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Before the
Surface Transportation Board
Washington, D.C.



Laidlaw Inc. and Laidlaw Transit Acquisition Corp.) Dkt. No. MC-F-20940
- Merger - Greyhound Lines, Inc.)

Comments of the
United States Department of Transportation

Introduction

The Surface Transportation Board ("STB" or "Board") approved the merger between Laidlaw Inc. and Laidlaw Transit Acquisition Corporation (collectively, "Laidlaw"), on the one hand, and Greyhound Lines, Inc. ("Greyhound"), on the other, in this docket in 1998. Decision served December 17, 1998, 63 Fed. Reg. 69710 (December 17, 1998). It found the combination "consistent with the public interest," the applicable legal standard, at least in part because of the financial and managerial strength that Laidlaw would bring to Greyhound. Id.

Recent events have called into question the financial future of both Laidlaw and Greyhound. The STB accordingly instituted this proceeding to determine what, if any, steps it should take. It also required Laidlaw and Greyhound to report in detail on their financial condition.

The United States Department of Transportation ("Department" or "DOT") is very interested in the future of Greyhound, and we consider that it is in the public interest for the largest passenger bus line in the country to continue to operate. More particularly, DOT has regulatory responsibilities regarding Greyhound of which the Board should be aware.

The Financial Report

On September 1, Greyhound and Laidlaw filed joint comments reporting on their financial situation. ("Report"). The Report is largely optimistic about Greyhound's future. Since the acquisition, the bus line has reportedly increased the number of passengers it carries, transports them longer distances, obtains greater revenues, and enjoys improved yields. Report at 4-6. Greyhound is operating new routes, investing in terminals, and integrating its operations with bus carriers in both Canada and Mexico. *Id.* at 7-10. Laidlaw has not only improved Greyhound's financial health, but indicates that even without continued assistance, Greyhound is no worse off than it was prior to the acquisition. *Id.* at 11-13. The Report characterizes the risk of Greyhound ceasing operations as "remote." *Id.* at 3.

The Report indicates that Laidlaw's own financial difficulties arise not from the carriage of passengers but from wholly unrelated activities of its other subsidiaries in the health care and the hazardous waste industries. *Id.* at 14-18.

Greyhound and the Motor Passenger Carrier Industry

Greyhound provides passenger transportation service to more than 2,600 communities. It dominates the intercity bus industry, accounting for over 70 percent of Class I carrier regular route revenues. Greyhound is also the most affordable intercity transportation for low-income travelers. Its passengers are more likely to be under the age of 21 or over the age of 65, and are unlikely to be traveling on business. A large percentage of them do not own a car or vehicle capable of making a 500 mile trip. Greyhound is often the sole mode of public transport for rural communities, linking them to much of the rest of the country as well as to alternative forms of transportation at train depots and airports. In short, Greyhound performs a valuable function within our nation's transportation system.

Greyhound's actions thus naturally influence the other Class I and the smaller carriers in this industry, and about 30 percent of its service involves interlining with other carriers. Virtually all regional and local carriers that are part of the national motor passenger carrier network interline, to some extent, with Greyhound. Many of these carriers are heavily dependent on Greyhound for access and joint use of its terminals and terminal services (e.g., ticket sales, information announcements, and publication of schedules). Finally, Greyhound provides employment for approximately 12,000 drivers, mechanics, and others. A cessation of operations would therefore disrupt not only travel services in broad areas but also the livelihood of many workers.

The Department's Position

The Department agrees with the Board that a cessation of Greyhound's operations is not in the public interest. Decision at 3. We are vitally concerned that the important transportation services now provided by Greyhound be continued. The carrier's central role in the bus industry and its presence in much of the country therefore merits the Board's careful scrutiny.

