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March 22, 2011

VIA HAND DELIVERY

Cynthia T. Brown
Chief, Section of Administration
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

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Office of Proceedings

MAR 22 2011

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Public Record



Re: **STB Docket Nos. ~~MC-F-20904~~, MC-F-20908, ~~MC-F-20912~~ -- Petition of
Coach USA, Inc. and Megabus Northeast, LLC**

Dear Ms. Brown:

Enclosed please find an original and ten copies of the Petition of Coach USA, Inc. and Megabus Northeast, LLC seeking a Show Cause Order with respect to unauthorized pooling. A check in payment of the applicable filing fee is also enclosed.

Respectfully,

A handwritten signature in black ink, appearing to read "David H. Coburn".

David H. Coburn

Attorney for Petitioners Coach USA, Inc.
and Megabus Northeast, LLC

cc: All parties of record

FEE RECEIVED

MAR 22 2011

**SURFACE
TRANSPORTATION BOARD**

FILED

MAR 22 2011

**SURFACE
TRANSPORTATION BOARD**

EXPEDITED ACTION REQUESTED



**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB DOCKET NOS. ~~MC-F-20904~~; MC-F-20908; ~~MC-F-20912~~

PETER PAN BUS LINES, INC.—POOLING—GREYHOUND LINES, INC.

**PETITION OF COACH USA, INC. AND MEGABUS NORTHEAST, LLC FOR SHOW
CAUSE ORDER WITH RESPECT TO UNAUTHORIZED POOLING**

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Attorneys for Coach USA, Inc. and
Megabus Northeast LLC

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EXPEDITED ACTION REQUESTED

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PETER PAN BUS LINES, INC.—POOLING—GREYHOUND LINES, INC.

**PETITION OF COACH USA, INC. AND MEGABUS NORTHEAST, LLC FOR SHOW
CAUSE ORDER WITH RESPECT TO UNAUTHORIZED POOLING**

Two federally-authorized motor passenger carriers, Greyhound Lines, Inc. (“Greyhound”) and Peter Pan Bus Lines, Inc. (“Peter Pan”), have recently announced new pooled service via their joint venture, BoltBus, between Newark, NJ and Washington, DC via Baltimore, MD.¹ However, pooled service originating and terminating at these points is not covered by an existing Board-approved pooling agreement. Coach USA, Inc. and Megabus Northeast, LLC, (jointly, “Megabus”) hereby petition the Board to issue an order requiring Greyhound and Peter Pan to show cause why they should not be required to terminate any pooled service they commence over a route not covered by an existing approved pooling agreement, and for related relief.

The Board has previously approved certain operations and revenue pooling agreements between Peter Pan and Greyhound under 49 U.S.C. § 14302, including agreements covering service between New York and Washington, DC; New York and Philadelphia; and New York

¹ See Exhibit 1, PR Newswire, *BoltBus Establishes Second Northeast Hub in Newark, N.J. With Service to Baltimore and Washington, D.C. Beginning March 24* (announcing the establishment of BoltBus’s “second Northeast hub” in Newark, NJ).

and Boston.² By virtue of a letter approval issued on April 17, 2008 by then Acting Secretary Anne Quinlan, the Board approved the so-called “Fourth Amendment to the Revenue Pooling Agreements” (“Fourth Amendment”), which effectively permitted Greyhound and Peter Pan to operate pooled service between these approved points through a joint venture entity known as BoltBus. BoltBus has thus been operating New York-Washington, New York-Philadelphia and New York-Boston services under the pooling agreements since 2008 and, according to Greyhound counsel its operations “inure to the benefit of both Peter Pan Bus Lines, Inc. and Greyhound Lines, Inc.”³

As noted, BoltBus has recently announced that it plans to offer service between Newark and Washington, DC via Baltimore, MD beginning on March 24, 2011, and to establish Newark as a new hub for its services. According to the press release attached at Exhibit 1, BoltBus “is a division of Greyhound Lines, Inc., operated in affiliation with Peter Pan Bus Lines.” Thus, the planned BoltBus operation at the new Newark hub would appear to be the same type of joint Greyhound/Peter Pan pooling operation as is conducted by BoltBus on other routes as to which pooling has previously been approved.

The new BoltBus service would originate and terminate at the Newark hub, and thus is not part of the Board-approved New York-Washington pooling service, which covers operations

² Peter Pan Bus Lines, Inc.—Pooling—Greyhound Lines, Inc., STB Docket No. MC-F-20908 (served Apr. 29, 1998) (New York-Washington, DC); Peter Pan Bus Lines, Inc.—Pooling—Greyhound Lines, Inc., STB Docket No. MC-F-20904 (served June 30, 1997) (New York-Philadelphia); Peter Pan Bus Lines, Inc.—Pooling—Greyhound Lines, Inc., STB Docket No. MC-F-20912 (served Feb. 12, 1998) (New York-Boston).

