

Licence Application Decision

ICB –Simplified Process

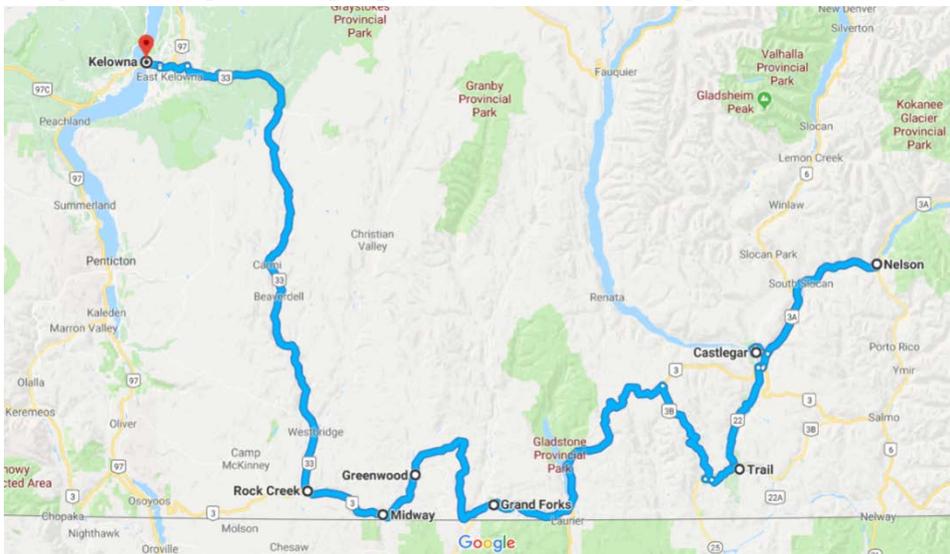
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| Application # | 2361-18 | Applicant | Silver City Stagelines Ltd. |
| Principals | Fritz Keller | | |
| Address | 1283 Columbia Ave, Trail, BC, V1R 1J3 | | |
| Current Licence | Passenger Transportation Licence # 71144 <ul style="list-style-type: none"> • Special Authorization: Inter-city bus (ICB) • General Authorization | | |
| Application Summary | <p>Amendment of Licence – ICB</p> <ol style="list-style-type: none"> 1. Add the following ICB route with a minimum frequency of 6 round trips per week: <ul style="list-style-type: none"> • Nelson – Kelowna 2. Eliminate the following ICB route with a minimum frequency of 3 round trips per day: <ul style="list-style-type: none"> • Trail – Castlegar <p>See Appendix A for route details and licence changes proposed by the applicant.</p> | | |
| Publication Date | August 15, 2018 | | |
| Submissions Received | No submissions considered | | |
| Board Decision | <p>The special authorization is approved.</p> <p>Terms and conditions of licence are approved as set out in the application summary.</p> | | |
| Decision Date | August 30, 2018, as amended August 31, 2018 to correct a clerical error in Appendix 1. | | |
| Panel Chair | William Bell | Panel Member | Spencer Mikituk |

Introduction

Silver City Stagelines Ltd. (SCSL) is applying to operate a new bus service between Nelson and Kelowna, with the following route points:

- Nelson
- Greenwood
- Castlegar
- Midway
- Trail
- Rock Creek
- Grand Forks
- Kelowna

The map below depicts the proposed route and route points.



The service would operate on a reservation only basis from Monday to Saturday.

SCSL currently operates an inter-city bus (ICB) operation between Trail and Castlegar with a daily minimum of 3 trips per day in each direction. The application proposes an amendment to its licence and a removal of this route which has been operated as an interline service in partnership with Greyhound Canada.

The new service would continue serving Trail and Castlegar as route points on the proposed longer route. SCSL would operate the service with one Mercedes-Benz Sprinter passenger van together with a similar second vehicle for back-up.

No freight transportation would be provided with the service.

I. Jurisdiction and Proceedings

This application is made under the *Passenger Transportation Act* (the “PT Act”). The PT 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 inter-city buses. The Board has the authority to consider and approve applications for new licences as well as applications from existing licencees to change routes and decrease service levels.

In June 2018, Greyhound Transportation Canada ULC issued a news release stating that as of October 31, 2018, it will stop providing bus service in British Columbia. Greyhound’s departure from BC will leave many areas of the province without inter-city bus service and access to essential services, such as work and education, and safe transportation.

To encourage other operators to fill the gap left by Greyhound’s exit, the Board is “fast-tracking” applications and using a simplified application process. This package is available for operators applying to operate inter-city buses (ICBs) on corridors in BC that:

1. have no commercial ICB service, or
2. will not have a commercial ICB service when Greyhound Canada withdraws its bus service from BC on October 31, 2018.

