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SERVICE DATE – SEPTEMBER 27, 2019

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. MCF 21086

NATIONAL EXPRESS TRANSIT CORPORATION—ACQUISITION OF CONTROL—
FOX BUS LINES, INC.

AGENCY: Surface Transportation Board.

ACTION: Notice Tentatively Approving and Authorizing Finance Transaction.

SUMMARY: On August 30, 2019, National Express Transit Corporation (National Express), an intrastate passenger motor carrier, filed an application under 49 U.S.C. § 14303 for National Express to acquire control of Fox Bus Lines, Inc. (Fox), an interstate passenger motor carrier, from Fox's shareholders, Brian A. Fox, Stephen J. Fox, Catherine Fox, and William L. Fox, Jr. (collectively, Sellers). 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 at 49 C.F.R. §§ 1182.5 and 1182.8.

DATES: Comments may be filed by November 12, 2019. If any comments are filed, National Express may file a reply by November 26, 2019. If no opposing comments are filed by November 12, 2019, this notice shall be effective on November 13, 2019.

ADDRESSES: Comments may be filed with the Board either via e-filing or in writing addressed to: Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, send one copy of comments to: Andrew K. Light, Scopelitis, Garvin, Light, Hanson & Feary, P.C., 10 W. Market Street, Suite 1400, Indianapolis, IN 46204.

FOR FURTHER INFORMATION CONTACT: Jonathon Binet at (202) 245-0368. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877-8339.

SUPPLEMENTARY INFORMATION: According to the application, National Express is a motor carrier incorporated under the laws of Delaware, and it primarily provides intrastate passenger transportation services and utilizes approximately 1,158 passenger-carrying vehicles and 1,609 drivers. (Appl. 1-2.) National Express represents that it does not have interstate carrier authority, but it owns and controls two passenger motor carrier subsidiaries that hold interstate carrier authority: Aristocrat Limousine and Bus, Inc. (Aristocrat), and Trans Express, Inc. (Trans Express). (*Id.* at 2.)

National Express states that it is indirectly wholly owned and controlled by a publicly-held British corporation, National Express Group, PLC (Express Group). (*Id.*) National Express

further states that Express Group also indirectly wholly owns and controls the following passenger motor carriers that hold interstate carrier authority in the United States (collectively, National Express Affiliated Carriers). (Id. at 2-8.)¹

- Aristocrat (the National Express subsidiary), which provides public passenger charter services in New Jersey, New York, and Pennsylvania, and intrastate passenger charter services in New Jersey;
- Beck Bus Transportation Corp., which primarily provides student school bus transportation services in Illinois, and charter passenger services to the public;
- Chicagoland Coach Lines LLC, which provides charter passenger services in the Chicago, Ill. area;
- Durham School Services, L.P., which primarily provides student school bus transportation services in several states, and charter passenger services to the public;
- New Dawn Transit LLC, which primarily provides non-regulated school bus transportation services in New York, and charter passenger services to the public;
- Petermann Ltd., which primarily provides non-regulated school bus transportation services in Ohio, and charter passenger services to the public;
- Petermann Northeast LLC, which primarily provides non-regulated school bus transportation services primarily in Ohio and Pennsylvania, and charter passenger services to the public;
- Petermann STSA, LLC, which primarily provides non-regulated school bus transportation services in Kansas, and charter passenger services to the public;
- Quality Bus Service LLC, which primarily provides non-regulated school bus transportation services in New York, and charter passenger services to the public;
- Queen City Transportation, LLC, which primarily provides non-regulated school bus transportation services in Ohio, and charter passenger services to the public;
- Free Enterprise System/Royal LLC, which provides interstate and intrastate passenger transportation services in Illinois and Indiana, and surrounding states, and corporate and university shuttle services for employees and students in the Chicago area;
- Trans Express (the National Express subsidiary), which provides interstate and intrastate passenger transportation services in New York;
- Trinity, Inc., which provides non-regulated school bus transportation services in southeastern Michigan, and charter service to the public;
- Trinity Student Delivery LLC, which provides non-regulated school bus transportation services in northern Ohio, and passenger charter services to the public;
- White Plains Bus Company, Inc., d/b/a Suburban Paratransit Service, which primarily provides non-regulated school bus transportation services in New York, paratransit services, and charter service to the public; and

¹ Additional information about these motor carriers, along with Fox, including U.S. Department of Transportation (USDOT) numbers, motor carrier numbers, and USDOT safety ratings can be found in the application. (See Appl. 2-9 & sched. A.)