³ See April 2 letter from Greyhound counsel to the Board filed April 2, 2010 in Docket MC-F-20908.

originating or terminating at those two cities.⁴ No existing Greyhound-Peter Pan pooling agreement approved by the Board allows pooled service originating or terminating in Newark. Thus, the proposed service between Newark and Washington, DC is not covered by an STB-approved pooling agreement.

As relevant, 49 U.S.C. § 14302 provides that, “A carrier providing transportation subject to jurisdiction under Subchapter 1 of chapter 13 *may not agree or combine* with another such carrier to pool or divide traffic or services or any part of their earnings *without the approval of the Board under this section.*” (Emphasis added). Because BoltBus was established as a Greyhound-Peter Pan joint venture with pooled operations and revenue, and apparently continues to operate as such, Greyhound and Peter Pan must seek and obtain Board approval of the proposed Newark-D.C. BoltBus service under section 14302 before any such service is offered.

Greyhound and Peter Pan have failed to do so. Therefore, the Board should issue an order requiring Greyhound and Peter Pan to show cause to the Board why any pooled service they commence should not be terminated. If they cannot provide an adequate explanation for their unapproved pooling, the Board should prohibit the continued sale of tickets for the BoltBus service between Newark and Washington, DC, require an appropriate cessation of the pooled operations and require Greyhound and Peter Pan to file an application pursuant to 49 U.S.C. § 14302 seeking approval of a pooling agreement covering such service.

Significantly, Greyhound and Peter Pan have previously attempted to expand pooled BoltBus operations beyond the geographic scope of approved pooling agreements and the Board has prohibited them from doing so. On March 12, 2010, Greyhound and Peter Pan filed a letter with the Board seeking approval of a “Fifth Amendment to the Revenue Pooling Agreements.”

⁴ See Peter Pan Bus Lines, Inc.—Pooling—Greyhound Lines, Inc., STB Docket No. MC-F-20908 (served Apr. 29, 1998).

This amendment sought to introduce BoltBus service between Washington, DC and Philadelphia, PA, a route not covered by any previously approved pooling agreements between Greyhound and Peter Pan. Megabus opposed approval of the Fifth Amendment, arguing that expansion of pooled service to a route not covered in the approved pooling agreements required the filing of a new pooling agreement. In a decision served March 24, 2010, the Board ruled that Greyhound and Peter Pan must seek Board approval by filing an application under section 14302 if they wished to operate BoltBus service between Philadelphia, PA and Washington, DC.⁵ They never did so, and do not offer such service through their pooling agreement today.⁶

In the present case, Greyhound and Peter Pan did not file anything with the Board seeking approval for the planned Newark pooled service. For the same reasons that approval of the Fifth Amendment was denied, the Board should now follow the precedent it established and require Greyhound and Peter Pan to terminate any pooled service they establish on the Newark-Washington, DC route.

Further, the original justification offered for their pooling agreements was that the agreements would allow Peter Pan and Greyhound to eliminate excess capacity, thereby increasing load factors and bringing about financial stability, which was apparently lacking in the late 1990's, when the pooling applications were filed with respect to New York-Washington,

⁵ Peter Pan Bus Lines, Inc.—Pooling—Greyhound Lines, Inc., STB Docket No. MC-F-20908 (March 24, 2010) at 2.

⁶ The fact that Newark is listed as an intermediate point on the approved New York-Washington, DC route is of no significance. As noted above, Newark is not being added as an intermediate stop on New York-Washington, DC service, but as an origin/termination point, *i.e.*, a hub, in its own right. Since there is no approved pooling agreement covering service that originates or terminates in Newark, Greyhound and Peter Pan cannot rely on their New York-Washington, DC agreement here, any more than they were entitled to do so in the Philadelphia setting.

New York-Philadelphia and New York-Boston services.⁷ As explained by Megabus in its still-pending May 3, 2010 petition to reopen the Board's approval of the Fourth Amendment, Megabus believes in light of changed circumstances that these justifications can no longer support pooling over any of the previously approved routes, including New York-Washington, DC.⁸ It is thus far from certain that Greyhound and Peter Pan could justify the approval of pooled service between Newark and Washington, DC in today's radically different intercity bus environment. However, if Greyhound and Peter Pan believe that there is some legitimate justification for their proposed pooling on that new route through BoltBus, they should be required to present this evidence to Board and seek its approval under section 14302.