The PT Act requires the Board to consider public need, applicant fitness and sound economic conditions in the passenger transportation industry before deciding whether to approve an application, in whole or in part, or to refuse an application. For applications proceeding through the simplified ICB process, much of the Board’s focus is on applicant fitness.

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)]

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- conduct an investigation into any matter related to an application (Section 27(3)(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

The applicant initially claimed there was an urgent public need for the proposed service because Greyhound Canada is withdrawing its service between Nelson and Kelowna on October 31, 2018. Other than this abandonment of service by Greyhound, the applicant did not demonstrate that an urgent public need exists currently. Therefore, we were not satisfied that the application should be processed on the basis of “urgent public need”. Rather, the application should be proceed through the regular application process.

The Board received a late submission pertaining to this application. However, we determined the submission was not relevant to the Board’s consideration of the application as outlined in section 28(1)(a)-(c) and would not assist the Board in its decision-making process.

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

II. Background

SCSL has been owned and operated by Fritz Keller for 8 years. SCSL as a company has been operating an interline service with Greyhound Canada since 2003.

The applicant currently holds passenger transportation licence 71144 with both a General Authorization and Special Authorization. The latter allows the operation of its current ICB service.

The applicant submitted requisite forms.

III. Applicant's Rationale, Submissions and Responses

(a) Applicant's Rationale

SCSL has been operating an interline service in partnership with Greyhound Canada since 2003. Greyhound's recent announcement that it will no longer be servicing Western Canada effective October 31, 2018, leaves many rural towns with no bus service to larger city centres. SCSL understands how valuable it is to have a reliable means of transportation from the rural towns in the West Kootenays to Kelowna, B.C. The proposed route will operate with 2 Mercedes Benz 12 passenger Sprinter buses and on a reservation based model through SCSL's website.

IV. Board Mandate

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

- (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. Reasons for the Board's Decision

With the simplified ICB application process, as noted above in Section II, the Board is taking the view that the withdrawal of Greyhound Canada on this route that is proposed creates a public need for a replacement service and promotes sound economic conditions. As a result, our findings will largely focus on fitness of the applicant.

Applicant Fitness

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.

SCSL was incorporated on May 12, 2006. The interline contract with Greyhound Canada for the current service between Trail, B.C. and Castlegar, B.C. has been operating successfully since 2003. The applicant purchased SCSL in 2010 and is based in Trail, B.C. It currently operates the interline service with one vehicle that it owns; a 2011 Mercedes-Benz Sprinter van that accommodates 11 passengers plus a driver. It will operate a second similar vehicle under a lease arrangement in its new ICB service to ensure a backup vehicle is in place for any mechanical repairs needed on either vehicle. The other vehicle would also be used during the Christmas season (December 18 to January 4) to accommodate up to 22 passengers each way. The applicant also has a contingency plan regarding the use of other drivers in the event a driver exceeds allowable driving time under hours of service rules. The vehicles will be serviced regularly by a local mechanic that focuses on European vehicles that ensures proper diagnostics and maintenance is performed. The applicant notes that these vehicles can be operated efficiently over a larger size bus that will ensure a profit.

The staff consists of the principal, Fritz Keller, who is the sole shareholder, president and the primary driver. He holds a Training Certificate that indicates the successful completion of a Class 1 licence in 2006. Mr. Keller's education and work experience indicates that he is a skilled manager and has overseen various operations. A reference letter from Sun City Coachlines dated December 31, 2009 reports that he *"proved to be an excellent bus operator, both with his professional operation and maintenance of the equipment and his ability to deal with the passengers...."* Currently with SCSL there are other employed drivers who all hold a Class 1,2 and 4 driver's licence. The applicant's National Safety Code certificate is in good standing. The applicant further reports it has an excellent safety record with no history of accidents and no roadside breakdowns.

The disclosure form of Unlawful Activity and Bankruptcy indicates no negative concerns about the principal. There has not been any information brought to our attention to prove that the applicant is not fit and proper.

The financial information included a balance sheet and income statements for the year ending November 30, 2017. Also included was a 3-year financial projection. The applicant

reports that having access to Greyhound data regarding passenger history since 2003 allows it to have an in-depth knowledge about the needs of the service in the West Kootenays. It reviewed passenger load statistics by Greyhound Canada for the past 9 years in formulating its estimates and forecasts that appear reasonable and realistic given the assumptions outlined. The capital requirements for starting this ICB service are in place by the applicant. On approval of this application, the applicant plans to secure its drop off and pick up locations at convenient and central locations at the various route stops.

