

As a result of the transaction, Applicant owned and controlled 100% of the equity shares of Salter. (Appl. 4.)

Applicant claims that the transaction has not had and will not have a material, detrimental impact on the adequacy of transportation services available to the public. (*Id.* at 6.) Since the transaction closed on June 12, 2020, the services previously provided by Salter, NRT, and Trombly to the public have continued to be provided by them. (Suppl. Appl. 8.) Applicant represents that there have been no reductions in availability or scheduling of the charter services provided by Salter, NRT, or Trombly as a result of the transaction. (*Id.*)

Under 49 U.S.C. 14303(b), the Board must approve and authorize a transaction that it finds consistent with the public interest, taking into consideration at least: (1) The effect of the proposed transaction on the adequacy of transportation to the public, (2) total fixed charges that result, and (3) the interest of affected carrier employees. Applicant has submitted the information required by 49 CFR 1182.2, including information to demonstrate that the transaction is consistent with the public interest under 49 U.S.C. 14303(b), *see* 49 CFR 1182.2(a)(7), and a jurisdictional statement under 49 U.S.C. 14303(g) that the aggregate gross operating revenues of the involved carriers exceeded \$2 million during the 12-month period immediately preceding the filing of the application, *see* 49 CFR 1182.2(a)(5). (Appl. 5.)

Applicant states that Salter, NRT, and Trombly have continued to operate since the transaction. (Suppl. Appl. 8.) Applicant represents that the transportation services available to the public have been and will be maintained and possibly expanded. (*Id.*; Appl. 6.) Applicant further represents that it is experienced in the same market segments served by Salter—non-regulated student home to school transportation—and, because of Applicant's passenger carrier management capacity, the transaction will result in improved operating efficiencies, increased equipment utilization rates, and cost savings. (Appl. 6; Suppl. Appl. 8.) Specifically, the transaction has allowed Salter, NRT, and Trombly to take advantage of increased purchasing power for such items as equipment, parts, fuel, and insurance. (Suppl. Appl. 8.) Thus, Applicant states, the transaction helped strengthen the financial position of all three carriers and has helped them effectively compete with other carriers in their respective geographic markets

with “good equipment and sound safety records.” (*Id.*)

Applicant states that although the transaction increased fixed charges, in the form of interest expenses, the increase has not and will not impact the provision of transportation services to the public. (Appl. 7.)

Finally, Applicant asserts that the transaction did not have a substantial impact on employees or labor conditions because Applicant has continued the existing operations of Salter, NRT, and Trombly. (Suppl. Appl. 9.) According to Applicant, any reduction in the number of drivers used by the passenger motor carriers is the results of Salter's, NRT's, and Trombly's inability “to find, hire and retain additional qualified drivers,” in part due to the COVID-19 pandemic. (*Id.*)

The Board finds that the acquisition as described in the application, as supplemented, is consistent with the public interest and should be tentatively approved and authorized after-the-fact. If any opposing comments are timely filed, these findings will be deemed vacated, and, if a final decision cannot be made on the record as developed, a procedural schedule will be adopted to reconsider the application. *See* 49 CFR 1182.6. If no opposing comments are filed by the expiration of the comment period, this notice will take effect automatically and will be the final Board action.

This action is categorically excluded from environmental review under 49 CFR 1105.6(c).

Board decisions and notices are available at www.stb.gov.

It is ordered:

1. The transaction is approved and authorized after-the-fact, subject to the filing of opposing comments.

2. If opposing comments are timely filed, the findings made in this notice will be deemed vacated.

3. This notice will be effective September 28, 2021, unless opposing comments are filed by September 27, 2021. If any comments are filed, Applicant may file a reply by October 11, 2021.

4. A copy of this notice will be served on: (1) The U.S. Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590; (2) the U.S. Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue NW, Washington, DC 20530; and (3) the U.S. Department of Transportation, Office of General Counsel, 1200 New Jersey Avenue SE, Washington, DC 20590.

Decided: August 5, 2021.

