

Application Decision

Application:	227-09
Applicant:	Pacific Coach Lines Ltd.
Address:	210 – 1160 Station Street, Vancouver BC V6A 4C7
Principals:	Frank Chen Sean Chen Harry Chow Seon Lee Dennis Shikaze Michael Su Martin Yeh
Current Authorization:	Passenger Transportation Licence 70774. The special authorization of Pacific Coach Lines Ltd. (Pacific Coach) respecting the inter-city bus routes that Pacific Coach seeks to amend can be viewed in the <i>PT Board Bulletin</i> of July 8, 2009 at www.th.gov.bc.ca/ptb/bulletins.htm .
Type of Application:	Amendment of Licence (<i>Section 31 of the Passenger Transportation Act</i>) <ul style="list-style-type: none">• Discontinue scheduled inter-city bus service route 3 from Nanaimo to the Vancouver International Airport (YVR) via ferry at Duke Point and Tsawwassen.
Publication:	The application was published in the <i>PT Board Bulletin</i> on September 30, 2009.
Board Considerations:	The Board may approve an application forwarded to it by the Registrar of Passenger Transportation if the Board considers, as set out in section 28(1) of the Passenger Transportation Act, that: <ul style="list-style-type: none">(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.
Board Decisions:	The application to discontinue route 3 is approved.
Background:	A long-term business relationship exists between PCL and BC Ferries. BC Ferries, as part of its strategy to divert Nanaimo traffic from Departure Bay to Duke Point, approached PCL in 2008 seeking a 6 month to 1 year trial period to promote the Duke Point route by operating a regularly scheduled bus service between Vancouver International Airport (YVR) and the City of Nanaimo. BC Ferries hoped that enough demand would exist to warrant a regularly scheduled bus service. On June 27, 2008, the Board approved application 1042-08 to start a licensed operation that expired on March 31, 2009 and could not be renewed through the annual renewal process. On March 19, 2009, the Passenger Transportation Branch received application 67-09 from PCL to establish this route on a permanent, ongoing basis.

Subsequently, on March 27, 2009, the Passenger Transportation Branch received application 74-09 from PCL with a claim that an urgent and public need (UPN) exists for the operation of the route until September 30, 2009. PCL requested a decision on application 74-09 while application 67-09 continued through the regular process. On April 2, 2009, the Board approved application 74-09 on an urgent public need basis. This UPN decision re-established route 3 until September 30, 2009. Application 67-09 continued through the process and the Board approved it on June 26, 2009. That decision removed the expiry date for route 3 and established it as an ongoing service.

PCL is now applying for a permanent discontinuance of this service. Prior to making its application to the Passenger Transportation Board, the applicant issued public notices of discontinuance on July 25, 2009. These notices did not meet Board public notice requirements and they were not linked with an application to discontinue the service. Originally, PCL had wanted the route reduced effective July 30, 2009 and suspended September 28, 2009. In response to the July 25 notices, PCL received two e-mails that it shared with the Board.

PCL later applied to the Board to reduce service and discontinue its route. The application was published September 30, 2009, with a deadline for public comments of October 26, 2009. As required by the Board, the applicant published the application in the newspapers of 3 affected communities (Nanaimo, Richmond and Delta/Tsawwassen). As publication was delayed by up to 5 days, the Board decided it would accept submissions beyond the October 26, 2009, deadline. In the end, only one submission was received and this was on October 4, 2009.

Reasons: I. *Is there a public need for the service that the applicant proposes to provide under special authorization?*

In minimum route frequency reduction (MRF) applications, the Board must decide what level of service meets the public need. If the Board determines that the proposed level of MRF will meet the public need, it may grant the application. If the Board determines that the proposed level of MRF will not meet the public need, then it may refuse the application or grant the application in part in a manner that meets the public need.

I considered the submissions received in response to the public notices of July 2009 and early October 2009. After the July 2009 notices, a comment was received from a Nanaimo resident. Another was from a tourist association in Qualicum Beach which expressed disappointment, but acknowledged the need to discontinue the service due to economic impacts.