It would appear that SCSL has the experience, operational knowledge and capacity to service its proposed new route safely and effectively.

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 additional service.

Public Need and Sound Economic Conditions

The service proposed by SCSL is a replacement service. The service proposed between Nelson and Kelowna reinstates a portion of the ICB service to be eliminated by Greyhound Canada effective October 31, 2018 with 2 fewer routes stops (Christina Lake and South Slokan Junction) and with a greater minimum frequency of 6 trips per week in each direction. The application included a support letter dated August 1, 2018 from Richard Cannings, MP South Okanagan-West Kootenays, who reports the importance and need for many citizens for access to health care in Kelowna.

The area to be serviced by SCSL has a long history of ICB service by Greyhound Canada. Approving SCSL to replace the gap in ICB service resulting from Greyhound Canada's withdrawal from B.C. in October 2018 restores the availability of an ICB option and confidence that a reliable service will continue for public use.

Under the circumstances allowing SCSL using a smaller scale infrastructure and a reservation based or pre-booked model to meet a current public need is constructive in the public interest. We find a continuing public need for the proposed ICB service and approve the amendment of licence.

Further, the panel finds based on its findings above that SCSL with its local experience, knowledge and lower operating overhead, including a ridership certainty through a reservation system, it will provide not only a substitute ICB service, but one that can grow and continue in the long term. As a result, we find that application would promote sound economic conditions in the transportation business in B.C.

To ensure a smooth transition of service, we are requiring SCSL to post time schedules and implement its time schedules for the proposed route stops and website reservations no later than **September 30, 2018**. Further, by **October 26, 2018** it must have activated the 2 vehicles it proposes to use on this route.

VI. Conclusion

For the reasons above, this application is approved in whole.

Appendix 1: Public Notice Requirements

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

A. Direction to the Applicant Regarding Notice and Implementation

- Unless otherwise ordered by the Passenger Transportation Board, Silver City Stagelines Ltd. must post time schedules on line and make available to the public on line its reservation system no later than **September 30, 2018** to enable advance bookings.

B. Direction to the Registrar of Passenger Transportation Regarding Issuance

- The Registrar of Passenger Transportation (Registrar) may only issue a licence to Silver City Stagelines Ltd. that reflects the amendments approved in this decision and set out in Appendix 2 after the Registrar is satisfied that Silver City Stagelines Ltd. has posted time schedules on line and made available to the public on line its reservation.

Silver City Stagelines Ltd.
Appendix 2

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| Licence Required to Operate Vehicles | The Registrar of Passenger Transportation must issue the applicant a licence before the applicant can operate any vehicles approved in this decision. |
| Approval of application may expire | <ol style="list-style-type: none"> 1. The applicant must activate at least 2 vehicles by October 26, 2018. 2. If the applicant does not meet the requirements set out in 1 above, this Special Authorization expires. 3. The Passenger Transportation Board may vary the requirements set out in 1 above, if circumstances warrant it. 4. If an applicant needs more time to activate its vehicles, then the applicant must make a request to the Board before October 26, 2018. <p>(Note: “activate” means that the applicant has submitted the documents required to obtain a Special Authorization Vehicle Identifier to the Registrar of Passenger Transportation.)</p> |
| Notice to Registrar | <p>The Registrar must not, without direction from the Board, issue the applicant a licence or any Special Authorization Vehicle Identifiers if the applicant has not activated at least 2 vehicles by October 26, 2018.</p> <p>(Note: activated means that the applicant has submitted to the Registrar of Passenger Transportation the documents required to obtain a Special Authorization Vehicle Identifier.)</p> |

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| Special Authorization | Inter-City Bus (ICB) |
| Terms & Conditions | |
| Services | |
| Service | <p>Transportation of passengers must be provided:</p> <ol 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. |
| Schedule | <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> |

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| Service Exception | <p>Routes may be operated on a “pre-booked” or “reservation required” basis provided that:</p> <p>a) applicable routes are identified as a “pre-booked” or “reservation required” service in all current, published schedule information, and</p> <p>b) these routes are 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 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.</p> |
| Route 1 | |
| Terminating Point 1: | City of Nelson |
| Terminating Point 2: | City of Kelowna |
| Corridor: | Highways 3A, 22, 38, 3 & 33 |
| Route Points | Weekly Minimum (round trips) |
| City of Nelson | 6 |
| City of Castlegar | 6 |
| City of Trail | 6 |
| City of Grand Forks | 6 |
| City of Greenwood | 6 |
| Village of Midway | 6 |
| Rock Creek | 6 |
| City of Kelowna | 6 |
| 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. |