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March 24, 2010

VIA ELECTRONIC FILING

Cynthia T. Brown
Chief, Section of Administration
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

226689

Re: Response of Coach USA, Inc. and Megabus Northeast, LLC to March 23, 2010 Reply of Greyhound Lines, Inc. to Megabus's Opposition to Pooling in STB Docket No. MC-F-20908

Dear Ms. Brown:

Coach USA, Inc. and Megabus Northeast, LLC (jointly, "Megabus") hereby respond to the March 23, 2010 "Reply of Greyhound Lines, Inc. to Megabus's Opposition to Pooling Clarification in Docket No. MC-F-20908." Curiously, even though Greyhound has renewed its request that the Board issue an expeditious ruling today on its March 12 request, it delayed its letter responding to Megabus's March 16, 2010 letter by a full week.¹ We further note that Greyhound's letter constitutes an unauthorized reply to Megabus's March 16 reply in violation of the Board's rule against the filing of a reply to a reply. 49 C.F.R. 1104.13(c). If Greyhound's letter is nonetheless accepted for filing, this letter should likewise be accepted, and the following points should be considered in the Board's deliberations on this important matter.

First, Greyhound makes the highly significant concession in its March 23 Reply that Peter Pan Bus Lines does not serve the Washington-Philadelphia route at all. That being the case, on what basis could pooling between Greyhound and Peter Pan be permitted on that route? Greyhound cites no authority for the odd proposition, inherent in its request to the Board, that

¹ Megabus submitted its March 16 letter electronically and served a copy on Greyhound's counsel and Peter Pan's counsel electronically as well.

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two carriers can pool their services under 49 U.S.C. §14302 when only one of them serves the route at issue. To allow pooling here would pervert the purpose of pooling, which is to allow competing carriers to coordinate their services and/or pool or divide revenues when both are serving the same market with excess capacity and pooling is necessary to eliminate the excess capacity and facilitate improved service to the public. For example, in its April 9, 1998 decision in MC-F-20908, *Peter Pan Bus Lines, Inc – Pooling – Greyhound Lines, Inc.*, the Board concluded that pooling on the New York-Washington route was warranted because, “In addition to better service to the public, applicants have shown that the proposed pooling arrangement will result in economics of operation by reducing excess bus capacity and rationalizing the level of service that exists over this [New York-Washington] route.” Here, where only one pooling carrier (Greyhound) currently serves the Washington-Philadelphia route, no such economics of operation can be achieved by allowing the requested expansion of pooling. Perhaps this explains why Peter Pan has not even filed its own letter joining in Greyhound’s pooling request.

Second, Greyhound is no more successful in its Reply in connecting the dots to demonstrate that its proposed Washington-Philadelphia pooled service was covered by prior Board-approved pooling agreements than it was in its initial March 12 request. The fact that Washington, Baltimore and Philadelphia are named service points on other approved pooled routes (all involving service to/from New York) does not prove that the Board ever considered a Washington-Philadelphia pooled route that is unrelated to any New York service. Greyhound well knows that this was never a route presented to the Board for pooling approval. Rather, the Board considered *New York-Washington* (via Baltimore) and *New York-Philadelphia*, not the distinct Washington-Philadelphia route for which Greyhound now seeks to engage in pooling with Peter Pan for the first time.

Third, Greyhound repeats its weak contention that Philadelphia –Washington is identified as a connecting service on old Greyhound schedules for Route 126 attached to its initial filing. Route 126 is referenced in Section 1(a) of its New York – Washington pooling agreement, which defines the scope of that agreement. However, that Section is also expressly limited to “routes authorized to be served by Peter Pan and Greyhound between New York, NY and Washington, DC” as shown on maps attached to such schedules. The New York-Washington pooling agreement says nothing about reaching to connecting service between the different city pair of Washington and Philadelphia.² Neither is Philadelphia even listed among the intermediate terminal locations identified in Attachment 4 to the New York-Washington pooling agreement. Nor is Philadelphia identified as a point to be served in the body of the May 2007 Application that Greyhound filed with the Board to obtain approval of the New York-Washington

² Richmond, VA is also identified as a point served on Route 126. At least so far. Greyhound has not claimed that Washington-Richmond service is covered by its New York-Washington pooling agreement.

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agreement. In short, the proposed Washington-Philadelphia service is unrelated to any service to/from New York covered by the New York-Washington pooling agreement and thus Greyhound cannot credibly claim that the Board has already approved pooling for its proposed new BoltBus service with Peter Pan.

Fourth, nothing in Greyhound's March 23 letter offers any justification for allowing Greyhound and Peter Pan to pool on a route that, as Greyhound amply demonstrates in its letter, is already highly competitive. Megabus fully concurs that the route is highly competitive and that many competitors are succeeding in attracting traffic and that others are entering the market, as has happened in other major intercity routes. That is precisely why allowing two carriers to pool on the route, *particularly where one of them does not even serve the route*, is at best a questionable proposition. If Greyhound and Peter Pan are entitled to pooling authority, that should be tested through a pooling application filed in conformity with Section 14302 and the Board's rules.

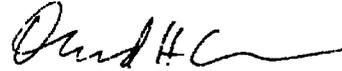
Fifth, Megabus is not adverse to competing with Greyhound and Peter Pan. If Greyhound wants to retain or enhance its service between Washington and Philadelphia or if Peter Pan wants to initiate service on that route, they each have every right to do so in whatever manner they wish. But the Board should not grant them the very special right to pool their services and operate their BoltBus joint venture with antitrust and other legal immunity where they have never filed a pooling application on the Washington-Philadelphia route much less offered any justification for pooling on that route. *See* 49 U.S.C. 14303(f), providing for broad exemption from the antitrust and other laws for carriers allowed to pool. The issue here is the approval of expanded pooling, not (as Greyhound confusingly suggests) market entry or competition. By denying Greyhound's effort to expand pooling without filing an application to do so, the Board will not be restricting entry or reducing competitive options. Rather, the Board will be protecting the integrity of its processes and underscoring that pooling authority is not available merely for the asking.

Finally, Greyhound asserts in a footnote that the Board should decline Megabus's request to revisit its prior approvals of pooling on other routes due to changed circumstances in the bus industry, stating that there is no legal basis for doing so. That is not correct. The Board not only retains inherent authority to revisit its own decisions based on changed circumstances, but section 14303(g) expressly provides that an approved pooling agreement shall remain in effect "until further order of the Board." Given the new competitive circumstances in the intercity bus industry that Greyhound has described in its own submission, the Board has ample grounds to

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reconsider pooling approvals that were granted under very different circumstances that existed over a decade ago.

Respectfully,

A handwritten signature in black ink, appearing to read "David H. Coburn", with a long, sweeping horizontal stroke extending to the right.

David H. Coburn
Attorney for Coach USA, Inc
and Megabus Northeast, LLC

cc: All parties of record

CERTIFICATE OF SERVICE

I hereby certify that I have this 24th day of March 2010 served a copy of the Response of Coach USA, Inc. and Megabus Northeast, LLC to Reply of Greyhound Lines, Inc. to Megabus's Opposition to Pooling in STB Docket No. MC-F-20908 by Federal Express on counsel for Greyhound Lines, Inc. and Peter Pan Bus Lines, Inc. as follows:

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