

M A N I T O B A ) Order No. 97/04  
)  
THE PUBLIC UTILITIES BOARD ACT ) July 13, 2004

BEFORE: Graham F. J. Lane, C.A., Chairman  
E. Jorgensen, Member  
D. Côté, Member

**PROCEDURAL ORDER FOR A PUBLIC HEARING  
REGARDING THE APPLICATION OF THE MANITOBA  
PUBLIC INSURANCE CORPORATION FOR APPROVAL  
OF THE CORPORATION'S RATE BASES AND  
PREMIUMS CHARGED FOR COMPULSORY DRIVER AND  
VEHICLE INSURANCE COMMENCING MARCH 1, 2005  
AND THE APPROVAL OF PARTIES APPLYING FOR  
INTERVENOR STATUS**

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The Public Utilities Board of Manitoba (the "Board") held a Pre-Hearing Conference (PHC) at its offices in Winnipeg, Manitoba on Wednesday, July 7, 2004 at 9:00 a.m. The purpose was twofold:

- a) to review and approve the timetable for the public hearing of the application by Manitoba Public Insurance Corporation ("MPI") for approval of its rate bases and premiums charged on compulsory driver and vehicle insurance commencing March 1, 2005; and
- b) to review and consider applications from parties seeking intervenor status at the public hearing and matters related thereto.

This Procedural Order flows from this PHC.

Board Counsel tendered as exhibits the following documents:

- a) The Notice of Public Hearing and PHC dated June 15, 2004, - Exhibit #1;
- b) the draft timetable - Exhibit #2; and
- b) the Board's Rules of Practice and Procedure - Exhibit #3.

There are two schedules attached to this Order, namely:

- a) Schedule A, the Timetable for the hearing; and
- b) Schedule B, the procedures to be followed at the hearing.

Parties seeking intervenor status were asked to indicate their constituency and the areas of the application they intended to test. They were also requested to provide their reasons for requesting intervenor status, specify any plans to call evidence and indicate whether they intend to seek an award of costs. The Board advised prospective intervenors that in the awarding of costs, the Board would be guided by its published criteria for such awards.

The Board advised that as the costs of the regulatory process flow through to the ratepayers, a thorough yet cost-effective hearing process is desirable.

An effective hearing can be best achieved through the cooperation of the intervenors with the Board, and the avoidance of duplication of effort. Towards this end, the Board provided an indication of the areas of particular interest to it that it intended to focus on during the hearing.

1. Notwithstanding MPI's higher claims costs and forecasts of modest results going forward, the application seeks no general rate increase. Why?;
2. What degree of reliance can be placed on extension and RSE net earnings, with respect to Autopac's rate stabilization reserve?;
3. The investment portfolio, and the contribution of investment earnings;
4. The merging in of DDVL and the implications, if any, for possible changes to the bonus malus system;
5. Comparative provincial incident to population ratios, prevention measures and MPI's approach to rate differentiation; and
6. The concept of rate shock, as it interplays with MPI's classification system.

In approaching the upcoming hearing, the Board and the intervenors have the evidence presented and transcripts

arising out of prior hearings, as well as MPI's Application with supporting information.

The following parties applied for intervenor status:

1. Canadian Automobile Association Manitoba (CAA), represented by Mr. Jerry Kruk (Intervenor Request Form received June 30, 2004);
2. Consumers' Association of Canada (Manitoba) Inc./Manitoba Society of Seniors (CAC/MSOS), represented in person at the PHC by its counsel, Mr. Byron Williams. (Intervenor Request Form received July 6, 2004);
3. Coalition of Manitoba Motorcycle Groups (CMMG), represented in person at the PHC by its counsel, Mr. Raymond Oakes (Intervenor Request Form received July 6, 2004);
4. Insurance Brokers Association of Manitoba (IBAM), represented by Ms. Margaret Scurfield (Intervenor Request Form received July 6, 2004);
5. Manitoba Bar Association (MBA) represented in person at the PHC by its counsel, Mr. Robert Dawson (Intervenor Request Form received July 6, 2004); and

6. Manitoba Used Car Dealers Association (MUCCA) represented in person at the PHC by Mr. Nick Roberts (Intervenor Request Form received June 29, 2004).

