

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. MC-F-20980

HOLLAND AMERICA LINE-WESTOURS INC-CONTINUANCE IN
CONTROL-WESTOURS MOTOR COACHES INC., EVERGREEN TRAILS INC. AND
WESTMARK HOTELS OF CANADA LTD.

Decided: April 4, 2001

On March 29, 2001, Holland America Line-Westours Inc. (HAL), a noncarrier that controls two motor passenger carriers, filed a verified notice of exemption under the Board's class exemption procedure at 49 CFR 1182.9 to continue in control of its subsidiary, Westmark Hotels of Canada Ltd. (Westmark), upon Westmark's becoming a regulated motor passenger carrier.¹ The transaction was expected to be consummated after April 5, 2001 (7 days after the notice was filed, which would have been the effective date of the exemption for a qualifying exemption).

The Board exempted intra-corporate family transactions of motor carriers of passengers that do not result in significant operational changes, adverse changes in service levels, or a change in the competitive balance with carriers outside the corporate family in Class Exemption for Motor Passenger Intra-Corporate Family Transactions, STB Finance Docket No. 33685 (STB served Feb. 18, 2000). The transaction described by HAL does not qualify for the class exemption because it is not a transaction within the corporate family, but is instead an indirect acquisition of control over new operating authority by HAL upon Westmark's becoming a carrier. The transaction (the continuance in control by a person that is not a carrier, but that controls any number of carriers, of an entity that acquires operating authority, thereby becoming a carrier) requires Board approval under 49 U.S.C. 14303(a)(5), but the class exemption does not apply to it. Therefore, the notice of exemption will be rejected.

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

¹ The notice states that, concurrently with this notice, Westmark filed an application for motor passenger carrier operating authority with the Federal Motor Carrier Safety Administration.

It is ordered:

1. HAL's notice of exemption is rejected.
2. The decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary