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September 11, 2015

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VIA FEDERAL EXPRESS

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September 14, 2015  
Part of  
Public Record

**Re: PTS of America, LLC / Brevard Extraditions, Inc. d/b/a US Prisoner Transport**  
**Docket Number: MCF-21064-0**  
**Petitioners Reply to Opposing Comment**

To Whom It May Concern:

Enclosed please find an original and 10 copies of the Petitioner's Reply to the Comment in Opposition filed by Connelly, Griggs, Partin, LLP et al.

Please contact me if you have any questions or concerns.

Yours truly,



Henry E. Seaton

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BEFORE THE  
SURFACE TRANSPORTATION BOARD  
WASHINGTON, D.C.

STB Docket No. MCF-21064

**Prisoner Transportation Services, LLC**  
**-- Control --**  
**PTS of America, LLC d/b/a PTS and**  
**Brevard Extraditions, Inc. d/b/a U.S. Prisoner Transport**

REPLY OF PETITIONER TO COMMENTS OF  
CONNELLY, GRIGGS, PARTIN, LLP ET AL.

By Their Attorneys

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Date Filed: September 11, 2015



BEFORE THE  
SURFACE TRANSPORTATION BOARD  
WASHINGTON, D.C.

STB Docket No. MCF-21064

**Prisoner Transportation Services, LLC**  
**-- Control --**  
**PTS of America, LLC d/b/a PTS and**  
**Brevard Extraditions, Inc. d/b/a U.S. Prisoner Transport**

REPLY OF PETITIONER TO COMMENTS OF  
CONNELLY, GRIGGS, PARTIN, LLP ET AL.

This Reply is filed by the Petitioner Prisoner Transportation Services, LLC, by and through their Counsel, in the above captioned matter in response to the comment filed in opposition to the Board's approval of the transaction by three law firms (Conley, Griggs, Partin, LLP et al. or "CGP") which represent certain plaintiffs that have filed actions against PTS of America, LLC ("PTS"). Both lawsuits are pending in the U.S. District Court for the Northern District of Georgia (*Galack* and *Weintraub*).

**Statement of Case**

On June 24, 2015, the shareholders of PTS and Brevard Extraditions, Inc. d/b/a U.S. Prisoner Transport (USPT) sought to effectuate common control of both companies by exchanging stock with a newly created parent corporation, Prisoner Transportation Services, LLC. Pursuant to 49 U.S.C. § 14303(a)(3) and 49 C.F.R. § 1182.2, on or about June 24, 2015, the Petitioner filed a Verified Application before the Surface Transportation Board ("STB" and/or "Board").

By Order issued July 24, 2015 the Board approved Petitioner's Application subject to comment and found that the proposed transaction would be structured as an acquisition of common control of two carriers through contribution of outstanding stock of both to a holding

company. Following a consideration of the statutory factors in Section 14303(b) the Board authorized the transaction as consistent with the public interest after taking into consideration: (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 employees. (Order, p. 2-3.)

CGP did not challenge Petitioner's submission or the Board's finding with respect to any of these statutory requirements. Instead, Commenters speculate that if the named lawsuits go to trial, and if jury verdicts exceed liability coverage, then the acquisition of PTS by Prisoner Transportation Services "could allow the shareholder to shift the assets of PTS to the parent "leaving behind the shell organization as a defendant with no remaining assets to satisfy the judgments." (See Comments p.2)

CGP summarized its position as follows: "In short, we oppose this application for acquisition of control because it could allow the conveyance of all assets, without an assumption of PTS's liabilities, to the newly created entity..." (See Comments, p. 3. emphasis added)

### **Reply**

First, CGP fails to state a claim for which relief can or should be granted. The transaction proposed by the applicant and approved by the Board does not involve a sale or transfer of assets which would adversely affect Petitioner's ability to provide service or to respond to any legal judgment which might be entered. The transaction is structured to permit the owners of PTS and USPT to grow and prosper in response to a public need. Secondly, CGP's opposition is based upon pure speculation which should not be countenanced by the Board.

