

**Licence Application Decision
Inter-City Bus (ICB)**

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| Application # | 5043-19 | Applicant | Diversified Transportation Ltd. |
| Trade Name(s) | EBus | | |
| Principal(s) | Colborne, Michael J. Jezersek, Tom | Summach, Gary | |
| Address | 9122 Penn Rd, Prince George, B.C. V2N 5T8 | | |
| Current Licence | Passenger Transportation Licence # 70459: <ul style="list-style-type: none"> • General Authorization • Special Authorization: Inter-city bus (ICB) | | |
| Application Summary | Amendment of Licence (ICB) Amend the Special Authorization to: 1. add 5 route points on the Highway 1 corridor for ICB Route B between Kamloops and Kelowna 2. add ICB Route D: Kamloops – Prince George | | |
| Publication Date: | June 5, 2019 | | |
| Submissions Received | <ul style="list-style-type: none"> • Gertzen Ventures Ltd. • Rider Express Transportation Corp. | | |
| Board Decision | The application is approved in part: <ul style="list-style-type: none"> • amended terms and conditions of licence for Route B are approved as set out in this decision; and • the addition of Route D is refused. | | |
| Decision Date | August 22, 2019 | | |
| Panel Chair | William Bell | Panel Member | Spencer Mikituk |

I. Introduction

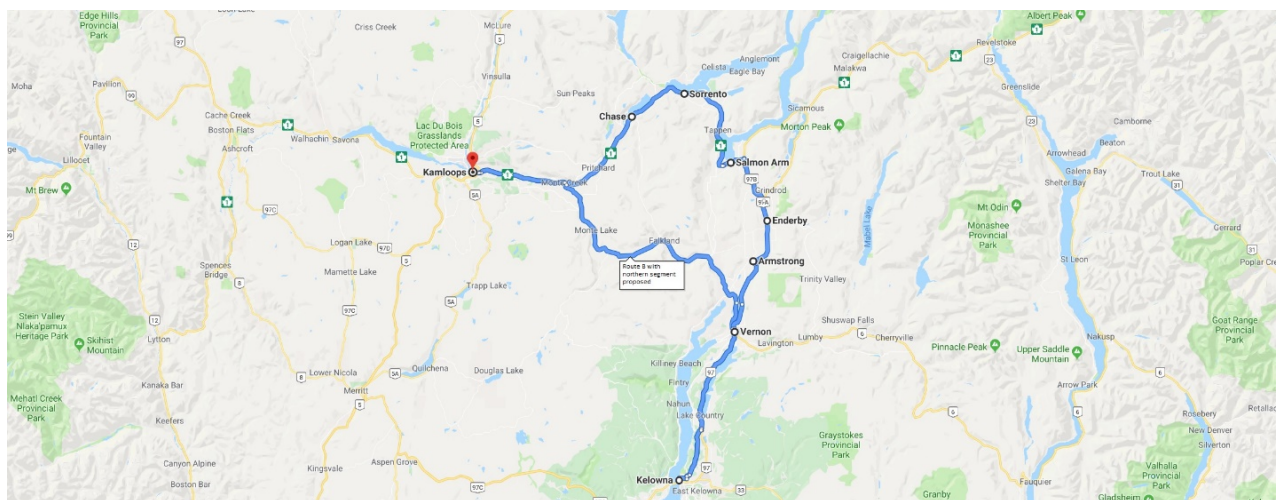
The applicant, Diversified Transportation Ltd. doing business as EBus (“EBus”) is applying to: (a) amend its Kamloops - Kelowna Route B by adding a new route segment on Highway 1 with service of 1 daily minimum round trip; and (b) add a new Route D between Kamloops and Prince George with service of 3 trips per week in each direction.

Applicant's Proposals

Add New Route B Segment

The applicant proposes to add the route points of Chase, Sorrento, Salmon Arm, Enderby and Armstrong to Route B, mostly along Highway 1. As shown in Figure 1 below, these points connect a new norther route segment between Kamloops and Vernon.