By the Board, Board Members Begeman, Fuchs, Oberman, Primus, and Schultz.

Jeffrey Herzig,
Clearance Clerk.

[FR Doc. 2021-17132 Filed 8-10-21; 8:45 am]

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SURFACE TRANSPORTATION BOARD

[Docket No. MCF 21095]

Van Pool Transportation LLC— Acquisition of Control—NRT Bus, Inc. and Trombly Motor Coach Service Inc.

AGENCY: Surface Transportation Board.

ACTION: Notice tentatively approving and authorizing finance transaction.

SUMMARY: Van Pool Transportation LLC (Applicant), a Delaware limited liability company and a noncarrier, has filed an application for authority after-the-fact to acquire control of NRT Bus, Inc. (NRT), and Trombly Motor Coach Service Inc. (Trombly) from John J. McCarthy (Seller).

DATES: Comments may be filed by September 27, 2021. If any comments are filed, Applicant may file a reply by October 11, 2021. If no opposing comments are filed by September 27, 2021, this notice shall be effective on September 28, 2021.

ADDRESSES: Comments may be filed with the Board via e-filing on the Board's website. In addition, one copy of any comments must be sent to Applicant's representative: Andrew K. Light, Scopelitis, Garvin, Light, Hanson & Feary, P.C., 10 W Market Street, Suite 1400, Indianapolis, IN 46204.

FOR FURTHER INFORMATION CONTACT:

Amy Ziehm at (202) 245-0391.

Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877-8339.

SUPPLEMENTARY INFORMATION: The Board is tentatively approving and granting after-the-fact authorization of the transaction, and, if no opposing comments are timely filed in this docket or in the related action, *McCarthy—Acquisition of Control—Trombly Motor Coach Service Inc.*, Docket No. MCF 21094, this notice will be the final Board action.¹ According to the application,² Applicant is a Delaware

¹ In *McCarthy—Acquisition of Control—Trombly Motor Coach Service Inc.*, Docket No. MCF 21094, Seller has filed an application for after-the-fact authority to acquire Trombly in a transaction that occurred in 2013. Today, the Board is tentatively approving that transaction. However, if opposing comments are filed in that docket, it may necessitate further Board action in this docket as well.

² The application was initially filed on May 4, 2021. On June 3, 2021, the Board issued a decision

limited liability company³ that, prior to the transaction, did not own or control any passenger motor carriers. (Appl. 2.) Prior to the transaction, Seller held all the issued and outstanding equity shares of NRT and Trombly, two passenger motor carriers. (*Id.*) On September 30, 2019, Seller transferred all his ownership interest in NRT and Trombly to Applicant. (*Id.* at 1.) NRT and Trombly held, and continue to hold, interstate passenger motor carrier authority in the United States through the Federal Motor Carrier Safety Administration (FMCSA).⁴ (Appl. 3.)

Applicant provides the following description of the two carriers:

- NRT primarily provides non-regulated student school bus transportation services in the Commonwealth of Massachusetts—in the counties of Essex, Middlesex, Norfolk, Suffolk, and Worcester—and occasionally provides charter services when its buses are not in use for school activities. At the time of the transaction, it utilized a fleet of approximately 1,320 passenger vehicles, consisting of school buses, mini-buses, and passenger vans, and it used approximately 1,400 drivers. It currently utilizes a fleet of approximately 1,490 passenger vehicles, consisting of school buses, mini-buses, and vans; and it uses approximately 1,221 drivers. (Suppl. Appl. 2.)

- Trombly primarily provides non-regulated student school bus transportation services in the Commonwealth of Massachusetts—in the counties of Essex and Middlesex—and occasionally provides charter services when its buses are not in use for school activities. At the time of the transaction, it utilized a fleet of

approximately 266 passenger vehicles, consisting of school buses, mini-buses, and passenger vans, and Trombly used approximately 280 drivers. Currently, it utilizes a fleet of approximately 266 passenger vehicles, consisting of school buses, mini-buses, and vans, and it uses approximately 142 drivers. (*Id.* at 3.)⁵

As a result of the transaction, Applicant owned and controlled 100% of the equity and voting interest in NRT and Trombly. (Appl. 2.)