Second, PTS is governed by FMCSA safety regulations and has \$5 million per occurrence in insurance to ensure fulfillment of any obligation it may have in either the *Weintraub* or the *Galack* suit. Commenters have no evidence or basis for alleging that the

owners of PTS would attempt to divert assets to defraud creditors and the bald allegation of what an applicant might or could do to avoid legal obligations is not a proper issue of consideration for the STB and is certainly not entitled to any probative weight.

Third, the Board's action in permitting common control is consistent with the agency's mandate to encourage efficient operation to serve the public while giving due consideration to the adverse impact on competitors if market dominance becomes an issue. Commenters cite no precedent, statute or case law for extending the ambit of the Board's consideration to include cases and controversies which are properly joined and pending before U.S. District Courts of proper jurisdiction.

Finally, the proposed transaction cannot be recast as an anticipatory scheme to defraud creditors and CGP should not be permitted to invoke the STB's jurisdiction to leverage their settlement position in other cases and controversies by seeking reversal or delay in affirming the Board's approval. The Board's approval of the transaction speaks only to the permitting of common control through stock ownership. The Board's action does not in any way usurp the Court's plenary powers in *Galack* and *Weintraub* or prejudice the rights of any ultimate judgment creditor to trace assets in aid of execution.

### **Conclusion**

Properly seen, the STB has examined the efficacy of Applicant's proposal in accordance with the enumerated statutory criteria and the competitive effects of a grant and has approved the request. Commenters have presented no probative evidence precedent for reversing the Board's initial Order. The Board has given Applicant the needed regulatory approval to grow and prosper. It has not given the Petitioner a license to transfer assets, to defraud potential creditors, nor does its decision somehow prejudice whatever rights or remedies the plaintiffs may have in any pending litigation.

Ultimately, the Federal Motor Carrier Safety Administration, not the STB, is the federal agency responsible for determining whether a motor carrier is licensed, authorized, insured and fit to operate on the nation's roadways pursuant to 49 U.S.C. §31144. PTS enjoys the highest safety fitness rating of Satisfactory and has on file the statutory minimum of \$5 million per occurrence to assure the traveling public that its legal obligations can be reasonably met. PTS' insurance and safety records are maintained for public inspection by the Federal Motor Carrier Safety Administration's and may be viewed on its database at <http://www.saftersys.org/>.

Accordingly, Petitioners submit that the full Board's recent decision in MCF-21062-0, *Ace Express Coaches, LLC et al. – Acquisition and Control -- Certain Properties of Evergreen Trails, Inc. d/b/a Horizon Coach Lines* is applicable to the facts of this case. In *Ace* the Board noted that while its tentative approval of the transaction was automatically vacated by the filing of the opposing comment: “Under 49 C.F.R. §382.6(c)(1) we find we are able to make a determination on the current record and no additional evidence is required.”

The Board found that the commenter in *Ace* like CGP here, “[did] not explain how the alleged violation relates to the statutory standard applied by the Board” and “does not provide any basis for concluding that the purpose of the transaction is to avoid Commission jurisdiction, nor is there any basis for this conclusion in the record. Colorado Jitney's assertion by itself, without support, is speculation and not enough to indicate that the proposed transaction would be inconsistent with the public interest. 49 U.S.C. § 14303(b)”. See *Ace Express Coaches, LLC et al. – Acquisition and Control -- Certain Properties of Evergreen Trails, Inc. d/b/a Horizon Coach Lines* STB docket number MCF-21062-0. Similarly, CGP offers only speculation, not fact in its comment and its alleged concerns do not relate to the statutory factors that control the matter before the Board.

In summary, the Petitioners here ask that this Board issue an Order without hearing approving the proposed transactions consistent with the public interest. Pursuant to 49 C.F.R. § 1182.6(b)(1) the Petitioners respectfully requests an expedited decision on this matter.

Respectfully submitted,

PTS OF AMERICA, LLC d/b/a PTS

and

BREVARD EXTRADITIONS, INC.  
d/b/a US PRISONER TRANSPORT

By Their Attorneys



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Filed: September 11, 2015

**CERTIFICATE OF SERVICE**

I hereby certify that I have caused true and correct copies of this Reply, to be served pursuant to the requirements contained in 49 C.F.R. § 1182.8(c) upon the following parties:

**Via Federal Express**

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Dated this 11th day of September, 2015.

  
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