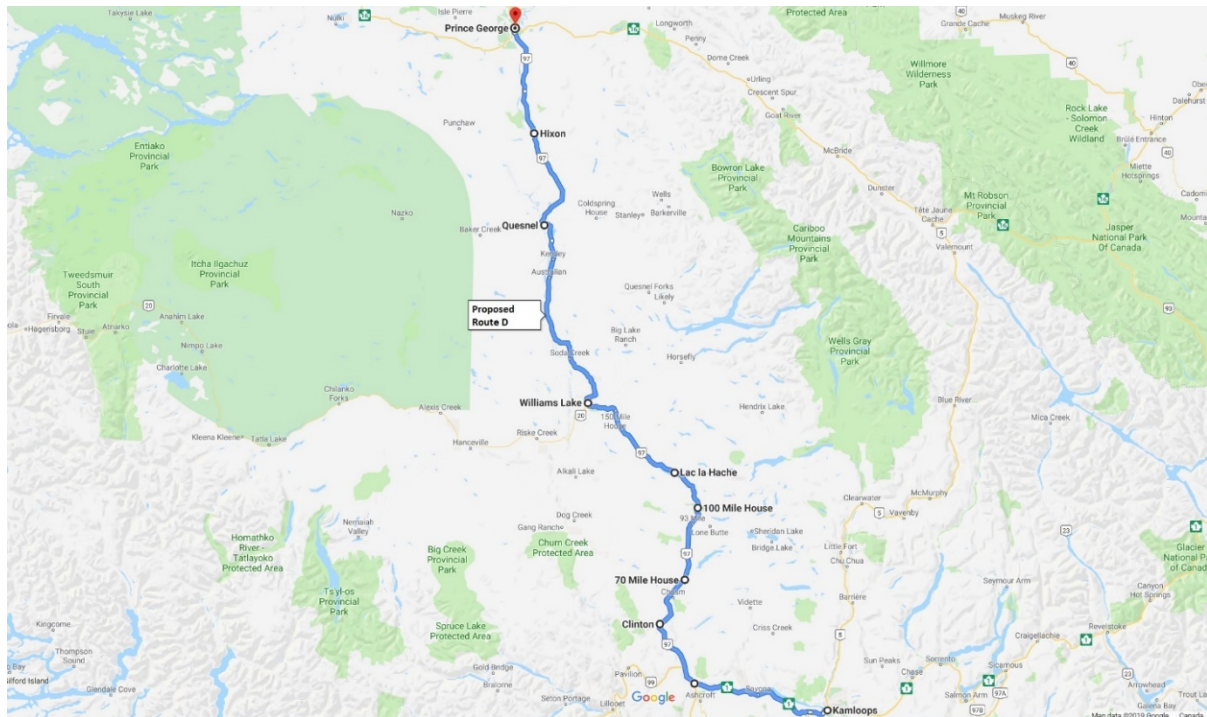
Figure 1: Route B with Proposed New Route Segment



Route D: Kamloops to Prince George

The applicant also proposes a new Route D between Kamloops and Prince George with intermediate stops Cache Creek, Clinton, 70 Mile House, District of 100 Mile House, Lac La Hache, William Lake, Quesnel and Hixon. See the map in Figure 2 on the next page.

Figure 2: Proposed Route D



II. Jurisdiction and Proceedings

This application is made under the *Passenger Transportation Act* (the “Act”). The Act regulates the licensing and operation of commercial passenger transportation vehicles in B.C.

Under the Act, the Passenger Transportation Board (the “Board”) makes decisions on applications for inter-city buses. The Board has the authority to consider and approve applications for new licences as well as applications from existing licensees change terms or conditions of their licences.

The Board’s mandate is stated in section 28 of the Act, which requires it to consider public need, applicant fitness and the economic conditions of the passenger transportation industry when assessing applications. If the Board approves an application, it will set terms and conditions of licence primarily with respect to routes and service levels.

The Act also allows the Board to, among other things,

- accept evidence and information that it considers relevant, necessary, and appropriate, whether or not the information would be admissible in a court of law. [Section 15]
- conduct written, electronic or oral hearings, or any combination of them, as the Board, in its sole discretion, considers appropriate. [Section 17]
- require further information from an applicant. [Section 27(1)(b)]

Section 26 (2) of the Act requires the Board to publish the fact and nature of applications and section 27(3) requires the Board to consider applications and any written submissions it receives as result of publication. Section 27(5) says that people who make submissions are not entitled to disclosure of further information, unless the Board orders otherwise.

