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SERVICE DATE – APRIL 22, 2015

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. MCF 21062¹

ACE EXPRESS COACHES, LLC, ET AL.—ACQUISITION AND CONTROL—CERTAIN
PROPERTIES OF EVERGREEN TRAILS, INC. D/B/A HORIZON COACH LINES

AGENCY: Surface Transportation Board.

ACTION: Notice Tentatively Approving and Authorizing Finance Transaction.

SUMMARY: Ace Express Coaches, LLC (Buyer), and its affiliated parties (All Aboard America! Holdings, Inc. (AHI), Celerity AHI Holdings SPV, LLC (Celerity Holdings), Celerity Partners IV, LLC (Celerity Partners), and Industrial Bus Lines, Inc. (IBL)) (collectively, Applicants) have filed an application under 49 U.S.C. § 14303 for the Buyer to acquire certain assets of Evergreen Trails, Inc. d/b/a Horizon Coach Lines (Seller), and for the continuance in control of the Buyer by AHI, Celerity Holdings, and Celerity Partners once the Buyer becomes a federally regulated motor carrier of passengers. 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 June 8, 2015. Applicants may file a reply by June 22, 2015. If no comments are filed by June 8, 2015, this notice shall be effective on June 9, 2015.

ADDRESSES: Send an original and 10 copies of any comments referring to Docket No. MCF 21062 to: Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, send one copy of comments to Applicants' representative: Mark J. Andrews, Strasburger & Price, LLP, Suite 717, 1025 Connecticut Avenue, N.W., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Matthew Bornstein: (202) 245-0385. Federal Information Relay Service (FIRS) for the hearing impaired: 1-800-877-8339.

SUPPLEMENTARY INFORMATION: The Buyer is a newly established limited liability company under the laws of Delaware. Applicants state that the Buyer applied to the Federal

¹ Concurrently with their application, the parties also filed a request for interim approval under 49 U.S.C. § 14303(i). In a decision served on April 8, 2015, in related Docket No. MCF 21062 TA, interim approval was granted, effective on the service date of that decision.

Motor Carrier Safety Administration (FMCSA) for nationwide charter and special operations authority, as a motor passenger carrier operating over irregular routes, in Docket No. MC-908184. IBL, a motor carrier of passengers (MC-133171), is a corporation established under the laws of New Mexico. IBL provides charter and contract services in Arizona, New Mexico, and Texas utilizing 101 motor coaches and minibuses. The Buyer and IBL are under the control of AHI, Celerity Holdings, and Celerity Partners, each a noncarrier organized under the laws of Delaware. AHI also owns 100 percent of the stock of two other federally regulated motor carriers of passengers: Hotard Coaches, Inc. (Hotard) (MC-148331) and Sureride Charter Inc. d/b/a Sundiego Charter Co. (Sundiego) (MC-324772).² Hotard operates local and regional charter and contract services within Louisiana and southern Mississippi. Sundiego conducts charter, sightseeing, and various shuttle operations to, from, and within California and adjoining states.

The Seller, a motor carrier of passengers (MC-107638), is a corporation established under the laws of the State of Washington. The Seller is under the control of Francis W. Sherman, a noncarrier individual. Mr. Sherman exercises control of the Seller through intermediate holding companies FSCS Corporation and TMS West Coast, Inc. Applicants state that the Seller currently provides both government and corporate shuttle services, scheduled shuttle services between Denver and two mountain resort towns in Colorado (carrying both patrons and employees of the casinos located there), and leisure travel services to, from, and within Colorado. The government shuttle services include services provided under a contract between the Seller and the U.S. Department of Defense (DOD). Applicants state that the Seller utilized approximately eight vans and minibuses for the corporate shuttles, 11 motor coaches for the casino operations, and 33 coaches plus two minibuses for all other work. Applicants indicate that the revenue mix generated by these assets in 2014 for the government/corporate shuttles, casino operations, and charters was approximately 9, 48, and 43 percent, respectively. In addition, the Applicants state that the Seller has been awarded an intercity passenger service contract with the Colorado Department of Transportation (CDOT) under which 13 additional CDOT-owned coaches will commence operations within the next few months.

Applicants explain that the proposed transaction would close in three phases. The first phase, as discussed in MCF 21062 TA, contemplates that the Buyer and IBL would acquire control of the assets currently operated by the Seller in Colorado.³ All of the non-DOD assets,

² The Board authorized control of Hotard and IBL by AHI and the Celerity entities in Celerity Partners IV—Control—Calco Travel, MCF 21044 (STB served May 11, 2012). The Board also authorized control of Sundiego by AHI and the Celerity entities in Celerity Partners IV—Control— Sureride Charter, MCF 21055 (STB served Oct. 29, 2013).

