DECISION **2026 NSRAB 108**
M12571

NOVA SCOTIA REGULATORY AND APPEALS BOARD

IN THE MATTER OF THE MOTOR CARRIER ACT

- and -

IN THE MATTER OF AN APPLICATION by **ARJUN LAL O/A ALPHA TRAVEL & TOURS** to amend Motor Carrier License No. P03508

BEFORE: Julia E. Clark, LL.B., Vice Chair
Bruce H. Fisher, MPA, CPA, Member
Darlene Willcott, LL.B., Member

APPLICANT: **ARJUN LAL o/a ALPHA TRAVEL & TOURS**

INTERVENORS: **PAUL MCNEIL o/a HALIFAX TITANIC HISTORICAL TOURS**

JOHN JEFFREY BABINEAU o/a ANCHOR TOURS

HEARING DATE: May 6, 2026

FINAL SUBMISSIONS: May 13, 2026

DECISION DATE: **August 5, 2026**

DECISION: **The application is denied.**

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1.0 INTRODUCTION

[1] Arjun Lal is the owner/operator of Alpha Travel & Tours (Alpha or Applicant), which holds Motor Carrier License No. P03508, issued on August 7, 2024. Mr. Lal applied to the Nova Scotia Regulatory and Appeals Board (Board) for amendments to Alpha's license under the *Motor Carrier Act*, RSNS 1989, c 292 (*Act*). The application requests a new authority to add one 14-passenger van under the same terms and conditions as its current license. Alpha currently holds a license to provide charter services from the Halifax Regional Municipality to anywhere in Nova Scotia.

[2] The Board's predecessor, the Nova Scotia Utility and Review Board, approved Alpha's application for its current license in *Re Arjun Lal o/a Alpha Travel & Tours,* 2024 NSUARB 126 (*Re Alpha Travel*) in 2024. At that time, Alpha intended to target tour and commuter business from new immigrants to Canada, students and communities with origins in India, Sri Lanka and the Middle East, among others. In this application, Mr. Lal indicated he required another licensed vehicle to handle bookings when his current van is already engaged.

[3] Paul MacNeil o/a Halifax Titanic Historical Tours (Titanic) and John Jeffrey Babineau o/a Anchor Tours (Anchor Tours) objected to Alpha adding another vehicle to its license. They presented written and oral evidence on the state of the industry and the market for tours with 14-passenger vehicles, based on their own experience as small operators.

[4] The Board accepts Alpha's evidence that the company has grown since obtaining its license. The carrier has had to turn away some business in the high season. It would be convenient for Alpha to have a second licensed van they could rely on during busy periods and potentially when their first vehicle is not available. However, there is not

sufficient evidence to establish that a second bus would be sustainable, or that the current demand for mid-sized bus charter and tour services cannot reasonably be served by the equipment already licensed and operating in the market.

[5] The application is denied.

2.0 BACKGROUND

[6] Alpha applied for an amendment to its motor carrier license described as:

> To add a 14-passenger van, similar to a Ford Transit, for operation under Motor Carrier License No. P03508.
>
> [Exhibit A-1, p. 1]

[7] Alpha asked for the additional vehicle to operate under the same terms and conditions as its current Motor Carrier license, P03508 [Exhibit A-2], which allows customized tours and charter services from Halifax Regional Municipality to locations within the province.

[8] Notice of the application was advertised in the Royal Gazette on Wednesday, November 26, 2025, and on the Board's website. It was also forwarded to licensed motor carriers and provided to the Minister of the Department of Public Works by email on the same date. The Board received notices of objection from Titanic and Anchor Tours by the December 3, 2025, deadline.

[9] A Notice of Hearing set the following dates for submissions and documentation to be filed in advance of the hearing:

- Applicant's Evidence/Submissions: Wednesday, January 14, 2026
- Objectors' Evidence/Submissions: Wednesday, January 28, 2026
- Applicant's Rebuttal Evidence: Wednesday, February 11, 2026

All parties filed initial written evidence and submissions by their deadlines.

[10] An oral hearing to consider the matter was scheduled to be held at the Board's offices on March 26, 2026, based on the availability of the parties. Mr. Lal represented Alpha at that hearing. In his opening remarks he requested to file several documents he had brought with him in support of his application. He explained that he had been out of the country between the filing of the application and the hearing, and did not have, or at least did not take the opportunity to file, written evidence in rebuttal to the objectors' evidence.

