

Application Decision

Urgent Public Need Process

Inter-City Bus (ICB) New

Application No.	14691-22
Applicant & Application Summary	Diversified Transportation Ltd. New ICBA Licence <ul style="list-style-type: none">• New Special Authorization: Inter-City Bus Authorization (ICBA)• Operate the following routes on a reservation basis:<ul style="list-style-type: none">• Route 1: Prince Rupert – Prince George• Route 2: Fort Nelson – Dawson Creek• Route 3: Dawson Creek – Prince George• Route 4: Prince George – Valemount
Board Decision	<ol style="list-style-type: none">1. The Board is satisfied that there is an urgent public need for the service proposed in this application.2. The application is approved in whole:<ul style="list-style-type: none">• The Special Authorization (ICBA Authorization) is approved• Terms and conditions are established as requested in the application summary
Decision Date	April 7, 2022
Panel Chair	Carmela Allevato

I. Introduction

The *Passenger Transportation Act* (the Act) regulates the licensing and operation of commercial passenger transportation vehicles and services in BC. Under the Act, the Passenger Transportation Board (Board) makes licensing decisions on applications relating to taxis, limousines and other small shuttle and tour vehicles.

The operation of these vehicles requires a “passenger directed vehicle authorization.” The Board has the authority to consider and approve applications for new licenses as well as applications from existing licensees to change terms and conditions of their licences (including the addition of vehicles to their fleet), change rates to be charged for a service and request Temporary Operating Permits (TOPs).

Since September 2019, the Board’s mandate has included licensing decisions relating to Transportation Network Services, also known as ride-hailing services.

II. Jurisdiction

This application is made under the *Passenger Transportation Act* (the Act). As required by section 26(1) of the Act, the Registrar of Passenger Transportation forwarded the application to the Board. Section 26(2) of the Act requires the Board to publish the application and consider written submissions on the application unless, further to section 26(3), the Board is satisfied that there is an urgent public need for the service proposed in the application.

Section 28(1) governs the Board’s consideration of applications as follows:

28(1) The board may approve, in whole or in part, an application forwarded to it under section 26(1) after considering whether:

- (a) there is a public need for the service the applicant proposes 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.

Section 28(2) states that the Board must, if it approves an application, specify the special authorization that should be included in the licence, if issued by the Registrar.

Section 28(3) states that the Board may establish terms and conditions that apply to a special authorization included in a licence.

III. Application

(1) Applicant

The applicant, Diversified Transportation Ltd. (Diversified), is an extra provincial company incorporated in Alberta in 1956 and registered in British Columbia in 1968.

It is wholly owned by Pacific Western Transportation Ltd. an Alberta company with offices in Calgary. Pacific Western Transportation Ltd. also owns Pacific Western Charters Ltd. which operates EBus providing inter-city bus (ICB) services in various communities in British Columbia.

The officers of Diversified are Michael J. Colborne, Chair and Chief Executive Officer; Tom Jezersek, Chief Operating Officer and President; and Gary Summac, Chief Financial Officer and Secretary/Treasurer.

Diversified's business in BC operates out of Prince George. Rosalind Layton is its operation manager and Dan Finley is its Vice President. It has been operating BC Bus North under contract with BC Transit since 2018 providing services to remote communities in Northern BC which used to be serviced by Greyhound until the latter ceased operations.

Diversified currently holds Passenger Transportation Licence #70459 which has two elements. Part A is a General Authorization under which Diversified has operated BC Bus North. Part B is a Special Authorization allowing the provision ICB services to three main routes: Vancouver to Kamloops, Kamloops to Kelowna and Kelowna to Vancouver. The licence sets out the minimum daily trips for each route as well as designated route points. Diversified has applied ([14469-22](#)) to transfer licence #70459 to Pacific Western Charters Ltd. and that application was published on March 16, 2022. Application 14469-22 is considered an administrative transfer and a decision has not yet been rendered by the Board.

(2) Applicant's Request & Explanation

The applicant seeks a new ICBA licence to continue to service the remote communities and has asked that this application be processed on the basis of urgent public need. The licence would authorize service on four routes. Route 1 is from Prince George to Prince Rupert and back, stopping at some nine communities along Highway 16. Route 2 is from Fort Nelson to Dawson Creek and back, with stops in six communities on the way. Route 3 is from Dawson Creek to Prince George and back, also with stops in six remote communities on the way. Route 4 is from Prince George to Valemount and back with a stop in McBride.

