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SERVICE DATE – MARCH 29, 2019

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. MCF 21085

NATIONAL EXPRESS LLC—ACQUISITION OF CONTROL—FREE ENTERPRISE
SYSTEM/ROYAL, LLC

AGENCY: Surface Transportation Board.

ACTION: Notice Tentatively Approving and Authorizing Finance Transaction.

SUMMARY: On February 27, 2019, National Express LLC (National Express) and Sodrel Holding Company, Inc. (Sodrel Holding) (collectively, Applicants), both noncarriers, jointly filed an application under 49 U.S.C. § 14303 for National Express to acquire control of Free Enterprise System/Royal, LLC (Royal) from Sodrel Holding. 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 must be filed by May 13, 2019. Applicants may file a reply by May 28, 2019. If no opposing comments are filed by May 13, 2019, this notice will be effective on May 14, 2019.

ADDRESSES: Send an original and 10 copies of any comments referring to Docket No. MCF 21085 to: Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, send one copy of comments to Applicants' representatives: (1) Andrew K. Light, Scopelitis, Garvin, Light, Hanson & Feary, P.C., 10 W. Market Street, Suite 1400, Indianapolis, IN 46204; and (2) John G. Treitz, Stoll Keenon Ogden PLLC, 500 West Jefferson Street, Suite 2000, Louisville, KY 40202-2828.

FOR FURTHER INFORMATION CONTACT: Amy Ziehm at (202) 245-0391. 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 noncarrier holding company organized under the laws of Delaware that is indirectly wholly owned and controlled by a publicly held, British corporation, National Express Group, PLC (Express Group). (Appl. 1-2.) Applicants state that Express Group indirectly controls the

following 17 motor passenger carriers (collectively, National Express Affiliated Carriers) that hold interstate carrier operating authority in the United States (id. at 2-8):¹

- Aristocrat Limousine and Bus, Inc., 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, formerly known as National Express Coach, LLC, and National Express Transit – Yuma, which does not have any current operations;
- Durham School Services, L.P., which primarily provides student school bus transportation services in several states, and charter passenger services to the public;
- MV Student Transportation, Inc., which primarily provides student school bus transportation services, 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 Southwest LLC, which primarily provides non-regulated school bus transportation services in Texas, and charter passenger services to the public;
- Petermann STSA, LLC, which primarily provides non-regulated school bus transportation services primarily in Kansas, and charter passenger services to the public;
- Quality Bus Service LLC, which primarily provides non-regulated student school bus transportation services primarily 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;
- Trans Express Inc., 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 primarily provides non-regulated school bus transportation services in northern Ohio, and passenger charter services to the public;

¹ Additional information about these motor carriers, along with Royal and the carriers affiliated with Sodrel Holding discussed below, including U.S. Department of Transportation (USDOT) numbers, motor carrier numbers, and USDOT safety fitness ratings, can be found in the application. (See id. at 2-10, sched. A.)

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

Applicants state that Royal, the carrier being acquired, is an Indiana limited liability company that holds interstate carrier operating authority in the United States. Royal operates primarily as a motor carrier providing interstate and intrastate passenger charter services in Illinois and Indiana, and their surrounding states, and corporate and university shuttle services for employees and students in the greater metropolitan area of Chicago, Ill. (the Service Area). (Appl. 9.)

According to the application, Mr. Michael E. Sodrel holds all of the equity stock of Sodrel Holding. (Id. at 8.) Sodrel Holding, the seller and a noncarrier, is an Indiana corporation that holds all of the issued and outstanding equity membership interests in Royal. (Id.) Sodrel Holding also owns all of the outstanding equity stock or interests in three other motor passenger carriers that hold interstate carrier operating authority in the United States (Sodrel Affiliated Carriers) (id. at 8-10):

- The Free Enterprise System Inc., which provides interstate and intrastate passenger charter services in Illinois, Indiana, and Kentucky;
- Star of America LLC, which does not currently have any operations; and
- Student Transit, LLC, which provides non-regulated school bus transportation services in Indiana.

Applicants state that the National Express Affiliated Carriers, Royal, and the Sodrel Affiliated Carriers are the only carriers with regulated interstate operations involved in this application. (Id. at 11.)

Applicants state that, through this transaction, National Express will acquire all of the outstanding equity membership interest in Royal, giving National Express direct 100% control of Royal. (Id. at 10.)

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. Applicants have 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 the involved carriers exceeded \$2 million during the 12-month period immediately preceding the filing of the application, see 49 C.F.R. § 1182.2(a)(5).

Applicants assert that the proposed transaction is not expected to have a material, detrimental impact on the adequacy of transportation services available to the public. (Appl. 11.) They state that National Express expects that services to the public will be improved as operating efficiencies are realized. (Id.) They state that for the foreseeable future, Royal 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 transportation operations. (Id.) Applicants further state that Royal 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 within Royal, which will help ensure the provision of adequate service to the public. (Id. at 12.) They also assert that adding Royal to National Express' corporate family will enhance the viability of the overall National Express organization and the operations of the National Express Affiliated Carriers by adding the Service Area to their areas serviced. (Id.)

Applicants claim that neither competition nor the public interest will be adversely affected by the proposed transaction. (Id. at 14.) Applicants state that the population and demand for charter and shuttle services in the Service Area are expected to increase in the foreseeable future, and that Royal competes directly with other passenger charter and shuttle service providers, including ABC Transportation Services, Aries Charter Transportation, Chicago Charter Bus, Chicago Classic Coach, Ideal Charter, Infinity Transportation, Signature Transportation Group, and Windy City Limousine. (Id.) According to Applicants, a number of passenger transportation arrangers or brokers for charter services operate within the Service Area, and passenger motor coach charter providers also compete "with a number of scheduled airlines and scheduled rail transportation within the Service Area." (Id.) With regard to interstate charter service offerings, Applicants also state 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 Royal. (Id.)

Applicants state that there are no material fixed charges associated with the transaction. (Appl. 12.) Regarding the interests of employees, Applicants claim 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.) Applicants submit, 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. If no opposing comments are filed by 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 May 14, 2019, unless opposing comments are filed by May 13, 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: March 25, 2019.

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