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SERVICE DATE - AUGUST 7, 1998

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FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. MC-F-20929]

Laidlaw, Inc., et al.—Control—Dave Transportation Services, et al.; Merger—Allegheny Valley Transit Inc. et al.

AGENCY: Surface Transportation Board

ACTION: Notice Tentatively Approving Finance Application.

SUMMARY: Laidlaw, Inc. (Laidlaw or applicant), has filed an application under 49 U.S.C. 14303 to control 10 motor passenger carriers through direct or indirect stock ownership and to merge 21 motor passenger carriers into Laidlaw Transit, Inc. (Transit), a subsidiary of Laidlaw. Persons wishing to oppose the application must follow the rules at 49 CFR part 1182, subpart B. The Board has tentatively approved the transaction and, if no opposing comments are timely filed, this notice will be the final Board action.

DATES: Comments are due by September 21, 1998. Applicants may reply by October 6, 1998. If no comments are received by September 21, 1998, this notice will become effective on that date.

ADDRESSES: Send an original and 10 copies of any comments referring to STB Docket No. MC-F-20929 to: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, send one copy of any comments to applicant's representative: Mark J. Andrews, Barnes & Thornburg, Franklin Tower, Suite 500, 1401 Eye Street, N.W., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 565-1600

[TDD for the hearing impaired: (202) 565-1695.]

SUPPLEMENTARY INFORMATION: Laidlaw, a publicly-held Canadian noncarrier, seeks authority to control 10 motor carrier subsidiaries through direct or indirect stock ownership and to merge 21 motor carriers into Transit. Apparently, the transactions have previously occurred, but the required authority had not been obtained from the Board or its predecessor, the Interstate Commerce Commission (ICC). Laidlaw indicates that it is coming forward voluntarily to seek nunc pro tunc authorization for these transactions.

Laidlaw initially contends that the transactions may not be subject to Board jurisdiction, claiming that the transactions will affect regulated passenger service only in form rather than substance. See Stone Container Corporation—Control Exemption—Southwest Forest Industries Inc., Finance Docket No. 30998 (ICC served Apr. 1, 1987). We disagree. Laidlaw's principal business is motor carrier transit, and its acquisition of control and merger of motor carriers is precisely the sort of authority Congress desired to regulate by enacting 49 U.S.C. 14303.

Eight of the motor carriers subsidiaries Laidlaw seeks authority to control are: (1) Dave Transportation Services, Inc. (Dave Transportation) (MC-144040), which is authorized to provide charter and special operations nationwide except in Hawaii; (2) Greyhound Canada Transportation Corp. (Greyhound Canada) (MC-304126), which is authorized to provide nationwide charter and special operations as well as limited regular-

route service in Michigan, New York and Washington near U.S.-Canada border crossings;¹ (3) Laidlaw Transit Ltd. (Limited) (MC-102189), which is authorized to provide nationwide charter and special operations as well as limited regular-route service in Michigan near a U.S.-Canada border crossing; (4) Roesch Lines, Inc. (Roesch) (MC-119843), which is authorized to provide nationwide charter and special operations and intrastate operations in California; (5) Safe Ride Services, Inc. (Safe Ride) (MC-246193), which is authorized to provide charter and special operations nationwide except in Alaska and Hawaii; (6) The DAVE Companies Inc. (DAVE) (no federal authority but holds intrastate authority in California and Minnesota);² (7) Vancom Transportation - Illinois L.P. (Vancom) (MC-167816), which is authorized to provide charter and special operations nationwide except in Alaska and Hawaii; and (8) Willett Motor Coach Co. (Willett) (MC-16073), which is authorized to provide charter and special operations between the Chicago, IL area and 14 States and the District of Columbia.

Transit, the ninth carrier subsidiary (MC-161299), holds nationwide charter and special operations authority as a result of a transaction authorized in Laidlaw Transit, Inc. et al.—Control and Merger Exemption—National School Bus Service, Inc, Charterways

¹ Apparently, Greyhound Canada is not affiliated with Greyhound Lines, Inc. of Dallas, TX.

² Laidlaw maintains that, even though this carrier holds only intrastate authority, control of this entity falls within the preemptive provisions of 49 U.S.C. 14303(f). The provisions of section 14303(f) apply to the extent Laidlaw's control of DAVE is subject to our jurisdiction.

Transportation Limited, Enterprise Transit Corp., and MCS Interstate, Inc., STB Finance Docket No. 33007 (STB served Oct. 25, 1996).