The applicant provided the following public explanation that was published in the Application Summary:

“Diversified Transportation was contracted by BC Transit in June 2018 to provide ground transportation services along corridors abandoned by Greyhound in these remote communities. This service is operated as BC Bus North and is essential to the residents, businesses and communities and to the sustainability of our remote communities in Northern BC. As part of BC Transit, a Special Authorization license was not required. The requirement for licensing has changed as these corridors are no longer operated by BC Transit, and have been turned over to Northern Development Investment Trust. Although the operation is continued to operate under the BC Bus North banner by BC Transit, a license is now required for authority to operate these corridors.”

(3) Overview of Applicant Materials

The applicant submitted application forms and other materials that meet Board application requirements, including the business plan and financial statements with details about the operation, resume of its president, and a letter of support from Northern Development signed by the members of the board including mayors and representatives of the cities and districts served by BC Bus North.

(4) Procedural Matters

Section 17 of the Act allows the Board to conduct written, electronic or oral hearings, or any combination as the Board, in its sole discretion, considers appropriate. This application is being conducted by way of a written hearing.

IV. Analysis and Findings

I will first examine the matter of *urgent public need*. If I find that there is an urgent public need for the service, I will then consider the applicant’s fitness and whether approval of the application will promote sound economic conditions in the passenger transportation business.

(1) Is there is an urgent and public need for the service proposed in this application?

Urgent is relative to the public's need, not the applicants. When the Board is satisfied that an urgent and public need exists for a proposed service, it may proceed with the application and make a decision without publishing notice or considering submissions. Proceeding this way is an exception to the Board's public process for considering applications. When an applicant claims that there is an urgent and public need for its proposed service, the Board expects the applicant to demonstrate that there is a need which is both urgent and public.

In determining whether there is an urgent and public need, the Board may consider such things as:

- Whether other licensees are available to provide the service to the public
- Whether there is a real public demand for the service
- How the urgency came to exist
- Whether any of the urgency was due to the applicants' delay

If the Board accepts the applicant's claim and decides to proceed without publishing the application, it may set an authorization period of less than one year and require an operator to submit a new, full application that would proceed through the Board's regular application process.

On June 14, 2018 the BC Government, as part of the Highway 16 Transportation Action Plan, launched a new long-haul inter-city northern bus service called BC Bus North to fill the gap left by Greyhound when the latter ceased operations. The purpose of BC Bus North is to help ensure that British Columbians living in the north could travel safely and affordably from community to community. The Ministry of Transportation and Infrastructure funds this program, at first through BC Transit which contracted with Diversified and now through Northern Development. Diversified's contract with BC Transit ended on March 31, 2022 and the Northern Development funded service began on April 1, 2022. The applicant was advised in late March that because of this change, it was

now required to obtain a Special Authorization licence. Concerned that there might be a break in service the applicant filed an Urgent Public Need (UPN) application.

The transportation services to these remote communities is essential, and ensuring safe and dependable service is of the highest priority, as is evidenced by the government's initiative in the Highway 16 Transportation Action Plan. Highway 16 is commonly referred to as the "Highway of Tears". In the normal course the Board would publish the application and provide others to make submissions. This process takes time and may well interrupt the continuation of the service.

In June 2021 the provincial and federal governments announced \$7.9 million in COVID-19 Safe Restart funding to support safe, reliable transportation services in Northern B.C. which is administered by the Northern Development Initiative Trust. This is further evidence that the service provided by Diversified continues to be needed in these remote communities and should not be interrupted.

Based on the evidence noted above, I find that there is an urgent and public need for the service proposed in the application. Publication of this application is not required. I am continuing with the consideration of evidence relating to section 28(1) of the Act.

(2) Is the applicant a fit and proper person to provide its proposed service, and is the applicant capable of providing the service?

The Board looks at this question in two parts:

- (a) is the applicant a *fit and proper person* to provide the proposed service; and,
- (b) is the applicant *capable* of providing the service?