Applicant claims that the transaction has not had, and will not have, a material, detrimental impact on the adequacy of transportation services available to the public. (*Id.* at 6.) Since the transaction closed on September 30, 2019, the services previously provided by NRT and Trombly have continued to be provided by them. (*Id.* at 5.) Applicant represents that it anticipates that the transportation services provided to the public by NRT and Trombly will be maintained and possibly expanded. (*Id.* at 5–4.)

Under 49 U.S.C. 14303(b), the Board must approve and authorize a transaction that it finds consistent with the public interest, taking into consideration at least: (1) The effect of the proposed transaction on the adequacy of transportation to the public, (2) total fixed charges that result, and (3) the interest of affected carrier employees. Applicant has submitted the information required by 49 CFR 1182.2, including information to demonstrate that the transaction is consistent with the public interest under 49 U.S.C. 14303(b), *see* 49 CFR 1182.2(a)(7), and a jurisdictional statement under 49 U.S.C. 14303(g) that the aggregate gross operating revenues of the involved carriers exceeded \$2 million during the 12-month period immediately preceding the filing of the application, *see* 49 CFR 1182.2(a)(5). (Appl. 5.)

Applicant states that NRT and Trombly have continued to operate since the transaction. (*Id.* at 6.) Applicant represents that the transportation services available to the public will be maintained and possibly expanded. (*Id.*) Applicant further represents that it is experienced in the same market segments served by NRT and Trombly—non-regulated student home to school transportation—and, because of Applicant's passenger carrier management capacity, the transaction will result in improved operating efficiencies, increased equipment utilization rates, and cost savings. (*Id.*;

Suppl. Appl. 7.) Specifically, the transaction has allowed NRT and Trombly to take advantage of increased purchasing power for such items as equipment, parts, fuel, and insurance. (Suppl. Appl. 7.) Thus, Applicant states, the transaction has helped strengthen the financial position of both carriers and has helped them effectively compete with other carriers in their respective geographic markets with “good equipment and sound safety records.” (*Id.*)

Applicant states that although the transaction increased fixed charges, in the form of interest expenses, the increase has not and will not impact the provision of transportation services to the public. (Appl. 6–7.)

Finally, Applicant asserts that the transaction did not have a substantial impact on employees or labor conditions because Applicant has continued the existing operations of NRT and Trombly. (*Id.* at 7.) According to Applicant, the reduction in the number of drivers used by the passenger motor carriers is the results of NRT's and Trombly's inability “to find, hire and retain additional qualified drivers,” in part due to the COVID–19 pandemic. (Suppl. Appl. 8.)

The Board finds that the acquisition as described in the application, as supplemented, is consistent with the public interest and should be tentatively approved and authorized after-the-fact. If any opposing comments are timely filed, these findings will be deemed vacated, and, if a final decision cannot be made on the record as developed, a procedural schedule will be adopted to reconsider the application. *See* 49 CFR 1182.6. If no opposing comments are filed by the expiration of the comment period,⁶ this notice will take effect automatically and will be the final Board action.

This action is categorically excluded from environmental review under 49 CFR 1105.6(c).

Board decisions and notices are available at www.stb.gov.

It is ordered:

1. The transaction is approved and authorized after-the-fact, subject to the filing of opposing comments.

2. If opposing comments are timely filed, the findings made in this notice will be deemed vacated.

3. This notice will be effective September 28, 2021, unless opposing comments are filed by September 27, 2021. If any comments are filed,

requiring Applicant to submit additional information in support of its application. Applicant filed an unverified supplement to its application on June 30, 2021, and a verification to that supplement pursuant to 49 CFR 1182.2(c) on July 12, 2021. Therefore, for purposes of calculating the procedural schedule and statutory deadlines, the filing date of the application is July 12, 2021. *See* 49 CFR 1182.4(a).

³ Further information about Applicant's corporate structure and ownership can be found in the Application. (*See* Appl. 4; *id.* at Ex. B.)

