

Licence Application Decision

Inter-City Bus

Application No.	12621-21
Applicant & Application Summary	<p>MTR Western, LLC <i>Trade Name: MTR Western</i></p> <p>Amend ICBA Licence</p> <ul style="list-style-type: none">• Amend the terms and conditions of a licence with Special Authorization: Inter-City Bus Authorization (ICBA)• Add the following routes on a reservation basis:<ul style="list-style-type: none">○ Vancouver, BC – Eugene, OR, USA
Applicant Information	<p>Current Passenger Transportation Licence: #71695 with:</p> <ul style="list-style-type: none">• Inter-City Bus Authorization (ICBA)• General Authorization (GA) <p>Principals</p> <ul style="list-style-type: none">• Jeremy BUTZLAFF• Alicia REINHARD• Mike MANSFIELD• H.S. WRIGHT <p>Office: 720 South Forrest Street, Seattle, WA, 98134 U.S.A.</p> <p>Applicant's Representative:</p> <ul style="list-style-type: none">• William Skelly, MLT Aikins LLP, 2600-1066 West Hastings Street, Vancouver, BC V6E 3X1
Publication of Application	August 11, 2021
Submissions & Public Comments	None received.
Board Decision	<p>The application is approved in whole:</p> <ul style="list-style-type: none">• Proposed terms and conditions respecting Route 1 are established as requested in the application summary.

More Information	Notice of applications and published decisions are posted in the PT Board Bulletin . For convenience, published documents for recent ICB applications are listed on the bus application webpage .
Decision Date	April 20, 2022
Panel Chair	Mary Childs

I. Introduction

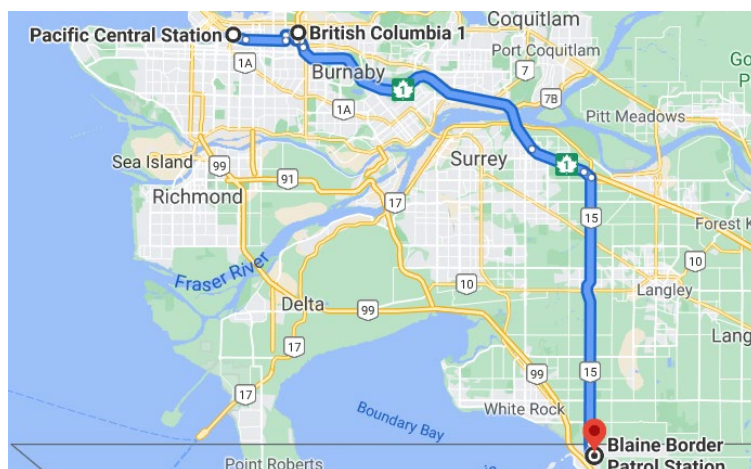
The applicant, MTR Western, LLC, does business as MTR Western. The applicant has a passenger transportation licence with a Special Authorization Inter-City Bus Authorization (ICBA). Under that licence, MTR Western is authorized to operate as an engaged carrier.

II. Applicant’s Proposals

MTR Western is applying to:

Add a new route between Vancouver, BC and Eugene, Oregon, along Highway 1 with 15 round trips per week. The proposed route 1 with a termination point at the Canada /US Border is shown in Figure 1 below.

Figure 1: Proposed Route 1



III. Background

MTR Western is a US-based bus service applying to expand its network to include passenger bus services between Vancouver and various points in Washington and Oregon. MTR Western, LLC was incorporated in Washington State on August 9, 2010. It is a wholly owned subsidiary of Seattle Hospitality Group of Companies, which operates a number of hotels in and around Seattle, as well as some of the area's major tourist attractions. The applicant's head office is in Seattle, Washington. It was registered in British Columbia as an extra-provincial company on February 2, 2021.

MTR Western is licensed to provide bus transportation in Washington and Oregon, and has several locations in those states from which it provides charter buses, motor coaches and corporate transportation. MTR Western's operations in the USA are beyond the jurisdiction of this Board; the Board is only authorized to regulate the applicant's operations in BC. In April 2011, the Board approved MTR Western's application for a licence with an ICB "engaged carrier authorization" that would allow MTR to provide services under the licences of other ICBs. MTR Western is now applying to add an intercity bus route between Vancouver BC and Eugene, Oregon, on a reservation basis.