First, with *fit and proper*, the *Oxford English Dictionary* defines *fit* as including "well adapted or suited to the conditions or circumstances of the case, answering the purpose, proper or appropriate ... possessing the necessary qualifications, properly qualified, competent, deserving." Also, the dictionary defines *proper* as including "suitable for a specified or implicit purpose or requirement; appropriate to the circumstances or conditions; of the requisite standard or type; apt, fitting; correct, right." When looking at whether an applicant is fit and proper, the Board does so in the context of the passenger

transportation industry in British Columbia. This includes the regulatory system that grants businesses a licence which confers on them both the authorization they need to provide their service and an ongoing obligation to operate in accordance with proper standards of conduct.

Second, capability is generally understood to mean that an applicant has the ability or qualities necessary to skillfully and effectively meet its obligations and achieve the results it says it will achieve.

When looking at capability, the Board reflects on whether the applicant has demonstrated that it has the knowledge and understanding of relevant regulatory requirements and policies that govern passenger transportation providers, and whether it is able to comply with those requirements. It also looks at whether the applicant has the background, skills and knowledge to manage its proposed service, and the financing to operate it. The Board expects an applicant to demonstrate its competence and ability by providing sound and realistic information in its business plan and financial statements that is consistent and compatible with the transportation service it proposes.

Diversified has a National Safety Code Rating of Satisfactory- Unaudited which is acceptable to the Board. Each of the company's officers signed and filed disclosures as to unlawful activity and bankruptcy and these raise no concerns for the Board. The company President signed the requisite declarations stating, among others that the applicant understands its obligations relating to the *Liquor Control and Licensing Act* and the *Cannabis Control and Licensing Act* in relation to passenger transportation.

Diversified has provided information regarding the qualifications, experience and training of its drivers. Drivers require significant experience as well as a Class 2 or better licence and a free and clear driver abstract. Diversified conducts annual reviews of its drivers and provides regular follow up training.

Diversified's management team has experience in the transportation industry and states that it has successfully operated BC Bus North since its inception. The letter from Northern Development states that BC Bus North has operated reliably and without incident for the past four years.

I have reviewed the financial information and cash flow projections submitted by the applicant and am satisfied that these are reasonable for the operation and industry. The letter from Northern Development confirms that Northern Development commenced funding BC Bus North starting on April 1, 2022. It also appears from the application that funding for the service will be available until March 2025.

Based on the information and evidence above, I am satisfied that Diversified Transportation Ltd. is a fit and proper operator, and it has demonstrated that it is capable of providing the service.

(3) Would approving the application promote sound economic conditions in the passenger transportation business in British Columbia?

In considering sound economic conditions, the Board strives to balance public need for available, accessible and reliable commercial passenger transportation services with overall industry viability and competitiveness. The Board considers the issue from a wide-ranging perspective, which includes a consideration of harm to other industry participants. Generally speaking, it is the Board's view that the overall economic interests of the transportation business weigh more heavily than the economic and financial interests of any particular applicant or submitter.

As to competitors, the applicant has identified Cold Shot Bus Service (Cold Shot) as a competitor which provides ground transportation between Fort St. John and Dawson Creek on its way to and from Edmonton. The applicant states that it has an agreement with Cold Shot to allow connectivity between its services and that of Cold Shot. This competitor is restricted to only one of the routes in this application. For the other three routes there are no competitors. The Board is satisfied that granting this application would have no negative impact on the overall viability of the passenger transportation industry.

Based on the evidence noted above, I find that approving the application would promote sound economic conditions in the passenger transportation industry in British Columbia.

V. Conclusion

For the reasons above, this application is approved in whole, and I establish the requirements that follow in appendices to this decision:

- Appendix 1: Notices Respecting This Approval
- Appendix 2: Approved Terms and Conditions of Licence

Diversified Transportation Ltd.

Appendix 1: Terms & Conditions: Issuance of Licence with ICB Authorization

1. General:

A Passenger Transportation Licence must be issued by the Registrar of Passenger Transportation under section 29 of the Passenger Transportation Act or renewed under section 34 before the special authorization approved in this decision may be exercised.