After PCL applied to the Board to discontinue route 3, the Board received 1 submission dated October 4, 2009 from a resident in Chemainus. The submission argues that the application should be rejected because PCL failed to execute a marketing plan that would influence the business activity of the route and its success. The individual claims that he never heard of the service and that it may have been his fault that he never knew about the transportation option, but if PCL advertised more they would not be looking at a poor result.

In response, PCL outlined their marketing activities and initiatives throughout 2008 and 2009. This included the distribution of more than 200,000 brochures, tourism promotions in print and on web-sites, newspaper campaigns, bus advertising, signage, tradeshow promotions, and so on.

PCL also provided average passenger count data from August 2008 through until

September 2009 for its daily schedules on the route which amounted to 1,045 passengers per month. This passenger volume was below the required break even figure of 3,340 people each month. In addition, the financial information provided indicates the applicant incurred a significant loss of revenue in the 13 months of operating the route.

The service was used by more than a thousand people per month. Thus, it cannot be said that there is no need for the service, or that there is no interest in the route. However, based on the applicant's ridership and financial data, and despite a concerted effort to promote the service, the Board accepts that the level of need is insufficient for sustaining a commercial inter-city bus service.

II. *Is the applicant a fit and proper person to provide that service and is the applicant capable of providing that service?*

In dealing with an application for discontinuance of a route, the Board will presume that a licensee seeking a reduction is a fit and proper person to provide the service proposed unless there is compelling evidence to the contrary.

PCL is an experienced and large provider of a scheduled bus service and has an extensive background in the transportation industry. It is proposing to eliminate its service between the City of Nanaimo and YVR, a service it agreed to operate and promote and one, at this time, that is not financially sustainable. It has provided what appears to be a reliable and safe service. There is no compelling evidence that raises concern about these issues. I am satisfied that the applicant is a fit and proper person and capable of operating, as it proposes, without route 3.

III. *Would the application, if granted, promote sound economic conditions in the passenger transportation business in British Columbia?*

The Board must consider whether approving the application would promote sound economic conditions in the passenger transportation business in British Columbia. This includes, but is not limited to, the financial health of the applicant seeking a reduction in MRF. This could include the overall financial health of the applicant or the financial health of specific routes.

The route operates well below the breakeven point and is not producing the required revenues for continued sustainability. Based on the traffic volume data together with the financial information provided with respect to route 3, the Board finds that approving this application would promote sound economic conditions in the passenger transportation business in British Columbia.

**Special
Authorization:**

**Terms &
Conditions:**

- Inter-City Bus (ICB)**
- Service: Transportation of passengers must be provided to and from each *route point* on a scheduled basis according to the minimum frequency that is set for the *authorized route*.
- 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.
- Abbreviation: The following abbreviation is used to describe terms and conditions of this special authorization.
- alt "alternate" route point that is not located directly enroute between other route points authorized by the Board; service may be provided to one or more alternate route points at the

option and frequency of the licence holder on the condition that all minimum route frequencies approved or set by the Board are maintained.

- Express Authorization: Transportation of standees is authorized only when all of the following conditions are met:
1. The licence holder has current and proper insurance coverage for the transportation of standees,
 2. Passengers are not permitted to stand for a period that is longer than 30 minutes or for a distance that exceeds 30 road kilometres, and
 3. Freight and passenger baggage is not carried in the passenger compartment when standees are being transported.

Route Number: 1 of 2 (via Tsawwassen/Swartz Bay ferry)

Terminating Point 1: City of Vancouver

Terminating Point 2: City of Victoria

Authorized Route:

Route Points	Minimum Frequency
City of Vancouver	Service connects with each ferry crossing ¹
City of Richmond ²	alt
Vancouver International Airport	7 stops daily in each direction
City of Richmond ²	alt
Tsawwassen Ferry Terminal	Service connects with each ferry crossing ¹
Swartz Bay Ferry Terminal	Service connects with each ferry crossing ¹
Town of Sidney ³	alt ³
City of Vancouver	Service connects with each ferry crossing ¹

Footnotes: ¹ The requirement that “service connects with each ferry crossing” refers to each ferry that is operated according to a current, published schedule between the Tsawwassen and Swartz Bay ferry terminals under a Coastal Ferry Services Contract. This minimum route frequency does not extend to ferries added by the ferry operator with less than 72 hours public notice. The terms “Coastal Ferry Services Contract” and “ferry operator” are defined in the Coastal Ferries Act.