REQUEST FOR EXPEDITED RELIEF

For the reasons discussed above, Megabus respectfully requests that the Board issue a show cause order requiring Greyhound and Peter Pan to explain to the Board why they believe Board approval is not required to operate pooled BoltBus service between Newark, NJ and Washington, DC when that service originates or terminates in Newark.

Megabus further requests that the Board act on this petition as soon as possible because the BoltBus service in question is scheduled to begin on March 24, 2011. If Greyhound and Peter Pan cannot promptly provide an adequate explanation as to why Board approval of the

⁷ See, e.g., Application of Peter Pan Bus Lines, Inc. & Greyhound Lines, Inc., STB Docket No. MC-F-20908 (May 20, 1997) at 3 (“[T]he load factors on the buses operated on the route over which pooled operations are proposed is unacceptably low, occasioning an intolerable drain on both carriers’ resources... The reason both carriers feel compelled to continue to operate the number of schedules that they operate is to protect their respective market shares, notwithstanding the fact that operating that number of schedules results in the market being over-served...”).

⁸ Peter Pan Bus Lines, Inc.—Pooling—Greyhound Lines, Inc., Fourth Amendment to Revenue Pooling Agreements, Petition of Coach USA, Inc. and Megabus Northeast, LLC to Reopen, STB Docket Nos. MC-F-20904, MC-F-20908 and MC-F-20912 (May 3, 2010).

expansion of their pooling agreement to embrace service originating or terminating in Newark is not required, the Board should require Greyhound and Peter Pan to terminate any further sales for the pooled Newark-Washington, DC service, and to thereafter terminate that pooled service as soon as reasonably possible.

Respectfully submitted,



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March 22, 2011



EXHIBIT 1

Send a release
Member sign in
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Global sites

Search

Advanced Search

Products & Services News Releases

Products & Services

Knowledge Center

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BoltBus Establishes Second Northeast Hub in Newark, N.J. With Service to Baltimore and Washington, D.C. Beginning March 24

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All Seats on New Routes Just \$1 Until March 27

DALLAS, March 8, 2011 /PRNewswire/ -- BoltBus, a premium bus line focused on providing exceptional service, luxury and convenience at an amazingly low price, today announced it has established a second Northeast hub in Newark, N.J. The company is now selling tickets between Newark, N.J. and Baltimore and Washington, D.C. for service beginning on March 24. To celebrate, all seats on these routes are priced at only \$1 through March 27.

"BoltBus continues to demonstrate its strength in the Northeast market, which is why we're excited to launch a second major hub to meet the ever-growing customer demand," said David Hall, general manager of BoltBus. "In just three years, more than four million passengers have enjoyed the BoltBus experience, which is unmatched in value, service, luxury and safety with convenient service to major Northeast cities."

The new service includes four daily, round-trip schedules between Newark and Baltimore and Washington, D.C. Monday through Thursday and six round-trips Friday through Sunday. Customers can board street-side in Newark outside the Greyhound terminal, which is adjacent to Newark Pennsylvania Station. The service is non-stop to the MARC Baltimore Penn Station in Baltimore, and to two stops in Washington, D.C.: Union Station and New Jersey Avenue NW at F Street NW.

With BoltBus, customers enjoy a higher level of service with on-board amenities such as comfortable seats, extra leg room, free Wi-Fi and power outlets. A loyalty program, Bolt Rewards, is also available to reward frequent riders with free travel. And customers can feel good about their contribution to a better environment by riding BoltBus. The company is a greener transportation alternative, only operating new low-emission coaches that can take up to 50 cars off the road.

Tickets for travel from this new location and all of BoltBus' schedules are currently available for purchase in advance online. Tickets can also be purchased from a driver before boarding, over the phone at 1-877-BOLT-BUS or via BoltBus Mobile. Walk-up tickets can be purchased at full price. All tickets are nonrefundable. For additional fare and schedule information, visit www.boltbus.com

About BoltBus

BoltBus provides fast, frequent and safe transportation with unmatched amenities for an amazingly low price. BoltBus is a division of Greyhound Lines, Inc., operated in affiliation with Peter Pan Bus Lines. The division is headquartered in Secaucus, N.J. For fare and schedule information and to buy tickets, visit www.boltbus.com. For the latest news and travel deals, follow BoltBus on Twitter at <http://twitter.com/BoltBus> and Like us on Facebook at <http://www.facebook.com/BoltBus>.

SOURCE BoltBus

CERTIFICATE OF SERVICE

I hereby certify that I have this 22nd day of March 2011 served a copy of the foregoing Petition of Coach USA, Inc. and Megabus Northeast, LLC by Federal Express on counsel for Greyhound Lines, Inc. and Peter Pan Bus Lines, Inc. as follows:

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