⁴ Applicant states it did not seek approval of the transaction before it was completed because neither Applicant nor the Seller were aware that the transaction was subject to the Board's jurisdiction. (Appl. 1.) Applicant now requests that the Board approve the transaction after-the-fact. (*Id.*) The Board has permitted parties to obtain after-the-fact licensing authority for a transaction when the failure to seek approval was without malice and by mistake. *See Winthrop Sargent—Acquis. of Control—Plymouth & Brockton St. Ry.*, MCF 21089, slip op. at 2 (STB served Jan. 3, 2020) (citing *Allied Indus. Dev. Corp.—Pet. for Declaratory Order*, FD 35477, slip. op. at 6 (STB served Sept. 17, 2015), and *Gen. Ry.—Exemption for Acquis. of R.R. Line—in Osceola & Dickinson Cnty.*, Iowa, FD 34867, slip op. at 5 (STB served June 15, 2007)).

⁵ Additional information about these motor carriers, including U.S. Department of Transportation (USDOT) numbers, motor carrier numbers, and USDOT safety fitness ratings, can be found in the application. (*See* Appl. 3; *id.* at Ex. A.)

⁶ As noted in footnote 1, above, if opposing comments are filed in MCF 21094, it may necessitate further Board action in this docket as well.

Applicant may file a reply by October 11, 2021.

4. A copy of this notice will be served on: (1) The U.S. Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590; (2) the U.S. Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue NW, Washington, DC 20530; and (3) the U.S. Department of Transportation, Office of General Counsel, 1200 New Jersey Avenue SE, Washington, DC 20590.

Decided: August 5, 2021.

By the Board, Board Members Begeman, Fuchs, Oberman, Primus, and Schultz.

Jeffrey Herzig,

Clearance Clerk.

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SURFACE TRANSPORTATION BOARD

[Docket No. MCF 21094]

John J. McCarthy—Acquisition of Control—Trombly Motor Coach Service, Inc.

AGENCY: Surface Transportation Board.

ACTION: Notice tentatively approving and authorizing finance transaction.

SUMMARY: John J. McCarthy (Applicant), a noncarrier, has filed an application for authority after-the-fact to acquire control of Trombly Motor Coach Service Inc. (Trombly) from Michael J. Trombly (Seller). The Board is tentatively approving and granting after-the-fact authorization of the transaction, and, if no opposing comments are timely filed, this notice will be the final Board action.

DATES: Comments may be filed by September 27, 2021. If any comments are filed, Applicant may file a reply by October 11, 2021. If no opposing comments are filed by September 27, 2021, this notice shall be effective on September 28, 2021.

ADDRESSES: Comments may be filed with the Board via e-filing on the Board's website. In addition, one copy of any comments must be sent to Applicant's representative: Andrew K. Light, Scopelitis, Garvin, Light, Hanson & Feary, P.C., 10 W Market Street, Suite 1400, Indianapolis, IN 46204.

FOR FURTHER INFORMATION CONTACT: Amy Ziehm at (202) 245-0391. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877-8339.

SUPPLEMENTARY INFORMATION: According to the application,¹ Applicant is an individual who directly owned and controlled another passenger motor carrier, NRT Bus, Inc. (NRT), prior to the closing of the transaction. (Appl. 2.) NRT held and continues to hold interstate passenger motor carrier authority in the United States through the Federal Motor Carrier Safety Administration (FMCSA). (*Id.*) Under the transaction, which was completed on April 13, 2013, Seller transferred to Applicant all issued and outstanding equity shares of Trombly.² (Appl. 1, 3.)

Applicant provides the following description of the two carriers:

- Trombly primarily provides non-regulated student school bus transportation services in the Commonwealth of Massachusetts—in the counties of Essex and Middlesex—and occasionally provides charter services when its buses are not in use for school activities. At the time of the transaction, it utilized a fleet of approximately 150 passenger vehicles, consisting of school buses and mini-buses, and it used approximately 160 drivers. Currently, Trombly utilizes a fleet of approximately 266 passenger vehicles, consisting of school buses, mini-buses, and passenger vans. It currently uses approximately 142 drivers. (Suppl. Appl. 3.)

