

DECISION

**2025 NSUARB 47
M11919**

NOVA SCOTIA UTILITY AND REVIEW BOARD

IN THE MATTER OF THE MOTOR CARRIER ACT

- and -

**IN THE MATTER OF THE APPLICATION of ISHKRUPA INC. O/A EXPRESS
AEROPORT SHUTTLE SERVICES to amend Motor Carrier Licence No. P03500**

BEFORE: Bruce H. Fisher, MPA, CPA, CMA, Member

APPLICANT: **ISHKRUPA INC.**
Kashyap Patel

INTERVENORS: **A WORLD CLASS LIMOUSINE COMPANY LIMITED**
Josh Chabinka

ANCHOR TOURS
Jeffrey Babineau

COACH ATLANTIC TRANSPORTATION GROUP INC.
Ryan Cassidy

HALIFAX TITANIC HISTORICAL TOURS
Paul McNeil

HEARING DATE: December 10, 2024

DECISION DATE: **March 10, 2025**

DECISION: **The application is denied.**

Table of Contents

I	SUMMARY	3
II	ISSUES	3
III	BACKGROUND	4
IV	EVIDENCE	7
V	LAW.....	9
VI	ANALYSIS AND FINDINGS	13
VII	CONCLUSION.....	19

I SUMMARY

[1] Kashyap Patel, is a Director of Ishkrupa Inc., o/a Express Aeroport Shuttle Services (Ishkrupa), which holds Motor Carrier Licence P03500. In June 2024, the Board approved Ishkrupa to provide service between HRM and Stanfield International Airport with a 14-passenger vehicle (\$30 one-way fare). Mr. Patel applied to add an additional service to his licence that provides transportation between HRM and Peggy's Cove, Truro, Digby, Yarmouth and Sydney.

[2] Ishkrupa's application was opposed by John Jeffrey Babineau o/a Anchor Tours (Anchor); Ryan Cassidy, Coach Atlantic Transportation Group Inc. (Coach Atlantic); Josh Chabinka, o/a A World Class Limousine Company Limited (World Class Limos); and Paul McNeil o/a Halifax Titanic Historical Tours (Titanic Tours).

[3] I considered all the evidence and submissions made during the hearing under the tests used by the Board for a new licence and charter authority under the *Motor Carrier Act (MCA)*. I found there was a lack of cogent evidence as to demand for the student portion of the service; and that prices were likely insufficient to sustain the service. Lastly, I concluded that the low prices being proposed would likely disrupt the services provided by existing tour operators. I have denied the application.

II ISSUES

[4] The issue to be determined is whether Ishkrupa should be granted an amendment to its motor carrier licence. The Board must decide if it has established a need for the proposed service and whether it can provide a quality service in a safe, reliable, and sustainable manner. To determine this, I will examine four related issues:

- Does Mr. Patel have the fitness, willingness and ability to provide the service?
- Is there demand for the services?
- Are the services sustainable?
- Does the proposal affect other motor carriers?

III BACKGROUND

[5] Ishkrupa applied to the Board on October 18, 2024, under the *Motor Carrier Act (MC Act)*, R.S.N.S. 1989, c. 292, to add transportation service between Halifax Regional Municipality and Peggy's Cove, Truro, Digby, Yarmouth or Sydney. Group fares would range from \$250 (Peggy's Cove) to \$850 (Sydney). There would be no individual fares.

[6] A Notice of Application was advertised in the Royal Gazette on October 23, 2024, as well as posted on the Board's website and forwarded to licenced motor carriers by email, fax, or mail. Anchor, Coach Atlantic, Titanic Tours, and World Class Limos all objected to the application.

[7] A hearing to consider the matter was scheduled and held in the Board Hearing Room on December 10, 2024. Ishkrupa was represented by its owner/operator, Mr. Kashyap Patel and accompanied by Mr. Karan Gill. Anchor was represented by Jeffrey Babineau; Coach Atlantic by Ryan Cassidy; Titanic Tours by Paul McNeil; and World Class Limos by Josh Chabinka.

