

44218  
EB

SERVICE DATE – FEBRUARY 12, 2015

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. MCF 21023

AVERITT EXPRESS, INC., DATS TRUCKING, INC., LAKEVILLE MOTOR EXPRESS, INC., LAND AIR EXPRESS OF NEW ENGLAND, PITT OHIO EXPRESS, LLC, CANADIAN FREIGHTWAYS, AND EPIC EXPRESS—POOLING AGREEMENT

Digest:<sup>1</sup> This decision modifies an approved motor carrier pooling agreement to reflect that Lakeville Motor Express, Inc., is voluntarily withdrawing from the pooling agreement and that LME, Inc., is being added to the agreement in its place.

Decided: February 10, 2015

By decision served on January 31, 2008 (January 2008 decision), the Board approved a pooling agreement under 49 U.S.C. § 14302 and 49 C.F.R. pt. 1184 filed by Averitt Express, Inc., DATS Trucking, Inc. (DATS), Lakeville Motor Express, Inc. (Lakeville Motor), Land Air Express of New England, Pitt Ohio Express, LLC, Canadian Freightways, and Epic Express<sup>2</sup> (collectively, applicants), authorizing applicants to engage in a pooling of their services, traffic, and revenues. Through the pooling operation, applicants proposed to create a transportation network of regional service providers known as the Reliance Network (Network), with integrated information technology, administrative functions, sales and marketing efforts, and operations. In approving the pooling agreement, the Board found that the proposed transaction was not of major transportation importance because the Network would include participation by a small number of regional motor carriers and that many other motor carriers exist that provide services similar to the participating members. The Board also found that the pooling agreement would not unduly restrain competition, indicating that, among other things, many opportunities existed for competing carriers to engage in interline arrangements to provide services competitive with those proposed by applicants. No comments were filed in response to the application or the approved pooling agreement.

---

<sup>1</sup> The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. Policy Statement on Plan Language Digests in Decisions, EP 696 (STB served Sept. 2, 2010).

<sup>2</sup> The 2008 application refers to Canadian Freightways and Epic Express, two commonly-owned Canadian carriers participating in the pooling agreement, together as “Canadian Freightways/Epic Express.” In listing the current pool members, however, the pending notice refers to “Canadian Freightways/Kingsway.”

By decision served on February 18, 2011, the pooling agreement was modified to replace DATS with Peninsula Truck Lines, Inc. (Peninsula), of Seattle, Wash., and Mountain Valley Express, Inc. (MVE), of Manteca, Cal. Applicants stated that DATS voluntarily withdrew from the pooling agreement and Peninsula and MVE would be added to the Network to provide motor carrier transportation services to the territory formerly served by DATS within the Network.

On November 24, 2014, the current participating carriers filed a notice stating that Lakeville Motor is voluntarily withdrawing from the pooling agreement and would be replaced by LME, Inc. (LME), of Roseville, Minn. The notice states that Lakeville Motor has notified the remaining participating carriers and that they support substituting LME into the pooling arrangement.

According to the notice, LME is a regional motor carrier conducting operations in interstate commerce pursuant to authority issued by the Federal Motor Carrier Safety Administration (MC-400053, U.S. DOT Number 927043). It indicates that LME provides its core transportation services in Illinois, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, North Dakota, South Dakota, and Wisconsin. According to the notice, LME's core service area is coextensive with that of Lakeville Motor within the pooling agreement. The notice states that LME would operate 222 tractor/trucks with 250 drivers, and 940 trailers in conducting its transportation operations. Further, according to the notice, through various agency relationships LME is fully conversant with Lakeville Motor's operations within the territory under the pooling arrangement and has provided transportation services on behalf of Lakeville Motor within that core service area.

The pooling agreement provides that the participating members may withdraw upon timely notification to the other members and to the Board. It also provides for the continuation of the pooling arrangement by the remaining members or by expanding membership to other qualified carriers. The notice indicates that LME would comply with the terms and conditions of the pooling agreement and is poised to provide the transportation services required under the pooling agreement.

No comments were filed in response to the request for substitution. Moreover, substituting LME for Lakeville Motor would enable the Network to continue to conduct the pooling operations substantially as originally approved in the January 2008 decision. It would not create new competitive concerns with respect to other carriers providing similar service in the affected regions that would require further Board scrutiny because LME's core service area is coextensive with Lakeville Motor's within the pooling agreement and LME has provided transportation services on behalf of Lakeville Motor within that core service area. Further, the remaining carrier participants fully support the participation of LME in the pooling arrangement. Accordingly, the pooling agreement approved in the January 2008 decision is modified to substitute LME in place of Lakeville Motor.

This decision will not significantly affect the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The pooling agreement approved in this proceeding is modified to substitute LME in place of Lakeville Motor.
2. This decision is effective on its service date.

By the Board, Acting Chairman Miller and Vice Chairman Begeman.