporation established under Massachusetts law, also holds a FMCSA license (MC-262973) and owns Coach NE., L.L.C., a noncarrier.

Academy is largely focused on providing charter bus and contract carrier services. It offers university transportation shuttles and transports sports teams as a contract bus carrier, and transports groups for churches, clubs, small third-party groups, and other organizations as a charter bus operator. Academy operates mostly in interstate commerce and to a lesser extent in intrastate commerce in the District of Columbia, Virginia, New Jersey, New York, Connecticut, Rhode Island and Massachusetts. Entertainment essentially is a charter bus operator, transporting groups for churches, clubs, and other organizations mostly in intrastate commerce in Massachusetts and, to a lesser extent, in Connecticut and New Hampshire.

Under the proposed transaction, Academy seeks permission to acquire the properties of Entertainment—namely, its equipment, customer list, and goodwill, as well as Entertainment's authority to render motor carrier operations in Massachusetts, Connecticut, and New Hampshire. According to the application, the closing occurred on March 30, 2012. Academy states that all of the authorized and outstanding stock of Entertainment was transferred to an independent voting trust, pursuant to a Voting Trust Agreement. Academy submits that, should the Board approve the proposed transaction, the trustee would reconvey the stock to the stockholder of Entertainment, which then would transfer the purchased properties to Academy. According to Academy, Entertainment would remain an independent entity, but would be

expected to surrender its interstate operating authority.<sup>2</sup>

Under 49 U.S.C. 14303(b), the Board must approve and authorize a transaction that it finds consistent with the public interest, taking into consideration at least: (1) The effect of the proposed transaction on the adequacy of transportation to the public; (2) the total fixed charges that result; and (3) the interest of affected carrier employees. Academy has submitted information, as required by 49 CFR 1182.2, including the information to demonstrate that the proposed transaction is consistent with the public interest under 49 U.S.C. 14303(b), and a statement that the 12-month aggregate gross operating revenues of Academy and Entertainment exceeded \$2 million.

With respect to the effect of the transaction on the adequacy of transportation to the public, Academy states that the proposed acquisition would greatly benefit Entertainment's patrons. According to Academy, passengers would be able to travel in newer, cleaner buses, and would have a far greater selection of tours and special operations than was previously afforded to them. Academy further states that the proposed transaction would have no effect on total fixed charges. Further, Academy states that the transaction would have no adverse effect upon Entertainment's employees, as these employees would be offered employment with Academy. Academy notes that, excluding itself, the American Bus Association has identified 29 charter bus companies operating in Massachusetts, 10 charter bus companies operating in Connecticut, and eight charter bus companies operating in New Hampshire. Academy states that, if the proposed transaction were approved, there would be little or no reduction of competitive conditions in the aforementioned states, especially because Academy would hope to succeed to the business previously conducted by Entertainment in those states. Additional information, including a copy of the application, may

be obtained from Academy's representative.

On the basis of the application, the Board finds that the proposed acquisition of control is consistent with the public interest and should be tentatively approved and authorized. If any opposing comments are timely filed, this finding will be deemed vacated, and, unless a final decision can be made on the record as developed, a procedural schedule will be adopted to reconsider the application. See 49 CFR 1182.6(c). If no opposing comments are filed by the expiration of the comment period, this notice will take effect automatically and will be the final Board action.

The party's application and Board decisions and notices are available on our Web site at "[www.stb.dot.gov](http://www.stb.dot.gov)."

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

*It is ordered:*

1. The proposed finance transaction is approved and authorized, subject to the filing of opposing comments.

2. If opposing comments are timely filed, the findings made in this notice will be deemed as having been vacated.

3. This notice will be effective July 27, 2012, unless opposing comments are timely filed.

4. A copy of this decision will be served on: (1) U.S. Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590; (2) the U.S. Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue NW., Washington, DC 20530; and (3) the U.S. Department of Transportation, Office of the General Counsel, 1200 New Jersey Avenue SE., Washington, DC 20590.

Decided: June 7, 2012.

By the Board, Chairman Elliott, Vice Chairman Mulvey, and Commissioner Begeman.

**Derrick A. Gardner,**

*Clearance Clerk.*

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

#### Senior Executive Service Performance Review Board

**AGENCY:** Surface Transportation Board, DOT.

**ACTION:** Notice.

**SUMMARY:** The Surface Transportation Board (STB) publishes the names of the

<sup>2</sup> Our voting trust rules at 49 CFR part 1013 contemplate the use of voting trusts to facilitate tentative stock transfers before a transaction involving an acquisition of control is approved. The transaction here, however, is not an acquisition of control, but an acquisition of assets. The use of a voting trust in this circumstance appears to be novel, and the Board was not asked for an informal opinion on its suitability here prior to the acquisition. Nonetheless, we will allow this case to proceed because we encourage parties to seek appropriate Board authority (even if they should have done so before undertaking a course of action), and the record does not suggest that the applicants here intended to evade our authority or undermine the integrity of our processes.