[8] The Notice of Hearing provided filing dates for submissions or documentation to be filed in advance of the hearing. Ishkrupa's written submission stated that the expansion of their service would "address the transportation challenges faced by students in Sydney, Cape Breton, and other regions, while also contributing to the growing tourism sector in Nova Scotia." Mr. Patel noted in his submission that he could

offer more flexible scheduling, additional licenced drivers (reducing the reliance on unlicenced drivers) and competitive rates. He stated he plans to add two additional vehicles in his first year of operations, assuming the number of inquiries was sufficient. (His application did not include the additional vehicles).

[9] In the hearing, Mr. Patel explained his thinking behind the proposed service. He stated that there were many students unable to live or find part-time jobs close to the university where they studied. As a result, many students were living in Halifax and travelling up to three times a week to university for their courses. An example would be students from Cape Breton University living in Halifax who currently hire an unlicenced driver to take them to Sydney. Typically, they would leave at 3am in the morning, arrive at 9am for their lectures, leave Sydney at 5pm to 6pm in the evening, and return to Halifax at roughly 11pm. Mr. Patel stated he knew this because groups of students arrange travel on-line on social media. He claims there are “hundreds, thousands of them”. He also stated Ishkrupa received inquiries on its website as well as calls from students.

[10] Mr. Patel said that he set his rates by reviewing the costs for his current service and his knowledge of driving to other parts of the province. As he has no employees, he came to understand the average cost per kilometer by driving their van. He set his prices to make them affordable for students and felt that competition was a positive. He did not set the prices to get an advantage over the competition. He also emphasized that there were many unlicenced drivers without proper winter tires or proper driving experience, and many accidents.

[11] Mr. Babineau of Anchor stated that the proposal had “the potential to significantly impact my business in a negative manner.” Mr. Babineau filed a submission

that included licences, submissions and decisions from other Board hearings. In the hearing Mr. Babineau noted that Ishkrupa had only been in operation for two months before they filed an application to expand the service. He stated that no evidence was presented showing the demand for the extra service and expressed skepticism with the number of students living in Halifax but taking courses in Sydney. He also asserted that the prices being charged were low and amounted to “predatory pricing”. During cross-examination he stated to Mr. Patel:

What I’m trying to get at is that your pricing is significantly less than what the industry averages are.... You made a quote saying that you were going to rid all the unlicensed carriers out there because you were going to provide a cheaper service to basically force them out of the market. While basically, forcing them out of the market is also forcing your competitors that have already existing licences out of the market as well. And these are considered predatory in nature.

[Trk 1, 26:35]

[12] Coach Atlantic stated “the three reasons for the amendment do not demonstrate that there is a public need for this service. Additionally, we consider the proposed rates too low.”

[13] Titanic Tours objected saying that there would be a “negative affect” on other operators and “that at this time [it] is extremally challenging with several operators already in these Very Tough Markets IE: Peggy's Cove, Cape Breton Golf Courses and last his prices are predatory in nature...”. At the hearing Mr. McNeil questioned why they had presented no stats on inquiries, saying they had not shown any emails or texts. He stated there were other companies, such as Alpha Tours, providing the service. Mr. McNeil also stated that “what you are asking to go to Cape Breton and come back, I mean driver-wise its way too many hours. And I don’t think it’s a feasible service. We have all been in this business for a long time and I bet you we can count on one hand the amount

of students, I don't think I have had any, that have actually inquired about going up to Cape Breton." He added that,

... we all have a flat rate and all of us guys, all of our rates are pretty well exactly the same. That's why we're talking about predatory pricing. You can't come in here and say you are going to take somebody to Peggy's Cove for \$17 when we're all charging a flat rate or a per person (rate)... The prices are very, very predatory. That's what our biggest issue is. You can't just come in and cut the bottom out. You have to be able to make some profit too yourself. You try to run these vehicles, they're not cheap. We all know that. A lot of gas goes in them, going up to Cape Breton, there's a lot of time. And the hours that you're talking about, mean going up to Cape Breton and coming back for a driver, that's way too many hours to be driving a vehicle.

