The Years of Interstate Bus Regulation

by Larry Plachno

Photos from the NBT Archives unless indicated

Many of the early bus operations got started with larger automobiles before moving up to smaller buses. True, buses did not develop until the later 1920s because roads were still very primitive. This 1924 White bus initially served as a tour bus in Yellowstone National Park, but had been named "Little Red" and was serving as a mascot for Continental Trailways in the early 1980s when this photo was taken.

The recent rash of new and proposed bus regulations has not gone unnoticed by many bus operators. Several have asked whether the feds are moving the interstate bus industry back towards regulation. The basic answer is "no." Most of the new and proposed regulations are geared towards safety while the years of regulation from 1935 to 1982 were geared more towards entry and rates.

What we have discovered is that many people in the bus industry today were not around or involved during those years of regulation. Hence, I am not surprised at the questions on what really happened at that time and how it differs from today. At the risk of showing my age, I can remember getting involved with both intrastate and interstate applications for authority and even going to the ICC in Washington to ask questions.

For those who have asked, here is a brief review of some of the history and highlights of those years of regulation so you can compare them with today. There is a lot more information available, but I will try to touch upon the highlights without getting into too many of the details.

Early Years

As recently as the 1920s, intercity passenger transportation was confined almost exclusively to the railroads. Buses had not yet become a major player in interstate transportation for two major reasons. One is that paved roads were still rare. The second is that buses themselves had not developed to any significant extent. Many of the early bus operations actually got started with passenger cars. Greyhound's history goes back to operating a Hupmobile automobile between Hibbing and Alice in Minnesota.

It was not until 1921 that Fageol designed a vehicle specifically as a bus. The following year, in 1922, the first chassis designed specifically for bus use appeared. It was not until 1928 that Pioneer Yelloway Stages introduced the first scheduled coast-to-coast bus service. The trip took five days and 14 hours in that era prior to interstate highways and modern roads. It should be noted that during these years, and continuing until deregulation, the intercity bus industry was primarily an operator of scheduled service.

Railroads were already regulated monopolies. Since they began to look at bus operations as competitors, they pushed for bus regulation. Due at least in part to pressure from the railroads, many states began to regulate bus operations. Most states set up bus regulations similar to railroads and utilities, presuming that bus operations were also monopolies. This was questioned by some since the railroads and utilities had their own private right-of-way or means of transmission while the bus companies used public roadways. It was also noted that the bus companies tended to provide their own terminals while the railroads and airlines often shared combined terminals.

It was a 1925 Supreme Court decision named *Buck v. Kuykendall* that opened the door to federal regulation of interstate operations. Buck wanted to operate buses for passengers and express between Seattle, Washington and Portland, Oregon. The state of Oregon would have permitted the operation, but the State of Washington refused. The Supreme Court held that the State of Washington could not require a certificate of public convenience and necessity to operate in interstate commerce.

While this court decision started things moving towards the Interstate Commerce Commission regulating motor carriers in interstate commerce, it took 10 years for things to happen. Moreover, records suggest that the ICC was more concerned about trucks than buses. In 1928, the ICC began looking at federal controls over interstate bus operations. A report that year suggested that bus service on regular routes was generally satisfactory. However, by the early 1930s some bus companies were asking for federal control to hold down competition.

A 1932 report suggested that bus operators showed a greater degree of financial responsibility than did truck operators as a class. What may have finally pushed the ICC and Congress to action was a 1934 report from the Federal Coordinator indicating that the intercity trucking industry is disorganized and much of it is in an economically unsound condition.

Motor Carrier Act of 1935

The Motor Carrier Act of 1935 was passed by Congress and signed into law on August 9, 1935. Witnesses from the National Association of Motor Bus Owners (NAMBO), the predecessor of today's American Bus Association, offered no objections. The general feeling was that the new Federal Motor Carrier Act was less restrictive than most state regulations at this time. Primary reasons for the passage of the act included:

- Prevention of an oversupply of transportation. This involved restricting competition. There were some objections to this including those who suggested that government was not limiting competition for other businesses including grocery stores and newspapers.
- The need for equality of regulations. Railroads were already regulated.
- Interdependence of entry controls and other features of regulations. Hence, operating authority could be an enforcement tool.

Interstate bus operations now required a Certificate of Convenience and Necessity from the ICC. Interstate operators as of June 1, 1935 – a date prior to the passage of the act to prevent new companies "jumping in" under this provision – had to apply for their certificates within 120 days after October 1, 1935 (the effective date of the act). These operations were "grandfathered" and were given the certificates without having to prove public convenience and necessity. Many of the original and later certificates also permitted the transportation of express or mail in the same buses as passengers.

