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August 22, 2016

**241325**

Chief, Section of Administration  
Surface Transportation Board  
395 E Street, SW  
Washington, DC 20024  
**Tel: 202-245-0350**  
**VIA FEDERAL EXPRESS**

**ENTERED**  
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**August 23, 2016**  
**Part of**  
**Public Record**

Re: PTS Transportation Services, LLC / U.S. Corrections LLC d/b/a USC  
STB Docket No. MCF-21067  
Reply of Petitioners to Opposing Comments

To Whom It May Concern:

Enclosed please find an original and 10 copies of the Reply of Petitioners to Comments in Opposition filed by the Human Rights Defense Center and Steven Kalishman, Esq.

Please contact me if you have any questions or concerns.

Yours truly,

Henry E. Seaton

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BEFORE THE  
SURFACE TRANSPORTATION BOARD  
WASHINGTON, D.C.

STB Docket No. MCF 21067

**PRISONER TRANSPORTATION SERVICES, LLC**  
-- Control --  
**U.S. CORRECTIONS, LLC d/b/a USC**

REPLY OF PETITIONERS TO COMMENTS OF THE  
HUMAN RIGHTS DEFENSE CENTER AND STEVEN KALISHMAN, ESQ.



By Their Attorney

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Date Filed: August 22, 2016



BEFORE THE  
SURFACE TRANSPORTATION BOARD  
WASHINGTON, D.C.

STB Docket No. MCF 21067

**PRISONER TRANSPORTATION SERVICES, LLC**  
**-- Control --**  
**U.S. CORRECTIONS, LLC d/b/a USC**

REPLY OF PETITIONERS TO COMMENTS OF THE  
HUMAN RIGHTS DEFENSE CENTER AND STEVEN KALISHMAN, ESQ.

COMES NOW Prisoner Transportation Services, LLC and U.S. Corrections, LLC files this their response to the opposition filed by the Human Rights Defense Center and Mr. Steve Kalishman, Esq. on behalf of his client Fred Bernard Ellis, Jr. in Docket No. MCF-21067.

**Statement of Case**

The statutes and regulations found at 49 U.S.C. § 14303(a)(3) and 49 C.F.R. § 1182.2 set forth the Board's duties and an applicant's requirements for approval of common control or merger of two or more passenger carriers operating in interstate commerce. Petitioners have met their burden of proof by addressing *ad seriatim* in their petition the following issues:

- (1) The full, name address, an authorized signatures of each of the parties to the transaction;
- (2) Submission of copies of the operating authorities for each entity;
- (3) A complete description of the proposed transaction;
- (4) Identification of the passenger motor carriers associated with the merger including a complete description of both entities operations, summary of their corporate structure from top to bottom;

(5) Verification that jurisdiction was appropriate in that the revenues of the applicants would exceed \$2 million in a twelve month period;

(6) Evidence that their merger would not harm or significantly affect the human environment;

(7) Evidence that the proposed transaction was consistent with the public interest as well as the effect of this merger on this specialized division of public transportation;

(8) Evidence of the safety fitness rating for each entity;

(9) Proof that they were and are properly insured pursuant to 49 U.S.C. § 13906;

(10) Evidence that each entity is not domiciled in Mexico or controlled by persons in Mexico;

(11) The eleventh factor, and its related certification, is inapplicable to this transaction since this is the merger of two companies and does not involve the transfer of an operating authority to an individual.

Under 49 U.S.C. § 14303(b) the Board must authorize a transaction that if finds to be consistent with the public interest taking in account at least the following three factors: (i) the effect of the proposed transaction on the adequacy of transportation to the public; (ii) the total fixed charges that result; and (iii) the interest of the affected carrier employees.

The economical extradition of prisoners requires unique, irregular route operations consolidating passengers in transit which originate at and are destined to different jails and prisons. Petitioners have shown the value of the economies of scale and with the Board's approval with the interlining of passengers, prisoner transit time will be reduced, mileage will be saved, and reduced costs can be passed on to the city, county and state governments which otherwise must bear the cost of rendition. Furthermore, the public interest and safety of the prisoners should be served by reducing transit time and mileage.

Petitioners have provided ample evidence that the competitive marketplace for the rendition of prisoners will not be adversely affected by this proposal. Neither commenter contests either the economic feasibility of Petitioner's proposal. Moreover, neither commenter asserts that any anti-trust concerns nor claims any competitor with a status to do so.