- Wise Coaches, Inc., which provides interstate passenger charter services in Tennessee and its surrounding states, and intrastate passenger charter and shuttle services in Tennessee.²

National Express states that Fox is a Massachusetts corporation, doing business as Silver Fox Coaches, that holds interstate carrier operating authority. (Id. at 8-9.) According to National Express, Fox operates as a motor carrier providing charter and tour motor coach services in the areas of Boston, Springfield, and Worcester, Mass; Providence, R.I.; and Manchester/Nashua, N.H., and the surrounding New England area (the Service Area); tour services in and to New York City; and shuttle services on behalf of Massport Shuttle, at Framington, Mass., to and from Boston Logan International Airport. (Id. at 8, 12.) National Express further states that Fox utilizes approximately 30 passenger vehicles and 51 drivers. (Id. at 9.)

According to the application, Sellers collectively own all the outstanding equity shares of Fox. (Id. at 8.) National Express states that none of the Sellers have any direct or indirect ownership interest in any interstate passenger motor carrier other than Fox. (Id.)

National Express represents that, through this transaction, it will acquire all the outstanding equity shares of Fox, which will place Fox under its control. (Id. at 9.)

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. National Express has submitted the information required by 49 C.F.R. § 1182.2, including information to demonstrate that the proposed transaction is consistent with the public interest under 49 U.S.C. § 14303(b), see 49 C.F.R. § 1182.2(a)(7), and a jurisdictional statement under 49 U.S.C. § 14303(g) that the aggregate gross operating revenues of National Express, the National Express Affiliated Carriers, and Fox exceeded \$2 million during the 12-month period immediately preceding the filing of the application, see 49 C.F.R. § 1182.2(a)(5).

National Express asserts that the proposed transaction is not expected to have a material, detrimental impact on the adequacy of transportation services available to the public in the Service Area. (Appl. 10.) National Express states that it anticipates that services available to the public will be improved as operating efficiencies are realized and additional services and capacity are made available. (Id.) National Express further states that, for the foreseeable future, Fox will continue to provide the services it currently provides under the same name but will operate within the National Express corporate family, which is experienced in passenger

² In prior applications filed with the Board, National Express included two additional affiliated carriers: MV Student Transportation, Inc. (MV Student), and Petermann Southwest LLC (Petermann Southwest). By letter filed September 23, 2019, National Express explained that MV Student and Petermann Southwest were no longer listed as affiliated carriers because, prior to filing the current application, both entities had ceased operating and voluntarily revoked their USDOT numbers and interstate passenger operating authorities.

transportation operations. (Id.) According to National Express, Fox is experienced in some of the same market segments already served by some of the National Express Affiliated Carriers, and the transaction is expected to result in improved operating efficiencies, increased equipment utilization rates, and cost savings derived from economies of scale, which will help ensure the provision of adequate service to the public. (Id. at 10-11.) National Express also asserts that adding Fox to National Express' corporate family will enhance the viability of the overall National Express organization and the operations of the National Express Affiliated Carriers. (Id. at 11.)

National Express claims that neither competition nor the public interest will be adversely affected by the proposed transaction. (Id. at 13.) National Express states that the population and demand for charter and tour services in the Service Area are expected to continue to increase in the foreseeable future, and that Fox competes directly with other passenger charter and tour service providers in Massachusetts, Rhode Island, and New Hampshire. (Id. at 12-13.) According to National Express, a number of passenger transportation arrangers or brokers for charter and tour services operate within the Service Area, and passenger motor coach charter providers also compete with scheduled rail transportation and a number of scheduled airlines within the Service Area. (Id. at 13.) With regard to interstate charter and tour service offerings, National Express also states that the Service Area is geographically dispersed from the service areas of the National Express Affiliated Carriers, and there is very limited overlap in the service areas and customer bases among the National Express Affiliated Carriers and Fox. (Id.)

National Express states that fixed charges are not contemplated to have a material impact on the proposed transaction. (Id. at 11.) Regarding the interests of employees, National Express claims that the transaction is not expected to have substantial impacts on employees or labor conditions, nor does National Express anticipate a measurable reduction in force or changes in compensation levels and/or benefits. (Id.) National Express submits, however, that staffing redundancies could result in limited downsizing of back-office or managerial-level personnel. (Id.)

The Board finds that the acquisition as proposed in the application is consistent with the public interest and should be tentatively approved and authorized. If any opposing comments are timely filed, these findings 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 C.F.R. § 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.

This action is categorically excluded from environmental review under 49 C.F.R. § 1105.6(c).

Board decisions and notices are available at www.stb.gov.

It is ordered:

1. The proposed 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 vacated.
3. This notice will be effective November 13, 2019, unless opposing comments are filed by November 12, 2019.
4. 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, 10th Street & 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.

Decided: September 23, 2019.

By the Board, Board Members Begeman, Fuchs, and Oberman.