[Trk 1, 54:15]

[14] World Class Limos said there was "... no proven business case for the all-points of NS license, and the rates are too low." At the hearing Mr. Chabinka stated that World Class Limos could service any rides at any time, that is "what we do". He also pointed out that the Federal and Provincial Governments were slowing the levels of immigration and that he thought it was "a challenge to base a business model on something that is happening maybe right now and will eventually no longer exist".

IV EVIDENCE

[15] Ishkrupa's written submission focused broadly on the needs of students, saying that demand for transportation was growing amongst students but also that they required affordable, reliable, flexible and safe transportation:

- Students in Sydney are living "further away from their universities", making them more reliant on transportation services.
- University students in Sydney, Wolfville and Truro have limited job opportunities, making affordable transportation options "even more critical".
- Many students are "relocating to larger cities like Halifax and Truro in search of better housing and job prospects" creating an "urgent need for reliable and cost-effective transportation options".
- "Students often rely on expensive taxi services or unlicensed drivers, leading to safety concerns and inconsistent service".
- "Current transportation providers typically operate within limited hours, exacerbating the challenges faced by students."

[16] Their report asserts that the additional service “will offer competitive rates specifically designed for students, ensuring they have access to affordable transportation” and “reduce the reliance on unlicensed drivers who often operate at lower prices but lack proper safety measures.”

[17] The submission also refers to “rising tourism statistics”, saying their proposal will offer additional options for tourists through “convenient travel between key attractions and cities”.

[18] Lastly, it addresses the size of its fleet. While the application has not requested additional licences, the submission states

Within the first year of extending my license, I plan to add two vehicles to our fleet. This expansion will allow us to operate more frequently and at a wider range of hours, addressing the current gaps in service and providing greater convenience for students and tourists alike.

[I-11, p.2]

When questioned at the hearing, Mr. Patel said he expected to start with his existing vehicle but planned to purchase two vehicles and later, to add an additional two vehicles. He plans on hiring two to four drivers.

[19] Mr. Babineau was the only one of the objectors who filed evidence. It consisted mainly of previous Board decisions and related material. In it he included two flyers from his now defunct “Colchester to Halifax Shuttle”. He explained at the hearing that in 2018 he offered a Monday to Friday Truro-Halifax shuttle, with multiple pick-up and drop-off points, targeted at students attending NSCC, Dalhousie and SMU, and for those with medical appointments. He tried it for one year and had only five customers. Mr. Babineau commented that due to the low prices he felt this proposal was “predatory in nature” and would cause “irreparable damage” to his business.

[20] Mr. Chabinka said that Ishkrupa's rates were extremely low and that he didn't expect them to "make any money". He suggested that there were always "surprises" with the vehicles. He also stated he felt there was no demand for students. His firm did a lot of golf trips to Cape Breton but none for students. Mr. McNeil also referred to the prices as predatory, that he doesn't see how the proposal is viable, and that the business plan is not there.

V LAW

[21] As is often the case when lay litigants appear before the Board, the distinction between submissions and evidence is not fully appreciated. The Board has considerable experience in assessing the weight to be placed on these types of presentations. As well, s. 19 of the *Utility and Review Board Act*, S.N.S. 1992, c. 11, provides that the Board is not bound by the strict rules of evidence. All the participants were affirmed at the start of the hearing. Statements made by the participants were considered as evidence, subject to considerations related to weight, no matter at what stage in the proceeding these were made.

[22] As well, the state of the motor carrier industry arises in many cases before the Board. The Board has also initiated its own generic proceedings where this issue has been canvassed (see *Discount Review Decision*, 2015 NSUARB 33 and *Generic Public Hearing Decision*, 2020 NSUARB 69).