For this service, MTR Western proposes to work closely with FlixBus GmbH and FlixBus, Inc. (together, "FlixBus"). FlixBus has been offering bus services in Europe since 2013, and has been in partnership with MTR Western since November 2019. Under the FlixBus business model, local bus companies operate the routes, employ drivers, and own the buses. FlixBus plans the network, establishes routes and stop locations, sells tickets, markets the services, provides customer service support, and establishes network-wide safety and quality standards. Although FlixBus is not the applicant, MTR Western has provided information about FlixBus and this partnership as part of its application. In BC routes or route points in a different municipality cannot be added without Board approval and MTR, as the licensee, is responsible for complying with the Act, regulations, and its terms and conditions of licence. Any route changes proposed by FlixBus must be approved by the Board after an application by MTR Western.

IV. Mandate & Jurisdiction

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

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 to change terms or conditions of their licences.

The Board’s mandate is stated in section 28 of the Act. Section 28(1) of the Act says that 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 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.

The Act 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. If the Board approves an application, it will set terms and conditions of licence primarily with respect to routes and service levels.

V. Procedural Matters

The applicant submitted required forms.

This application is being conducted by way of a written hearing.

During the course of the hearing into this matter, the Board directed an investigation to determine whether Greyhound Lines Inc. (“Greyhound”) was still in operation and active on routes. Greyhound submitted a response which was considered by the Board, and MTR Western was provided the opportunity to respond.

It should be noted that the Board’s March 2020 Industry Advisory allowing ICB operators to temporarily reduce or suspend scheduled service remains in effect.

VI. Applicant’s Rationale and Submissions

Public Explanation

The applicant provided the following text in the Application Summary that was published in the *Weekly Bulletin*:

MTR Western seeks to provide scheduled, fixed-route bus service between Vancouver, British Columbia, and various cities in Washington and Oregon. Proposed service will operate 7 days a week, with increased frequency on peak demand days.

Proposed service is in response to demonstrated, unmet public need. Since this application’s original submission, public need has further grown as other providers have reduced or ceased service in Canada and in British Columbia, specifically. On May 13, 2021, Greyhound Canada announced it would be permanently ending all routes and operations for domestic service in Canada, resulting in the dissolution of its domestic network. Effective June 6, 2021, Greyhound Lines also announced the indefinite suspension of its BoltBus brand, which previously offered cross-border bus service between Canada and the United States.”

Submissions

The Board did not receive submissions on this application.

VII. Reasons for the Board's Decision

Section 28(1) of the Act sets out the factors the Board must consider with respect to this application.

(1) 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.

Applicants normally provide to the Board a National Safety Code (“NSC”) Certificate. The applicant has provided a letter explaining that as MTR Western does not have an address in Canada, it is not able to provide an NSC Certificate. In lieu of such a certificate, it has provided information from the United States Department of Transport indicating that it has a satisfactory safety rating in its home jurisdiction.

Disclosure of Unlawful Activity and Bankruptcy forms were received from the principals of MTR Western to the Board’s satisfaction and raised no concerns about the applicant’s fitness.

The applicant has submitted a clear, thorough, and comprehensive business plan. MTR Western has been providing passenger transportation services for many years, and intercity bus services in its home jurisdiction for some time. Its principals have substantial experience in the tourism and passenger transportation sectors. In addition, its business partner FlixBus has a great deal of experience in marketing and operating passenger transportation services in Europe as well as in North America. The applicant has provided information demonstrating a well thought out plan for ensuring safety, vehicle maintenance, and staff training.

Financial statements provided by the applicant demonstrate sufficient resources to sustain its operations even if it takes some time to attract its anticipated level of ridership. The applicant’s management team is comprised of individuals with significant experience in tourism and in the passenger transportation industry. As MTR Western is part of a group of related businesses in the tourism sector, it can draw upon support from those businesses to generate awareness and attract passengers.