³ These assets include: (i) the Seller's operations center in Golden, Colorado, plus six other leased terminals and parking facilities; (ii) approximately 44 motor coaches and 23 other vehicles; (iii) all maintenance facilities and supplies for these vehicles; (iv) certain licenses and permits necessary to operate the assets; (v) furniture, fixtures, office equipment, software, and

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including vehicles, would be operated by IBL (under its existing FMCSA authority) pursuant to an interim management agreement between IBL and the Buyer. Vehicles owned by the Seller would be leased to the Buyer, and vehicle leases to the Seller by third parties would be assigned to the Buyer. The DOD contract would be assigned to and performed by IBL under a management agreement with the Buyer, as required by DOD regulations, which preclude contracts with passenger carriers in existence less than a year.

The second phase of the proposed transaction would entail the Buyer becoming permanent owner and operator of all the non-DOD assets, including vehicles, upon the effective date of the Board's approval of the transaction and once the Buyer has obtained FMCSA operating authority. Any interim role of IBL managing such assets would therefore end. Lastly, the third phase of the proposed transaction would occur as soon as practicable after the first anniversary of the phase two closing. The Buyer would replace IBL as the direct operator of the DOD contract and the proposed acquisition would then be complete.

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 information, as required by 49 C.F.R. § 1182.2, including the information to demonstrate that the proposed transaction is consistent with the public interest under 49 U.S.C. § 14303(b), and a statement that Applicants' aggregate gross operating revenues of the Buyer, IBL, Hotard, Sundiego, and the Colorado assets of the Seller exceeded \$2 million for the preceding 12-month period, see 49 U.S.C. § 14303(g).

Applicants submit that the proposed transaction would have a positive net impact on the adequacy of transportation to the public because Applicants do not intend to change the operations of Seller's assets, but intend to modernize the bus fleet used in those operations. They anticipate that the proposed transaction would enhance services to the public by implementing vehicle sharing arrangements, coordinated driver training and safety management services, and by centralizing certain management support functions. With respect to fixed charges, Applicants state that the combined scale of operations of the Buyer, IBL, Hotard, and Sundiego would allow the Buyer to enhance its volume purchasing power, thereby reducing insurance premiums and achieving deeper volume discounts for tires, equipment, and fuel. Applicants claim that the proposed transaction also would have a positive impact on employees. The Buyer intends to retain Seller's existing management and hourly employees who are involved in the operation of the assets being acquired. Applicants assert that this would result in continued job security and opportunities for growth in the combined business of the Buyer and its affiliated carriers.

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intellectual property in use for such operations; and (vi) existing and prospective charter and shuttle contracts based in Colorado.

Applicants further claim that the acquisition would not likely affect competition because the markets in which the Seller's Colorado assets and the previously approved combination of Sundiego, IBL, and Hotard operate are adjacent, but do not significantly overlap. Applicants note that numerous carriers compete with the Seller's operations in Colorado and that the Seller operates fewer than 50 percent of all coaches in the Denver and Colorado Springs markets. These local and regional carriers include Seller's largest competitor, Busco, Inc. d/b/a Arrow Stage Lines (Busco), which operates 33 motor coaches from its Denver facility and has 216 coaches in its total fleet. Ramblin Express, Inc. (Ramblin) also operates 45 units and has facilities in Denver and Colorado Springs, and Colorado Tour Line LLC, which operates under the GrayLine brand, operates motor coaches in both markets. In addition, Applicants state that Colorado Charter Line, Inc. (CCL) and Premier Charter (Premier) are two smaller charter companies that operate in the Denver area.

According to Applicants, in the casino shuttle market, the Seller and Ramblin are the current operators (regulated by the Colorado Public Utility Commission), and the Buyer merely would replace the Seller in this market. Applicants argue that services provided under contract involve a competitive bidding process where the competing local and regional carriers mentioned above could bid for shuttle services, along with any interested nationwide operators and that thus, the market would remain competitive if the proposed transaction were approved. Applicants state that services provided on a "spot basis" are the norm for much of Seller's charter business involving leisure travel and that these charter operations face competition from nationwide operators in addition to the local and regional carriers mentioned above (Busco, Ramblin, CCL, and Premier). They also note that motor passenger carriers face intense market competition from other transportation modes, such as private automobiles, airlines, and trains.

On the basis of the application, the Board finds that the proposed acquisition 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(c). If no opposing comments are filed by the expiration of the comment period, this notice will take effect automatically and will be the final Board action.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV".

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

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 June 9, 2015, unless opposing comments are filed by June 8, 2015.

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: April 16, 2015.

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