



**DECISION**

IN THE MATTER OF a Review of Acadian  
Coach Lines LP Fredericton Terminal  
Relocation.

**January 13, 2010**

**NEW BRUNSWICK ENERGY AND UTILITIES BOARD**

## **DECISION**

### **Acadian Coach Lines – Terminal Relocation (Fredericton)**

#### **Introduction**

Acadian Coach Lines LP (“Acadian”) is a licensed motor carrier as per Section 3 of the Motor Carrier Act. Acadian is a subsidiary of Groupe Orleans Express Inc (“Groupe Orleans”) of Montreal and provides motor coach service for points within New Brunswick, with connecting service to Maine, Nova Scotia, Prince Edward Island and Quebec. As a “scheduled-service” motor carrier, Acadian requires approval from the New Brunswick Energy and Utilities Board (the “Board”) for its rate structure, routes and tariffs. Acadian’s current rate structure, routes and tariffs were approved pursuant to a hearing held in Moncton on May 20, 2009.

In September 2008, Acadian was informed by the landlord of its Fredericton bus terminal (101 Regent Street) that its lease would be terminated at the end of March 2009 and that on April 1<sup>st</sup> Acadian was “to deliver vacant possession of the Premises to the Landlord.” As a consequence, Acadian began looking for an alternate location for its Fredericton bus terminal. In the following months Acadian’s lease at 101 Regent Street was extended twice, once to June 1, 2009, and later to October 15, 2009.

In June 2009, Acadian identified a suitable location for a terminal at 150 Woodside Lane, approximately 6 to 7 kms from the Regent Street site. Acadian made an application to Fredericton City Council to rezone the Woodside Lane property for “transportation services”. This rezoning was approved on July 13, 2009.

On September 23, 2009, Acadian announced that it would be closing its facility at 101 Regent Street (in downtown Fredericton) and would relocate to a temporary terminal at 85 Hubbard Road, in the Fredericton Industrial Park, effective October 1, 2009. The Hubbard Road site is 5.3 kms from the Regent Street site. For the period October 1<sup>st</sup> through October 14<sup>th</sup>, Acadian stated that it would provide a shuttle service to move passengers between Regent Street and Hubbard Road.

## Complaints

On September 24, 2009, the day following Acadian's announcement, the Board received three complaints from interested parties requesting that the Board intervene to block Acadian's move to Hubbard Road or Woodside Lane. The complainants were:

1. Melynda Jarratt – owner of New Maven Media in Fredericton.
2. Julie Michaud – Climate Action Coordinator for the Conservation Council of New Brunswick in Fredericton.
3. Dan Weston – Coordinator of the Fredericton Anti-Poverty Organization.

Although the complainants were filed separately, there were several arguments common to each complaint. These included:

- I. Moving the terminal from a downtown location would constitute a violation of Acadian's responsibility to provide a minimum level of service to the residents of Fredericton and would, thereby, be a violation of Acadian's operating licence.
- II. The move would have a detrimental impact on low-income residents of Fredericton (including those on social assistance, seniors and university students). Relocating the terminal would make Acadian's service inaccessible to those residents who could not afford the up-to-\$15.00 (return) taxi fare from downtown Fredericton to Hubbard Road or Woodside Drive.
- III. Hubbard Road was not serviced by city transit. Therefore the terminal relocation represented a rate hike not approved by the Board.

Additional issues raised by individual complainants included:

- IV. The move would have a negative impact on small businesses that relied on Acadian parcel delivery service to communities in New Brunswick.

- V. The relocation of the terminal would create a disincentive to use the bus for inter-city travel; a less carbon intensive mode of transportation and would, therefore, be counter to the provincial government's commitments under the 2007 Climate Change Action Plan.

Upon receiving the complaints, the Board forwarded them (on September 28, 2009) to Manon Piché, Acadian's Vice-President for Marketing, Sales and Communications asking for comment. Acadian filed its response on October 7, 2009.

### **Acadian's Response**

Acadian filed a detailed response, including a chronology of its efforts to find a suitable bus terminal near the Fredericton city centre. The response also raised several points relevant to the complaints including:

1. Acadian's use of the Regent Street terminal was a legacy of Groupe Orleans' acquisition of Acadian from SMT (Eastern) Limited. From 2004, the Regent Street facility was not well suited to Acadian's needs. The facility was too large, was not well maintained, and provided a poor physical environment for Acadian's employees and customers. Moreover, the rent for the downtown location was unaffordable going forward.
2. The Regent Street terminal was less than ideal in terms of safety as pedestrians and taxis regularly moved in-and-around the buses.
3. The lease on the Regent Street terminal allowed either party to terminate the agreement on six month's notice. Acadian's landlord had given notice in September 2008, although the deadline had been moved back twice.
4. Acadian conducted a search for a new location and actively sought a location in the downtown core. No suitable location was found in the downtown core.
5. Acadian had planned to move to the Woodside Lane location after the New Year (2010) as it would take several months for tenant improvements to be completed at that

location. The temporary Hubbard Road terminal became necessary when Acadian could not reach agreement with its landlord on extending the lease at Regent Street.

6. Both the Hubbard Road and Woodside Lane locations are serviced by Fredericton City Transit six days a week (Fredericton City Transit does not operate on Sundays).

Acadian's response was forwarded to the three complainants on October 22<sup>nd</sup> and they were asked to provide comments no-later-than October 30, 2009.