[23] The principles and tests the Board applies with respect to this type of application are well-known in the provincial motor carrier industry. They have been reiterated on many occasions and are well summarized in *Re Pengbo Fu o/a Pengbo's Shuttle*, 2020 NSUARB 87, affirmed 2020 NSCA 83, at paras. [44] to [47] and [51]:

[44] In Nova Scotia, motor carrier transportation services are regulated under the *Motor Carrier Act (MC Act)*. In general, the MC Act regulates motor carrier operators in Nova Scotia to ensure there is a quality, safe, sustainable industry in the Province. To accomplish this, the Board has been given the jurisdiction to regulate virtually all aspects of the industry.

[45] The MC Act provides the following guidance to the Board on matters it may consider:

Factors Considered

13 Upon an application for a license for the operation of a public passenger vehicle or for approval of the sale, assignment, lease or transfer of such a license, the Board may take into consideration

(a) any objection to the application made by any person already providing transport facilities whether by highway, water, air or rail, on the routes or between the places which the applicant intends to serve, on the ground that suitable facilities are, or, if the license were issued, would be in excess of requirements, or on the ground that any of the conditions of any other license held by the applicant have not been complied with;

(b) the general effect on other transport service, and any public interest that may be affected by the issue of the license or the granting of the approval;

(c) the quality and permanence of the service to be offered by the applicant and the fitness, willingness and ability of the applicant to provide proper service;

(ca) the impact the issue of the license or the granting of the approval would have on regular route public passenger service;

(d) any other matter that, in the opinion of the Board, is relevant or material to the application.

These apply equally to amendment applications, ss. 12 and 19.

[46] Thus, in assessing an application, the Board considers, among other factors in s. 13, the public interest; the quality and permanence of service to be offered; general effect on other transportation services; and the sustainability of the industry including whether there is need for additional equipment in the area. In addressing whether there would be an excess of equipment under s. 13(a) above, the Board must consider whether there are vehicles currently licenced which could provide the services applied for. In other words, is there a need for the services and/or equipment sought by the Applicant?

[47] The *MC Act* requires the Board to balance, in each case, the various relevant issues and interests which may overlap and, at times, conflict. In the *Trius Inc.* Decision, dated September 22, 1993, the Board described the s. 13 considerations as follows:

The Board has noted in previous decisions that the various considerations are not mutually exclusive. They tend to overlap and it is difficult at times to isolate one from another. The considerations will not be of equal importance in every application. The weight to be put on various considerations will depend on the facts of each application.

...

[51] In each case, the applicant must prove to the Board that, after taking all factors into consideration, the Board should grant the application, *Molega Tours Limited*, 2013 NSUARB 243, para. 23.

[24] In addition, the sustainability of the motor carrier industry is a key component of the economic regulation of a competitive business sector under the *MC Act*. This was discussed in the *General Public Hearing Decision*, 2020 NSUARB 69, where the Board stated:

[15] In the *Interim Discount Review Decision*, 2013 NSUARB 21, the Board reviewed the objects of the *MC Act*:

...

(b) Sustainability

[86] The sustainability of the industry is another key component of the Legislation. The *MC Act* directs the Board to consider each carrier's ability to sustain itself by considering whether it will be able to provide the services on a permanent basis (s. 13(c)). It also requires the Board to consider the sustainability of the industry as a whole by considering the impact on the other transportation services in the province (s. 13(b)) and, in particular, whether there will be an excess of equipment (s. 13(a)). Although this may involve consideration of any transportation services, including rail and air, it is normally limited to the other licenced carriers operating in the province.

[87] There are a number of factors which affect sustainability. The circumstances that exist in Nova Scotia are important for this consideration. The population is scattered and demand for services is low in comparison to more densely populated regions of the country. Tourism is important, but it is a short season. Capital investment is high, but must be paid year round. There is no subsidization. The sustainability of the industry is solely dependent upon the rates the carriers charge. Therefore, addressing rates is an important issue.

[88] In order for the industry to be sustainable, in that carriers are able to provide permanent services, the rates must be sufficient to cover the costs of operating the service and providing some profit to the carrier. Equally important, the rates cannot be predatory, that is, artificially below the cost of service purely to obtain work over other carriers. This not only jeopardizes the existence of the carrier providing the predatory service, but it also impacts other carriers in the industry.