- NRT primarily provides non-regulated student school bus transportation services in the Commonwealth of Massachusetts—in the counties of Essex, Middlesex, Norfolk, Suffolk, and Worcester—and occasionally provides charter services when its buses are not in use for school activities. At the time of the transaction, it utilized a fleet of approximately 1,350

¹ The application initially was filed on May 4, 2021. On June 3, 2021, the Board issued a decision requiring Applicant to submit additional information in support of the application. Applicant filed an unverified supplement to its application on June 30, 2021, and a verification of that supplement pursuant to 49 CFR 1182.2(c) on July 12, 2021. Therefore, for purposes of calculating the procedural schedule and statutory deadlines, the filing date of the application is July 12, 2021. See 49 CFR 1182.4(a).

² Applicant states he did not seek approval of the transaction before it was completed because neither he nor Seller were aware that the transaction was subject to the Board's jurisdiction. (Appl. 1.) Applicant now requests that the Board approve the transaction after-the-fact. (Suppl. Appl. 1.) The Board has permitted parties to obtain after-the-fact licensing authority for a transaction when the failure to seek approval was without malice and by mistake. See *Winthrop Sargent—Acquis. of Control—Plymouth & Brockton St. Ry.*, MCF 21089, slip op. at 2 (STB served Jan. 3, 2020) (citing *Allied Indus. Dev. Corp.—Pet. for Declaratory Order*, FD 35477, slip op. at 6 (STB served Sept. 17, 2015), and *Gen. Ry.—Exemption for Acquis. of R.R. Line—in Osceola & Dickinson Cnty.*, Iowa, FD 34867, slip op. at 5 (STB served June 15, 2007)).

passenger vehicles, consisting of school buses, mini-buses, and passenger vans, and it used approximately 1,400 drivers. Currently, NRT utilizes a fleet of approximately 1,490 passenger vehicles, consisting of school buses, mini-buses, and vans; and it uses approximately 1,221 drivers. (*Id.* at 2.)³

As a result of the transaction, Applicant owned and controlled two regulated interstate passenger motor carriers that operate in the same territory. (*Id.* at 2–3, 5–6.)

Applicant claims that the transaction has not had, and will not have, a material, adverse impact on the adequacy of transportation services available to the public. (*Id.* at 7.) Applicant states that the services provided by Trombly prior to the transaction have been provided by Trombly under the same name since the transaction, just under different ownership, and will continue to be provided by Trombly going forward. (Appl. 4.)

Under 49 U.S.C. 14303(b), the Board must approve and authorize a transaction that it finds consistent with the public interest, taking into consideration at least: (1) The effect of the proposed transaction on the adequacy of transportation to the public, (2) total fixed charges that result, and (3) the interest of affected carrier employees. Applicant has submitted the information required by 49 CFR 1182.2, including information to demonstrate that the transaction is consistent with the public interest under 49 U.S.C. 14303(b), see 49 CFR 1182.2(a)(7), and a jurisdictional statement under 49 U.S.C. 14303(g) that the aggregate gross operating revenues of the involved carriers exceeded \$2 million during the 12-month period immediately preceding the filing of the application, see 49 CFR 1182.2(a)(5).

Applicant asserts that the transportation services available to the public will be maintained and improved as operating efficiencies are realized as a result of the transaction. (Appl. 4.) Since the transaction, Trombly has continued to provide transportation services to the public under the same name. (*Id.*) Applicant represents that Trombly has continued to operate under the control of Applicant, who is “an individual thoroughly experienced in school bus transportation operations.” (*Id.*) Applicant also represents that there has been no reduction in the charter

³ Additional information about these motor carriers, including U.S. Department of Transportation (USDOT) numbers, motor carrier numbers, and USDOT safety fitness ratings, can be found in the application. (See Appl. 2–3; *id.* at Ex. A.)