

SERVICE DATE – JANUARY 30, 2023

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. MCF 21105 TA

AVALON MOTOR COACHES, LLC—ACQUISITION OF CONTROL—WYNNE
TRANSPORTATION, LLC

Digest:¹ This decision permits Avalon Motor Coaches, LLC (Avalon), to operate properties of Wynne Transportation, LLC (Wynne), on an interim basis pending determination of a related application for Avalon to acquire Wynne.

Decided: January 30, 2023

On January 23, 2023, Avalon Motor Coaches, LLC (Avalon), requested interim approval under 49 U.S.C. § 14303(i) and the Board’s regulations at 49 C.F.R. § 1182.7(b) to permit it to operate the properties of Wynne Transportation, LLC (Wynne), pending a decision on Avalon’s concurrently filed application in Docket No. MCF 21105 for authority to acquire Wynne.

BACKGROUND

Avalon (MC-1032746) and Wynne (MC-650660) both provide charter shuttle services in Texas. In its acquisition application in Docket No. MCF 21105, Avalon seeks to purchase substantially all of Wynne’s assets and assume substantially all of Wynne’s outstanding service contracts. Appl. 3, Avalon Motor Coaches, LLC—Acquis. of Control—Wynne Transp., LLC, MCF 21105. Avalon states that, after the proposed transaction, Wynne will continue in operation under Avalon’s ownership. Id. Avalon argues that this transaction will allow Wynne to pay off certain debts and allow Wynne to continue providing charter shuttle services. Id. According to Avalon, the transaction will also allow Avalon to expand the services currently provided by Wynne, modernize Wynne’s fleet, retain Wynne’s existing staff, and improve Wynne’s operational efficiency by connecting Wynne’s routes and resources to Avalon’s. Id. at 3-4, 6-7.

In its request for interim approval, Avalon states that Wynne must make a large cash payment of up to \$400,000 by January 31, 2023, in order to cover its 2023 vehicle tax bill and workers’ compensation, general liability insurance, and vehicle International Registration Plan renewals. (Req. for Interim Approval 2.) Avalon further asserts that such a large payment could be too burdensome for Wynne, risking a shutdown and exit from the market that would leave

¹ The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. See Pol’y Statement on Plain Language Digs. in Decisions, EP 696 (STB served Sept. 2, 2010).

Wynne unable to fulfill transportation contracts with its customers and result in the layoff of Wynne's 70 employees. (Id. at 2-3.) Avalon asks the Board to grant interim approval before January 31, 2023, so that Avalon can take steps to preserve the value of the assets it seeks to purchase. (Id. at 4.) Avalon contends that expeditious interim approval will permit Avalon to immediately deploy additional resources to ensure that Wynne is able to continue providing transportation services to the public without interruption, thereby avoiding employee layoffs and preventing financial losses from unfilled contracts. (Id. at 3.)

DISCUSSION AND CONCLUSIONS

Under 49 U.S.C. § 14303(i), while an application for acquisition authority is pending, “the Board may approve, for a period of not more than 180 days, the operation of the properties sought to be acquired by the person proposing in the application to acquire those properties, when it appears that failure to do so may result in destruction or injury to those properties or substantially interfere with their future usefulness in providing adequate and continuous service to the public.”

Based on Avalon's representations regarding the transaction, the Board finds that a grant of interim approval for Avalon to operate the properties of Wynne meets the criteria of § 14303(i). Therefore, pursuant to 49 C.F.R. § 1182.7(b), the Board will grant the requested interim approval. The Board reminds Avalon that this interim approval is temporary and that Avalon is responsible for ensuring that Wynne's assets are protected so that they can be returned to Wynne if the Board ultimately were to deny Avalon's request for acquisition authority.

This action is categorically excluded from environmental review under 49 C.F.R. § 1105.6(c).

It is ordered:

1. Avalon is authorized on an interim basis to operate the properties of Wynne under 49 U.S.C. § 14303(i) and 49 C.F.R. § 1182.7. The application for acquisition authority will be addressed in a separate decision in Docket No. MCF 21105.

2. This decision is effective on its service date.

3. A copy of this decision 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, 10th Street & Pennsylvania Avenue, N.W., Washington, DC 20530; and (3) the U.S. Department of Transportation, Office of the General Counsel, 1200 New Jersey Avenue, S.E., Washington, DC 20590.

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