(a) Procedural Matters

We are conducting this application by way of a written hearing.

III. Background

Diversified Transportation Ltd. (EBus) was approved for a passenger transportation licence to operate inter-city buses (ICBs) on October 16, 2019. It was approved to provide an ICB service on three routes between Kamloops and Vancouver; Kamloops and Kelowna; and Kelowna and Vancouver.

EBus is part of the Pacific Western Group of Companies. It is a family owned and operated passenger transportation company incorporated in Alberta on June 6, 1956 and registered as an extra provincial company in British Columbia on September 19, 1968. Its head office is in Calgary, Alberta.

IV. Board Mandate

Section 28(1) of the *Passenger Transportation Act* says that the Board may approve the application, if the Board considers that:

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- (a) there is a public need for the service the applicant proposed to provide under any special authorization.
 - (b) the applicant is a fit and proper person to provide that service and is capable of providing that service, and
 - (c) the application, if granted, would promote sound economic conditions in the passenger transportation business in British Columbia.

V. Applicant's Rationale and Submissions

The applicant provided the following text that was published in the summary for its application.

PROPOSED AMENDMENT OF ROUTE B:

This is an amendment to our current service between Kamloops and Kelowna. We intend to provide safe, reliable service to the residents of Chase, Sorrento, Salmon Arm, Enderby and Armstrong. On Highway 1 between Kamloops and Kelowna, our intent is to operate 1 trip per day.

PROPOSED ROUTE D:

Provide safe, reliable service to the residents of Cache Creek, Clinton, 70 Mile, 100 Mile, Lac La Hache, Williams Lake, Quesnel and Prince George. On Highway 97 between Kamloops and Prince George, our intent is to operate 3 trips per week northbound and 3 trips per week southbound. Connections will be made in Prince George allowing travel beyond Prince George via BC North Bus to Prince Rupert on Thursday and Saturday, and to Dawson Creek / Fort St John / Fort Nelson on Monday.

(a) Submissions & Applicant's Response

The Board received two submissions to the application from two licensed ICB companies. The submissions are summarized below.

Gertzen Ventures Ltd. (GVL)—Submission & Applicant Response

The GVL submission outlined the following issues:

- The proposal by EBus replicates the ICB service they currently perform with the same originating and terminating points. The family operated business will be forced out of the ICB business by a much larger company with government backing of other routes. It would harm its viability to continue operate its ICB service that was recently approved by the Board in April 2019.
- Prince George, Kamloops and the Lower Mainland are the only significant areas of customer concentration that its services, but it also services smaller communities in between such as those along the Fraser Canyon corridor at route stops such as Spences Bridge, Lytton, Yale and Boston Bar that are not in the proposed amendment by EBus.
- Approval would undermine its entire ICB operation and impact both its ICB routes by allowing another carrier to be licensed without allowing it time to properly get established in the market and build ridership to viable levels.
- Based on its passenger count between Prince George and Kamloops there is no need for additional service along this route. There is not enough ridership for multiple approved carriers.

EBus responded to the GVL submission as follows:

- The EBus application includes a very different product offering, service level and price point. While GVL uses mini buses that are non-accessible and do not have washrooms, EBus proposes the use of a highway coach with amenities such as seatbelts, accessibility, washroom, wi-fi, coach seating and entertainment options. All the coaches would be supplied with a wheelchair lift to ensure that all customers can use its scheduled services to meet their travel needs.
- Its BC operations allow greater connectivity between the North and the South of BC including that with transit, trains and airports. Adding the Prince George-Kamloops

route to its existing network will provide access and service to many more communities and provide greater connectivity.

- GVL schedules only allow passengers to travel to the west of Prince George with multiple days (overnight in Prince George) when travelling from Kamloops, Kelowna and the BC Interior. This is a well-travelled corridor and service to and from the BC Interior to the west of Prince George is critical in the success of operations between Kamloops and Prince George. Adding an overnight stay in Prince George adds to the duration and expense of the travel.
- EBus schedules will include 3 days a week frequency in each direction. Combined with GVL schedules, service would total of 5 trips weekly. This remains well below a daily service—and well below the daily frequency that Greyhound previously operated.
- EBus will differentiate itself based on its business and service model, and its success to date in B.C.