[11] Mr. Lal provided copies of Alpha's rebuttal evidence to the Board and the other parties to review [Exhibit 9]. Anchor Tours, represented by Mr. Babineau, and Titanic, represented by its President, Mr. McNeil, objected to the late filing of the evidence, given that the objectors had not had an opportunity to review it in advance. Mr. Babineau noted that the documents, including letters of support, financial projections, and booking enquiries, would normally be part of the initial filing of evidence, which would have allowed the objectors to prepare their own evidence to respond to it.

[12] After allowing the parties a brief recess to review the new evidence, the Board accepted the late filing of the Applicant's additional evidence based on its relevance. However, the Board agreed with the objectors' requests to adjourn the proceedings to allow all parties to file any further relevant evidence with a fair opportunity to review it. After some difficulty finding a date acceptable to all parties, the Board adjourned the hearing until May 6, 2026.

[13] Alpha formally filed its additional evidence on March 26, 2026 [Exhibit A-9]. On March 27, 2026, Titanic filed its evidence [Exhibit A-10]; and Anchor Tours

confidentially filed evidence of its bookings from 2022-2025 [Exhibit A-11] to supplement Anchor Tour's previously confidential and non-confidential evidence [Exhibit A-9].

[14] The hearing reconvened on May 6, 2026, in the Board's hearing room. Mr. Lal represented Alpha, Mr. McNeil represented Titanic. Mr. Babineau represented and gave evidence on behalf of Anchor Tours and made final submissions on both Anchor Tours' and Titanic's behalf.

3.0 ANALYSIS AND FINDINGS

3.1 Evidentiary Issues

[15] This hearing was delayed after the Applicant failed to provide some of its intended written evidence until the date of the oral hearing. The Board gave the objectors additional time to review the documents, after they indicated that they needed additional time, and may have provided different evidence supporting their objections, had they seen the Applicant's full evidentiary filing ahead of time. To ensure fairness, the Board gave a final deadline for the Applicant to file new written evidence, and additional time for the objectors to file any response.

[16] The Board has provided guidance to applicants and objectors on the type of evidence it generally expects to be provided in a contested motor vehicle application. This information was included in the Board's decision on Alpha's initial application in *Re Alpha Travel,* in particular, at paragraph 16 and is discussed in the following section. In this case, the parties did provide some evidence supporting their respective positions, which the Board addresses later in this decision.

[17] Alpha asked for confidential treatment of its business plan, financial projections, and client lists. Anchor Tours objected to Alpha providing some of that information in a confidential undertaking, given that it did not have an opportunity to review or respond to it. The Board granted Alpha's request as is the normal practice in motor carrier applications, where disclosure of information to competitors may create a competitive disadvantage or business risk (see *Re Alpha Travel,* para. 13).

[18] In the Board's view, the non-confidential information detailed in the written evidence and expressed in the hearing was sufficient for the objectors to understand the basis for the application, and the evidence Alpha put forward in support of the argument that the additional services were needed.

3.2 Factors to be considered in an amendment application

[19] The *Act* requires a licensed motor carrier to apply for the Board's approval for any substantive amendment to its license, including increasing the number or size of their licensed vehicles.

[20] In the Board's decision in Alpha's initial application, *Re Alpha Travel*, it set out the legal principles applicable to motor carrier applications in this province. These are well known in the industry and were articulated in *Re Pengbo Fu o/a Pengbo's Shuttle,* 2020 NSUARB 87, affirmed in 2020 NSCA 83, at paragraphs 44 to 47, and 51:

> [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.

<u>These apply equally to amendment applications, ss.12 and 19.</u>

[46] Thus, in assessing an application, the Board considers, among other factors in s. 13, <u>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 licensed which could provide the services applied for.</u> 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. [Emphasis Added]

[21] The sustainability of the motor carrier industry is a key component of the economic regulation of a competitive business sector under the *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.

[22] The Board has also described the evidence that it expects to see from an applicant "about how it intends to operate and the potential clientele". In *Aisha Jardine o/a Black Shag Tours (Re),* 2023 NSUARB 126, it outlined the documentation it thought was reasonable as possibly including:

- 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.

3.3 Consideration of s. 13 Factors against Alpha's application

[23] In this case, the principal areas of dispute between the Applicant and the objectors were whether there would be an excess of equipment in the market if the Board approved an additional vehicle for Alpha, and the general effect on other transportation services, public interests, and market sustainability.

[24] The key points raised by Titanic and Anchor Tours were:

- the day-tour and charter market in the province is dominated by larger tour companies, and the smaller operators with 14-passenger vehicles are all competing for smaller groups;
- Titanic has held a 14-passenger plate "on hold" for several years, but has determined that demand is insufficient to justify the expense of an additional vehicle;
- Both Titanic and Anchor Tours have additional capacity to assist Alpha by providing vehicles (at a cost) but have never been approached;
- Alpha's evidence is general and insufficient to demonstrate a need for the additional service; and
- Alpha's services are in direct competition to Titanic and Anchor Tours' core business and will impact their profitability and sustainability.

