



DECISION

IN THE MATTER OF an application by Advance Shuttle Service for a Motor Carrier License to Operate a Public Motor Bus in the Province of New Brunswick

January 30, 2004

NEW BRUNSWICK

Board of Commissioners of Public Utilities

New Brunswick Board of Commissioners of Public Utilities

HEARING IN THE MATTER OF an application by Advance Shuttle Service for
a Motor Carrier license to operate a Public Motor Bus in the Province of
New Brunswick

December 4, 2003, 10:00 a.m.
Board Premises, Saint John, N.B.

CHAIRMAN: David C. Nicholson
VICE CHAIRMAN: A. Boucher
COMMISSIONERS: J. Cowan-McGuigan
B. Tingley
BOARD SECRETARY: Lorraine Légère
BOARD STAFF: Gay Drescher

An application was made by Joseph and Karen Sullivan of Kensington, Prince Edward Island to operate a scheduled bus service in the Province of New Brunswick as follows:

“For the carriage of passengers and their baggage as a scheduled operation from Prince Edward Island to New Brunswick and return with the right to pick up and drop off passengers in the municipalities of, Port Elgin, Shediac, Sackville, Moncton, Salisbury, Petitcodiac, Oromocto and Fredericton, but without the right to pick up or drop off enroute, using two 15 passenger vans.”

The grant of the application was opposed by S.M.T. (Eastern), Limited (SMT) which is the major provider of both scheduled and charter bus services in the Province.

Mr. Sullivan testified that the service he was proposing to provide was being requested by students at St. Thomas, the University of New Brunswick and Mount Allison University in New Brunswick and the University of Prince Edward Island in Charlottetown. As well, he indicated interest had been shown from persons wishing to travel from the Island to the hospitals in Moncton. He currently operates a similar service for Island residents into Nova Scotia with door to door drop off.

In his application and under cross-examination by SMT, Mr. Sullivan stated his intention to have a license for a scheduled service. Mr. Sullivan proposes to operate his vehicles on the basis of pre-booked tickets. He will offer his service to selected communities on an as called-on basis.

This Board is able to grant two types of licenses for public motor buses. They are scheduled and irregular, or charter, licenses. The evolution of scheduled service, as originally developed in the United States, involves the State granting an authority to a carrier, which normally would be exclusive and would be protected for that successful applicant i.e. no other carrier would be granted a scheduled license between the same points. As a result, the law required that the carrier run the bus on the

schedule between the approved points, whether or not there were any passengers on that bus. In addition, the carrier, if its equipment was full, had to provide a backup service so that anyone wishing to travel on the scheduled carrier between those points would be guaranteed transportation.

A charter service, sometimes called irregular service, required that one party book the entire motor bus. The charter service did not run on any schedule and the carrier would be granted the privilege of operating within a defined geographic area, running between any points within that area.

Advanced Shuttle, the applicant, does not meet the criteria for either kind of motor carrier license. If anything, it is closer to a scheduled service than a charter service. SMT provides a scheduled service between all of the points to be served by the proposed license, but between terminals and not personalized stops. This Board has repeatedly found that it was in the public's interest to protect the existing scheduled carrier, SMT.

The Board recognizes that Mr. Sullivan has identified a market niche with offering door to door service, which does not meet the criteria of either a scheduled service or a charter service. The Motor Carrier Act, in its present form, does not allow for such a hybrid to be permitted in the province.

The Board finds that the service for which Mr. Sullivan has applied is neither a scheduled service nor a charter service and therefore denies the application.

Dated at the City of Saint John, New Brunswick this 30th day of January 2004.

Lorraine R. Légère
Secretary to the Board