Rider Express Transportation (RET)—Submission & Applicant Response

The submission outlined the following issues:

- ET operates between Vancouver and Calgary which serves the Village of Chase, Sorrento and Salmon Arm among many other towns and cities.
- Its recent application (#4092-18) adds Kelowna, Vernon, Monte Creek and Penticton to its destinations. If granted it would be able to integrate its existing route and have a more inclusive web of ICB service.
- THE EBus application partly overlaps with its planned routes and while it is not against competition, it would like a decision on its application before the Board considers the EBus application.

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- The submission states that *“allowing competition into our routes and restricting those run by others will hamper our operations further due to the unfair playing field created by different levels of access to the market.”*

EBus responded to the RET submission as follows:

- RET was approved to operate an Alberta to Vancouver route in October, 2018 but has failed to meet the service frequency in its licence. It also has chosen to operate on select routes without a licence and failed to provide consistent and reliable service. It has also failed to operate wheelchair accessible buses on this route as stipulated in its terms and conditions of licence.
- RET is not fit and proper due to its continued breach of its existing licence. Further, RET does not have infrastructure, offices or maintenance facilities in B.C.
- RET has applied for an amendment of licence (# 4092-18) that includes
 - a reduction from a service frequency of 1 daily minimum round trip to 1 minimum weekly round trip
 - eliminating scheduled service requirements to the route points of Sorrento, Chase, Langley and Coquitlam
 - reducing service at Salmon Arm from 1 daily to 1 weekly trip
- EBus states that the submission refers to *“current schedules that prove that Rider Express has already abandoned Chase and Sorrento in contradiction to his operating authority.”* EBus will complement existing services in B.C. with more connectivity and service options. It contends that the Board should, in light of the RET record of operation, decline and withhold their submission as they are not a “fit and proper person” in light of numerous breaches.

The Board gives more weight to submissions that back up claims with facts or details. We have considered the opposing submissions and the applicant’s responses to them in our review of this application.

VI. Reasons for the Board's Decision

The Board expects applicants to show that there is an “unmet” public need for an inter-city bus service on the corridor where you want to provide service. Applicants should give the Board information that is **factual** and **objective**. The applicants should not rely on their opinion or general statements to show public need.

The Board finds comments written by potential passengers more useful than form letters or petitions or strings of social media posts. Individually written letters of support show the Board that the writer has thought about the matter and is interested enough to take the time to tell you why he or she supports your application. Generally, the Board does not give as much weight to petitions and form letters as indicators of public need. Often, petitions and form letters do not give the Board specific information about when and how often the people who signed the petition would use a new inter-city bus service.

1. Route B Amendment:

Public Need (Route B)

EBus has applied to add 5 route points to its current route B between Kamloops and Kelowna with a minimum frequency of service of 1 trip per day in each direction:

- Village of Chase
- Sorrento
- City of Salmon Arm
- City of Enderby
- City of Armstrong

With regard to this part of the application, the applicant reports the following in support of public need:

- There is no inter-city bus service on the corridor between Salmon Arm and Vernon
- The current carrier is not meeting its PT licence minimum frequency requirement of running daily service between Salmon Arm and Kamloops.
- Salmon Arm and the other communities to be added have a population of approximately 30,000 people.

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- EBus has been approached by business owners, residents and local government officials to provide a reliable, sustainable service to the community and surrounding areas. Four letters of support were included:
 - The Adams Lake and Little Shuswap Indian Bands at Chase, B.C. supports the development of a bus route since Greyhound left the area between Kamloops, Chase, Vernon and West Kelowna.
 - The Neskonlith Indian Band at Chase, B.C. reports the route amendment would be of significant assistance to its members as well as others in the Chase-Sorrento area.
 - The City of Enderby passed a motion supporting the EBus service .
 - The EBus telephone centre and website have been inundated with calls and emails requesting our service to the community.
 - The addition of Salmon Arm uses the existing Kamloops to Kelowna schedules with minimal expense while providing greater connectivity for access to airports, medical, dental and legal services and appointments, etc in the larger centres .
 - In terms of connecting with Route A (Vancouver-Kamloops) the schedule will allow transport to Salmon Arm twice daily from Vancouver, once daily via Kamloops and once daily via Kelowna. It also allows 2 departures from Salmon Arm daily (1 to Kamloops-Vancouver and 1 to Kelowna –Vancouver)

