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November 10, 2022

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Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street SW
Washington, DC 20024

ENTERED
Office of Proceedings
November 10, 2022
Part of
Public Record

Re: Transdev Group, S.A.
– Acquisition of Control –
First Transit Topco Inc.
Surface Transportation Board Docket MCF 21103

Dear Ms. Brown:

Enclosed for filing in the above referenced docket is an application for approval of an acquisition of control over an additional motor passenger carrier by Transdev Group, S.A. and affiliates filed under 49 U.S.C. §14303 and the Board's rules at 49 CFR part 1182. The filing fee has been paid via pay.gov. Please let me know if you have any questions.

Sincerely,

Mark J. Andrews
Counsel to Transdev Group, S.A. et al.

Enclosure

FILED
November 10, 2022
SURFACE
TRANSPORTATION BOARD

FEE RECEIVED
November 10, 2022
SURFACE
TRANSPORTATION BOARD

Before the
SURFACE TRANSPORTATION BOARD

Docket No. MCF 21103

TRANSDEV GROUP, S.A.
– ACQUISITION OF CONTROL –
FIRST TRANSIT TOPCO INC.

VERIFIED APPLICATION OF
TRANSDEV GROUP, S.A.,
TRANSDEV NORTH AMERICA, INC.
AND TRANSDEV SERVICES, INC.
UNDER 49 U.S.C. 14303

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Attorneys for Applicants

Dated: November 10, 2022

Before the
SURFACE TRANSPORTATION BOARD

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– ACQUISITION OF CONTROL –
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I. Introduction and Summary

This application is filed by Transdev Group, S.A. (“Transdev”), a noncarrier, as well as by its noncarrier subsidiary Transdev North America, Inc. (“TNA”, formerly known as Veolia Transportation) and by TNA’s passenger motor carrier subsidiary Transdev Services, Inc. (“TSI”), collectively “Applicants.” TNA seeks to acquire all voting securities of First Transit Topco Inc. (“Topco”), an intermediate noncarrier parent company of passenger motor carrier First Transit, Inc. (“FT”), and thereby to acquire control of FT and its various non-carrier subsidiaries. The Topco securities would be acquired from Recess Holdco LLC, a noncarrier affiliate of FT. The indirect beneficial owners of FT are noncarriers EQT Infrastructure V Collect EUR SCSp and EQT Infrastructure V Collect USD SCSp (collectively, “EQT”). The EQT entities are infrastructure investment funds whose control of FT was approved by the Surface Transportation Board (“STB” or “Board”) in Docket No. MCF 21093, EQT

Infrastructure V Collect EUR SCSp et al. – Acquisition of Control – First Student, Inc., et al.,
served May 21, 2021.¹

The Board's approval of the current transaction (the "Proposed Acquisition") is required under 49 U.S.C. 14303 because the Proposed Acquisition would result in control by Applicants of FT, a motor passenger carrier regulated by the Federal Motor Carrier Safety Administration ("FMCSA"), as well as the continuance in control of other such carriers that Applicants currently control. Specifically, those other passenger carriers are TSI and two smaller FMCSA-regulated carriers described in section II(2) of this application.²

II. Information Required under 49 C.F.R. 1182.2(a)(1) through (a)(10)

(1) Full names and addresses of each party to the Proposed Acquisition:

Transdev Group S.A.
3 Allée de Grenelle
Issy-les-Moulineaux
92442, France

Transdev North America, Inc.
Transdev Services, Inc.
720 E. Butterfield Road, Suite 300
Lombard, IL
60148, USA

¹ The transaction that is the subject of this application does not involve any change in control of First Student, Inc. or any of the other carriers that were party to the cited proceeding, other than FT.

² A variety of FT subsidiaries that are not federally-regulated motor passenger carriers are also being acquired through the Proposed Transaction. These non-regulated entities consist largely of transit management companies and other companies that support the operation of FT but that do not engage in motor passenger carriage. The acquisition of these non-regulated entities is addressed in a parallel filing made by the parties to the Proposed Acquisition with the Antitrust Division of the U.S. Department of Justice and the Federal Trade Commission under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, 15 U.S.C. 18a ("HSR"). In addition, an appropriate filing will be made with the Canadian Competition Bureau in order to obtain regulatory clearance of the Proposed Acquisition under Canada's Competition Act, R.S.C., 1985, c. C-34.