There were several groups exempted from regulation including most school operations, agriculture, taxis, trolley buses and airport service within a limited range. There was not much thought on safety at this time although what later became known as an hours-of-service law came about after much debate.

Most of the new regulations were pointed at interstate scheduled service while regulation of charters and tours was almost an afterthought. Sources indicate that prior to this time, charters and tours were not regulated by most states. Requiring registration under the new Motor Carrier Act was somewhat of a new development. Charters were defined as transportation for a preformed group. While tours (technically Special Operations) involved selling tickets to individuals.

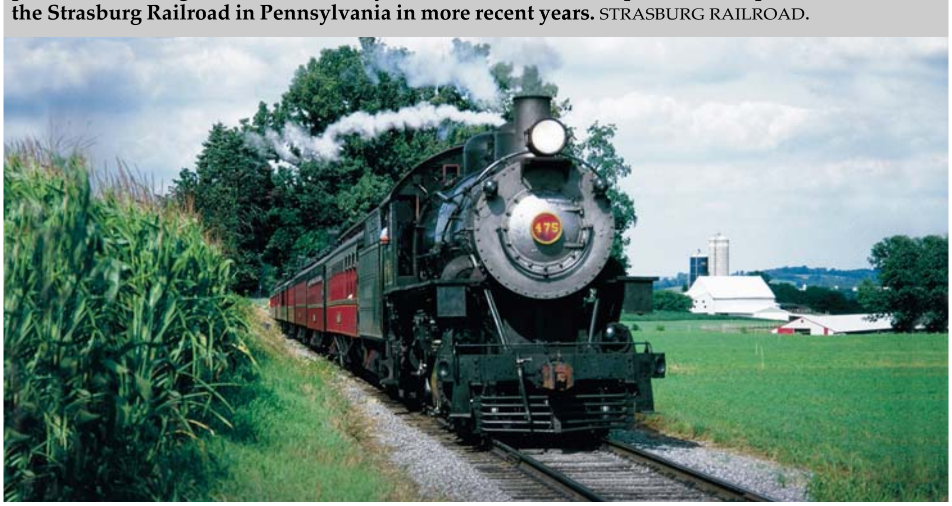
Likewise, transportation brokers had generally not been regulated by the states but fell under the new Motor Carrier Act. Comments at that time talked about "unscrupulous" brokers of passenger transportation. What we today call tour planners or tour operators then required a broker's license. This is why what today is the National Tour Association was called the National Tour Broker's Association prior to deregulation.

These new regulations had the effect of moving the interstate bus industry more towards monopolies. Reasons for granting new operating authority typically were based on:

- Whether the new route or service will serve a useful public purpose and would fulfill a public demand or need.
- Whether this service was already being served well by existing companies.
- Whether the new applicant can provide this service without endangering or impairing the operations of existing carriers contrary to the public interest.

It was not until the late 1920s and early 1930s that buses really started to develop. Shown here is a 1934 Model U Yellow coach photographed in Salem, Massachusetts in April of 1980. It was saved by Michaud Bus Lines, went on to Blue Bird Bus Lines and today is in the Museum of Bus Transportation.

Railroads were already regulated as monopolies long before buses showed up. Many railroads pushed for bus regulation because they considered buses as competitors. This photo was taken on the Strasburg Railroad in Pennsylvania in more recent years. STRASBURG RAILROAD.



Within months of the start of regulation, five independent bus operations founded the Trailways organization to compete with Greyhound on longer routes. Santa Fe Trailways was originally affiliated with the railroad of the same name.

Some of the railroads began introducing modern equipment in the 1930s. Shown here is the new diesel-powered Burlington Zephyr design in 1934. This fluted skin styling reportedly fostered the Silverside design later in that decade.

Applications would be presented at a Commission hearing in a court-like environment. Opposition to the new application would also be heard. Hence, it became very difficult to obtain new operating authority if it competed with an existing carrier.

Intermediate Years and Operations

Since it was now difficult to obtain new operating authority if there was a conflict with an existing carrier, much expansion occurred through mergers and acquisitions. Many existing carriers now found themselves holding a Certificate of Convenience and Necessity that had some real value, sometimes more than what their fleet was worth. In the years that followed, some of these Certificates of Convenience and Necessity became quite valuable and were sold either with or without the operating company.

Scheduled service continued to dominate industry operations and Greyhound continued to dominate scheduled service. By the early 1930s, Greyhound was already operating more than 40,000 miles of routes. Even into the 1950s and 1960s, Greyhound was responsible for as much as 20 percent of new coach sales and hence had a major influence in industry associations and decisions.