2. Direction to the Applicant:

Unless otherwise ordered by the Passenger Transportation Board, **DIVERSIFIED TRANSPORTATION LTD.** must, no later than June 7, 2022:

- a. post time schedules online and make available to the public online its reservation system to enable advance bookings.
- b. provide copies or links to the Registrar of Passenger Transportation.

3. Notice to Registrar

A licence that includes the Inter-City Bus Authorization approved by the Board in this decision may only be issued after the Registrar is satisfied that **DIVERSIFIED TRANSPORTATION LTD.** has met requirements set out in 2(a) above.

Diversified Transportation Ltd.

Appendix 2: Approved Terms and Conditions of Licence

Special Authorization INTER-CITY BUS AUTHORIZATION (ICBA) Terms & Conditions	
Definitions	<p>“Board” means the Passenger Transportation Board</p> <p>“Registrar” means the Registrar, Passenger Transportation</p>
A. Legislative Requirements	
Vehicle Identifiers	<p>Each motor vehicle operated under this authorization must display, at the times and in the form and manner required by the Registrar, a vehicle identifier that is:</p> <ul style="list-style-type: none"> (a) issued to the licensee by the Registrar; or (b) authorized by the Registrar to be issued by the licensee.
B. Services	
Services	<p>Transportation of passengers must be provided:</p> <ul style="list-style-type: none"> (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.
Schedules	<p>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.</p>
Service Exception	<p>Routes may only be operated on a “pre-booked” or “reservation required” basis if the route points are:</p> <ul style="list-style-type: none"> (a) designated as reservation required in the licence; (b) identified as pre-booked or reservation required in all current; published schedule information; and

	<p>(c) available at all times for pre-booking or reservation on the licensee's website.</p> <p>When these conditions are met and when no reservations have been received for pick up 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.</p>
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 along the highway corridors for the inter-city bus routes below.
Route 1	
Terminating Point 1:	Prince Rupert
Terminating Point 2:	Prince George
Corridors:	Highway 16: Prince Rupert – Prince George
Route Points	Minimum Trips (in each direction)
City of Prince Rupert	1 per trip week
City of Terrace	1 per trip week
Village of Kitwanga	1 per trip week
Village of Hazelton	1 per trip week
Town of Smithers	1 per trip week
District of Houston	1 per trip week
Village of Burns Lake	1 per trip week
Village of Fraser Lake	1 per trip week
Village of Fort Fraser	1 per trip week

District of Municipality of Vanderhoof	1 per trip week
City of Prince George	1 per trip week
Route 2	
Terminating Point 1:	Fort Nelson
Terminating Point 2:	Dawson Creek
Corridors:	Highway 97: Fort Nelson – Dawson Creek
Route Points	Minimum Trips (in each direction)
Municipality of Fort Nelson	1 per trip week
Bucking Horse River	1 per trip week
Sikanni Chief	1 per trip week
Pink Mountain	1 per trip week
Wonowon	1 per trip week
City of Fort St. John	1 per trip week
District of Taylor	1 per trip week
City of Dawson Creek	1 per trip week
Route 3	
Terminating Point 1:	Dawson Creek
Terminating Point 2:	Prince George
Corridors:	Highway 97: Dawson Creek – Prince George Highway 97: Dawson Creek - Chetwynd Highway 39: Mackenzie Junction - Mackenzie

Route Points	Minimum Trips (in each direction)
City of Dawson Creek	1 per trip week
District Municipality of Chetwynd	1 trip per week
Pine Pass	1 trip per week
Mackenzie Junction	1 trip per week
Mackenzie	1 trip per week
McLeod Lake	1 trip per week
Bear Lake	1 trip per week
City of Prince George	1 trip per week
Route 4	
Terminating Point 1:	Prince George
Terminating Point 2:	Valemount
Corridors:	Highway 16: Prince George – Prince Rupert
Route Points	Minimum Trips (in each direction)
City of Prince George	1 per week
Village of McBride	1 per week
Village of Valemount	1 per week
C. Other Requirements	
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> .

<i>Liquor Control and Licensing Act</i> <i>Cannabis Control and Licensing Act</i>	The licensee must at all times ensure passenger directed vehicles under their licence are operated in compliance with the <i>Liquor Control and Licensing Act</i> and the <i>Cannabis Control and Licensing Act</i> .
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