



FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. MCF 21048]

El Expreso Group, LLC – Asset Acquisition – CUSA EE, LLC D/B/A El Expreso

AGENCY: Surface Transportation Board.

ACTION: Notice of Finance Application.

SUMMARY: On June 12, 2012, noncarrier El Expreso Group, LLC (El Expreso Group or Applicant) filed an application for approval under 49 U.S.C. 14303 to acquire control of the assets of CUSA EE, LLC d/b/a El Expreso (CUSA EE) (MC-463171), an interstate motor passenger carrier subsidiary of noncarrier Coach America Holdings, Inc. (Coach America).¹ On June 13, 2012, Michael Yusim, an individual, filed a letter in opposition to the proposed transaction, asserting that the public interest would not be served by allowing the transaction to proceed without certain Department of Labor proceedings first being completed. A copy of this notice will be served on Mr. Yusim. Persons wishing to oppose the application must follow the rules set forth at 49 CFR 1182.5 and 1182.8.

DATES: Comments must be filed by August 27, 2012. Applicant may file a reply to any comments by September 11, 2012.

ADDRESSES: Send an original and 10 copies of any comments referring to Docket No.

MCF 21048 to: Surface Transportation Board, 395 E Street, S.W., Washington, DC

20423-0001. In addition, send one copy of comments to Applicant's representative:

¹ El Expreso Group's application identified Tornado Bus Company, Inc. (Tornado), an affiliate, as a second acquiring entity. However, by letter dated June 21, 2012, Applicant's representative clarified that Applicant is the sole acquiring entity.

Andrew K. Light, Scopelitis, Garvin, Light, Hanson & Feary, P.C., 10 W. Market Street, Suite 1500, Indianapolis, IN 46204, and Mark Vasquez, 10501 N. Central Expressway, Suite 307, Dallas, TX 75231.

FOR FURTHER INFORMATION CONTACT: Marc Lerner, (202) 245-0390. Federal Information Relay Service (FIRS) for the hearing impaired: 1-800-877-8339.

SUPPLEMENTARY INFORMATION: CUSA EE (along with a number of other Coach America subsidiaries) is currently involved in a proceeding instituted under Chapter 11 of the Bankruptcy Code, having filed on January 3, 2012, a voluntary petition for relief with the U.S. Bankruptcy Court for the District of Delaware, and on January 13, 2012, a motion to sell substantially all of its assets and effectively to liquidate. According to Applicant, the proposed transaction would be completed pursuant to 11 U.S.C. 105(a), 363 and 365 and Fed. R. Bankr. P. 2002, 6004, 6006, and 9014, and the bankruptcy court's order entered on May 25, 2012, authorizing and approving (1) the sale of substantially all of the assets of debtor CUSA EE, LLC free and clear of liens, claims, and encumbrances, and (2) the assumption and assignment of certain executory contracts and unexpired leases.

Applicant and Tornado, a motor passenger carrier, are owned and controlled by Jan Vazquez, an individual. In addition to interstate common carrier operating authority (MC-276747), Tornado also holds intrastate authority in Texas. Tornado's primary business is providing scheduled passenger transportation throughout the United States and between the United States and Mexico.

As indicated, Michael Yusim has filed a letter in opposition to the application by El Expreso Group to acquire control of the assets of CUSA EE. The basis for his

opposition relates to two cases alleging that his employer, an entity named Midnight Sun Tours, Inc. (Midnight Sun), a wholly owned subsidiary of the Coach America bus companies in bankruptcy, discriminated against drivers for having accurately reported their hours of service. According to Mr. Yusim, the two cases are pending before the Secretary of Labor (Secretary), but have been stayed by the bankruptcy court. Mr. Yusim requests that the Board disallow the sale of any subsidiaries of Coach America until the Secretary is allowed to hear and decide the two cases.

Because we have received a timely comment in opposition to the application, we will not grant tentative authority under 49 CFR 1182.4(b). See 49 CFR 1182.6(a). Instead, we will institute a proceeding to address this matter, as well as to determine the merits of the application pursuant to 49 U.S.C. 14303. Comments and responses are to be submitted as ordered below. See 49 CFR 1182.5 and 1182.6.

Board decisions and notices are available on our website at “WWW.STB.DOT.GOV”.

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

It is ordered:

1. Comments must be filed by August 27, 2012. Applicant may file a reply to any comments by September 11, 2012.
2. This notice will be effective on its date of service.
3. 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, S.E., Washington, DC 20590; (2) the U.S. Department of Justice, Antitrust Division, 950

Pennsylvania Avenue, N.W., Washington, DC 20530; (3) the U.S. Department of Transportation, Office of the General Counsel, 1200 New Jersey Avenue, S.E., Washington, DC 20590; (4) the Federal Trade Commission, Bureau of Competition, Premerger Notification Office, 600 Pennsylvania Avenue, N.W., Washington, DC 20580; and (5) Michael Yusim, 7499 Eagle Point Drive, Delray Beach, FL 33446.

Decided: July 6, 2012

By the Board, Chairman Elliott, Vice Chairman Mulvey, and
Commissioner Begeman.

Derrick A. Gardner

Clearance Clerk

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