[25] As set out in *Pengbo's Shuttle,* paragraph 46, in addressing whether there would be an excess of equipment, the Board must consider whether there are vehicles currently licensed which could provide the services proposed in the application. In other words, is there a need for the services and/or equipment sought by the Applicant?

[26] As explained in *Southland Transportation Ltd. (Re),* 2021 NSUARB 26, evidence that is based mainly on personal observations, limited inquiries, and lacking supporting documentation will generally not be sufficient to prove the need for a proposed service:

> [29] ... the Board does not consider the limited inquiries as to the potential services, or anecdotal evidence … of the general and undocumented nature discussed in the evidence, without any documented instances indicating the requested services could not be provided by the existing licensed motor carrier fleet, establishes a need for such service. …

[27] In Alpha's application for its initial license, the Board found Alpha had demonstrated there was unmet demand and public interest in Alpha's proposed multi-lingual transportation service and tours. Anchor Tours and Titanic had warned at the time that Alpha's core business would soon evolve into the standard tour market. On the evidence in this application, the objectors' speculations have proven partly correct. That is, most of Alpha's current business appears to come from internet bookings of traditional tour offerings (e.g., Peggy's Cove and Lunenburg) similar to those offered by Anchor Tours and Titanic. Mr. Lal estimated that 85% of his business comes from Viator, where Alpha advertises their Peggy's Cove and Lunenburg Tours. While Mr. Lal indicated that with a second vehicle, he may be able to accommodate more community events, the Board finds this application cannot be described as servicing a niche market.

[28] Mr. Lal provided testimony that Alpha is turning down business later in the season because their daily operations have reached capacity. He said bookings are up

46% compared to the same time last year. Alpha has had some interest in bookings from cricket teams, but there is insufficient evidence that this additional business would sustain another vehicle or that the need cannot be served by other carriers.

[29] The Applicant was not able to provide evidence showing that many potential customers were unable to obtain service. The Viator system provides real-time availability information but does not track unsuccessful booking attempts. The Applicant also provided no reliable evidence that any of the potential clients had attempted to book services with other licensed carriers and were unable to do so. Mr. Lal said it was unreasonable to expect him to refer potential clients to competing carriers. Mr. Babineau offered that, rather than refer away the business, some other carriers share bookings or refer customers to other operators when they cannot provide the service themselves. It is possible to share a tour fare by using another carrier's vehicle with the booking carrier's own guides. He said Anchor Tours uses referrals when his vehicles aren't sufficiently full to run a tour, but another carrier may be able to accommodate them. He said that getting a piece of something was better than nothing, especially since the customer is able to obtain the tour service, which helps the industry overall.

[30] In Mr. Babineau's testimony he explained the booking information provided in Anchor Tours' evidence [Exhibits A-11(c)-i, ii, iii] delineated into commercial vehicle and Ford Transit bookings for the season. While many factors may impact an operator's booking numbers, his submissions provided the Board with supported evidence about the booking cycle. Mr. Babineau also testified that one of the conditions of using the Viator platform is that any provider that cancels more than 5% of the bookings will face restrictions on its use. He said that turning down business is inevitable because cruise

ship passengers book well in advance via Viator on the days they are in port. He noted that he has recently added a vehicle to his fleet, and it does not resolve the issue that some days he will have to turn down business while having capacity for that vehicle at other times:

> There's been plenty of times where I've ... well, I've regretted committing myself to a Viator [sic] booking because somebody else has come along and asked to book the whole van for the day and I might only go out with, say, six or seven people and I had to choose to not abandon them. I had to keep it, and I lost out because I didn't have the ability. But that's just the nature of the business regardless of how many vehicles you have. So that's what I wanted to say about that.
>
> So if we continue. When I've had two Ford Transits ... like I said, it was 38 and then 39. It sort of came down. After Covid was the big thing, when we had all that built-up, pent-up demand for tourism that wasn't able to be satisfied until, you know, a year or two after the fact.
>
> But 2025, going into 2025, I then had three Ford Transits and still one commercial van, and in total I did 34 bookings of seven to 14 or more and 29 one through six. So those bookings are actually coming down despite the fact that I had more capacity and more vehicles. Like I said, just because you've got more vehicles at disposal doesn't necessarily mean you're going to be available on any given date for a specific booking.
>
> [Transcript, May 5, 2026, p. 163]

[31] Mr. Babineau said that, despite having “the best financial year that I’ve ever had so far in this business” in 2025, unequivocally he could not have come “even remotely close” to the figures listed on page 4 of Alpha’s financial projections as the “moderate” scenario of gross revenue and projected net income. He argued that Alpha’s evidence was general, speculative and did not support the use of a second vehicle.