First Transit Topco Inc.
First Transit, Inc.
Recess Holdco LLC
600 Vine Street, Suite 1400
Cincinnati, OH
45202, USA

(2) Pertinent FMCSA and intrastate operating authorities included in Proposed Acquisition:

FT – USDOT 1002211, MC-576222, Satisfactory safety rating

TSI – USDOT 505166, MC-258542, Satisfactory safety rating

Current TSI affiliates also holding FMCSA passenger operating rights:

- Pittsburgh Transportation Group Charter Services, Inc. – USDOT 1164759, MC-468282, Satisfactory safety rating
- SFO Airporter, Inc. – USDOT 403060, MC-50205, Satisfactory safety rating

FT provides essential mobility services including fixed route bus services, paratransit, shuttle bus services and vehicle maintenance services. FT's contract customers include state and local transit agencies, as well as other governmental agencies, airports, and private institutions such as universities and hospitals that require tailored transportation. FT holds operating authority from FMCSA because it occasionally conducts regulated interstate charter operations with vehicles it owns and drivers it employs when those vehicles and drivers are not engaged in its primary business, which is providing non-federally regulated contract transit services business described above.

FT also engages in regulated intrastate transportation in certain States. It holds a Charter Class A Certificate (No. PSG0024770) issued by the California Public Utilities Commission; common carrier permits (Nos. 7127, L8572) issued by the Colorado Public Utilities Commission; a public motor vehicle certificate (No. PMV-301) issued by the Rhode Island Public Utilities Commission; and passenger carrier authority issued by the Washington

Metropolitan Area Transit Commission. These intrastate operating authorities will continue to be held by FT following the closing of the Proposed Acquisition. Applicants note that 49 U.S.C. 14303(f) provides as follows: “A [passenger] carrier, corporation, or person participating in the approved ... transaction is exempt from the antitrust laws and from *all other law, including State and municipal law, as necessary to let that person carry out the transaction, hold, maintain, and operate property, and exercise control or franchises acquired through the transaction*” (emphasis added). Accordingly, the change in control of FT sought through this application would authorize Applicants’ control of the intrastate operating authorizations FT holds. See, e.g., Colorado Mountain Express, Inc. et al. – Consolidation and Merger – Colorado Mountain Express, Docket No. MCF 20902, STB served November 8, 1996).³

Further, the Proposed Acquisition does not entail the transfer from one entity to another of any of the FT federal or intrastate operating authorities.

(3) Brief Summary of the Proposed Acquisition:

A definitive agreement executed on October 25, 2022, provides for Topco, FT and certain non-carrier FT affiliates (collectively, the “FT Entities”) to be acquired by TNA subject to approval by the Board, review under HSR and other customary closing conditions and approvals, supra n.2. The FT Entities estimate that they transport 300 million passengers annually to and from approximately 300 locations across North America, utilizing approximately 12,000 vehicles. Founded in 1955, FT estimates that it and its affiliates currently have 20,000 employees who provide mobility solutions for communities, college campuses, businesses and

³ Although one court of appeals has held that such preemption applies only to transactions involving bona fide operations in interstate as well as intrastate commerce, see North Alabama Express, Inc. v. I.C.C., 62 F.3d 361 (11th Cir. 1995), any such limitation is inapplicable here because affiliates of Applicants and FT conduct substantial passenger operations in multistate metropolitan areas of such cities as New York City, Washington, D.C. and Portland, Oregon.

healthcare facilities. Transdev has approximately 82,000 employees who provide multimodal (bus and rail) mobility solutions for passengers in 18 countries including the United States. Subject to the customary closing conditions and approvals referenced above, Transdev and the FT Entities expect to close the Proposed Acquisition in the first quarter of 2023.

