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SERVICE DATE – AUGUST 18, 2023

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. MCF 21109

TERRY W. FISCHER & TKRG HOLDINGS INC.—ACQUISITION OF CONTROL—
ROYAL COACH TOURS

AGENCY: Surface Transportation Board.

ACTION: Notice Tentatively Approving and Authorizing Finance Transaction.

SUMMARY: On July 21, 2023, Terry W. Fischer (Fischer) and TKRG Holdings Inc. (TKRG) (collectively, Applicants) filed an application to acquire from Daniel K. Smith and Sandra S. Allen (Individual Sellers) and New Holdco, a to-be-formed California corporation, control of all the outstanding equity interests of Royal Coach Tours (Royal), a passenger motor carrier. The Board is tentatively approving and authorizing the transaction, and, if no opposing comments are timely filed, this notice will be the final Board action.

DATES: Comments may be filed by October 2, 2023. If any comments are filed, Applicants may file a reply by October 17, 2023. If no opposing comments are filed by October 2, 2023, this notice will be final on October 3, 2023.

ADDRESSES: Comments may be filed with the Board either via e-filing on the Board's website or mailing to the Board's offices and must reference Docket No. MCF 21109. Comments may be filed at www.stb.gov/proceedings-actions/e-filing/other-filings/. Mailed comments may be sent to: Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, one copy of comments must be sent to Applicants' representative: Andrew K. Light, Scopelitis, Garvin, Light, Hanson & Feary, P.C., 10 W. Market Street, Suite 1400, Indianapolis, IN 46204.

FOR FURTHER INFORMATION CONTACT: Amanda Gorski at (202) 245-0291. If you require an accommodation under the Americans with Disabilities Act, please call (202) 245-0245.

SUPPLEMENTARY INFORMATION: According to the application, Fischer is an individual resident of the state of California and directly owns and controls all of the equity and voting interest of Transportation Charter Services, Inc. (TCS). (Appl. 2.) TKRG is a Delaware limited liability company, headquartered in California, and indirectly controlled by Fischer. (*Id.*) Applicants state that neither applicant is a federally regulated passenger motor carrier, and other than Fischer, none of the entities or persons having direct or indirect interests in TKRG control

any federally regulated interstate passenger motor carrier.¹ (Id. at 2-3.)

TCS is an interstate passenger motor carrier that holds interstate carrier operating authority under FMCSA Docket No. MC-229775 and a USDOT safety rating of “Satisfactory.” (Id. at 2; id. at Ex. B.) TCS provides charter bus services in Southern California for third-party tour operators, private party charters, and school groups. (Id. at 3.) TCS also provides motor coach transportation services, primarily focused on charter bus services for third-party tour operators and private group outings, in the Canadian Rockies Area of Alberta, Canada. (Id.) In addition, TCS provides limited contractual employee shuttle service employees at the San Diego International Airport during on-going construction projects. (Id.)

Individual Sellers are current shareholders of Royal and are noncarriers that do not control any federally regulated passenger motor carrier other than Royal. (Id. at 4.) Immediately prior to the sale of Royal, Individual Sellers will effect a reorganization of Royal such that Royal will become a California limited liability company wholly owned by New Holdco, a to-be-formed corporation, which will be wholly owned by Individual Sellers. (Id. at 4.)

Royal is a California corporation, headquartered in California, that holds interstate carrier operating authority under FMCSA Docket No. MC-142846 and a USDOT safety rating of “Satisfactory,” as well as intrastate charter-party operating authority issued by the California Public Utilities Commission and intrastate charter bus authority issued by the Nevada Transportation Authority. (Id.) Royal provides motor coach charter transportation services from its terminal facilities located in San Jose, Cal. (Bay Area), Las Vegas, Nev., and Phoenix, Ariz. (Id. at 4-5.) Royal also provides a limited amount of intrastate employee commuter shuttle services for employers in the Bay Area. (Id. at 5.) In providing these services, Royal utilizes approximately 73 motor coaches and 1 minibus, and approximately 115 drivers. (Id.) Applicants state that these services do not overlap with the geographic area of service offerings of TCS. (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) the total fixed charges that result, and (3) the interest of affected carrier employees. Applicants have submitted the information required by 49 C.F.R. § 1182.2, including information to demonstrate that the proposed transaction is consistent with the public interest under 49 U.S.C. § 14303(b), see 49 C.F.R. § 1182.2(a)(7), and a jurisdictional statement under 49 U.S.C. § 14303(g) that the

¹ According to the application, as of the closing of the transaction, the outstanding shares of TKRG will be held by RCTB, LLC (RCTB), a Delaware limited liability company; the outstanding membership interests in RCTB will be held by TFKF 50 Holdings LLC (TFKF) (67.5%), Blue Fin Equity Partners LLP (Blue Fin) (22.5%), and GHSG, LLC (GHSG) (10%); the outstanding membership interests in TFKF will be held by Fischer (51%) and Fischer’s brother, Kevin Fischer (49%); the partnership interests in Blue Fin will be controlled by Remi Poissant and Jane Poissant; and the membership interest in GHSG will be owned and controlled by Greg Gallup, an individual and current management employee of Royal. (Appl. 2; id. at Ex. C (chart of the organizational structure of the Royal Coach Tours, post-transaction).)

aggregate gross operating revenues of TCS and Royal exceeded \$2 million during the 12-month period immediately preceding the filing of the application, see 49 C.F.R. § 1182.2(a)(5).

Applicants state that the transaction is not expected to have a material, detrimental impact on the adequacy of transportation services available for the public, as the services Royal currently provides will continue to be provided by Royal under the same name and from the same locations as prior to the transaction. (Id. at 7.) Further, Applicants assert that bringing Royal under the control of Fischer, who is experienced in the same market segments served by Royal (i.e., private charter transportation and employee shuttle operations), will result in improved operating efficiencies, increased equipment utilization rates, and cost savings derived from economies of scale, which will help ensure the provision of adequate service to the public. (Id.) Applicants state that the transaction will increase fixed charges in the form of interest expense because funds will be borrowed by TKRG to assist in the funding of the transaction but that such an increase will not impact the provision of transportation to the public. (Id.) Applicants further state that they intend to continue existing operations of Royal and as such, the transaction will not materially impact employees or labor conditions. (Id. at 8.) Applicants assert that that neither competition nor the public interest will be adversely affected by the proposed transaction, as Royal's operations consist primarily of charter bus transportation, as well as limited employee commuter services, which are markets that are very competitive in the geographic areas served by Royal. (Id. at 9.) Applicants note that all charter service providers, including Royal, compete with other modes of passenger transportation. (Id. at 10.) Lastly, Applicants state the Royal's services are geographically dispersed from the service areas of TCS. (Id.)

The Board finds that the acquisition as proposed in the application is consistent with the public interest and should be tentatively approved and authorized. If any opposing comments are timely filed,² these findings will be deemed vacated, and, unless a final decision can be made on the record as developed, a procedural schedule will be adopted to reconsider the application. See 49 C.F.R. § 1182.6. If no opposing comments are filed by 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 C.F.R. § 1105.6(c).

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

It is ordered:

1. The proposed transaction is approved and authorized, subject to the filing of opposing comments.
2. If opposing comments are timely filed, the findings made in this notice will be deemed vacated.

² Persons wishing to oppose the application must follow the rules at 49 C.F.R. §§ 1182.5 and 1182.8.

3. This notice will be effective October 3, 2023, unless opposing comments are filed by October 2, 2023. If any comments are filed, Applicants may file a reply by October 17, 2023.

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, 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.

Decided: August 12, 2023.

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