Shortly after the passage of the Motor Carrier Act in February of 1936, five bus companies met and formed the new National Trailways Bus System. Unlike Greyhound, which was a corporation with operating divisions, Trailways was a group of independent bus companies that operated under a shared name. Their initial interest was in interlining passengers between the member companies to compete with Greyhound on longer trips. As membership increased in the following years, the system became nationwide with a strong presence in the Southeast.

Certificates for scheduled service listed routes in detail, showing every highway and road used. It was not unusual for one company to have two different routes between the same cities. There were also places were two different companies operated different routes between city pairs. In some cases, a later applicant was awarded a certificate for a route but prohibited from performing local service on a portion of the route already served by a previous carrier. This was known as “closed door” operations. One of the more obvious examples was Brooks Bus Line that operated from Paducah, Kentucky to Detroit, Michigan with much of the route “closed door.”

In many cases, charter operating authority was tied in with regular route service. Many regular route certificates permitted carriers to originate charters, usually to 48 states, from points along their scheduled route provided that they continued to operate the route. This was known as “incidental charter authority.” As the years wore on, many carriers continued to operate a token service on their routes with empty buses in order to keep their charter authority valid. One company I worked for eventually got down to one trip a month. Blue Bird Bus Lines had a long route in New York state that only operated one day each year.

The ICC did have rules that enabled it to issue certificates that authorized motor carriers of passengers to operate under charter or special authority – which was their term for tours where tickets were sold to individ-

Scheduled bus service dominated the bus industry during its years of regulation. Greyhound dominated scheduled service and sometimes represented nearly 20 percent of new coach sales. Shown here is the restored Mack in the Greyhound fleet.

ual passengers. This kind of certificate was difficult to obtain because of protests from competitors and those that existed were very valuable.

Greyhound introduced their new Scenicruiser in 1954 and started the industry moving towards a 40-foot length. More than 1,000 were built and they were the flagships of the Greyhound fleet for many years. This one was restored by Tom McNally in Peoria, Illinois.

Rates and interlines were handled by the National Bus Traffic Association. The ICC typically approved rate increases without much difficulty. In most cases, interstate rates were higher than intrastate rates regulated by states because the states tried to protect their residents from rate increases. NBTA also handled interline billings on passengers and express between the individual carriers.

In earlier years, some of the railroads established their own bus companies in self-defense against bus competition. These typically provided feeder service to railroad stations and in some cases replaced trains when they were discontinued. In later years the railroads increasingly began looking at passenger service as unprofitable and their bus companies were often merged into larger operations. The airlines tended to specialize in business travelers and time-sensitive travel. Hence, as the years wore on, the buses ended up with the poor, the young, the elderly and the handicapped.

The railroad situation changed somewhat in 1971 when Amtrak took over most long distance rail service. Some bus companies benefitted when competing passenger trains were eliminated, but other bus companies now had to deal with subsidized Amtrak rail routes.

Some 1977 transportation figures showed that nearly two-thirds of bus passengers were either younger than 25 years of age or older than 64. This can be compared to all travelers where only two-fifths met this criteria. In addition, approximately 60 percent of bus passengers had low incomes. This compares to only 40 percent of all travelers.

The Start of Deregulation

In the late 1970s, the ICC started changing their policies to move away from supporting monopolies and more towards approving a greater number of applications. Previously, the burden of proof for new applications fell on the applicant. Now, protests were limited and the burden of proof tended to shift more to the existing carrier rather than the applicant. Many existing bus companies were displeased with this. The ICC even authorized some additional new route services during the summer of 1979.

Deregulation was obviously coming. The airlines were deregulated in 1978 and the trucks and railroads were deregulated in 1980. Bus deregulation could have been included with the truck motor carriers in 1980, but buses were left out at that time to make it easier for truck deregulation to pass through Congress.

While scheduled service still dominated the industry to some extent at this time, many interstate routes were unprofitable. There was difficulty in dropping these routes because of state control. Hence, preempting state regulation became one of the big issues of bus deregulation.

Most of the smaller carriers were skeptical about bus deregulation. They feared that increased competition would have a negative affect on them. Under Holiday Inn ownership, Trailways, Inc. (the former Continental Trailways) encouraged ICC reforms in 1978. However, when the new ownership under Jim Kerrigan took over in 1979, the company turned in the other direction. Greyhound, which had originally opposed the ICC's movement to less regulation, reversed their position and tried to guide reforms in ways that would be of benefit. Bear in mind that Greyhound had the largest number of unprofitable routes and hence eliminating state regulation would be a major benefit.

Originally introduced in the late 1930s, the Silverside design reached its height in the post-war years with a large order for Greyhound in 1948. Greyhound ordered 2,000 coaches at one time to update its fleet. This set a new record for the largest coach order.

