

SERVICE DATE – JANUARY 18, 2024

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. MCF 21115

NORTH AMERICAN VAN LINES ET AL.—POOLING

Digest:¹ This decision approves a motor carrier pooling application filed by North American Van Lines, Inc.

Decided: January 18, 2024

On December 7, 2023, North American Van Lines, Inc. (NAVL), and 15 of its carrier agents² holding interstate operating authority (collectively, Applicants), filed an application with the Board under 49 U.S.C. §14302 and 49 C.F.R. part 1184 for approval of a proposed pooling agreement.³ In this decision, the Board approves the proposed pooling agreement.

BACKGROUND

NAVL has established a nationwide and global network of over 116 household goods agents, including the 15 carrier agents joining its application.⁴ (Appl. 2.) NAVL participates in the market for household goods transportation and related relocation services, catering to major corporate employers in the United States, individuals seeking relocation services at tariff rates (referred to as Consumer Accounts), the transportation of household goods for military and civilian personnel undergoing relocation by the U.S. Department of Defense (DOD) (referred to as Military Accounts), and the transportation of household goods for federal employees undergoing relocation by the U.S. General Services Administration (GSA) (referred to as Government Accounts). (Id.)

¹ The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. See Pol’y Statement on Plain Language Digs. in Decisions, EP 696 (STB served Sept. 2, 2010).

² Appendix 2 to the application lists the carrier agents joining the application, as well as the subsidiary motor carriers of NAVL.

³ On January 10, 2024, Applicants supplemented their application.

⁴ Applicants state that not all companies in an agency relationship with NAVL possess their own interstate operating authority and, consequently, not all NAVL agents would participate in the proposed pooling agreement. (Appl. 2.)

Applicants state that the scope of the proposed pooling agreement is specific to NAVL's household goods transportation business related to Military Accounts, Government Accounts, and limited Consumer Accounts. (Id. at 9.) According to Applicants, DOD and GSA regulations require that service providers hold their own federal interstate operating authority in order to qualify for direct awards of shipments from Military or Government Accounts. (Id. at 5.) Applicants assert, however, that it would undermine NAVL's interests if NAVL utilized carrier agents who also have the unfettered ability to compete with it in markets of their choosing. (Id. at 12.) Therefore, under the proposed pooling agreement, carrier agents could obtain and maintain federal interstate operating authority in order to satisfy DOD and GSA requirements but would be restricted from using that authority for anything other than Military Accounts, Government Accounts, or transporting shipments for Consumer Accounts within a maximum distance of 75 miles from a carrier's terminal. (Id. at 6, 12.) Applicants state that the carrier agents would have access to NAVL's significant systems capability, administrative support, and streamlined and consistent services, which Applicants state would provide smaller carriers the opportunity to offering efficient and quality moves for Military and Government Accounts. (Id. at 3.)

Applicants state that the household goods industry primarily operates on inter-brand rather than intra-brand competition—i.e., NAVL's competitors are other major van lines, not its agents. (Id. at 14.) According to Applicants, the proposed pooling agreement would foster increased inter-brand competition among major van lines for Military Accounts and Government Accounts by enabling NAVL to establish and grow a competitive network of carrier agents who comply with DOD and GSA requirements. (Id. at 12-13). According to Applicants, the number of DOD- and GSA-qualified agents in NAVL's network has played a crucial role in determining NAVL's market share in the Military Accounts and Government Accounts sector. (Id. at 5-6.) Applicants further state that the proposed pooling agreement would allow NAVL to create more business opportunities for NAVL's carrier agents, as well as for small and start-up household goods carriers, while preserving competition between van lines. (Id. at 14.)

Applicants request Board authorization to add other carriers as parties to the proposed agreement in the future, upon written notification to the Board specifying the names and operating authorities of such additional carriers and confirming that they have become signatories to the proposed agreement. (Id. at 8.) Additionally, Applicants request that the Board waive 49 C.F.R. § 1184.2 to the extent it requires actual reproductions of each carrier's operating authorities. (Appl. 9, 15.) According to Applicants, paper copies of the authorities are not readily available and would make the application unnecessarily long. (Id. at 9.)

DISCUSSION AND CONCLUSIONS

Under 49 U.S.C. § 14302(a), Board approval is required before motor carriers providing transportation subject to the Board's jurisdiction "pool or divide traffic or services or any part of their earnings." Prior to the effective date of the agreement, the Board must determine whether the agreement is of major transportation importance and whether there is substantial likelihood that the agreement would unduly restrain competition. 49 U.S.C. § 14302(c)(2); 49 C.F.R. § 1184.3. If the Board determines that neither of these two factors exists, the Board is required to approve the

agreement without a hearing.⁵ 49 U.S.C. § 14302(c)(2); 49 C.F.R. § 1184.3. Moreover, under § 14302(c)(4), if the practices proposed to be carried out under the pooling agreement are the same as or similar to practices carried out under household goods pooling agreements approved by the Board's predecessor, the Interstate Commerce Commission (ICC), prior to January 1, 1996, then the Board must presume that the agreement will be in the interest of better service to the public and of economy in operation and will not unduly restrain competition.