Ms. M. McLaren, Vice-President, Corporate Insurance Operations, and Mr. K. M. McCulloch, General Counsel, attended the PHC for MPI.

#### **APPLICATIONS FOR INTERVENOR STATUS**

1. **CAA Manitoba**

CAA indicated by its pre-filed Intervenor Request Form that it would attend the hearing, participate in the testing of evidence, and present final argument. CAA reported it would not be call a witness, nor would it seek a cost award.

Basing its view on CAA's stated intentions and past participation, MPI indicated it would not object to the Board granting intervenor status to CAA.

2. **Consumers' Association of Canada (Manitoba) Inc./Manitoba Society of Seniors**

By its Intervenor Request Form and through its counsel, Mr. Williams, CAC/MSOS stated the following reasons for its intervention:

- i/ to consider whether the revenue requirement sought by MPI is just and reasonable;
- ii/ to consider issues related to equity between major classes and vehicles within those classes;
- iii/ to test the reasonableness of MPI's operating costs, and the allocation of such costs between MPI's competitive and basic lines of business;
- iv/ to consider the impact of the transfer of the Division of Driver and Vehicle Licensing (DDVL) to MPI;
- v/ to determine the reasons for MPI's abandonment of the Sybase computer project; and
- vi/ to review the transfer to MPI's Rate Stabilization Reserve ("RSR") of retained earnings from the Special Risk and Extension lines of business.

CAC/MSOS indicated it will appear throughout the hearing, participate in the testing of evidence, and present final argument. CAC/MSOS stated it had not made a decision on whether to call a witness, but will advise the Board of its decision in that regard. CAC/MSOS advised it will seek costs; it submitted the following provisional Budget:

Legal	\$23,000
Consultant	\$27,200
Witness (if called)	<u>\$14,620</u>
Total	\$64,820

MPI advised that it did not oppose the granting of intervenor status to CAC/MSOS.

The Board will grant intervenor status to CAC/MSOS, with the provision that CAC/MSOS will confirm its intention as to the calling of a witness, and provide confirmation of its projected budget, as soon as possible.

**3. Coalition of Manitoba Motorcycle Groups**

By its Intervenor Request Form and through its counsel, Mr. Oakes, CMMG reported that it has been intervening in MPI rate matters since 1992, representing the 7,600 registered motorcycle owners of Manitoba. CMMG indicated its purpose for its intervention is as follows:

- a) to test MPI's rate making methodology; and
- b) to review changes in MPI's insurance product, and suggest further changes.

CMMG reported that it will appear throughout the hearing, test the evidence, and present final argument. CMMG indicated that it intends to call an actuarial witness, but has not determined who that will be.

CMMG advised it will seek an award of costs, and proposed a budget of \$20,392.20, exclusive of costs for an actuarial witness. MPI indicated it did not oppose the granting of intervenor status to CMMG.

The Board will grant intervenor status to CMMG, with the provision that CMMG confirm if it will call a witness and provide an amended or confirmed proposed budget.

The Board notes MPI's longstanding efforts to recover the costs incurred by and related to the motorcycle major use category, efforts acknowledged and accepted by the Board. Furthermore, with respect to the loss transfer issue, the Board reminds CMMG that in Board Order No. 173/03 the Board stated that unless it was provided with compelling new evidence, it would not recommend the adoption of CMMG's loss transfer proposal as part of MPI's rate making methodology.

Consequently, barring any such compelling new evidence, the Board anticipates that CMMG will focus its efforts on other issues impacting motorcycle premiums connected with the direction taken by the Board to date regarding recovery of losses.

**4. Insurance Brokers Association of Manitoba**

By its pre-filed Intervenor Request Form, IBAM indicated its intention to monitor and, as it deems advisable, participate in the hearing. IBAM advised its intention to appear throughout the hearing, and present final argument. IBAM reported that it will not apply for an award of costs.

MPI advised it did not oppose the granting of intervenor status to IBAM.



**5. Manitoba Bar Association**

By its Intervenor Request Form and through its counsel, Mr. Dawson, MBA stated its reasons for intervening to be:

"To test the evidence, participate throughout the hearing, and make submissions and argument regarding the sufficiency, reasonableness, and/or necessity of the applicant's anticipated expenses in light of the applicant's statutory mandate, its own stated objectives, appropriate standards of ratepayer satisfaction, and the public interest."