Both Transdev and the FT Entities are generally engaged in providing contract-based passenger transportation services to transit authorities, other governmental agencies, corporations, educational institutions and healthcare facilities wishing to outsource such transportation services. However, the respective operations of Transdev and the FT Entities are by no means identical and in fact are highly complementary. For fiscal year 2021, the U.S. revenues for these parties by business segment were distributed somewhat differently as follows:

<u>Principal Business Segments</u>	<u>FT Entities</u>	<u>Transdev</u>
Fixed Route	36%	58%
Paratransit (healthcare and eldercare)	32%	16%
Shuttle (corporate, airport, higher education)	18%	4%
Fleet Maintenance	10%	N/A
Alternative services (electric/autonomous vehicles)	N/A	2%

(4) Description of involved motor passenger carriers and intercorporate structure:

As described previously, the FMCSA-regulated motor carrier charter services of the FT Entities are provided by First Transit, Inc. Upon closing of the Proposed Acquisition, it will become a direct subsidiary of TNA and an indirect subsidiary of Transdev. In turn, Transdev will continue under the majority ownership of Caisse des dépôts et consignations, a French public-sector financial institution (64 percent), and under the minority ownership of the Rethmann Group, a family-owned German company with investments in recycling, water management, global logistics, pharmaceuticals and agriculture across 50 countries and five continents.

(5) Jurisdictional Statement: Applicants, Topco and FT hereby certify that as of a consecutive 12-month period ending October 25, 2022, their combined gross operating revenues from passenger motor transportation (including interstate, intrastate, foreign, regulated and unregulated services) exceeded USD \$2 million.

(6) Environmental and Energy Impacts: Applicants, Topco and FT hereby certify that the Proposed Acquisition will not significantly affect the quality of the human environment or the conservation of energy resources. Because of the contract-based nature of the passenger transportation operations of Applicants and FT, in addition to the structure of the Proposed Acquisition as a transfer of voting securities rather than assets, those parties will continue under legal obligations to perform their existing contracts to provide passenger services. If anything, energy and environmental impacts will be positive because of the well-known fuel-economy benefits of using public transit in lieu of the private automobile for personal mobility.

(7) Consistency of Proposed Acquisition with the Public Interest:

Under 49 U.S.C. 14303(b), Applicants must demonstrate that approval of the Proposed Acquisition will be “consistent with the public interest” by reference to:

- “Adequacy of transportation to the public”,
- “Total fixed charges” resulting from the transaction, and
- “The interest of carrier employees affected by” the transaction.

These matters will now be addressed in turn.

(a) *Service Adequacy*: The Proposed Acquisition should have no adverse impact on the federally-regulated charter bus services that FT provides. As the STB is aware, there are a large number of charter service bus companies and barriers to entry into the motor passenger carrier business are low. See No. MCF-21082, All Aboard America! Holdings, Inc. –

Acquisition of Control – Lux Bus America Co., STB served Sept. 21, 2018. The Proposed Acquisition therefore will not result in any meaningful reduction in competitive charter bus services. Further, because of the contract-driven nature of the outsourced passenger transit services involved here, Applicants and FT have every incentive to maintain and improve the adequacy of their services to the public. While the contracts involved are typically for multi-year terms, renewal of such agreements is by no means a foregone conclusion. Contract renewals in the transit sector often involve highly visible and intense negotiation processes between multiple bidders, governmental bodies, unions, political activists and other interested parties. Moreover, customers of third-party transit services always have the alternative option of bringing such operations in-house.

Consequently, outsourced passenger transportation services contracts are highly contestable by firms of all sizes across the fragmented provider landscape. A May 2022 report by Kearney & Company shows that the four largest companies vying for outsourced public transit contracts between 2011 and 2021 were National Express, MV, Transdev/Veolia and First Transit. Together they saw a significant decline in the share of contracts awarded from approximately 46 percent to only 34 percent. During that same period, Transdev and First Transit saw a combined share decline from 31 percent to 20 percent, while the combined share held by participants other than the four leading entities identified by Kearney has increased from 54 percent to 67 percent. These numbers clearly delineate an industry that would remain subject to intense competitive discipline even after the Proposed Acquisition. Applicants and FT will have every incentive to maintain high service levels in order to remain competitive against a wide variety of national, regional and local providers – along with the previously-mentioned

alternative for governments, universities and other contracting parties to take transit in-house again.

