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SERVICE DATE - JUNE 4, 1998

SURFACE TRANSPORTATION BOARD

DECISION

STB No. MC-F-20915

SUBURBAN TRANSIT CORP., ET AL
--POOLING--
AMERICAN LIMOUSINE SERVICE INC.

Decided: May 29, 1998

By application filed January 6, 1998, Suburban Transit Corp. and Suburban Trails, Inc. (collectively, Suburban) and American Limousine Service, Inc. (American) jointly seek approval of a coordinated service and revenue pooling agreement under 49 U.S.C. 14302 to govern their motor passenger transportation services between a park and ride facility near Exit 8A of the New Jersey Turnpike, on the one hand, and, on the other, New York City (herein, the "8A Area Service"). Notice of the application was served and published in the Federal Register (63 FR 10072) on February 27, 1998. In addition, a copy of the notice was served on the U.S. Department of Justice, Antitrust Division. No comments have been filed.

Under 49 U.S.C. 14302(b), an agreement to pool or divide services and earnings may be approved if the carrier participants assent, and if we find that the agreement (1) will be in the interest of better service to the public or of economy of operation, and (2) will not unreasonably restrain competition. By jointly filing the application, the carriers presumably assent to the transaction. We have analyzed the application under the statutory criteria and have decided to approve it.

BACKGROUND

Suburban Transit Corp., a commuter bus carrier, holds operating authority in No. MC-115116 and operates from Middlesex, Somerset and Mercer counties in central New Jersey to New York City along numerous routes.

Suburban Trails, Inc., holds operating authority in No. MC-149081 and operates two regular routes: the Route 9 corridor service, in coordination with New Jersey Transit, and the Hightstown "8A Area Service," the route involved in the instant pooling application. Suburban Trails also operates domestic and international charter service.

American holds operating authority in No. MC-186879 and operates, in addition to the route involved here, two intrastate routes between points in Middlesex and Mercer Counties and Atlantic City, NJ, as well as interstate and intrastate charter service.

Suburban and American state that they are head-to-head competitors on the "8A Area Service" route. Suburban operates 28 inbound trips to New York City and 30 outbound trips to

New Jersey; American operates 10 inbound trips to New York City and 9 outbound trips to New Jersey. Because their competing services are performed at nearly the same scheduled times each day, which causes both carriers to operate only partially loaded buses, applicants claim their operations are costly and inefficient.¹ Pooling of services will enhance applicants' return on their investments, thereby ensuring continued service to commuters utilizing the 8A Area Service.

The duplication in their services, according to applicants, results in inefficient and costly bus transportation that is less competitive with other modes. Applicants assert that there is formidable competition from other modes of transportation. They state that Amtrak operates 4 commuter hour trains, that New Jersey Transit operates 12 commuter hour trains, and that the highway network makes the private automobile and van pools relatively quick and inexpensive.²

DISCUSSION AND CONCLUSIONS

The proposed pooling arrangement should allow applicants to operate more economically and efficiently. By rationalizing their competing operating schedules, applicants should be able to end the inefficient duplication in service that currently exists by increasing the passenger load per bus and reducing unit costs. Such rationalization will enable applicants to: (1) provide a greater choice of departure times; (2) honor each other's tickets; (3) arrange for PM departures from the same departure area; (4) utilize a common dispatcher; and (5) accept passengers from disabled buses, thereby enhancing the overall convenience of commuting by bus. Passengers will benefit in reduced waiting time as they will be able to utilize the services of either carrier, regardless of which ticket they purchased. In addition, the sharing of revenues derived from their operations will provide applicants with greater financial stability. This should allow each carrier to manage better its pricing structure and capital improvements, such as the replacement of vehicles, resulting in improved service for the commuting public.

¹ For example, American has morning departures from the 8A Park N'Ride to Midtown Manhattan at 6:10, 6:50, 7:00, 7:10, 7:20, 7:30, and 7:40, and Suburban has scheduled service over similar routes at 6:15, 6:55, 7:05, 7:15, 7:30, and 7:45. Evening departures from midtown are equally redundant. American's scheduled service from midtown Manhattan departing from the Port Authority is at 4:45, 5:00, 5:20, 5:40, 6:15, and 6:40, while Suburban's service is scheduled to depart at 4:45, 5:00, 5:20, 5:40, 6:15, and 6:30. From Wall Street, American has scheduled service departing at 4:40, 4:45, 5:10, and 5:30. Similarly, Suburban has departures from Wall Street at 4:45, 5:15, and 5:45.

² Applicants claim that it only takes 60 minutes from the 8A interchange and 65 minutes from the 8 interchange to drive to New York City. Similarly, van pools can travel to work for about one-half of current bus fares.

The proposed pooling agreement should not unreasonably restrain competition in the affected transportation market. Amtrak, New Jersey Transit, van pools, and private automobiles ensure that the commuting public will retain the benefits of substantial intermodal competition. A strong competitive field, based on service provided by other transportation modes, has been recognized as preventing undue competitive restraints in the intercity bus industry. See GLI Acquisition Company--Purchase--Trailways Lines, Inc., 4 I.C.C.2d 591 (1988), aff'd mem. sub nom. Peter Pan Bus Lines, Inc. v. ICC, 873 F.2d 408 (D.C. Cir. 1989). Thus, we find nothing of record to suggest that the proposed pooling agreement will restrain competition within the affected service area to any material extent. To the contrary, as suggested above, the proposed agreement may represent the best way to promote, if not ensure, continued competitive passenger service in the affected region.

We find:

The proposed coordinated service and revenue pooling agreement between Suburban and American will foster improved service to the public and economy of operation, and will not unreasonably restrain competition. This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The proposed coordinated service and revenue pooling agreement between Suburban and American is approved and authorized to the extent specified in the application, the pooling agreement, and this decision.
2. This decision will be effective on June 4, 1998.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams
Secretary