It appears that Laidlaw can no longer provide the assistance that helped to make its acquisition of Greyhound "consistent with the public interest." In these circumstances the public interest would seem to demand at least that the financial arrangements between Laidlaw and Greyhound should not redound to the detriment of Greyhound. At a minimum this means that these arrangements should not expose Greyhound to the consequences of the financial difficulties of Laidlaw or its other subsidiaries. The information submitted thus far does not clearly establish this, and the Board should seek additional assurances.¹

^{1/} On this point the verified statement of Jeffrey Sanders, the Chief Financial Officer of Greyhound, may be relevant. Attachment C to the Report. According to Mr. Sanders, the indenture governing \$150 million in Senior Notes (Greyhound's debt) contains various covenants and restrictions that require Greyhound and Laidlaw to deal at arm's length and place restrictions on

Oversight of Greyhound's Financial Responsibility Obligations

There is another element of Greyhound's situation of which the Board should be expressly aware. A newly-created operating administration within DOT, the Federal Motor Carrier Safety Administration ("FMCSA"), now has jurisdiction over certain aspects of passenger motor carriers operating in interstate or foreign commerce. FMCSA's oversight of for-hire passenger carriers includes licensing and insurance requirements. 49 U.S.C. §§ 13902, 13906, and 31138. Motor carriers subject to FMCSA jurisdiction may operate only if they file with FMCSA evidence of their financial responsibility. Acceptable surety bonds, certificates of insurance, proof of qualifications as a self-insurer, or other type of security in the amount prescribed, must be sufficient to pay any final judgments recovered against the motor carrier for bodily injuries to or the death of any person, or for property damage, resulting from the negligent operation, maintenance or use of a motor vehicle transporting passengers subject to FMCSA jurisdiction. 49 U.S.C. §§ 13906, 31138; 49 C.F.R. § 387, Parts B & C.

Prior to its demise in 1995, the Interstate Commerce Commission ("ICC") exercised jurisdiction over this area. In 1989, the ICC authorized Greyhound to self-insure its \$5 million bodily injury and property damage ("BI&PD") liability, subject to certain conditions. These conditions included (1) establishing a \$15 million trust fund, (2) maintaining a net worth of \$10 million, (3) securing excess insurance coverage for BI&PD claims between \$5 million and \$100 million, and (4) filing various quarterly financial and claims reports. Docket No. MC-1515, Greyhound Lines, Inc. and GLI Acquisition Company, Application to be a Self-Insurer, served February 16, 1989.

indebtedness, dividends and return of capital that can be paid to Laidlaw. Attachment C at 7-8. Greyhound must satisfy the Board that such protections are adequate, and that Laidlaw's financial problems will not impact Greyhound further.

The ICC modified Greyhound's authorization on a number of occasions throughout the 1990's, particularly when Greyhound filed for bankruptcy protection under Chapter 11 and underwent substantial restructuring, but the basic terms remained the same. See Docket No. MC-1515, Greyhound Lines, Inc., Authorization to be a Self-Insurer, served September 30, 1993. Greyhound has at all times complied with applicable requirements.

With the closing of the ICC, DOT's Federal Highway Administration inherited the monitoring and oversight of the motor passenger bus industry's financial responsibilities. This year that oversight was transferred to the FMCSA.

The FMCSA has been concerned that Greyhound's current financial condition may have an impact on the carrier's continuing ability to satisfy its self-insurance and related obligations. Pursuant to the reporting and financial conditions noted above, Greyhound must submit any additional information the FMCSA deems necessary to evaluate whether Greyhound remains able to satisfy its obligations for bodily injury and property damage liability. The FMCSA has requested that Greyhound supply additional financial, insurance, and claims information in order to make that assessment. The additional information must be submitted by September 27, 2000. The FMCSA will evaluate the information and take appropriate action to modify, amend, or revoke the self-insurance authorization as necessary. We will, of course, inform the Board of this decision.

Conclusion

The Department supports the Board's expeditious action to protect the public from financial uncertainties involving the nation's largest motor passenger carrier. We urge the STB to solicit further information to satisfy

concerns that Greyhound remain a vital intercity bus carrier. DOT will inform the Board of its own inquiry into Greyhound's financial responsibilities. Only by closely monitoring Greyhound's financial condition can the public interest in continued intercity bus service throughout much of the nation be protected.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Rosalind A. Knapp". The signature is fluid and cursive, with the first name "Rosalind" being more prominent and the last name "Knapp" following in a similar style.

Rosalind A. Knapp
Acting General Counsel