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SERVICE DATE – FEBRUARY 18, 2011

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. MC-F-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:¹ This decision modifies an approved motor carrier pooling agreement to reflect that DATS Trucking, Inc., is voluntarily withdrawing from the pooling agreement and that Peninsula Truck Lines, Inc., and Mountain Valley Express, Inc., are being added to the agreement in its place.

Decided: February 17, 2011

By decision served on January 31, 2008 (January 2008 decision), the Board approved a pooling agreement, which was filed under 49 U.S.C. § 14302 and 49 C.F.R. pt. 1184 by Averitt Express, Inc., DATS Trucking, Inc. (DATS), Lakeville Motor Express, Inc., Land Air Express of New England, Pitt Ohio Express, LLC, Canadian Freightways, and Epic Express (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 strong and reliable asset-based 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.

On May 7, 2010, applicants filed a notice entitled, “Substitution of Participant in Approved Pooling Arrangement.” Applicants state that DATS has voluntarily withdrawn from the pooling agreement and that Peninsula Truck Lines, Inc. (Peninsula), of Seattle, Wash., and Mountain Valley Express, Inc. (MVE), of Manteca, Cal., would be added to the Network to

¹ 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).

provide motor carrier transportation services to the territory formerly served by DATS within the Network.

Applicants state that Peninsula and MVE are small regional motor carriers conducting less-than-truckload operations in interstate commerce, pursuant to authorities issued by the former Interstate Commerce Commission and/or the U.S. Department of Transportation, Federal Motor Carrier Safety Administration. Applicants indicate that Peninsula primarily will be responsible for providing Network transportation services in Idaho, Oregon, and Washington, and MVE will conduct its Network operations in Arizona, California, Colorado, Nevada, New Mexico, and Utah. According to applicants, Peninsula and MVE have conducted successful trucking operations in their respective territories, and they each have technology capabilities that are compatible with those of the other participating motor carriers in the Network.

The pooling agreement provides that the participating members may withdraw upon timely notification to the other members. It also provides for the continuation of the pooling arrangement by the remaining members or by expanding membership to other qualified carriers. According to applicants, the addition of Peninsula and MVE would enable the Network to continue to conduct the pooling operations as originally approved by the Board. Applicants state that Peninsula and MVE are familiar with the terms and conditions of the Network's pooling agreement, would become signatories thereto, and are capable of meeting the obligations and requirements of the pooling arrangement.

No comments were filed in response to the request for substitution. Moreover, the substitution of Peninsula and MVE for DATS would merely enable the Network to continue to conduct the pooling operations substantially as originally approved by the Board. 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. Accordingly, the previously approved pooling agreement is modified to substitute Peninsula and MVE in place of DATS to provide motor carrier transportation services to the territory formerly served by DATS within the Network.

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 Peninsula and MVE in place of DATS.
2. This decision is effective on its service date.

By the Board, Chairman Elliott, Vice Chairman Nottingham, and Commissioner Mulvey.