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SERVICE DATE – FEBRUARY 22, 2023

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. MCF 21105¹

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

AGENCY: Surface Transportation Board.

ACTION: Notice Tentatively Approving and Authorizing Finance Transaction.

SUMMARY: On January 23, 2023, Avalon Motor Coaches, LLC (Avalon), an interstate passenger motor carrier, filed an application for Avalon to purchase and assume substantially all the shuttle services of another interstate passenger motor carrier, Wynne Transportation, LLC (Wynne). The Board is tentatively approving and authorizing this transaction. If no opposing comments are timely filed, this notice will be the final Board action.

DATES: Comments must be filed by April 10, 2023. If any comments are filed, Avalon may file a reply by April 23, 2023. If no opposing comments are filed by April 10, 2023, this notice shall be effective on April 11, 2023.

ADDRESSES: Comments may be filed with the Board either via e-filing on the Board's website at www.stb.gov/proceedings-actions/e-filing/other-filings/ or in writing addressed to: Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. Comments must reference Docket No. MCF 21105. In addition, one copy of comments must be sent to Avalon's representative: Barry M. Weisz, Thompson Coburn LLP, 10100 Santa Monica Boulevard, Suite 500, Los Angeles, CA 90067.

FOR FURTHER INFORMATION CONTACT: Jonathon Binet at (202) 245-0368. If you require an accommodation under the Americans with Disabilities Act, please call (202) 245-0245.

SUPPLEMENTARY INFORMATION: According to the application, Avalon is a Texas company owned by Virgin-Fish, Inc. (Virgin-Fish), a privately held California company.²

¹ Concurrent with its application, Avalon also filed, in Docket No. MCF 21105 TA, a request under 49 U.S.C. § 14303(i) to operate the assets to be acquired on an interim basis pending approval of the acquisition. The Board granted that request in a decision served in that docket on January 30, 2023.

² More information about Avalon's corporate structure and ownership can be found in the application. (See Appl. 4-5.)

(Appl. 4.) Virgin-Fish also owns Avalon Transportation, LLC (Avalon Transportation), a California company and Avalon's sister company. (*Id.*) Avalon and Avalon Transportation both hold interstate authority to carry passengers.³ (*Id.* at 2.) According to the application, Avalon and Avalon Transportation currently operate chauffeured service offices in California, New York, New Jersey, and Pennsylvania, and motor coach offices in California, Arizona, and Texas. (*Id.* at 4.) The application states that Avalon focuses on the Texas Motor Coach division and operates charter shuttle services in San Antonio, Texas; Beaumont, Texas; and Houston, Texas, while Avalon Transportation focuses on chauffeured services and the California Motor Coach division.⁴ (*Id.* at 3-4, 9-10.) The application further states that Avalon Transportation provides additional services to its clients in over 550 locations through its affiliate program. (*Id.* at 4.)

The application explains that in this transaction, Avalon will purchase most of Wynne's assets via an asset purchase agreement and will assume substantially all of Wynne's outstanding contracts related to charter services. (Appl. 3.) According to the application, Wynne is a Texas charter bus operator headquartered in Irving, Texas, with a satellite office in Houston, Texas.⁵ (*Id.* at 10.) The application states that Wynne provides transportation services to a variety of clients, including corporations, sports teams, and schools, as well as transportation for conventions and large events in the Dallas and Houston areas. (*Id.* at 6.) The application states that Wynne is owned by Wynne Transportation Holdings, LLC (Wynne Holdings).⁶ (*Id.* at 5-6.) The application further states that Wynne Holdings also owns three crew change operations that hold interstate authority to carry passengers:⁷

- Coastal Crew Change Company, LLC, headquartered in Lake Charles, Louisiana, covers a geographical territory that includes Louisiana, Mississippi, Alabama, and Florida, and currently operates from Lake Charles, Louisiana, and Gray, Louisiana, (*id.* at 5);
- WTH Commercial Services, LLC d/b/a Mountain Crew Change, headquartered in Elko, Nevada, covers a geographical territory that includes Nevada, Idaho, Montana, Wyoming, and Colorado, and currently operates industrial shuttles within northern and central Utah, (*id.*); and

³ Further information about Avalon and Avalon Transportation, including U.S. Department of Transportation (USDOT) numbers, motor carrier numbers, and USDOT safety fitness ratings, can be found in the application. (Appl. 2, 12.)

⁴ The application states that Avalon also currently operates shuttle services in other states, including California and Arizona. (*Id.* at 3.)