[89] Once the charter rates have been approved, a carrier may only charge those rates (s. 23). The only exception to this is for individual contracts approved by the Board.

Quality of Evidence

[25] The quality of evidence has been a concern in previous motor carrier hearings. The information provided is often anecdotal, with limited backup, or is essentially unqualified opinion. The Board has set out its expectations for evidence supporting or opposing an application in several recent hearings.

[26] In *Aisha Jardine o/a Black Shag Tours*, 2023 NSUAR 126, M11059, the Board set out the obligations of the applicant to provide “cogent and tangible evidence”:

[18] While it is up to an applicant to decide how the application is presented to the Board, it is reasonable to expect that an applicant would provide evidence about how it intends to operate and the potential clientele. Preferably, this should be a written business plan, but at a minimum at least some documentation is required to support the application. This might include:

- financial projections of forecasted revenues and expenses, including operating expenses such as salaries, fuel, insurance, repairs and maintenance, as well as expenses to purchase, lease, or finance the motor coach, bus, minibus, van or limousine to be used in the business;
- any financial analysis undertaken including projected ridership and breakeven points based on a few assumptions;
- the qualifications, training and experience of the applicant and key employees to manage and operate a safe and sustainable motor carrier business; and
- a marketing or sales plan about the target market, how the applicant intends to attract its clients, and more importantly, to demonstrate to the Board that this clientele is not already being served by the existing motor carrier industry. This type of evidence would generally include:
 1. letters and emails from potential clients who tried to hire existing carriers but were refused because the carriers were not available,
 2. letters or emails of support from potential clients that show there is a “niche” market that is not adequately served by existing carriers, and
 3. survey or market research that demonstrates the size of the market and demand for any increased service.

[19] The documentation should be filed in advance of the hearing. Depending on the sophistication of the business, the documentation should normally include a pro forma income statement supported by estimates or quotes from potential suppliers; diplomas, training certificates and résumés of the owner/operator and key employees; and letters of support and testimonials from potential clients, groups and associations describing why the new service is needed and cannot be served by existing motor carriers. Where the application is opposed, those who wrote letters of support may be required to appear at the hearing if required by the objectors and the Board.

[27] Likewise, the objectors also have evidentiary requirements. In 3259293 *Nova Scotia Limited o/a Grape Escape Wine Tours of Nova Scotia*, 2023 NSUARB 160, M11112, the Board noted this could include:

- a. Utilization data about the vehicles authorized under an objector's licence and whether in fact there was availability at a reasonably comparable price to address the applicant's lack of ability to meet demands with its existing fleet.
- b. Financial statements showing the profit or loss trends of an objector's motor carrier business.
- c. Documentation showing whether in fact the objector's business is in competition with the applicants. This could include promotional materials and the point of origin of the objector's tours.
- d. Survey, market research, or other verifiable evidence that demonstrates the market has reached a saturation point.

[28] I recognize some information could be commercially sensitive. The economic regulation of a competitive industry is difficult in these circumstances. However, s. 12 of the *Board Regulatory Rules* allows the Board to protect confidential information, including potentially sensitive commercial information, in the appropriate circumstances.

VI ANALYSIS AND FINDINGS

[29] Ishkrupa is proposing a service that includes two key elements. The main premise of Mr. Patel's proposal is that many students do not live in the same municipality as their university campus. Hence, the chief objective of his proposal is to transport university students to their classes in other municipalities. As the university year generally runs from September to April this leaves Ishkrupa's vehicles largely idle in the summer. This leads to the second element of his service, which is to provide tours for tourists and locals. As the peak tourist season generally runs in the summer months and the early parts of fall, Ishkrupa presumably sees these two services as dovetailing nicely into each other.