The Board has already tentatively determined in its initial Notice that the Petitioners request is in the public interest under the factors enumerated in 49 U.S.C. § 14303(b). The opposition do not directly challenge this tentative determination by the Board under the § 14303(b) factors. In this specialized niche of the public transportation marketplace the opposition supports the merger of these two entities would increase the size of PTS' fleet and add additional experience which would be used to provide better service.

Furthermore, the size of the proposed acquisition is small. While Prisoner Transportation Services, LLC ("PTS") already maintains a substantial fleet U.S. Corrections, LLC ("USC") has been in business for only 2 years and operates 12 vehicles. The smaller scale of US Corrections' operations belies any argument that the proposed transaction would have any material adverse effect on an industry which extradites thousands of prisoners per year using for-hire and private rendition services.

#### **Identity and Issues Raised by Commenters**

The Human Rights Defense Center ("HRDC") is a public advocacy group which represents the rights of people held in detention facilities. It complains about the treatment of prisoners during the extradition process from one place of incarceration to another and incorporates by reference its complaints made in the media and to Congress about PTS and USC. While casting aspersions on both entities the HRDC does not address the specific issues before the Board.

The safe operation of commercial motor vehicles is subject to the jurisdiction of the Federal Motor Carrier Safety Administration, not the STB. Moreover, both PTS and USC enjoy a satisfactory safety rating. Congress in the FAST Act affirmed a basic principle of transportation law as set forth in 49 U.S.C. § 31144, which states:

“Unless a motor carrier in the SMS has received an UNSATISFACTORY safety rating pursuant to 49 CFR Part 385, or has otherwise been ordered to discontinue operations by the FMCSA, it is authorized to operate on the nation's roadways.”

Furthermore, as noted in Petitioner’s submission, its treatment of detainees in transit is governed by the Interstate Transportation of Dangerous Criminals Act (“ITDCA”). Hence, the issues raised by HRDC are subject to jurisdiction and oversight by the Department of Justice and the Federal Motor Carrier Safety Administration, and are not properly before the Board. Moreover, none of the salacious allegations made by either commenter have been supported by probative evidence, are irrelevant to the STB’s inquiry, and accordingly do not require a more detailed response.

Even if the STB did have jurisdiction over these unsubstantiated allegations, it is important to know that PTS is continuing its efforts to go above and beyond what is required, such as installing cameras in its transport vehicles, implementing real-time 24 hour GPS tracking and ensuring that it employs a highly trained and experienced workforce. Once the transaction is approved and completed, the Petitioners expect to operate according to these same safety goals and principles.

A second comment was filed, albeit a day late, by Attorney Steven Kalishman who apparently represents a prisoner who was injured in transit by a company called USG7, LLC. Mr. Kalishman claims that USG7, a now defunct third party, failed to answer a complaint and his clients received a default judgment. Since USG7 appears to have ceased operations, he claims his client has been denied recovery which he claims is relevant to this proceeding because

Steven and Ashley Jacques were employed by or somehow affiliated with USG7 and would be minority owners of the holding company which would result from the proposed consolidation.

What Mr. Kalishman's objection does not say is that his client and any other detainee allegedly injured in transit as a result of the negligence of USG7 has recourse pursuant to 49 C.F.R. 387 and the Form BMC-91X endorsement to USG7's insurer. Attached as **Appendix A** is a copy of data taken from the FMCSA's files which shows that USG7 was fully insured during its operational history. *Id.* Hence, the demise of USG7 does not affect the rights of recovery for Mr. Kalishman's client. Moreover, the minority (6%) ownership interest which the Jacques would have in the proposed holding company does not constitute a controlling interest in Petitioners, nor have the Jacques been shown to have any undisclosed interest in other competitors.

### Summary

In conclusion, Petitioners submit that the two commenters do not have standing to object to the proposed common control.

Petitioners have adequate judicial remedies to address any concerns they raise. Both PTS and USC enjoy satisfactory safety ratings, are authorized to operate on the nation's roadways by the STB's sister agency and are adequately insured with the statutory amount prescribed by statute. Petitioners have shown that the proposal will inure to the public benefit and permit more efficient operations, without any demonstrative adverse economic impact on other competitors. The proposed application should be granted based upon the merits of the proposal submitted by Petitioners.