(b) *Fixed Charges:* Applicants have no current plans to finance the Proposed Acquisition in a manner that would affect fixed charges payable by FT. Instead, they currently intend to pay the purchase price with a combination of cash in hand and a portion of a revolving credit facility that has been in place for TNA and affiliates since 2019. FT will not be added as a co-obligor on this credit facility.

(c) *Effect on Carrier Employees:* For reasons already discussed, it is highly unlikely that the employees of the motor passenger carriers affiliated with TNA and FT would be adversely affected by the Proposed Acquisition. Those carriers will retain *both* contractual obligations to provide outsourced transportation services *and* competitive incentives to maintain and improve existing services, in order to improve their chances of success when new outsourcing opportunities arise or when existing contracts are re-competed. Moreover, both Applicants and their competitors are faced with a longstanding shortage of qualified drivers and maintenance personnel because of factors such as the COVID pandemic. Far from contemplating staff cuts, passenger and transit carriers such as Applicants are actively recruiting additional employees who can meet the qualifications specified by FMCSA and other agencies. Applicants thus do not have, and rationally could not have, any intention of significantly reducing employment levels involving drivers, dispatchers or vehicle maintenance personnel as a result of the Proposed Acquisition. Compare No. MCF 21042, Student Transportation of America – Control – Dairyland Buses, Inc., STB served December 14, 2011 (outsourced school transportation provider subject to market discipline from re-bidding of contracts or from potential decisions of school authorities to take such operations back in-house).

(8) Certification as to FMCSA Safety Fitness Ratings:

Applicants certify that section II(2), supra, accurately sets forth the FMCSA safety ratings of the motor passenger carriers to be operated under common control upon closing of the Proposed Acquisition. In addition, FMCSA safety ratings for motor property carriage have been issued to Transdev affiliates TNA (USDOT 2327201) and Daniella Rail Services Corp. (USDOT 2522760). Both of these ratings are Satisfactory.

(9) Certification as to Required Insurance Coverage:

Applicants certify that each of the passenger carriers listed in section II(2) holds the required amount of bodily injury and property damage insurance pursuant to 49 U.S.C. 13906 and that evidence of such insurance is on file with the FMCSA.

(10) Certification as to Mexican Ownership/Domicile:

Applicants certify that no party to the Proposed Acquisition is owned or controlled by persons domiciled in Mexico.

(11) Certification under 21 U.S.C. 862 (disqualification of individuals convicted of certain criminal violations):

Inapplicable, as none of the operating authorities involved in the Proposed Acquisition are held by, or will be transferred to, an individual who will hold the authority in his or her name.

III. Requirements for Service of Documents under 49 C.F.R. 1182.3(a)(1)

A copy of this application is being served on pertinent regulatory authorities of each State in which FT holds intrastate passenger motor carrier authority. On the federal level, copies are being served on FMCSA's Office of Registration and Safety Information, on the Pre-Merger Notification Unit of the U.S. Department of Justice, and on the Federal Trade Commission, Bureau of Competition, Premerger Notification Office.

IV. Conclusion

Accordingly, Applicants request that the Board approve this application pursuant to 49 U.S.C. 14303(f).

Respectfully submitted,

A handwritten signature in blue ink that reads "Mark J. Andrews". The signature is written in a cursive, flowing style.

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Attorneys for Applicants

Dated: November 10, 2022

VERIFICATION

Under penalty of perjury, I hereby verify on behalf of Transdev Group, S.A. that the foregoing is true and correct insofar as it relates to that company. Further, I certify that I am qualified and authorized to file this Verification.

Executed on November ¹⁰ , 2022.



Printed Name: Thierry Mallet

Title: CEO

Under penalty of perjury, I hereby verify on behalf of Transdev North America, Inc. and Transdev Services, Inc. that the foregoing is true and correct insofar as it relates to those companies. Further, I certify that I am qualified and authorized to file this Verification.

Executed on November 10, 2022.



Printed Name: Laura Hendricks

Title: CEO

VERIFICATION

Under penalty of perjury, I hereby verify on behalf of First Transit Topco Inc., First Transit, Inc. and Recess Holdco LLC that the foregoing is true and correct insofar as it relates to those companies. Further, I certify that I am qualified and authorized to file this Verification.

Executed on November 10, 2022.



Printed Name: Michael Petrucci

Title: General Counsel and Secretary