⁵ Further information about Wynne, including its USDOT number, motor carrier number, and USDOT safety fitness rating, can be found in the application. (*Id.* at 2, 12.)

⁶ More information about Wynne's corporate structure and ownership can be found in the application. (*See id.* at 5-6.)

⁷ Further information about these motor carriers, including USDOT numbers, motor carrier numbers, and USDOT safety fitness ratings, can be found in the application. (*Id.* at 2, 12.)

- Southwest Crew Change Company, LLC, headquartered in Dallas, Texas, covers a geographical territory that includes Texas, New Mexico, and Arizona, and currently also operates emergency services transportation in the state of Texas. (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 resulting from the proposed transaction, and (3) the interest of affected carrier employees. Avalon has submitted information required by 49 C.F.R. § 1182.2, including information demonstrating 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 aggregate gross operating revenues of the involved carriers exceeded \$2 million during the 12-month period immediately preceding the filing of the application, see 49 C.F.R. § 1182.2(a)(5). (See Appl. 6-11.)

Avalon asserts that the proposed transaction is not expected to have an adverse impact on the adequacy of transportation services available to the public. (Appl. 7-8.) Avalon states that Wynne, currently one of the top three charter service providers in the Dallas-Fort Worth area, may need to shut down some or all of its operations absent the proposed transaction. (Id. at 8.) Avalon explains that because Avalon will assume Wynne's existing charter service contracts, the proposed transaction will preserve the transportation options that Wynne currently provides. (Id. at 7-8.) Avalon states that it intends to improve the safety, comfort, and reliability of the existing transportation offerings by modernizing Wynne's fleet. (Id. at 8.) Avalon also states that the transaction will allow it to improve Wynne's operational efficiency and expand Wynne's existing service offerings by connecting Wynne's routes and resources to Avalon's. (Id. at 7.)

Avalon argues that the proposed transaction will not adversely affect competition within the charter bus markets where Avalon and Wynne presently operate. (Id. at 9-11.) Avalon explains that after the transaction, Avalon will operate Wynne's fleets in the Dallas and Houston markets. (Id. at 10-11.) Avalon states that Wynne and Avalon currently operate in different metropolitan areas, except for a small overlap in the Houston market, where Avalon currently operates two motor coaches and Wynne operates 10 motor coaches. (Id. at 9-10.) Avalon estimates that Wynne's current operations constitute only a small fraction of the market in each city where Wynne operates. (Id. at 10.) Avalon states that after this transaction, it does not intend to divert any services formerly provided by Wynne to the cities where Avalon currently operates or reduce Avalon's services in any of those cities. (Id.) However, Avalon asserts that the transaction will allow Avalon to take advantage of previously unavailable economies of scale, allowing Avalon to offer a more diverse set of services and routes. (Id. at 11.) Avalon also believes that the transaction will have an overall positive effect on competition in the Dallas market because it will prevent Wynne from exiting that market. (Id.) Avalon argues that in the Houston market, the transaction's effect on competition will be minimal because Wynne and Avalon operate only a small number of motor coaches and face vigorous competition from several other charter services, as well as public transportation and private car transportation. (Id. at 10.)

Avalon concedes that this transaction may result in additional fixed costs in the form of increased interest charges but asserts that any such increase is not likely to impact the public. (Id. at 8.) Avalon states that additional fixed costs may result because its acquisition of Wynne will be financed by a combination of cash and term notes, and Avalon will also assume Wynne's existing debt as part of the transaction. (Id.) However, Avalon plans to refinance this debt to improve the terms of the loans. (Id.) Avalon further represents that the proposed transaction will not adversely impact the interests of Wynne's employees. (Id. at 8-9.) Avalon states that absent the proposed transaction, Wynne may need to reduce its workforce or shut down operations entirely. (Id. at 9.) Avalon claims that it is committed to maintaining Wynne's current workforce on the same terms and ultimately expects to increase Wynne's workforce as it expands Wynne's operations. (Id. at 8.) Avalon argues that because it intends to grow the business, it has every incentive both to retain Wynne's current employees and attract new ones. (Id. at 8-9.)

Based on Avalon's representations, 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, 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 the expiration of the comment period, this notice will take effect automatically and will be the final Board action in this proceeding.

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.
3. This notice will be effective April 11, 2023, unless opposing comments are filed by April 10, 2023. If any comments are filed, Avalon may file a reply by April 23, 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: February 16, 2023.

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