We also note that Rider Express Transportation (RET) is licensed to operate along Highway 1 between Kamloops and Salmon Arm where EBus proposes to expand its Route B. The RET service is part of its route between Vancouver and the Alberta border that connects with places beyond the BC-Alberta border on Highway 1. RET made application 4092-18 to the Board to amend parts of its Vancouver – BC/Alberta border route. We recently decided this application and published the decision on July 31, 2019. For points between Kamloops and Salmon Arm, the decision reduced the minimum route frequency (MRF) between Kamloops and Salmon Arm to 2 trips per week in each direction and eliminated the requirement to provide ICB service to Chase and Sorrento. Terms and conditions in the RET licence enables it to provide service to Chase and Sorrento if it chooses.

Since Greyhound Canada reduced services and exited in 2018, communities between Kamloops and Salmon Arm have faced ICB service declines, and communities between

Salmon Arm and Vernon have lost ICB service, a significant fact that we have considered in this decision respecting the EBus proposal to expand service on Route B. The support letters received from communities between Kamloops and Vernon were given weight as an indicator of public need for establishing a required service at Chase and Sorrento, and for adding other the points that EBus proposes to add to its Route B. Further, the EBus proposal to add 5 communities to its Route B enhances the certainty of service to Chase, Sorrento and Salmon Arm; reinstates parts of the Greyhound network (Enderby and Armstrong); and, generally improves the travel options and network connectivity that previously existed between cities and towns that were served by Greyhound.

We find that the applicant has demonstrated a public need to expand service on Route B. Overall, we find that a minimum route frequency of 5 trips per week in each direction for the new route points is commensurate with the level of public need for a service that connects the 5 proposed route points as well as communities beyond these 5 route points. Considering RET's 2 trips per week and EBus's 5 trips per week this totals 7 trips per week in each direction to serve Salmon Arm and also gives EBus more flexibility to set schedules according to demand levels.

Sound Economic Conditions (Route B)

We note that EBus and RET (as well as Wilson's Transportation) have overlapping services between the Lower Mainland and Kamloops, and that approving the EBus Route B amendment would overlap with the RET service between Kamloops and Salmon Arm. However, we also see distinctions between the two services they provide and the customers they serve. RET provides a service that connects people along the Trans Canada corridor that extends to locations in Alberta and beyond, and EBus provides service to a network of a number of the more populated centres in the B.C. Interior. Expanding Route B complements the existing EBus routes by expanding the circuit of direct travel options between Kamloops, Salmon Arm, Vernon, Kelowna, Merritt and back to Kamloops—with connections to the Lower Mainland.

On balance, despite an overlap with RET services on the corridor between Kamloops and Salmon Arm, approving the Route B expands the overall ICB network of services and will

promote sound economic conditions in the passenger transportation business in B.C. Approval of Route B allows for operational flexibility of EBus, particularly given the authorization in its licence to operate as an express connection between Kamloops and Vernon via Highway 97, and for the overall stability of two ICB operators with overlapping routes.

2. Addition of Route D

EBus has applied to add Route D to its licence to provide an ICB service between Kamloops and Prince George. Service from Kamloops provides a direct connecting with its existing network via its Routes A (Vancouver – Kamloops) and B (Kamloops – Kelowna. Service from Prince George provides passengers with connections to routes served by BC Bus North.

EBus proposes to operate Route D 3 trips north and 3 trips south each week. EBus states that it would provide a full size motor coach fully equipped with an onboard washroom, safety belts, wi-fi and wheelchair accessibility. The applicant notes its above MRF combined with that of Gertzen Ventures Ltd. (GVL), doing business as Adventure Charters, at 2 trips weekly would provide a combined total of 5 trips weekly in each direction. This new total would represent an overall MRF still below that offered previously by Greyhound prior to its service reductions and exit in 2018. EBus, in the above-noted response to the GVL submission, highlights these and other distinguishing features and amenities its service would provide over that of GVL.