The Board finds that the proposed transaction is not of major transportation importance. According to NAVL, there are 8,203 carriers with household goods motor carrier authority, and the implementation of the proposed pooling agreement would impact 0.426% of this total. (Appl. 10.) Thus, the number of carriers that would participate in the proposed pooling agreement represents a small portion of the total number of carriers nationwide that could provide similar services. Potential shippers will retain significant options for qualified household goods motor carriers, including other van lines and networks that provide service nationwide. Moreover, according to Applicants, Military and Government Accounts make up approximately eight percent of all household goods shipments, and of that segment, NAVL has less than a 10% share.⁶ (Appl. 10.)

The Board also finds that the proposed pooling agreement would not unreasonably restrain competition. The proposed pooling arrangement is similar to household goods pooling arrangements approved by the ICC that limited the ability of carrier agents to compete with their core carrier to transport household goods. For example, in 1983, the ICC approved the pooling agreement of Atlas Van Lines, Inc., under which the participating carrier agents were not permitted to possess their own operating authority, except to transport household goods for the government (including the military). Atlas Van Lines, Inc.—Pooling Appl., MCF 15004, slip op. at 2-3, 9 (ICC served July 21, 1983); see also Atlas Van Lines, Inc.—Pooling Agreement (Atlas 2005), MCF 21010 (STB served Feb. 23, 2005) (approving a similar revision allowing carrier agents to possess broad operating authority but precluding them from using their own authorities except for military traffic). Moreover, both the ICC and the Board have found that the public would be better served by improving the core carrier's ability to compete with its non-

⁵ Otherwise, the Board must hold a hearing to determine whether the agreement “will be in the interest of better service to the public or of economy in operation and whether it will unduly restrain competition,” and the Board may impose such terms and conditions as it finds “just and reasonable.” 49 U.S.C. § 14302(c)(2)-(3); 49 C.F.R. § 1184.3.

⁶ Allied Van Lines, Inc. (Allied), an affiliate of NAVL, (see Appl. 7-8), also filed an application for approval of a similar proposed pooling agreement between itself and 12 of its carrier agents who hold interstate operating authority. See Allied Van Lines, Inc.—Pooling, Docket No. MCF 21114. The Board will address that application in a separate decision. The Board notes however, that, even when considered jointly, the pooling agreements are not likely to unduly restrain competition. Implementation of Allied's proposed pooling agreement would impact only an additional 0.23% of the 8,203 carriers with household goods motor carrier authority. See Allied Appl. 11, Allied Van Lines, Inc.—Pooling, Docket No. MCF 21114. Similarly, Allied has less than an eight percent share of the Military and Government Accounts segment without the household goods industry. Id. at 10.

agent competitors than by increasing the level of competition within the core carrier's system. See, e.g., Atlas 2005, MCF 21020, slip op. at 2; United Van Lines, Inc.—Pooling Agreement Modification, MCF 4901 et al., slip op. at 4 (ICC served June 5, 1984).

Likewise, the proposed process permitting a written notice to the Board to effect the addition of carrier agents to the pooling agreement is sufficiently similar to practices approved by the ICC in Wheaton Van Lines, Inc.—Pooling Application, MCF 19309, slip op. at 3 (ICC served Jan. 23, 1989), and is consistent with 49 U.S.C. § 14302(c)(5). Under this process, the written notice shall include the identity of the new participant, confirmation of the agency relationship with NAVL, evidence of the carrier agent's household goods operating authority, and indicia of the carrier agent's approved participation in the pooling arrangement.

In short, the Board concludes, on the basis of the record presented, that the proposed agreement would not be of major transportation importance and would not unduly restrain competition. Accordingly, the Board approves the proposed agreement without a hearing, pursuant to 49 U.S.C. § 14302(c)(2) and 49 C.F.R. § 1184.3. The Board will also grant the requested waiver of 49 C.F.R. § 1184.2 and accept the listing of the registration numbers as sufficient evidence of the operating authorities of the participants. See, e.g., Mayflower Transit, LLC—Pooling Agreement, MCF 17950, slip op. at 5 (STB served May 18, 2009).

Finally, the Board has the authority to require submission of additional information in the future, if necessary. Should the Board find at any time that the transaction has become anticompetitive, the Board can suspend operation of the pool during the pendency of a public hearing concerning the criteria set forth in 49 U.S.C. § 14302 and impose such terms and conditions as are just and reasonable.

It is ordered:

1. The pooling agreement proposed in the application is approved and authorized.
2. The request for waiver of the regulation at 49 C.F.R. § 1184.2 is granted.
3. This decision is effective on its service date.

By the Board, Board Members Fuchs, Hedlund, Oberman, Primus, and Schultz.