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SERVICE DATE – NOVEMBER 24, 2010

SURFACE TRANSPORTATION BOARD

NOTICE

STB Docket No. MC-F-21039

NATIONAL EXPRESS CORPORATION—CONTROL EXEMPTION—VOGEL BUS
COMPANY, INC.

AGENCY: Surface Transportation Board.

ACTION: Notice of filing of petition for exemption.

SUMMARY: National Express Corporation (NEC), a noncarrier, seeks an exemption, under 49 U.S.C. § 13541, from the prior approval requirements of 49 U.S.C. § 14303(a)(5) and 49 C.F.R. § 1182 to acquire control of Vogel Bus Company, Inc. (Vogel), a motor passenger carrier. Expedited action has been requested.

DATES: Comments must be filed by December 14, 2010. NEC may file a reply by December 20, 2010.

ADDRESSES: Send an original and 10 copies of any comments referring to Docket No. MC-F-21039 to: Surface Transportation Board, Office of Proceedings, 395 E Street, S.W., Washington, DC 20423. In addition, send one copy of any comments to NEC's representative: Michael H. Higgins, Troutman Sanders LLP, 401 9th Street, N.W., Suite 1000, Washington, DC 20004-2134.

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

SUPPLEMENTARY INFORMATION: In a petition filed with the Board on October 25, 2010, NEC, a noncarrier, requests an exemption under 49 U.S.C. § 13541 from the prior approval requirements of 49 U.S.C. § 14303(a)(5) and 49 C.F.R. § 1182 for the acquisition of Vogel, a motor passenger carrier (MC-274520). NEC indirectly owns and controls one interstate motor passenger carrier, Durham School Services, L.P. (DSSLP) (MC-163066), which primarily provides transportation of school children to and from school in 30 states under contract with regional and local school jurisdictions. Vogel also primarily provides transportation of school children, in New Jersey. School bus transportation is not subject to Board regulation. However, both DSSLP and Vogel provide limited interstate charter bus transportation to the public, thus bringing the proposed acquisition within the Board's jurisdiction. NEC proposes to acquire control of Vogel through its acquisition of all of the shares of Vogel pursuant to a Share Purchase and Sale Agreement. If granted, an exemption would preempt review of the proposed transaction and approval by state and local authorities, pursuant to 49 U.S.C. § 14303(f).

In accordance with 49 U.S.C. § 13541, the Board will exempt a motor carrier transaction if: (1) regulation is not necessary to carry out the transportation policy of 49 U.S.C. § 13101; (2) regulation either is not needed to protect shippers from the abuse of market power or the transaction or service is of limited scope; and (3) an exemption is in the public interest. According to NEC, the transaction will advance federal transportation policy by, among other things, enabling it to provide more efficient service. NEC states that its transaction is limited in scope because DSSLP's and Vogel's Board-regulated operations (interstate charter services) are small in size, and because there is little overlap among the areas served by DSSLP and Vogel. Finally, NEC states that the transaction is in the public interest because, among other things, NEC anticipates that its existing expertise and resources will improve Vogel's limited charter passenger services, which inures to the benefit of the public.

A copy of this notice will be served on: (1) the U.S. Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, S.E., Washington, DC 20590; (2) the U.S. Department of Justice, Antitrust Division, 950 Pennsylvania Avenue, N.W., Washington, DC 20530; and (3) the U.S. Department of Transportation, Office of the General Counsel, 1200 New Jersey Avenue, S.E., Washington, DC 20590.

Board decisions and notices are available on our website at WWW.STB.DOT.GOV.

Decided: November 19, 2010.

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