There was also substantial opposition to deregulation concerned with the loss of service to smaller cities and towns. The ICC's incidental charter authority that authorized charter service based on regular route authority effectively cross-subsidized regular route service with charter profits. Once deregulation removed the connection between charters and scheduled service, it was obvious that the less profitable routes, typically serving smaller cities and rural areas, would be eliminated.

The Bus Regulatory Reform Act of 1982

Passed in September of 1982, the Bus Regulatory Reform Act was admittedly a compromise. While new entrants still have to apply for operating authority, they now only had to show that they were "fit, willing and able." Competition was no longer a consideration. The ICC lost their authority over setting rates while removing some antitrust immunity. The industry stood to benefit from reduced state regulations while being allowed to keep much of their antitrust immunity.

Concerns over new entrants "skimming the cream" on better routes while older carriers were forced to continue running unprofitable routes were mainly set aside by the ICC preempting state regulations in many areas. Under the new regulations, carriers had to keep states informed but the states no longer had any real authority over interstate operations other than the usual speed limits and traffic rules.

While suburban trolley lines and interurban electric railways offered competition to bus lines in the early years, only a handful of lines survived World War II. This photo was taken at the Seashore Trolley Museum in Kennebunkport, Maine in April of 1980. On the left is #434 of the Dallas Railroad & Terminal Co. that was built by American Car in 1914. On the right is a 1946 GM PDA3703 named "Little Spike" and operated by Michaud Bus Lines. This coach today is in the Museum of Bus Transportation.

Expectedly, there were many new applications for operating authority. One source says that in 1983, the first full year under deregulation, there were 274 applications for regular route authority and that 54 percent of these came from carriers that had not previously held interstate authority. Greyhound only filed 16 of these applications while Trailways companies were responsible for 77.

However, the biggest industry change was the movement away from scheduled service and to charters and tours. Up until deregulation, scheduled service continued to dominate the industry. With deregulation and numerous new applications for charter authority, charters and tours started to dominate industry operations. Things have remained that way ever since.

One of the major arguments against deregulation became true afterwards. There were concerns that the removal of controls on bus operations would eliminate service to thousands of small cities and towns as well as vast rural areas. An ICC study in 1984 documented this. As of September of 1983, the bus companies had already eliminated or were planning to eliminate 1,322 communities from their timetables.

More than one person has mentioned that the intercity bus industry operated for decades under the ICC without any subsidies other than the use of roads, and they contributed to that with registrations and license plates. It is only in more recent years that interstate carriers have sought financial help.

To a large extent, interstate bus scheduled service underwent some major changes. For decades, interstate bus service was patterned after the railroads in that routes typically connected major cities and made stops at the intermediate smaller cities and rural communities. With the opening of the interstate highway system, it became possible to skim the cream of passengers with non-stop service and hence bypass the smaller cities and rural communities.

Trailways introduced its first Eagle in 1956 to compete with the Greyhound Scenicruisers. The Eagle remained in production for decades and became identified with the Trailways name. Shown here is a Model 10 Eagle from Trailways Inc. photographed in 1981 in Washington, D.C. by Robert Redden.

In the early years, most bus operations followed railroad style with long routes between major cities serving intermediate points. In more recent years the curbside carriers like Megabus and Bolt, and even Greyhound to some extent, have gravitated to non-stop hub-and-spoke service between major cities. Shown is a Bolt bus boarding in New York City.

In effect, many of the newer bus operations, and even Greyhound to some extent, moved from imitating the routes of the railroads to something closer to the hub-and-spoke service of many airlines. This was certainly true with Megabus, Bolt and the new curbside carriers who catered to non-stop service between major cities.

One of the more interesting items in the aftermath of deregulation was increased concern for safety. While safety had not been a huge concern under ICC regulation, it increased in importance after deregulation. Bus and safety issues moved from the ICC to the Federal Motor Carrier Safety Administration (FMCSA) and soon became more important than entry issues.

This brings us the distance from the early days of concern with entry requirements to today's concern with safety. Some people have suggested that one of the big problems with deregulation is that the feds do not have the staff to properly monitor safety in this environment. Instead of reviewing safety at garages and offices, as is done with airlines and railroads, much of this effort has been directed to roadside stops.

Hopefully, all of this helps explain what makes the bus industry different today. In 1935, the concern was over entry requirements. Since the number of carriers was limited, safety was less of a concern. Today, with virtually open entry, there is little control on who enters the bus business. Hence, today's emphasis is more on safety, which explains the fed's concern over seat belts, insurance, speed limits, rollover strength, leasing requirements and several similar items. ❑

In spite of the years of regulation, many carriers survived into the following years of deregulation. Shown here is a new MCI D model operating for Martz Lines. Martz was not only one of the oldest carriers in the Northeast but also a founding member of the Trailways organization.

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