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SERVICE DATE – MARCH 25, 2002

SURFACE TRANSPORTATION BOARD

DECISION

STB No. MC-F-20915

SUBURBAN TRANSIT CORP., ET AL.
–POOLING–
AMERICAN LIMOUSINE SERVICE, INC.

Decided: March 20, 2002

The Board approved a coordinated service and revenue pooling agreement filed under 49 U.S.C. 14302 by Suburban Transit Corp. and Suburban Trails, Inc. (collectively, Suburban),¹ and American Limousine Service, Inc. (American),² in a decision served June 4, 1998.³ Under the

¹ The two Suburban companies are controlled by Coach USA, Inc. See Notre Capital Ventures II, LLC and Coach USA, Inc.–Control Exemption–Arrow Stage Lines, et al., STB Finance Docket No. 32876 (Sub-No. 1) (STB served May 3, 1996).

² In Tedesco Family ESB Trust–Acquisition and Merger–American Limousine Service, Inc., and Academy Express, Inc., STB Docket No. MC-F-20976 (STB served and published at 65 FR 70380 on Nov. 22, 2000), the Board tentatively approved an application by the Tedesco Family ESB Trust, Francis Tedesco and Mark Tedesco, settlers (Tedesco Family Trust), for the acquisition of American (MC-186879) and Academy Express, Inc. (Academy) (formerly Inner Circle Qonexions, Inc.) (MC-145482), their merger into Academy (MC-228481), and the merger of Academy Bus Tours, Inc. (PA) (Academy Bus (PA)) (MC-215354), and Commuter Bus Lines, Inc. (Commuter) (MC-162133), into Academy. The application became effective on January 8, 2001.

Prior to the transaction, the Tedesco Family Trust directly controlled Academy Bus Tours, Inc. (MC-165004) and Academy Lines, Inc. (MC-106207), and indirectly controlled Academy Bus (PA), Academy, Commuter, and No. 22 Hillside Corp. (MC-182453), through Franmar Logistics, Inc.

³ The June 4, 1998 decision was reopened in a decision served on December 18, 1998, after critical letters were received from a number of commuters. Suburban and American were directed to submit additional information, and a copy of the reopening decision was served on the commuters and the Department of Justice, Antitrust Division (Justice Department). After reviewing applicants' additional information, a letter-petition from one of the commuters, and applicants' reply, the Board reaffirmed its approval of the pooling agreement in a decision served

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pooling agreement, Suburban and American were granted permission to pool their commuter services and revenues on the motor passenger services each provided between the “8A Park-n-Ride Facility” near Exit 8A of the New Jersey Turnpike and New York City. The pooling agreement went into effect shortly after the approval in June 1998.

On January 5, 2001, Suburban and Academy filed a petition requesting that Academy be permitted to substitute for American as a party to the pooling agreement. In their substitution request, petitioners stated that Academy does not serve the Exit 8A Facility, but that it will continue to provide the commuter services from that facility that American has been providing. Petitioners added that they would like American’s pooling agreement with Suburban to continue after Academy replaces American.

In a decision served on March 7, 2001, the Board stated that, before it acted on the merits of the substitution request, petitioners would be required to post notice of the proposed substitution in all buses and facilities that serve the Exit 8A Facility, and to make copies available to commuters for a 30-day period.⁴ On November 13, 2001, petitioners advised the Board that they had complied with the March 7 decision and requested that the petition for substitution be granted.

On November 13, 2001, petitioners submitted copies of the posted notices, which were dated July 20, 2001, and September 19, 2001. Comments were due September 10, 2001, and November 8, 2001. Petitioners did not indicate whether they had received any comments but, as of this date, no comments have been received at the Board.

Under 49 U.S.C. 14302(b), we previously approved a coordinated service and revenue pooling agreement, and found that the proposed agreement between Suburban and American would foster improved service to the public and economy of operation, and that the agreement would not unreasonably restrain competition. Now, petitioners are requesting that the proposed substitution be permitted to go forward.⁵ Petitioners state that no changes to the terms of the pooling agreement

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on July 11, 2000.

⁴ The Board also directed that details as to where and when comments were to be filed be included in the notices.

⁵ In Tedesco Family ESB Trust–Continuance in Control and Acquisition of Properties–Academy Bus, L.L.C., et al., STB Docket No. MC-F-20983 (STB served and published at 66 FR 40313-14 on Aug. 2, 2001), the Board tentatively approved an application by the Tedesco Family Trust to continue in control of Academy Express, L.L.C. (Academy L.L.C.), Academy Lines, L.L.C., and No. 22 Hillside, L.L.C., upon their becoming motor carriers of passengers, and upon applicant’s acquisition of the properties of certain motor carriers of

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or to the nature of the operations currently being provided are contemplated by the substitution. They add that the proposed substitution will not unreasonably restrain competition or otherwise have an impact on the intermodal competitive options available to commuters.

When cause exists, we may issue appropriate decisions to supplement a previous decision issued in a proceeding. 49 U.S.C. 14303(j). In this proceeding, even though one carrier will be substituted for another, there will be no change in the terms of the pooling agreement or in the nature of the carriers' operations. Thus, we will exercise our authority to modify our previous decision and substitute Academy L.L.C. in place of American.

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

It is ordered:

1. The pooling agreement approved in this proceeding is modified to substitute Academy Express, L.L.C., in place of American Limousine Service, Inc.

2. This decision is effective on its service date.

3. A copy of this decision will be served on the U.S. Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue, N.W., Washington, DC 20530; the New York Department of Transportation, Truck and Bus Safety Section, Room 501-A, Building 7A, 1220 Washington Avenue, Albany, NY 12232; and the New Jersey Department of Transportation/Office of Regulatory Affairs (Commercial Bus Inspection), 225 E. State Street, P.O. Box 611, Trenton, NJ 08666-0611.

By the Board, Chairman Morgan and Vice Chairman Burkes.

Vernon A. Williams
Secretary

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passengers already directly or indirectly controlled by applicant. Approval of the application became effective on September 17, 2001. As part of that transaction, and to implement an incorporation change, Academy L.L.C. acquired the properties of Academy, including those of American. As a result, applicants now request that Academy L.L.C. (rather than Academy) be substituted for American.