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SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 33471

COACH USA, INC.--CONTROL EXEMPTION--AIR TRAVEL TRANSPORTATION, INC.; AIRLINES ACQUISITION CO., INC.; AND TRANSPORTATION MANAGEMENT SERVICES, INC.

Decided: February 18, 1998

By petition filed October 7, 1997, Coach USA, Inc. (Coach), a noncarrier in control of 28 motor passenger carriers at the time of filing its petition,[1] seeks an exemption, under 49 U.S.C. 13541, from the prior approval requirements of 49 U.S.C. 14303(a)(5), to acquire control of Air Travel Transportation, Inc. d/b/a Atlanta Airport Shuttle and Atlanta Airport Shuttle, Inc. (Air Travel); Airlines Acquisition Co., Inc. d/b/a Airlines Transportation Company (Airlines); and Transportation Management Services, Inc. d/b/a Lenzner Coach Lines (Lenzner) (collectively, the Acquired Carriers), through acquisition of all of the outstanding shares of stock of the three motor passenger carriers. To avoid any unlawful control pending disposition of this proceeding, all of the outstanding shares of stock of the Acquired Carriers were placed in independent voting trusts.

Notice of the exemption petition was served and published in the Federal Register on November 14, 1997 (62 FR 61164). A copy of the notice was also served on the U.S. Department

[1] Coach currently controls the Nation's second largest group of motor passenger carriers. See Coach USA, Inc.--Control Exemption--America Charters, Ltd., STB Finance Docket No. 33393 (STB served Oct. 3, 1997), slip op. at 1. Since the filing of the instant petition, Coach has been authorized to acquire control of an additional three motor passenger carriers in Coach USA, Inc., and Leisure Time Tours--Control and Merger Exemption--Van Nortwick Bros., Inc., The Arrow Line, Inc., and Trentway-Wagar, Inc., STB Finance Docket No. 33428 (STB served Nov. 13, 1997, corrected decision served Nov. 13, 1997), and one additional motor passenger carrier in Coach USA, Inc., and K-T Contract Services, Inc.--Control and Merger Exemption--Gray Line Tours of Southern Nevada, STB Finance Docket No. 33431 (STB served Dec. 4, 1997). In addition to the instant petition, Coach has two other pending control proceedings: Coach USA, Inc.--Control Exemption--Browder Tours, Inc. and El Expreso, Inc., STB Finance Docket No. 33506 (STB served Dec. 5, 1997) in which it seeks to acquire control of two additional motor passenger carriers and Coach USA, Inc., and Coach XXIII Acquisition, Inc.--Control--Americoach Tours, Ltd; Keeshin Charter Services, Inc.; Keeshin Transportation, L.P.; Niagara Scenic Bus Lines, Inc.; and Pawtuxet Valley Bus Lines, STB Docket No. MC-F-20916 (STB filed Jan. 28, 1998), in which it seeks to acquire control of five additional motor passenger carriers.

of Justice, Antitrust Division. No comments were filed in response to the notice. Based on our review of the record, we will grant the petition.

BACKGROUND

Coach is a Delaware corporation. It is not a regulated carrier, but controls numerous motor carriers of passengers that hold interstate operating authority, as well as several non-federally regulated bus and taxicab companies.

Air Travel, headquartered in Atlanta, GA, holds both federally-issued operating authority in MC-166420 and intrastate operating authority issued by the Georgia Public Service Commission. This motor passenger carrier primarily provides airport shuttle services to and from the Atlanta Hartsfield International Airport, as well as local limousine/sedan car service and charter bus service between points in the Atlanta area and points in Georgia and nearby states. Air Travel operates a fleet of 47 mini buses, vans, and other vehicles and has 153 employees. Its annual revenues for 1996 were approximately $4.9 million, of which $3 million were attributable to the airport shuttle services.

Airlines, headquartered in Pittsburgh, PA, holds both federally-issued operating authority in MC-223575 and intrastate operating authority issued by the Pennsylvania Public Utility Commission. This motor passenger carrier primarily provides airport shuttle services to and from the Greater Pittsburgh Airport and the Allegheny County Airport, as well as charter bus services between points in the Pittsburgh area and points in Pennsylvania and nearby states. Airlines operates a fleet of approximately 26 vehicles and employs 46 individuals. Its 1996 annual revenues were approximately $2.1 million, 80% of which was attributable to its airport shuttle services.

Lenzner, also headquartered in Pittsburgh, PA, holds both federally-issued operating authority in MC-237433 and intrastate operating authority issued by the Pennsylvania Public Utility Commission and the Ohio Public Utility Commission. This motor passenger carrier primarily provides charter motorcoach services, contract shuttle services, sightseeing operations (conducted through its Gray Line Division), and tour services, between points in the United States. Lenzner does not conduct any regular route operations. Lenzner operates a fleet of approximately 34 vehicles and employs 115 individuals. Its 1996 annual revenues exceeded $8 million.

Petitioner states that each of the Acquired Carriers holds a satisfactory safety rating from the U.S. Department of Transportation, and none is domiciled in Mexico or owned by citizens of that country. According to Coach, the Acquired Carriers compete vigorously with other modes in providing airport services and with other providers of charter and tour services in their respective areas and do not compete with any other Coach-owned carrier.

