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## Tug of War Over Commuters

By [STEVE STRUNSKY](#)

MONTCLAIR

JACK GORDON stood with a long line of commuters, framed against the shiny red tiles of the Port Authority Bus Terminal in Manhattan, waiting to board DeCamp Bus Lines' No. 66 to Roseland. Mr. Gordon, a 47-year-old lawyer who has been commuting half his life, takes the bus even though a New Jersey Transit rail ticket would be 50 percent cheaper and free of traffic delays.

"I'm aware, but it's not convenient for me," Mr. Gordon said, doing a slow-queue shuffle toward the door and the diesel fumes of Gate 412. "Bus is right by the house. Train, I'd have to drive and pay for parking."

But more and more people are like Stephanie Connor, who switched to the train after New Jersey Transit began Midtown Direct service by way of the Montclair Connection in September 2002, allowing commuters from Essex, Passaic and Morris Counties to ride into New York without changing trains.

Though Midtown Direct has enticed more people to ride the train to work, some of that success has come at the expense of private bus carriers, not to mention state and federal taxpayers whose subsidies offset New Jersey Transit's operating losses, a situation common to virtually all public transit agencies. Two years after initial Midtown Direct service began on the Morris & Essex line in 1996, New Jersey Transit paid Lakeland Bus Lines \$5 million to settle a claim that it had lost riders to the new rail service.

In a state where private bus lines once thrived, private commuter buses may go the way of the drive-in theater. Many companies are already gone, while others provide commuter service only under contracts with New Jersey Transit. DeCamp, which claims to be the state's oldest private bus company

and the only one still running commuter routes independent of the transit agency, says Midtown Direct's Montclair Connection threatens not only the company's competing routes, but its existence.

"The train's more reliable," Ms. Connor, 29, said recently on the platform at Montclair's Walnut Street Station, before boarding the 8:19 train to New York Penn Station. "I find the people to be nicer, actually."

As a result, DeCamp says it has been losing riders and money on Lines 33, 66 and 88 since the Montclair Connection opened. And while the company does not begrudge New Jersey Transit the right to compete for customers, DeCamp is suing the transit agency in State Superior Court, claiming it has engaged in "predatory" pricing by using its \$140 million in annual state and federal subsidies to keep train fares artificially low. The company is seeking at least \$20 million in past and future revenue it says that it has lost or anticipates losing.

"How can you take taxpayer dollars to compete against private business?" said Robert DeCamp Jr., the company president.

Mr. DeCamp comes from a long line of transportation entrepreneurs, starting with his great-great-grandfather, Maj. Jonathan W. DeCamp, a Civil War veteran who founded the company as a stagecoach line in 1870. A picture of Major DeCamp, dressed in his Union Army uniform and holding a bayonet, hangs in DeCamp's Montclair offices, upstairs from the company's 40,000-square-foot garage. DeCamp, the state's oldest bus company, has annual revenues of about \$14 million from its charter service and six commuter lines. But the fifth-generation DeCamp president, who is 59, said that his company has lost money for the last three years, and that he is close to bankruptcy.

Negotiations to settle the New Jersey Transit dispute failed, and DeCamp's lawyers filed the lawsuit in September 2004. Judge Theodore A. Winard began hearing the case in Newark this month.

State law mandates that New Jersey Transit have an administrative process in place for handling complaints of anticompetitive practices. But DeCamp asserts that the process is inherently biased because final decisions are made by the agency's own board, and the suit also seeks to overturn the complaint process. Regardless of how Judge Winard rules, DeCamp's lawyers said the decision is all but certain to be appealed by DeCamp or New Jersey Transit.

Gary Pard, vice president and chief operating officer for DeCamp, testified that the company had lost 1,200 daily riders on the three routes that compete with the Montclair Connection, amounting to a loss of more than \$1.5 million a year. Over all, he said, the company has been operating in the red for the last three years, though layoffs and other cost-cutting measures have reduced losses to about \$50,000 last year from \$350,000 in 2003.

"I personally took a 30 percent cut in pay," Mr. Pard testified, adding that Mr. DeCamp took a 40 percent cut.

Mr. Pard conceded under cross-examination that DeCamp had not conducted surveys to determine why the company was losing riders. "We know why," he testified.

A spokeswoman for New Jersey Transit, Penny Bassett-Hackett, said that ridership on Montclair Connection trains had steadily increased, to an average of 12,050 daily trips in the 2005 fiscal year, from 9,550 during its initial operations in the 2003 fiscal year.

Ms. Bassett-Hackett declined to say where those riders were coming from, but she denied the agency had preyed on DeCamp. In fact, she said, DeCamp benefits from public support: \$20 million worth of equipment purchases by New Jersey Transit over the last 10 years, including 50 new buses in 2001, and \$250,000 in annual reimbursements for senior citizen discounts.

"Bottom line is, we further believe that their claims are over the top, out of bounds and unreasonable," she said.

DeCamp's lawyers, Phillip R. Sellinger and Todd L. Schleifstein, of Greenberg Traurig in Florham Park, assert that New Jersey Transit's actions constitute an "inverse condemnation," or radical devaluation, of DeCamp's business. Legally and practically, the lawyers say, what the agency has done amounts to an unconstitutional taking of DeCamp's assets without just compensation, a claim typically made by property owners whose homes or businesses are seized by government agencies seeking to build roads, schools or sewer plants.

"As such," the lawsuit states, "N.J. Transit's actions violate the 14th Amendment to the United States Constitution, which applies to state agencies and actors the Fifth Amendment's provision that no person 'shall be deprived of life, liberty or property without due process of law.' "

In its response, the agency denied the assertion. Alvin R. Little, the deputy state attorney general representing New Jersey Transit, declined to elaborate.

Commuters say convenience and reliability matter, not price. Joan Volpe, waiting at Walnut Street for a Midtown Direct train to Manhattan, said she could not rely on the bus. "If I have to go in really early, like at 6 a.m. or 6:30, I do take the bus," Ms. Volpe said. "But then you get to a point at 7 or 7:15, and it's just a crapshoot."

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