MBA advised that should it decide to call a witness, it would pursue issues related to the interests of victims of personal automobile injury claims.

MBA acknowledged the Board's past pronouncements regarding MBA's interventions at previous years' hearings, and indicated it understood the Board's limited jurisdiction over primarily revenue requirements and rates, and that MBA's past focus had been on legislative changes not within the Board's purview to grant.

As an ancillary matter, MBA indicated its intention to review four specific areas that it considers may require changes in legislation, in the hope that the Board will comment on these matters and may recommend changes to the legislature.

MBA advised that it contends these matters affect the rates charged by MPI. MBA reported these areas to include the inability of a personal injury claimant to claim:

- a) against uninsured drivers within the province;
- b) against automobile manufacturers for vehicle defects;
- c) against out of province insured at fault motorists; and
- d) against medical malpractice.

MBA indicated that in its initial discussions with CAC/MSOS, it had identified certain areas of mutual interest, and that it intends to collaborate and co-operate fully with CAC/MSOS, with a view to minimize duplication and economize wherever possible.

MBA reported its provisional budget, exclusive of possible witness costs, to total \$36,153.00, which its counsel suggested represented a "worst case scenario".

MPI objected to the granting of intervenor status to MBA, stating its opinion that MBA would address matters beyond the scope of the Board's jurisdiction. MPI reminded the Board of the Board's past pronouncements in this regard.

MBA responded that its proposed intervention would be different from past interventions and, consequently, its application should be considered in light of its stated reasons for intervenor status.

MBA reiterated its intention not to debate the merits of no-fault, but to relate to rates and areas within the Board's jurisdiction.

It is on the basis of these assurances by MBA that the Board will grant MBA intervenor status, on the provision that MBA will confirm its intention to call a witness and provide confirmation of its intended intervention budget as soon as possible. With respect to an application for costs by MBA, the Board cautions MBA that it will have to meet the Board's criteria for awarding costs.

**6. Manitoba Used Car Dealers Association**

Mr. Roberts indicated MUCDA's plans to review MPI's proposed increase to the Dealer Plate Risk Group (increases in the range of 20 to 25 percent). MUCDA reported that it intends to appear throughout the hearing, test the evidence, and make final argument. MUCDA advised that it will not call a witness, but will apply for costs, and submitted a proposed budget of \$9,000.00.

MPI advised it did not object to the granting of intervenor status to MUCDA.

**TIMETABLE**

All parties indicated the timetable was acceptable, and, accordingly, the Board will approve the timetable as circulated at the PHC and attached hereto.

**IT IS THEREFORE ORDERED THAT:**

1. The timetable attached hereto as Schedule "A" shall be the timetable for the orderly exchange of information by the participating parties.
2. Schedule "B" attached hereto shall apply with respect to the hearing of the MPI Application.
3. Intervenor status shall be awarded, subject to the filing of undertakings requested by the Board in the body of this Order, to:
  - a) Canadian Automobile Association Manitoba;
  - b) Consumers' Association of Canada (Manitoba) Inc./Manitoba Society of Seniors;
  - c) Coalition of Manitoba Motorcycle Groups;
  - d) Insurance Brokers Association of Manitoba;
  - e) Manitoba Bar Association; and
  - f) Manitoba Used Car Dealers Association.

THE PUBLIC UTILITIES BOARD

"GRAHAM F. J. LANE, C.A."  
Chairman

"G. O. BARRON"  
Secretary

Certified a true copy of Order  
No. 97/04 issued by The Public  
Utilities Board

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Secretary

**SCHEDULE "A"**

**TIMETABLE  
2005 RATE APPLICATION**

<b>ITEM</b>	<b>2004 DATES</b>	<b>DAY OF WEEK</b>	<b>ELAPSED WORKING DAYS</b>
1. Application filed and served	June 23	Wednesday	0
2. Notice of Public hearing to be published	June 26	Saturday	2
3.a) Pre-hearing Conference b) Intervenors complete Registration c) Settle Hearing Procedure and exchange of information timetable d) Discuss possibility of joint intervention	July 7	Wednesday	9
4. Board to circulate list of Intervenors, complete timetable to Intervenors and applicant	July 12	Monday	12
5. Last day to file as an intervenor	July 12	Monday	12
6. MPI to be in receipt of first round information requests (Information requests from intervenors will be expected no later than July 19)	July 16	Friday	16
7. MPI to provide response to first round information requests	August 9	Monday	31