Based on the information and evidence above, I find that MTR Western, LLC is a fit and proper entity to provide the proposed service, and I find that it has demonstrated it is capable of providing the service.

(2) Is there is a public need for the service the applicant proposes to provide?

An applicant is required to demonstrate public need by showing that there are people who would use the proposed service. Applicants should provide clear information about the service it proposes, and they should provide supporting evidence that is factual and objective. They should not rely on general claims and their own opinion. The Board reviews applications and considers the extent and type of need that has been demonstrated for the proposed service.

The Board looks at the state of inter-city bus services in the area where the applicant is applying to operate. It may consider such things as:

- Will the service fill a gap in the market?
- Has an inter-city bus company recently left the market?
- Has the applicant shown that current service levels are unsatisfactory?

The applicant's proposed service would add Vancouver to an existing fixed-route service in Washington and Oregon. The proposed service would operate seven days a week, with increased frequency on peak demand days. The applicant has an agreement with FlixBus to operate this route as a FlixBus-branded bus service.

The applicant indicates that it has successfully operated the existing US portion of these services since November 2019 and has experienced satisfactory levels of passenger use.

As MTR Western explains in this application, there are currently only two ICB services taking passengers between Vancouver and Washington State. One is Greyhound, which has operated services under its own name and, until June 2021, through its subsidiary BoltBus. MTR Western's application states that Greyhound may be experiencing significant financial trouble and that its services are, in the US, rated by customers as much less satisfactory than those offered by the applicant.

The Board wrote to Greyhound to request confirmation of its intentions regarding its existing service between Vancouver and Seattle. On February 18, 2022, Greyhound responded by indicating that it is currently active in those markets. Since the US-Canada border reopened on November 8, 2021, Greyhound has been operating two schedules per

day from Vancouver to Seattle and back. Greyhound's licence is set to expire on July 4, 2022 and Greyhound has indicated that it will be filing the necessary paperwork to renew.

The other cross-border bus service is operated by QuickShuttle, which offers daily trips between Vancouver and Seattle, primarily taking customers to airports and cruise ship terminals. The applicant says that QuickShuttle serves a specific narrow customer base and does not serve any cities south of Seattle. In contrast, the applicant's proposed service will prioritize bringing travelers to city centres, college campuses, and local transit hubs throughout the Interstate 5 corridor in Washington and Oregon.

Amtrak rail service between Vancouver and Seattle was suspended due to the COVID-19 pandemic and in any event offers a service which is substantially different from the applicant's proposed service.

The applicant has provided a letter of support from the Tourism Industry Association of BC, stating that the proposed service would fill a consumer void that existing services have not been able to meet, and would address rising demand for an alternative form of transportation between BC, Washington State and Oregon.

The applicant has also provided a letter of support from Professor Joseph Schwieterman, PhD., of DePaul University, Director of the Chaddick Institute for Metropolitan Development and lead author of the *Outlook for the Intercity Bus Industry* report. Professor Schwieterman's letter states that the proposed service would fill a valuable transportation need on a route that is currently underserved by intercity bus lines. He states that this route is one of the most heavily traveled corridors in North America to be served by only one major intercity bus company (Greyhound).

In February 2020, the applicant and FlixBus conducted a survey of 400 residents in Greater Vancouver, asking questions about travel between Vancouver and Washington/Oregon. The summary of results provided to the Board indicates significant interest in the applicant's proposed service as an alternative to cross-border travel in single-occupancy vehicles; it also indicates that the service would be especially appealing to those on lower incomes who travel less often due to the cost of travel by personal automobile.

MTR's buses are equipped with wheelchair lifts, and passengers travelling with wheelchairs can reserve a free ticket for a medically required traveling companion.

Based on the analysis above, I find that there is a public need for the proposed service.

(3) Would approving the application support 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.

The Board considers how the service could benefit the market and whether the market has the capacity to absorb additional services. It may consider such things as:

- Will the service give the public additional transportation options?
- Does the marketplace have the capacity to absorb another service?
- Are there inter-city bus providers in the target market area?
- Will the services supplement another non-transportation business?