To show public need, the applicant indicates it would be *“servicing a population of over 100,000 combined in Cariboo region alone, majority of that coming from Prince George.”* It also notes that the service provides connectivity beyond Prince George with service west to Prince Rupert and north to Dawson creek/Fort St John using BC Bus North which is operated by the Pacific Western Transportation group of companies of which EBus (or Diversified Transportation Ltd.) is a part. It also adds the service would unite ICB travel from places north through to the BC interior and the Lower Mainland.

Public Need (Route D)

Regarding public need, we have received very little compelling evidence from the applicant to show that the service currently provided by GVL is not meeting the public need. There were no letters of support from users or potential users for the additional features the applicant proposes. To support this application for Route D, EBus has relied on the distinctive features it plans to provide with its ICB service. However, such distinctions and benefits do not, on their own, demonstrate public need for adding a second ICB operator on the Prince George – Kamloops route.

We find little objective and verifiable evidence that substantiates its claim of a public need for adding Route D to the EBus licence. Nothing we have received leads us to conclude that the current ICB provider is not responding to the market, or that there is a substantive gap in service. We find that the applicant has not demonstrated that there is a public need to add Route D.

Sound Economic Conditions (Route D)

With respect to sound economic conditions the proposed route D overlaps with GVL on both the GVL Route A (Surrey-Prince George) and GVL Route B (Kamloops-Williams Lake) at the route points of Cache Creek, Clinton, 70 Mile House, 100 Mile House, Williams lake and Quesnel. We placed significant weight on the GVL submission, in particular, that its service to concentrated population areas such as Kamloops, Prince George and Lower Mainland allows it to service communities on its corridor in the Fraser Canyon areas. These communities include Spences Bridge, Lytton, Yale and Boston Bar. We note that the Board decision on Greyhound application 256-17 (published in February 2018) that these route points (Greyhound Route E) approved the elimination of route points in the Fraser Canyon area due to low ridership—points not included in the EBus proposal to add Route D to its licence.

The Board approved the GVL routes in late March 2019, and GVL has been operational for approximately 4 months. GVL operates a variety of buses including a highway coach. As noted in the public need section, we are unconvinced by the available evidence that there is enough ICB ridership business on the proposed route to make the entry of another company viable. We are of the view that GVL should have a reasonable opportunity to

build up its ICB ridership and establish itself in the market. Anything that might detract from or dilute this goal could be detrimental to earned revenues, overall business viability and maintenance of its fleet.

The panel finds that, at this time, the proposed addition of Route D, could have an injurious and adverse effect on the new ICB operator and the overall viability of ICB services on the corridor. We are unable to find that approving the addition of Route D to the EBus licence would promote sound economic conditions in the passenger transportation business in BC.

3. Fitness

The Board looks at fitness in two parts:

- (i) is the applicant a “fit and proper person” to provide the proposed service; and
- (ii) is the applicant capable of providing that service?

The Board reviews the conduct of an applicant and the structure of its operations. Does the applicant seem to understand passenger transportation laws and policies? Is the business set up to follow these laws? Is there something in the applicant’s background that shows it disregards the law?

Applicants must show that they have the resources and skills to manage the service that they want to operate. The Board gets much of this information from business plans and financial statements.

Diversified Transportation Ltd. was incorporated in Alberta on June 6, 1956. The Chairman and Chief Executive Officer and Sole Director is Michael Colborne. The Chief Operating Officer and President is Tom Jezersek who has extensive years of transportation management experience. The Chief Financial Officer and Secretary/Treasurer is Gary Summach. Although not listed as a principal for Diversified Transportation Ltd., Dean Wright is Vice President, Motorcoach, and also has extensive years of passenger transportation experience with roles that include operations supervisor, manager, and general manager.

The Unlawful Activity and Bankruptcy forms indicate no negative concerns about the principals. There has not been any information brought to our attention to prove the applicant is not fit and

EBus's National Safety Code rating is satisfactory unaudited. EBus' required driver's qualifications include a Class 1 or Class 2 licence with previous commercial driving and highway experience and motorcoach. They are also extensively trained on safe driving practices, winter conditions, wheelchair access, and so on. EBus notes that most of its vehicles are less than 6 months old, fuel efficient and environmentally friendly.