Moreover, petitioner submits that the Acquired Carriers and their customers will achieve substantial benefits as a result of the proposed acquisitions. Specifically, Coach claims that the

Acquired Carriers will benefit from its negotiation of lower insurance premiums and volume discounts for equipment and fuel, as well as interest cost savings from restructuring debt. Coach indicates that it will provide each of the carriers with centralized legal and accounting functions and coordinated purchasing services. In addition, petitioner states that vehicle sharing arrangements will ensure maximum use and efficient operation of equipment and that coordinated driver training services will be provided that will allow each carrier to allocate driver resources in the most efficient manner possible. Finally, petitioner asserts that all collective bargaining agreements will be honored and that employee benefits will improve as a result of the transaction.

Acquisition of additional motor passenger carriers by Coach is planned in the coming months. Coach asserts that the financial benefits and operating efficiencies that began with the acquisition of the existing Coach-controlled companies are largely benefits of scale, and, as such, will be enhanced further by the instant transaction and subsequent transactions. Over the long term, Coach states that it will provide centralized marketing and reservation services for the bus firms that it controls, thereby further enhancing the resulting benefits from this control transaction.

DISCUSSION AND CONCLUSIONS

Under 49 U.S.C. 14303(a)(5), a noncarrier that controls any number of carriers may not acquire control over another carrier without our approval. However, under 49 U.S.C. 13541(a), we must exempt a transaction or service from regulation when we find that: (1) regulation is not necessary to carry out the transportation policy of 49 U.S.C. 13101; (2) either (a) regulation is not necessary to protect shippers from the abuse of market power, or (b) the transaction or service is of limited scope; and (3) exemption is in the public interest.

Transportation Policy. Detailed scrutiny of this transaction under 49 U.S.C. 14303 is not necessary to ensure the development, coordination, and preservation of a sound transportation system consistent with the policy contained in 49 U.S.C. 13101(a)(1). Exempting this transaction will permit Coach to coordinate and centralize planning, safety, and other functions for carriers within its corporate family, allowing it to rationalize and use resources productively, thus promoting safe, adequate, economical and efficient transportation and encouraging sound economic conditions [49 U.S.C. 13101(a)(1)(B) and (C)].

Similarly, detailed scrutiny under 49 U.S.C. 14303 is not necessary to promote competitive and efficient transportation services consistent with the policy in 49 U.S.C. 13101(a)(2). By facilitating the development of a bus system with coordinated marketing and reservation service, the exemption will promote efficiency in the motor passenger carrier industry, responsive to the needs of passengers and consumers [49 U.S.C. 13101(a)(2)(B) and (C)]. The exemption will also strengthen the financial status of each of the carriers to be acquired, which will permit continued service to small communities and enhanced commuter bus operations [49 U.S.C. 13101(a)(2)(G) and (H)]. In addition, the exemption will improve each carrier’s financial and managerial ability to compete in its respective market, thus improving and maintaining a sound, safe, and competitive privately owned motor carrier system [49 U.S.C. 13101(a)(2)(I)]. By facilitating vehicle sharing arrangements and other efficiencies, the exemption will also allow the most productive use of equipment and energy resources, enhancing intermodal competition with rail passenger carriers and private automobiles [49 U.S.C. 13101(a)(2)(E) and (K)].

Finally, the transportation policy in 49 U.S.C. 13101(a)(3) for motor passenger carriers requires cooperation with the states to ensure that state regulation does not undermine federal policy objectives. Because this proceeding does not implicate state regulatory initiatives, detailed scrutiny under 49 U.S.C. 14303 is not necessary for consistency with the intrastate aspects of the policy in 49 U.S.C. 13101(a)(3).

Based on the above considerations and the absence of any opposition, we find that regulation of the proposed transaction is not necessary to carry out the goals of the transportation policy of 49 U.S.C. 13101.

Abuse of Market Power. Regulation is not necessary to protect passengers from the abuse of market power. The petition for exemption is unopposed and the proposed transaction will have no adverse impact on competition. As noted above, the Acquired Carriers do not compete with one another nor with any other Coach-controlled carriers. Each of the carriers to be acquired faces significant competition from numerous other bus firms not controlled by Coach that provide charter and other services in their respective primary operating territories, as well as from private automobiles and other forms of passenger transportation. The efficiencies that will result from this control transaction will permit each of the carriers to be acquired to become more responsive and effective competitors. Thus, the proposed acquisitions will have no adverse impact on the competitiveness of passenger transportation in the markets served by each of the carriers involved here.

Further, each of the carriers to be acquired holds a relatively small market share of the transportation services available to its potential passengers. Moreover, the industry's low entry barriers and pervasive intermodal competition effectively foreclose any opportunity for abuse of market power.

Given our finding regarding the probable effect of the proposed control transaction on market power, we need not determine whether the proposed control transaction is limited in scope. Nevertheless, we note that the market shares of each of the carriers involved is relatively small.

Public Interest. Exempting this transaction from regulation is consistent with the public interest. Subjecting the proposed transaction to detailed scrutiny would serve no meaningful public policy or regulatory purpose and would be wasteful of both our resources and those of petitioner, the carriers it proposes to acquire, and the public. On the other hand, an exemption will have multiple benefits relating to adequate transportation services, efficient and economic operations, and employees, and will not give rise to market abuse or problems that might warrant regulatory scrutiny. Accordingly, we will grant the requested exemption.

Petitioner requests that the exemption be made effective immediately so that the parties and the traveling public may realize sooner the substantial benefits of the acquisition. We agree and will make the exemption effective on the service date of this decision.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. Under 49 U.S.C. 13541, the acquisition of control by Coach USA, Inc. of Air Travel Transportation, Inc., Airlines Acquisition Co., Inc., and Transportation Management Services, Inc., is exempted from the prior approval requirements of 49 U.S.C. 14303(a)(5).

2. This exemption is effective on February 24, 1998.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams
Secretary