² The Vancouver International Airport is excluded from the City of Richmond for the purposes of this special authorization.

³ The “alt” authorization for the Town of Sidney is for Victoria bound trips only.

Limited Pick Up & Drop Off:

Victoria Bound Trips:

From the City of Vancouver through until the Vancouver International Airport, passengers may be picked up only. After departing from the Vancouver International Airport, passengers may be picked up or dropped off.

Vancouver Bound Trips:

From the City of Victoria through until any point reached before arriving at the Vancouver International Airport, passengers may be picked up or dropped off. From the Vancouver International Airport through until the City of Vancouver, passengers may be dropped off only.

Pick up and Drop off in Richmond²:

Despite the limitations set out above, passengers may be picked up and dropped off in either direction within the City of Richmond².

Route Number: 2 of 2

Terminating
Point 1: Vancouver International Airport (YVR)

Terminating
Point 2: Resort Municipality of Whistler

Authorized Route:

<u>Route Points</u>	<u>Daily Minimum (each direction)</u>
Vancouver International Airport	4
City of Richmond Hotel Area*	4
City of Vancouver Hotel Area**	4
District of Squamish	4
Resort Municipality of Whistler	4

Service Limitation: Service on this route may only be provided if there is a current written contract between Pacific Coach Lines Ltd. and the Vancouver International Airport Authority.

Route Point
Boundaries: * *City of Richmond Hotel Area* is bounded on the north by the North Arm of the Fraser River, on the south by Granville Avenue, on the East by No. 5 Road, and on the west by Gilbert Road.

** *City of Vancouver Hotel Area* is bounded on the north by the Burrard Inlet, on the south by Thirteenth Avenue, on the East by Main Street, and on the west by English Bay (for points on the "north shore side" of False Creek) and Arbutus Street (for points on the "south shore side" of False Creek).

Limited Pick Up
& Drop Off: Passenger pick up and drop off is limited to route points on the authorized route.

Service may only be provided to passengers who have purchased from Pacific Coach Lines Ltd. or an agent of Pacific Coach Lines Ltd. a one-way or return trip ticket for the following trips:

- YVR to Whistler or vice versa
- YVR to Squamish or vice versa
- Vancouver Hotel Area to or from either YVR or Whistler

Route Points

Subject to the "Stopover Service in the Richmond Hotel Area" provision below, passengers may be picked up or dropped off only at scheduled locations situated at or within one of the route points on the authorized route.

Stopover Service in the Richmond Hotel Area

Service to points in the City of Richmond Hotel Area may only be provided as a stopover service to passengers on trips starting at YVR and ending in Whistler, or vice versa. Passengers with stopover privileges may be dropped off in the Richmond Hotel Area and later picked up to continue their trip through to their destination (i.e. either YVR or Whistler).

**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:

1. The other licensed operator must have a special authorization to operate an inter-city bus under a licence issued pursuant to the *Passenger Transportation Act* (British Columbia) or the *Motor Vehicle Transport Act* (Canada) or be licensed to operate a scheduled bus under a licence issued pursuant to the *Motor Carrier Act* (British Columbia) or the *Motor Vehicle Transport Act* (Canada),
2. 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 time period for which the written authorization is valid,
3. 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
4. The holder of this licence must carry in its vehicles a copy of the written authorization referred to in paragraph 2 and a copy of the terms and conditions of the other licensed operator's licence when operating under this *engaged carrier authorization*.

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 Passenger Transportation Act.

Board Panel Chair:

William Bell

Determination Date:

November 25, 2009