### **Complainants' Comments**

On October 30, 2009 the Board received a joint response from the three complainants. The comments reiterated their previous concerns about the impact the terminal relocation would have on the "total cost" of travel for low-income residents of Fredericton, as well as concerns that the relocation would frustrate the Province's commitment to "develop...a public transportation strategy to ensure that both urban and rural New Brunswickers have convenient alternatives to their private vehicles." The complainants also responded to several points raised by Acadian, specifically:

1. The complainants felt that Acadian's safety concerns (traffic moving in close proximity to its buses) were "disingenuous" as the conditions at the Regent Street terminal were not substantially different from those at Acadian's stop in Miramichi.
2. The complainants argued that if the Regent Street facility was too large for Acadian's needs, it should consider sub-letting some of the space.
3. The complainants questioned Acadian's argument concerning the poor state of the facilities noting that a Quizno's Restaurant was co-located on the site. Additionally it was noted that Downtown Fredericton Inc. (the local Business Improvement Area organization) had once offered financial assistance to improve the facade of the terminal, but had been turned down.

In conclusion the complainants requested that the Board disregard Acadian's response and, instead, "demand the Province of New Brunswick and the City of Fredericton get involved in helping the company find a more suitable location that serves all Frederictonians...who depend on ABL for intercity transportation in New Brunswick."

## **Legislation**

The New Brunswick Energy and Utilities Board exercises general regulatory authority over Acadian Coach Lines LP scheduled-service operations pursuant to Section 22 of the *Motor Carrier Act*, which states:

- 22** Every licensed motor carrier shall be deemed a public utility under Part 3 of the *Energy and Utilities Board Act*.

...and Section 54 of the *Energy and Utilities Board Act*, which states:

### **Supervision of public utilities and others**

**54(1)** The Board has supervision of the activities of public utilities and other persons subject to this Part and has full jurisdiction to inquire into, hear and determine any matter

- (a) where it appears to the Board that any person has failed to do any act, matter or thing required to be done by this Part or by any regulation, rule, order or direction made by the Board, or that any person has done or is doing any act, matter or thing contrary to or in contravention of this Part or regulation, rule, order or direction, or
- (b) where it appears to the Board that the circumstances may require it, in the public interest, to make any order or give any direction, leave or approval that by law it is authorized to make or give, or concerning any matter, act or thing that by this Part or any regulation, rule, order or direction is prohibited or required to be done.

**54(2)** The Board may

- (a) order and require any person to do, forthwith, or within or at any specified time and in any manner it may determine, any act, matter or thing that the person is or may be

required to do under this Part or any regulation, rule, order or direction made or given under this Part, and

- (b) forbid the doing or continuing of any act, matter or thing that is contrary to this Part or any regulation, rule, order or direction.

## **Issues**

Although filed separately, each of the complaints stressed a similar point. The complainants state that, by relocating its Fredericton bus terminal, Acadian has raised its cost of service to Fredericton passengers and/or is in violation of its operating licence.

Acadian's motor carrier licence is subject to conditions set forth in the decisions of the Board. Therefore Acadian is required to service those routes and communities as ordered by the Board in its decision of January 18, 2006 (subject only to the change of service on the Saint John – St. Stephen route approved by the Board in its decision of May 28, 2007). The current routes call for Acadian to provide service to the City of Fredericton along two of its five New Brunswick routes. This being the case, the relevant question for the Board is, does moving the terminal several kilometres from the Regent Street location constitute a “change or denial of service” to the City of Fredericton and, therefore, constitute a breach of its operating licence?

As a public utility, Acadian is required to conduct its regulated activities in a “reasonable and prudent manner.” The Board finds that Acadian has reasonably demonstrated that the need to relocate its Fredericton terminal is the result of contractual issues with its landlord at 101 Regent Street. This is not a new issue for Acadian and the matter has been previously raised at hearings before the Board. The Board accepts Acadian's submission that it preferred to stay in the downtown core and actively sought a suitable location in that area.

The temporary and proposed sites for the Acadian terminal in Fredericton are both within the city limits and in developed areas served by public transit. Although it's reasonable to state that some Acadian passengers will be disadvantaged by the terminal relocation (Acadian has acknowledged that it would prefer a site closer to the University of New Brunswick), that would be true no matter where the terminal was moved. Some riders will necessarily find themselves

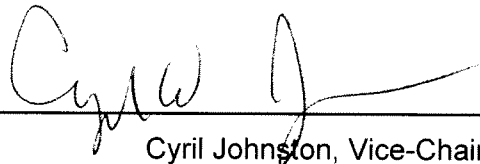
further away from the terminal; others will find themselves closer to it. However, the complainants have not demonstrated that low-income residents of Fredericton, as a group, would no longer be able to access Acadian's services. That being the case, the Board finds that both Hubbard Road and Woodside Lane can still be reasonably accessed by the residents of Fredericton, and placing a terminal in either of these locations would be in compliance with the license issued by the Board to Acadian.

## **Conclusion**

The Board finds that, in the matter of its Fredericton terminal relocation, Acadian Coach Lines LP has conducted its affairs in a reasonable and prudent manner. Although some passengers may find both the Hubbard Road and Woodside Lane sites less convenient to access than Regent Street, both sites lay within the City of Fredericton and are reasonably serviced by public transit, and are acceptable alternate locations within the terms of Acadian's operating licence. The Board will not issue any order with respect to the relocation of the Acadian terminal in Fredericton.

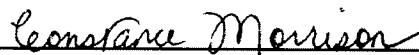


Dated at the City of Saint John, New Brunswick this 13<sup>th</sup> day of January, 2010.



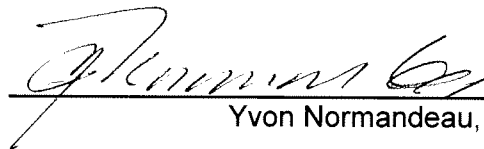
---

Cyril Johnston, Vice-Chairman



---

Constance Morrison, Member



---

Yvon Normandeau, Member