[30] In considering this proposal and reviewing the legislation and the tests that must be satisfied to grant a Motor Carrier Licence, I consider that there are four significant issues to consider in this decision:

- Does Mr. Patel have the fitness, willingness and ability to provide the service?
- Is there demand for the services?
- Are the services sustainable?
- Does the proposal affect other motor carriers?

Does Mr. Patel have the fitness, willingness and ability to provide the service?

[31] Mr. Patel currently operates a recently approved van service to the Stanfield International Airport. I find him a conscientious businessperson, concerned with his clients, trying to provide a useful service, and mindful of the safety of his passengers. While he has less than one year of operations experience, I find that he has the fitness, willingness and ability to provide the service.

Is there Demand for the Services?

[32] There was considerable discussion at the hearing as to whether there was demand for student transportation between areas of the province. Several intervenors questioned how many students lived in one municipality and travelled elsewhere for classes. Other than questioning his assumptions, the intervenors did not provide any evidence to show how many students lived far away, or close, to their universities. I also acknowledge the issue raised by the intervenors that there have been recent changes in permits for international students, and that to the extent demand might be there, it may decline or not be sustainable.

[33] Mr. Patel was emphatic saying that he was aware through social media that there were “hundreds, thousands of them [students]”. However, Mr. Patel provided no

evidence to back up his claim. He provided no projected ridership figures and no statistics showing how large that market might be. There were no letters or emails from prospective clients and no surveys. Mr. Patel insisted he was a member of numerous group chats on social media but could not provide information from those sites due, he said, to their privacy policies. Mr. Patel strikes me as a sincere individual but, while I do not question his integrity, it is crucial that the Board have some evidence that allows it to independently judge how much demand might reasonably exist for the service. This is not an exact science, and I realize that comprehensive evidence can be difficult to acquire and document. However, I find myself in the situation where I have no evidence to review.

[34] With the summer tourist market, I also found that I was provided no evidence of the market demand. Here the issue is slightly different. In the student portion of his plan, the issue is how much demand exists. The intervenors stated that they provide no transportation for students, their explanation being that there is no market for them to service. In the summer tourist market, there is demand for transportation. The more relevant question is the extent to which there is excess demand that is not being met by the current providers, or if Ishkrupa would simply take customers away from the existing providers. It would have been valuable to have had some evidence from Mr. Patel showing that there was demand for tours that was not being met. Again, no evidence was provided.

[35] I accept that there are university students who live in one municipality and travel considerable distances for their courses. I do not accept that there are thousands who are ready to pay for transportation. But I also acknowledge that his proposal does not require thousands of such students. To the extent there are such students, they would

view their travel requirements as a need, not a luxury or a want. It may be that, at a point in time, there are enough such students to fill Ishkrupa's 14 seat van on a regular basis. I have no evidence before me that supports that assertion, but I remain open to that possibility. As such I have decided to provide modest weight to the possibility that sufficient demand currently exists to fill his existing van.

[36] With respect to the demand for the tour business, I will examine this further when I discuss Ishkrupa's prices and the proposal's impact on other motor carriers.

Are the services sustainable?

[37] Even if there are sufficient students to fill Ishkrupa's van on an ongoing basis, can it provide a sustainable service? The intervenors stated that the cost being charged by Ishkrupa was too low to make a profit on trips to Cape Breton, that Mr. Patel needed to charge more, and that there were always "surprises" with the vehicles. Mr. Patel provided no written documentation supporting his ability to sustain the proposal. He had no *pro forma* financial statements, no projections of operating costs or profit margins, and no breakeven analysis. When questioned at the hearing he stated that he "did the math and the projection of the profits and everything by myself ... when the Board member requested me to give a rate". He expected to do a maximum one daily trip from Halifax to Sydney, three to four times per week during the academic year, while still operating his airport shuttle. He said the numbers were all in his head and that he had allowed for wages, fuel, maintenance and oil changes. He expected that each \$850 fare to Sydney would have \$300 to \$350 in vehicle costs and up to \$250 to \$300 in salaries, leaving him \$200 in profit. His uncle was an investor and could back him up.

