

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. MC-F 21035

STAGECOACH GROUP PLC AND COACH USA, INC., ET AL.–
ACQUISITION OF CONTROL–TWIN AMERICA, LLC

Digest:¹ The Board denied approval of a joint business arrangement between two competing motor carriers (Applicants) that provide sightseeing bus services primarily in New York City. In a previous decision, the Board requested that Applicants submit a report explaining how they would comply with the Board's decision. Applicants have submitted a compliance report. In this decision, the Board finds that Applicants' plan to spin off its interstate charter services complies with our previous decisions.

Decided: April 3, 2012

In a decision served on February 8, 2011, and in a subsequent decision on reconsideration served on January 11, 2012, the Board denied approval under 49 U.S.C. § 14303 of the application of two competing motor carriers (Applicants)² for their joint venture, Twin America, LLC (Twin America) to provide sightseeing bus service primarily within New York City (NYC).

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. Policy Statement on Plan Language Digests in Decisions, EP 696 (STB served Sept. 2, 2010).

² Applicants consist of the corporate families of International Business Services (IBS), which operates local and interstate bus services under the Gray Line New York (Gray Line) trade name, and City Sights Twin, an entity that took over the NYC sightseeing operation of a business called City Sights (collectively, City Sights). The corporate family of IBS/Gray Line includes Stagecoach Group plc (Stagecoach), its noncarrier intermediate subsidiaries (Stagecoach Transport Holdings plc, SCUSI Ltd., and Coach USA Administration, Inc.), and Coach USA, Inc. (Coach USA). The Stagecoach/Coach USA group controls numerous passenger carriers throughout the United States. Its umbrella organization, Coach Group, is based in the United Kingdom (UK) and operates bus, coach, tram, and train operations throughout the UK as well as the United States. The corporate owner of City Sights is Mr. Zev Marmurstein. In addition to Twin America (of which he was named president and chief executive officer), Mr. Marmurstein has (since 2003) controlled a motor carrier called R.W. Express, LLC. See Mr. Zev Marmurstein–Continuance in Control–R.W. Express, LLC, MC-F-21036 (STB served Oct. 16, 2009).

The Board found that the transaction was not in the public interest and ordered Applicants to submit a plan detailing the steps they would take to comply with our decisions.

On February 8, 2012, Applicants filed a compliance report. Applicants state that Twin America will discontinue its interstate motorcoach services, which consist of certain interstate charter services. Under this plan, Twin America will surrender its operating registration with the Federal Motor Carrier Safety Administration (FMCSA), and Applicants explain that the interstate charter services will be provided by a different motor carrier or motor carriers, possibly including a carrier owned by Applicant Zev Marmurstein.³ Applicants state that Twin America will have no role in the operation of the interstate charter services, and that these charter services will not be operated under the brand name of Twin America, Gray Line, or City Sights. Applicants state that Twin America does plan to market these charter services in connection with its advertising directed towards tourists and that Twin America would receive a commission for such marketing from the carrier providing the charter services. Applicants further state that the motorcoaches used by Twin America to provide the interstate charter services will be retained by Twin America, but will not be used to provide interstate operations. Applicants request that they be allowed 45 days from our approval of their compliance plan to implement it, including completion of the spin-off of its interstate charter services, as well as establishing new marketing arrangements and revising marketing materials to reflect changes.

We find that Twin America's plan to spin off its interstate charter services complies with our February 2011 and January 2012 decisions. Based on the proposed plan, once implemented, Twin America will not be subject to the Board's jurisdiction because it will not operate in interstate commerce. Therefore, the Board's approval of the joint venture creating Twin America is not required. Applicants are directed to file a notice with us once the implementation of their plan is complete.

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

It is ordered:

1. Applicants' compliance plan and timetable to spin off its interstate charter services complies with our February 2011 and January 2012 decisions. Applicants are required to complete implementation of their compliance plan within 45 calendar days from the date of service of this decision.

³ An entity that will acquire or operate these interstate charter services must seek any Board authorization that may be required.

2. Applicants are directed to file a notice with the Board once the implementation of their plan is complete.

3. This decision is effective on its service date.

By the Board, Chairman Elliott, Vice Chairman Mulvey, and Commissioner Begeman.