[32] In response to the Board’s questions, Alpha confidentially filed a revenue report purporting to demonstrate its combined revenue from Viator/Trip Advisor and Stripe direct bookings, as well as the Stripe balance summary. These filings showed higher revenues in June-October, as all parties indicated was normal for the Nova Scotia tourism market. These filings did not break down the information in the same manner as was set out in the financial projections for the additional vehicle. However, the reported annual

revenue numbers for Alpha's existing vehicle in 2025 does fall within the range projected for the additional vehicle in the "per-passenger" model in Part II of Alpha's financial projections.

[33] Alpha also filed a list of 2025 and 2026 bookings confidentially with its undertakings [Exhibit A-12(c)-ii]. The Board examined this document in detail to assess how it supported the financial projections submitted by Alpha. In particular, the Board reviewed how many days Alpha's vehicle appeared to be booked at or near capacity. At most, the documents provide support for the conservative end of the projected revenue for a single 14-passenger vehicle based on the per-passenger model. However, the Board does not agree that the evidence demonstrates Alpha's operations have reached the point where a second vehicle is required for the additional passengers. It is nearly impossible to make any reliable assumptions about the impact a second vehicle would have on the number of bookings because Alpha's evidence of extra demand is largely speculative.

[34] In response to the Board's questions about utilization, Mr. Babineau estimated that during the high season (June-September) he may have all three vehicles on his license running at once about 60% of the time. He said for the first two months of the season it would be rare for all vehicles to be in use at once. Most often he had two Ford Transits running and the third used for overflow. The minimum ridership conditions in his license also restricts that use.

[35] Mr. McNeil testified that he has noticed a significant decrease in his bookings. He offered his opinion that the influx of new commercial vehicle operators and illegal operators was taking business away from the regulated motor carriers. He

reminded the Board that he has a license plate on hold for a vehicle he has not put into service because of the decreases in his business.

[36] The Board recognizes that different operators in an economically regulated market will still compete with one another, and some may be more profitable than others. Alpha and Anchor Tours offer similar services on Viator, and, as Mr. Babineau pointed out, have similar-enough names that an inattentive customer may mix up their bookings. Mr. Babineau testified that his online bookings have decreased this year, and another 14-passenger vehicle offering nearly identical services would directly impact his and Mr. McNeil's businesses.

[37] As explained in *Southland Transportation,* evidence of limited enquiries, or anecdotal opinions is not particularly helpful to demonstrate a "need" for an additional service or to show that its approval would be financially sustainable in the context of the broader motor carrier market. Where there was conflicting evidence about the state of the industry for smaller tour operators, the Board prefers the evidence of Anchor Tours. Mr. Babineau's testimony about equipment utilization and Anchor's capacity for additional work was supported by Anchor Tour's documents. The Board found his testimony to be balanced and avoided hyperbole.

[38] The Board was not convinced on a balance of probabilities that granting the requested amendment to Alpha's license to add a second 14-passenger vehicle would not create an excess of equipment in the market. Furthermore, the Board has concerns about the sustainability of the second vehicle over the full season from a financial perspective. These are Alpha's burdens to prove.

[39] During the hearing, Mr. Lal acknowledged that his business plan refers to a flat rate fare "inclusive of HST." Alpha's current license includes rates exclusive of HST, which means he must charge the base fares and add the additional 14% tax. The $150 rate inclusive of HST charged for a full day (>5 hours) tour, when accounting for rounding, roughly equates to the $130 approved rate plus the former HST rate of 15%. Alpha is reminded that the rates approved by the Board and set by its license, including any additional booking fees, are the rates that must be charged. If Alpha wishes to continue with the fares as described, they can apply to the Board for an amendment.

4.0 CONCLUSION

[40] Alpha has not provided sufficient evidence to show it is more likely than not that there is either an unmet need in the market or sufficient public interest in Alpha providing the additional service. Furthermore, although having another 14-passenger vehicle may be convenient and provide flexibility for Alpha, the Board is not convinced that allowing a permanent amendment to Alpha's license is financially sustainable and would not result in excess equipment in the market. After weighing the required factors, the Board declines to issue the license amendment at this time.

[41] The amendment application is denied.

[42] An Order will issue accordingly.

DATED at Halifax, Nova Scotia, this 5th day of August 2026.

Julia E. Clark

Bruce H. Fisher

Darlene Willcott