8. MPI to be in receipt of second round information requests	August 23	Monday	41
9. MPI to publish reminder notice and any amendments to application	September 4	Saturday	50
10.a)MPI to file responses to second round information requests b)MPI to file and serve any further amendments to application, if required	September 7	Tuesday	51
11.a)Intervenors to file pre-filed testimony to all parties b)Parties to file any motions	September 13	Monday	55
12. Intervenors to be in receipt of information requests from all parties	September 20	Monday	60
13. Board to hear all motions	September 24	Friday	64
14. Board decision on motions, meeting among Counsel, if required	October 1	Friday	69
15.a)MPI to file rebuttal evidence b)Intervenors to provide responses to all information requests	October 1	Friday	69
16. Hearing commences	October 12	Tuesday	75

**SCHEDULE "B"**

**PROCEDURES TO BE FOLLOWED AT THE  
MANITOBA PUBLIC INSURANCE CORPORATION  
2005 INSURANCE RATE HEARING**

1.     Hearing and Rural            a)     Winnipeg hearing will be held at  
       Meetings:                    the Board's office, 4<sup>th</sup> floor, 330  
                                      Portage Avenue, Winnipeg, commencing  
                                      October 12, 2004 at 9:00 a.m. and  
                                      continuing thereafter as necessary.  
  
                                      b)     Rural Meetings (if necessary) -  
                                      time, location and place to be  
                                      identified.
2.     Hearing Times Each Day:     9:00 a.m. to 12:00 Noon  
                                      1:30 p.m. to 4:30 p.m.  
                                      (amendments may be made by the Board  
                                      at the hearing)
3.     Assigned Sittings:           Presenters will be heard commencing  
                                      at 1:30 p.m. and at 7:00 p.m.,  
                                      Monday, October 12, 2004, if  
                                      necessary.
4.     Opening Statements by Board Counsel, by Counsel for MPI  
          and other Counsel or representatives of registered  
          intervenors.
5.     (a)     MPI to file their application and supporting  
                  evidence.  
  
          (b)     MPI to introduce witnesses. Board Counsel and  
                  intervenors to cross-examine the Corporation's  
                  witnesses (order to be determined).
6.     (a)     Leading of testimony by witnesses for  
                  intervenors, if any, will be in alphabetical  
                  order by name of Intervenors and updated as  
                  necessary.



- (b) Witnesses to be available for cross-examination by all parties following each presentation.
7. All interrogatories are to be filed and responded to using the prefixes as assigned by the Board when intervenors are registered (set out in the body of the Order). The party requesting information is to use firstly their prefix followed by the prefix of the party being asked e.g. PUB/MPI, etc. Interrogatories are to be numbered sequentially through 1st and 2nd rounds.
  8. All pre-filed evidentiary material to be filed at the commencement of the hearing by Board Counsel using assigned prefixes.
  9. All witnesses to highlight their evidence.
  10. All witnesses to be sworn or affirmed.
  11. Daily transcripts will be available. Parties to make arrangements with the Reporter. Transcripts can be found at [www.tscript.com](http://www.tscript.com) at no charge.
  12. It is the Board's request that all motions be dealt with pursuant to the Board's Timetable.
  13. Board Order No. 163/87 (available at the Board's office) dealing with the Awarding of Costs will apply to all matters before the Board.
  14. The Board indicates its willingness to be available for any problems that may arise during the exchange of information at any time, such time to be arranged through Board Counsel.
  15. ONLY five (5) copies of material are to be submitted to the Board's offices and five (5) copies are to be submitted to Board Counsel at the following address: Attention: Walter Saranchuk, Q.C., Pitblado, 2500 - 360 Main Street, Winnipeg, MB R3C 4H6
  16. Except for all material required to be filed by MPI and the evidence of parties, electronic copies are acceptable where available and the Board's e-mail address is [publicutilities@gov.mb.ca](mailto:publicutilities@gov.mb.ca)