



DECISION

IN THE MATTER OF an Application for a
Public Motor Bus License by Nancy Drury

September 1, 2009

NEW BRUNSWICK ENERGY AND UTILITIES BOARD

Ms. Nancy Drury (the “Applicant”) applied to the New Brunswick Energy and Utilities Board (the “Board”) for a public motor bus license. Ms. Drury indicated that she intended to conduct a charter operation only. This application was published in *The Royal Gazette* on August 5th, 2009.

Jamar Transport Ltd. (“Jamar”) filed a Notice of Objection on August 13th, 2009. A written Statement of Objection setting out in full the reasons why the application should be denied was filed by Jamar on August 31, 2009.

Pursuant to section 4(2) of the Motor Carrier Act (the “Act”) a meeting of the Board was held on September 1, 2009. At that time, the Board carefully considered the Application, the Notice of Objection and the written Statement of Objection as described above.

The obligations of the Board are set out in section 4(4) of the *Act*. The section reads as follows:

4(4) A written statement of objection filed with the Board under paragraph (3)(c) shall be considered by the Board at the time set under paragraph (2)(a) and, if the Board determines that the objection does not establish a *prima facie* case that the granting of the application would likely be detrimental to the interests of the users of public transportation services, to provincial economic or social development, or to intraprovincial, interprovincial or international commerce, it shall immediately dismiss the objection and immediately notify in writing the person who filed the objection of such dismissal.

The Statement of Objection raised two issues. They were:

- a) Nancy Drury does not have the required expertise to safely own, manage and operate a charter bus business.
- b) Nancy Drury has transported passengers in a bus that is not licensed by the New Brunswick Energy and Utilities Board.

On the first issue, while Jamar asserted that “Nancy Drury does not have the required expertise to own, manage or operate a charter bus business”, it did not provide the Board with any particulars as to the type of the expertise it asserts are required to own, manage and operate a charter bus business; nor did it state any grounds which could lead the Board to conclude that Nancy Drury does not possess the required expertise. This being the case the Board concluded that the statement of objection did not establish that Nancy Drury lacks the required expertise to safely own, manage and operate a charter bus business. It is therefore unnecessary to consider whether the lack of such expertise would establish a *prima facie* case as contemplated by section 4(4) of the *Act*.

As to the second issue, the Board determined that the granting of motor carrier license to an applicant who may have previously operated without one would not be detrimental to the interests of the users of public transportation services, to provincial economic or social development, or to intraprovincial, interprovincial or international commerce. Notwithstanding the above, the Board does not condone the unlawful operation of motor carriers and will continue to work to eliminate such activity.

Accordingly, the Board dismisses the objections raised by Jamar.

Section 4(5) of the *Act* provides as follows:

4(5) The Board shall grant an application at the meeting referred to in paragraph (2)(a), if

- (a) no objection has been filed with the Board and served on the applicant in accordance with subsection (3),
- (b) all objections under subsection (3) have been dismissed pursuant to subsection (4), or
- (c) all objections under subsection (3) have been withdrawn

and, in the opinion of the Board, there are no sufficient and probable grounds to believe that the granting of the application would likely be detrimental to the interests of the users of public transportation services, to

provincial economic or social development, or to intraprovincial, interprovincial or international commerce.

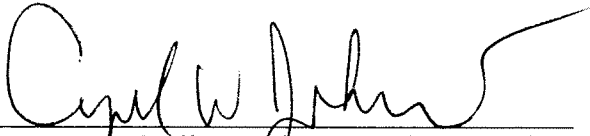
In this case, the objection is dismissed and the Board is of the opinion that there are no sufficient and probable grounds to believe that the granting of the application would likely be detrimental to the interests of the users of public transportation services, to provincial economic or social development, or to intraprovincial, interprovincial or international commerce.

Accordingly, the application is granted and a license will be issued to Nancy Drury effective September 1, 2009.

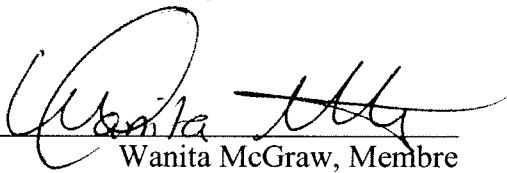
Fait à Saint John, Nouveau-Brunswick, ce 1er jour de septembre 2009.



Raymond Gorman, c.r., Président



Cyril W. Johnston, Vice-Président



Wanita McGraw, Membre