[38] While I appreciate that he has thought through his costs and his ability to make a profit, I find that there was very little rigour attached to his analysis. I am uncertain how accurate his estimates of fuel costs and repairs might be. Repair and maintenance costs are an obvious risk to a business such as his, especially with the large number of kilometers he intends to put on his vehicle. Compensation levels, and the ability to hire staff for what appears to be part-time work, would also be a concern. Insurance costs did not seem to be included in his estimates. The \$200 per trip profit he identified might easily be swallowed up by unforeseen events, but I was left with no sense that he had done sensitivity analysis or researched his costs in depth.

[39] I also considered the longer-term horizon of the proposed service. A student who lives in one city, say Halifax, and takes courses in Sydney, must find a way to get to classes. To that student, this is a must, not a want or a luxury good. However, that situation is subject to change. Such students might eventually find accommodations closer to the university, engage in ride-share, buy a car, or switch universities. At the very least students would graduate or otherwise leave their studies. I do not find that Mr. Patel considered how stable this market is and whether, if demand does exist, what that demand will look like in the immediate future. Sustainability is not simply a snapshot in time but exists over a mid to longer term time frame.

[40] I appreciate Mr. Patel's determination to serve clients well, his regard for safety, and his desire to provide his service at a price point that students, many of them being lower income, can afford. However, this is clearly a difficult balance. Can a motor carrier provider make profits at the price that such students can afford? If the price is too

high the provider will not have sufficient clients. If the price is too low the provider will have clients but insufficient revenues. Neither scenario is sustainable in the long run.

[41] Considering the limited evidence provided, I have concluded that he has likely underestimated his costs, that his service is not profitable at that price, and that the proposal as submitted is not sustainable.

Does the proposal affect other motor carriers?

[42] A key question to consider is how this proposal affects other motor carriers. The intervenors expressed concern saying that pricing was too low and was predatory in nature. I will consider both the student market and the tour market.

[43] With respect to the market for student travel I do not see the low pricing as an issue for others. The intervenors have admitted that they do not generally transport students as there is no demand from students. Demand exists relative to a price level. There may be no demand at the price the intervenors charge, but perhaps there is demand at the lower price proposed by Mr. Patel. As the intervenors do not service this market, I find that the proposed prices are not predatory in nature and his proposed service for students has no impact on the other carriers. The caveat to this is that there may still be insufficient demand at Mr. Patel's proposed prices and that, as I have previously concluded, his business is unlikely to be sustainable at those prices.

[44] The tour market is substantially different from the market for student travel. It is a well-established market with many providers. Mr. Patel views it as offsetting the seasonality of the student market: students in the fall and winter; tourists in the summer. He has maintained the same price for the tour market as for the students, even though it is an established market that can, presumably, bear higher prices. The intervenors see

his pricing as predatory in nature, while he simply views himself as providing a service to clients. For instance, he charges \$250 for a full van of 14 people to travel to Peggy's Cove, just under \$18 each versus \$69 for the three and a half hour tour offered by Mr. Babineau. I must agree with the intervenors. I find that Ishkrupa's prices for the tour business are of such a nature that they will attract business away from the existing providers. At the same time, as discussed, I am unconvinced that Mr. Patel can turn a profit at these prices.


VII CONCLUSION

[45] The Board reviewed and considered all the evidence and submissions in this matter and applied the applicable law, and the tests developed by the Board under the *MCA*. Ishkrupa has not established, on a balance of probabilities, that there is a need for the proposed student service. Overall, I find that, on a balance of probabilities, prices are likely insufficient to ensure profitability of the firm. Moreover, the proposed prices would likely damage existing tour operators. While clients may benefit in the short run from lower prices, this damages the industry as a whole and is not sustainable.

[46] The public interest is not served by allowing one motor carrier in a regulated environment to undercut the prices of others, damaging their business, and yet at the same time not achieving a profit for themselves.

[47] An Order will issue accordingly.

DATED at Halifax, Nova Scotia, this 10th day of March 2025.



Bruce H. Fisher