The survey done by the applicant (discussed above) suggests that a significant number of would-be travelers on this route are deterred from using buses due to perceived lack of amenities, problematic ticket pricing models, and inconvenient routes with limited stops. The applicant intends to address all these concerns in its proposed service.

The proposed service will connect travelers to and from Vancouver with an existing network of bus routes operated by the applicant in Washington and Oregon (under the FlixBus brand). The applicant indicates that its service connects passengers with college campuses and other destinations not served by Greyhound or QuickShuttle. According to the applicant's business plan, its service is likely to attract new passengers and not simply take business away from its competitors.

The applicant has indicated that the vehicles which will be used to provide the proposed service are all model year 2019 or newer, and provide a higher level of comfort and on board amenities. MTR Western states that these newer-model buses are more fuel-efficient than older models, and that its proposed service will therefore reduce the environmental burden of CO₂ emissions associated with passenger travel. FlixBus has committed to make all bus trips offered on its platform, including the proposed service, carbon-neutral by 2030.

Assessing market conditions at this time is complicated by the consequences of pandemic-related restrictions on cross-border land travel. Nonetheless, I note that there were no submissions opposing this application, and that the applicant provided letters of support indicating that this route is inadequately served.

As noted in the above discussion of public need, there are only two competitors offering inter-city bus services between Vancouver and Washington/Oregon. One of them, QuickShuttle, provides a specialized service which is unlikely to be significantly affected by the proposed service as its target passengers (travelers going to airports and cruise ship terminals) are very different from those of the applicant.

Although Greyhound has indicated its intention to renew its licence in July 2022, it has not indicated any intention to expand its current limited service of two return trips daily between Vancouver and Seattle.

In light of this information, I conclude that the proposed service is likely to benefit rather than harm the transportation business by offering customers more variety in schedules and routes, and providing a service which may attract passengers who otherwise might either travel in private vehicles or refrain from travel entirely.

I find that approving the application would promote sound economic conditions in the passenger transportation industry in BC.

VIII. Conclusion

For the reasons above, this application is approved in whole. The Board establishes notice and activation requirements, and terms and conditions of licence that are attached to this decision as Appendices 1 and 2. These form an integral part of the decision.

MTR Western, LLC
MTR Western

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, **MTR Western, LLC**, must, no later than **June 20, 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 Branch.

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 **MTR Western, LLC** has met requirements set out in 2(a) above.

MTR Western, LLC

MTR Western

Appendix 2: Approved Terms & Conditions of Licence

Special Authorization INTER-CITY BUS AUTHORIZATION (ICBA) Terms & Conditions	
Definitions	“Board” means the Passenger Transportation Board “Registrar” means the Registrar, Passenger Transportation
A. Legislative Requirements	
Vehicle Identifiers	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: (a) issued to the licensee by the Registrar; or (b) authorized by the Registrar to be issued by the licensee.
B. Services	
Services	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.
Schedules	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.
Engaged Carrier Authorization	The holder of this licence may operate as an inter-city bus when engaged by another licensed operator in the following limited circumstances:

	<p>(a) the other licensed operator must have a special authorization to operate an inter-city bus under a licence issued pursuant to the <i>Passenger Transportation Act</i> (British Columbia) or the <i>Motor Vehicle Transport Act</i> (Canada);</p> <p>(b) the holder of this licence must have signed written authorization from the other licensed operator specifying the terms by which the licence holder is engaged including the period for which the written authorization is valid;</p> <p>(c) the holder of this licence must operate its vehicles in accordance with all the applicable terms and conditions of the other licensed operator’s licence; and</p> <p>(d) the holder of this licence must carry in its vehicles a copy of the written authorization referred to in paragraph (b) and a copy of the terms and conditions of the other licensed operator’s licence when operating under this engaged carrier authorization.</p>
Route 1	
Terminating Point 1:	Vancouver, BC
Terminating Point 2:	Canada/USA Border
Corridors:	Highway 1
Route Points	Minimum Frequencies
City of Vancouver	15 trips per week (each direction)
Canada/US Border	15 trips per week (each direction)
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> .

Liquor Control and Licensing Act Cannabis Control and Licensing Act	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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