Respectfully submitted,

PRISONER TRANSPORT SERVICES, LLC

And

U.S. CORRECTIONS, LLC d/b/a USC

By Their Attorney



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Filed: August 22, 2016

APPENDIX A



U.S. Department of Transportation  
**Federal Motor Carrier Safety Administration**  
**Licensing and Insurance Public**

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**Motor Carrier Details**

US DOT:	1895165	Docket Number:	MC677642	
Legal Name:	USG7 LLC			
Doing-Business-As Name:				
<b>Business Address</b>	<b>Business Telephone and Fax</b>	<b>Mail Address</b>	<b>Mail Telephone and Fax</b>	<b>Undeliverable Mail</b>
7600 SOUTH FLORIDA AVE STE 29 LAKELAND FL 33813	(678) 685-8747			NO
<b>Authority Type</b>	<b>Authority Status</b>	<b>Application Pending</b>		
Common	NONE	NO		
Contract	ACTIVE	NO		
Broker	NONE	NO		
<b>Property</b>	<b>Passenger</b>	<b>Household Goods</b>	<b>Private</b>	<b>Enterprise</b>
NO	YES	NO	NO	NO
<b>Insurance Type</b>	<b>Insurance Required</b>	<b>Insurance on File</b>		
BIPD	\$1,500,000	\$1,500,000		
Cargo	NO	NO		
Bond	NO	NO		

BOC-3: YES

Blanket Company: 1+49 PROCESS AGENTS LLC

[Web Site Content and BOC-3 Information Clarification](#)

[| Active/Pending Insurance](#) | [Rejected Insurance](#) | [Insurance History](#) | [Authority History](#) | [Pending Application](#) | [Revocation](#) |

August 22, 2016

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Federal Motor Carrier Safety Administration  
 1200 New Jersey Avenue SE, Washington, DC 20590 - 1-800-832-5660 - TTY: 1-800-877-8339 - [Field Office Contacts](#)



U.S. Department of Transportation  
**Federal Motor Carrier Safety Administration**  
**Licensing and Insurance Public**

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**Insurance History**

US DOT:	1895165	Docket Number:	MC677642
Legal Name:	USG7 LLC		

Form	Type	Insurance Carrier	Policy/Surety	Coverage From	Coverage To	Effective Date From	Effective Date To
91X	BIPD/Excess	<a href="#">THE PRINCETON EXCESS &amp; SURPLUS LINES INS. CO.</a>	66A3UB0000995-00	\$1,000,000	\$2,000,000	07/07/2010	05/10/2015 Cancelled
91X	BIPD/Excess	<a href="#">SCOTTSDALE INSURANCE COMPANY</a>	XLS0062675	\$1,000,000	\$2,000,000	06/14/2010	07/07/2010 Replaced
91X	BIPD/Primary	<a href="#">PROGRESSIVE EXPRESS INSURANCE COMPANY</a>	CA 4739988	\$0	\$1,000,000	06/07/2010	07/20/2011 Cancelled
91X	BIPD/Primary	<a href="#">PROGRESSIVE EXPRESS INSURANCE COMPANY</a>	CA 4739988	\$0	\$1,000,000	06/07/2010	06/09/2011 Replaced
91X	BIPD/Primary	<a href="#">FLORIDA AUTOMOBILE JOINT UNDERWRITING ASSOC.</a>	ZAF-FD0164	\$0	\$1,500,000	10/28/2009	05/23/2010 Cancelled
91X	BIPD/Primary	<a href="#">ARGONAUT-MIDWEST INSURANCE COMPANY</a>	BA8000034	\$0	\$1,000,000	07/14/2009	11/17/2009 Cancelled
91X	BIPD/Primary	<a href="#">ARGONAUT-MIDWEST INSURANCE COMPANY</a>	BA8000034	\$0	\$1,000,000	07/14/2009	10/28/2009 Replaced

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August 17, 2016

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Federal Motor Carrier Safety Administration  
 1200 New Jersey Avenue SE, Washington, DC 20590 - 1-800-832-5660 - TTY: 1-800-877-8339 - Field Office Contacts

**CERTIFICATE OF SERVICE**

I hereby certify that I have caused copies true and correct copies of this Reply to be served pursuant to the requirements contained in 49 C.F.R. § 1182.8(c) upon the following parties:

**Via Federal Express**

Chief, Section of Administration  
Surface Transportation Board  
395 E Street, SW  
Washington, D.C. 20024  
Tel: 202-245-0245

**Via Electronic Mail & U.S. Mail Certified**

Human Rights Defense Center  
c/o Mr. Alex Friedmann – Associate Director  
P.O. Box 1151  
Lake Worth, Florida 33460  
afriedmann@prisonlegalnews.org

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Chief, Licensing & Insurance Division  
U.S. Department of Transportation  
Office of Motor Carriers-HIA 30  
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Washington, D.C. 20004

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Dated this 22<sup>nd</sup> day of August, 2016.

  
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