

SERVICE DATE – MAY 4, 2012

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. MCF 21043

ACADEMY EXPRESS, L.L.C.—ACQUISITION OF THE PROPERTIES OF
ENTERTAINMENT TOURS, INC.

Digest:¹ The Board is directing motor carrier Academy Express, L.L.C. to supplement its application to acquire the properties of another motor carrier.

Decided: May 2, 2012

On April 5, 2012, Academy Express, L.L.C. (Academy), a motor carrier of passengers, filed an application under 49 U.S.C. § 14303 to acquire the properties of Entertainment Tours, Inc. (Entertainment), also a motor carrier of passengers. As a result of this proposed transaction, Academy states that it will acquire the equipment, customer list, and goodwill of Entertainment, as well as Entertainment's authority to render motor carrier operations in Massachusetts, Connecticut, and New Hampshire.

Pursuant to 49 U.S.C. § 14303 and the corresponding regulations at 49 C.F.R. Part 1182, Board authorization is required for the proposed transaction described above. Applicants are required to file an application that includes, among other things, a description of the proposed transaction; identification of any motor passenger carriers affiliated with the parties, a brief description of their operations, and a summary of the intercorporate structure of the corporate family from top to bottom; and information to demonstrate that the proposed transaction is consistent with the public interest. See 49 C.F.R. § 1182.2.

In processing an application, the Board will review it for completeness. If the application is accepted as complete, a summary is published in the Federal Register within 30 days after the application is filed. Incomplete applications may be rejected. However, applicants are given an opportunity to correct minor errors or omissions, in which case the filing date of the application is deemed to be the date on which the complete information is filed. See 49 C.F.R. § 1182.4.

Here, the Board finds that, although the application identifies each of the categories of information required under 49 C.F.R. § 1182.2, in a number of respects the information provided is not substantial enough to provide the required notice to the Board and to the public as to the

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 Plain Language Digests in Decisions, EP 696 (STB served Sept. 2, 2010).

nature of the proposed transaction. Therefore, additional information is necessary for Academy's application to be considered complete. First, although the application indicates that Entertainment's stock is being held in a voting trust, thus suggesting that the transaction will involve Academy's acquisition of control of Entertainment through the purchase of its stock, the application does not describe the transaction as an acquisition of control or a stock purchase, but only as an acquisition of Entertainment's "properties"—specifically, its equipment, customer lists, goodwill, and "authority to render motorbus operations in Massachusetts, Connecticut and New Hampshire." Academy therefore is directed to describe in more detail, in a separate filing, the nature of the contemplated transaction. Further, Academy is directed to file supplemental information describing with more particularity the nature of its and Entertainment's current operations, including, but not limited to, identifying the states in which each of the parties primarily operates, explaining the nature of the "special and charter operations" both parties provide, and discussing the extent to which those operations are conducted in interstate commerce. Academy shall also provide similar additional detail regarding the services that will be provided as a combined entity after the contemplated transaction, if approved, is consummated. In connection with the requirement under 49 C.F.R. § 1182.2(a)(7) that the application provide information on whether the transaction is consistent with the public interest (and particularly the effect of the proposed transaction on the adequacy of transportation to the public), Academy shall provide a brief discussion of how the proposed transaction would affect competitive conditions in the relevant markets (e.g., whether the transaction would reduce the number of competitors in those markets).² Finally, it is not clear that the application provides a complete "top to bottom" description of Academy's and Entertainment's corporate families, as required under 49 U.S.C. § 1182.2(a)(4). Accordingly, to the extent it does not already do so, the application should be supplemented to provide such a complete "top to bottom" description.

Academy is directed to supplement its application as discussed above by May 18, 2012.

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

It is ordered:

1. Academy is directed to file, by May 18, 2012, supplemental information as described in this decision.
2. This decision is effective on its service date.

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

² See, e.g., Application, Nat'l Express Acquis. Corp.—Control—Petermann Partners, Inc., MCF 21041 (filed Oct. 3, 2011); Application, Student Transp. of Am., Inc.—Control—Dairyland Buses, Inc., MCF 21042 (filed Nov. 14, 2011).