The tenth carrier subsidiary, Gray Line of Vancouver Holdings Limited (Gray Line), proposes to acquire operating authority in MC-94107 held by Pacific Northwest Bus Company, Ltd., authorizing nationwide charter and special operations and regular route service between Seattle-Tacoma International Airport and nearby U.S.-Canada border crossings.

Applicant further seeks approval for the merger into Transit of the following motor carriers: (1) Allegheny Valley Transit, Inc. (MC-172080); (2) Blanchard Charter Service, Inc. (MC-177427); (3) Cheshire Transportation Co. (MC-27518); (4) Hunt's Bus Co., Inc. (MC-212740); (5) Jelco LaCrosse, Inc. (MC-165562); (6) Johnson's Bus, Inc. (MC-153441); (7) Mark IV Charter Lines, Inc. (MC-141743); (8) Mobility, Inc. (MC-182217); (9) Palmer Motor Coach Service, Inc. (MC-106642); (10) Peaslee Transportation, Inc. (MC-167553); (11) Raleigh Transportation Services, Inc. (MC-165041) (Raleigh); (12) Strain's Bus Co., Inc. (MC-148366) ; (13) Timberlane Transportation, Inc. (MC-139100); (14) Town & Country Transportation & Leasing Corp. (MC-167514); (15) Travel Time Bus Lines, Inc. (MC-147777); (16) Tri-State Transit Corp. (MC-134039); (17) United Transportation, Inc. d/b/a Mark IV Coaches (MC-167307); (18) Vancom, Inc. (MC-163845); (19) Vancom-Indiana, Inc. (MC-141600); (20) Vancom Transportation, Inc. (MC-256505); and (21) Van Trans, Inc. (MC-167403).

Laidlaw states that all of the merged carriers primarily provided school transportation services within the United States, except for Raleigh, which primarily provided transit services in the U.S.

Applicant asserts that the combined aggregate gross revenues of its affiliates exceed the \$2 million jurisdictional threshold of section 14303(g). Applicant states further that most of its operations are either unregulated, or take place outside the U.S. Allegedly, the regulated U.S. transportation service faces substantial competition from other bus companies and transportation modes.

Laidlaw further indicates that the transactions have produced and will produce substantial benefits, including interest cost savings from restructuring of debt and reduced operating costs from its enhanced volume purchasing power. Applicant claims that the carriers it controls benefit from the lower insurance premiums it has negotiated and from volume discounts for equipment and fuel. Applicant also avers that it improves the efficiency of all acquired carriers, while maintaining responsiveness to local conditions, by providing centralized supporting services, including legal affairs, accounting, purchasing, safety management, equipment maintenance, driver training, human resources and environmental compliance. In addition, applicant states that it facilitates vehicle sharing arrangements between acquired entities, so as to ensure maximum utilization and efficient operation of equipment. According to applicant, employees will benefit from efficient operations and from applicant's policy to honor all collective bargaining agreements of acquired carriers.

Under 49 U.S.C. 14303(b), the Board must approve and authorize transactions it finds consistent with the public interest, taking into account at least: (1) the effect of the transactions on the adequacy of transportation to the public; (2) the total fixed charges that result; and (3) the interest of affected carrier employees.

On the basis of the application, we find that the proposed acquisition of control and merger transactions are consistent with the public interest and should be authorized. If any opposing comments are timely filed, this finding will be deemed vacated and a procedural schedule will be adopted to reconsider the application. If no timely comments are filed by the expiration of the comment period, this decision will take effect automatically and will be the final Board action.³

Board decisions and notices are available on our website at:

“WWW.STB.DOT.GOV.”

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

It is ordered:

1. The acquisitions of control and mergers are approved and authorized, subject to the timely filing of opposing comments.

³ Laidlaw seeks nunc pro tunc approval of these transactions. While we are granting our tentative approval, the need for retroactive effect has not been demonstrated. Laidlaw evidently recognizes that it should have sought our approval sooner but, under the circumstances, the Board does not intend to pursue enforcement actions against Laidlaw for the previously unauthorized common control.

2. If timely opposing comments are filed, the findings made in this decision will be deemed vacated.

3. This decision will be effective September 21, 1998, unless timely opposing comments are filed.

4. A copy of this notice will be served on (1) the U.S. Department of Transportation, Office of Motor Carriers-HIA 30, 400 Virginia Avenue, S.W., Suite 600, Washington, DC 20024; and (2) the U.S. Department of Justice, Antitrust Division, 10th Street and Pennsylvania Avenue, N.W., Washington, DC 20530.

Decided: July 30, 1998.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams

Secretary