EBus application materials state that it has a well-established infrastructure and in-house call center with staff throughout BC and Alberta that allows for 24-hour online ticket purchasing, walk up purchases, customer tracking manifests and other services. It also has safety and maintenance programs, operational policies and procedures, and tracking of service incidents with monitoring based on Key Performance Indicators (KPIs).

The financial information included a Statement of earnings and retained earnings and another for cash flows for the year ending December 31, 2018 Income Statement and Balance Sheet as at December 31, 2018. as well as 36 month cash flow projections.

We find that EBus has the experience, operational knowledge, and resources required to provide an ICB service.

We find the applicant to be a fit and proper person who has the necessary skills and infrastructure in place that would indicate that they are capable of managing and providing the service.

VII. Conclusion

For the reasons above, this application is approved in part as set out in this decision. The Board establishes terms and conditions of licence that are attached to this decision as Appendix I. The form an integral part of the decision.

**Appendix I:
Terms & Conditions**

Diversified Transportation Ltd.
dba: EBus

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| Licence Required to Operate Vehicles | A Passenger Transportation Licence must be issued by the Registrar of Passenger Transportation under section 29 or renewed under section 34 of the <i>Passenger Transportation Act</i> before the amendments approved in decision may be implemented. |
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|-------------------------------|---|
| Special Authorization | Inter-City Bus (ICB) |
| Terms & Conditions | |
| Services | |
| Service | Transportation of passengers must be provided: a) on a scheduled basis, and b) in accordance with minimum frequencies and other terms and conditions of licence that apply to the routes and route points. |
| Schedule | The licence holder must publish, in a manner accessible to the general public, a schedule for each route with the time and location of each stop, and must carry in each vehicle a copy of the schedule that the vehicle is following. |
| Service Exception | Routes may be operated on a “pre-booked” or “reservation required” basis provided that: a) applicable routes are identified as a “pre-booked” or “reservation required” service in all current, published schedule information, and b) these routes are available at all times for pre-booking or reservation on the licensee’s website. When these conditions are met and when no reservations have been received for pickup or drop off at one or more points on the route by the time service is scheduled to be provided, the licence holder has the option of not providing service to those points that would otherwise be required. |
| Alternative Points: | The licence holder may pick up or drop off passengers at any location, municipality or unincorporated area that is between the terminating points and on highway corridors of the routes set out below. |

| Route A | |
|----------------------|--|
| Terminating Point 1: | City of Vancouver |
| Terminating Point 2: | City of Kamloops |
| Corridors: | Highway 1: Vancouver – Hope Highway 5: Hope - Kamloops |
| Route Points | Minimum Trips (each direction) |
| City of Vancouver | 1 per day |
| City of Abbotsford | 1 per day |
| City of Merritt | 1 per day |
| City of Kamloops | 1 per day |
| Route B | |
| Terminating Point 1: | City of Kamloops |
| Terminating Point 2: | City of Kelowna |
| Corridors (1): | Highway 1: Kamloops – Salmon Arm Area Highway 97A&B: Salmon Arm Area – Vernon Highway 97: Vernon - Kelowna |
| Corridors (2): | Highway 1: Kamloops – Monte Creek Highway 97: Monte Creek - Kelowna |
| Route Points | Minimum Trips (in each direction) |
| City of Kamloops | 1 per day |
| Village of Chase | 5 per week |
| Sorrento | 5 per week |
| City of Salmon Arm | 5 per week |
| City of Enderby | 5 per week |
| City of Armstrong | 5 per week |
| City of Vernon | 1 per day |
| City of Kelowna | 1 per day |

| Route C | |
|------------------------------|---|
| Terminating Point 1: | City of Kelowna |
| Terminating Point 2: | City of Vancouver |
| Corridors: | Highway 97C: Kelowna – Merritt Highway 5: Merritt – Hope Highway 1: Hope - Vancouver |
| Route Points | Minimum Trips (in each direction) |
| City of Kelowna | 1 |
| City of Merritt | 1 |
| City of Chilliwack | 1 |
| City of Vancouver | 1 |
| Transfer of a Licence | This special authorization may not be assigned or transferred except with the approval of the Board pursuant to section 30 of the <i>Passenger Transportation Act</i> . |