

M A N I T O B A) Order No. 109/05
)
THE PUBLIC UTILITIES BOARD ACT) July 11, 2005

BEFORE: E. Jorgensen, Chair
D. Côté, Member
L. Evans, 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, 2006
AND THE APPROVAL OF PARTIES APPLYING FOR
INTERVENOR STATUS**

The Public Utilities Board of Manitoba (the "Board") held a Pre-Hearing Conference (PHC) at its offices in Winnipeg, Manitoba on Tuesday, July 5, 2005 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, 2006; 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 20, 2005, - 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.

The following parties applied for intervenor status:

1. 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 5, 2005);
2. Coalition of Manitoba Motorcycle Groups (CMMG), represented in person at the PHC by its counsel, Mr. Raymond Oakes (Intervenor Request Form received June 30, 2005);
3. Manitoba Bar Association (MBA) represented in person at the PHC by its counsel, Mr. Robert Dawson (Intervenor Request Form received July 4, 2005);
4. Manitoba Used Car Dealers Association (MUCDA) represented in person at the PHC by Mr. Nick Roberts (Intervenor Request Form received June 15, 2005);
5. Insurance Brokers Association of Manitoba (IBAM), telephone call to Board office from Ms. Margaret Scurfield; and

6. Canadian Automobile Association Manitoba (CAA), filed an Intervenor Request Form on July 6, 2005 but was not represented at the PHC.

Ms. M. McLaren, President, Corporate Insurance Operations, Mr. K. M. McCulloch, General Counsel, Mr. Barry Galenzoski, Vice-President of Finance, Mr. Don Palmer, Director of Actuarial Services, and Mr. Tom Strutt, Senior Solicitor attended the PHC for MPI.

APPLICATIONS FOR INTERVENOR STATUS

1. **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:

- a) to determine whether the rates charged by MPI are just and reasonable and whether the projected costs are prudent and reasonable;
- b) to address issues related to the appropriate level of the Rate Stabilization Reserve and the impact that level will have on rates;
- c) to address issues related to loss prevention including road safety and auto theft;
- d) to consider issues related to PIPP, IRI and the Barbara Addie Report;

- e) to address the impact of the DDVL merger;
- f) to address investment performance;
- g) to consider the ramifications of Board Order 97/05 (claim cost attribution methodology); and
- h) to address the reasonableness of corporate expenditures.

CAC/MSOS indicated it will appear throughout the hearing, participate in the testing of evidence, and present final argument. CAC/MSOS stated it will likely call a witness on the matter of the appropriate level of reserves and also, while less certain, on matters related to the performance of the investment fund and the PIPP review. CAC/MSOS advised it will be seeking a cost award. Due to scheduling issues, CAC/MSOS could not confirm their position on a witness at the PHC and accordingly, did not provide a budget. CAC/MSOS simply noted that there are more issues related to MPI's 2006 Rate application and accordingly, the budget may be higher than last year.

MPI advised that it did not oppose the granting of intervenor status to CAC/MSOS but did speak to the issue of intervenor funding which will be addressed later in this Order.

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

2. Coalition of Manitoba Motorcycle Groups

CMMG indicated its purpose for intervention is to assist the Board in testing MPI's forecasts and rate setting methodology including MPI's actuarial assumptions, formulas and credibility weighting factors.

CMMG reported that it will appear throughout the hearing, test the evidence, and present final argument. CMMG indicated that it does not intend to call a witness, but will use consulting services.

CMMG advised it will seek an award of costs, and proposed a budget of \$35,000.00, inclusive of costs for the advisory services of approximately \$18,600.

MPI did not oppose the granting of intervenor status to CMMG.

The Board will grant intervenor status to CMMG.

3. Manitoba Bar Association

By its Intervenor Request Form and through its counsel, Mr. Dawson, MBA stated MBA's 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" and more specifically: to test MPI's management of PIPP costs and the MPI's review of PIPP as reflected in the report filed by MPI. To a lesser extent MBA plans to cover MPI's experience with the Autopac Inquiry Appeals Commissions and experiences related to personal injury claims.

MBA advised that it is uncertain as to whether it will call a witness, but before doing so will consult with Counsel for CAC/MSOS to determine any common interests and will advise the Board.

MBA indicated that it intends to collaborate and will co-operate fully with CAC/MSOS, with a view to minimizing duplication and reduce regulatory costs related to their intervention wherever possible.

MBA provided a budget, exclusive of a possible witness cost, totalling \$22,401.00.

MPI did not object to the granting of intervenor status to MBA.

The Board will grant MBA intervenor status, with the provision that MBA confirm its intention to call a witness and provide any amended budget as soon as possible.

4. Manitoba Used Car Dealers Association

Mr. Roberts indicated MUCDA's plans to review MPI's application as it applies to Dealer Plates only. 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 \$3,500.00.

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

The Board will grant intervenor status to MUCDA but cautions MUCDA to review carefully the Board's criteria for an award of cost particularly the requirement to demonstrate financial need.

5. Insurance Brokers Association of Manitoba

The Chair advised that Ms. Scurfield of IBAM called the Board's office to advise that they would be unable to attend the PHC due to weather related matters but their interest in the MPI Application continues.

MPI advised that on the basis that IBAM's intention is consistent with prior years MPI does not object to the granting of intervenor status to IBAM.

The Board will grant intervenor status to IBAM and will request IBAM to submit its Intervenor Request Form with a copy to MPI in due course.

6. Canadian Automobile Association of Manitoba

Following the PHC the Board received by FAX an Intervenor Request Form filed by CAA. MPI was forwarded a copy of the request for intervenor status of CAA.

In its Intervenor Request Form CAA advised the Board that it intended to participate to ensure fair and properly priced automotive insurance rates for their 170,000 members and for motorists across the province. They indicated that they would pay particular attention to the MPI Immobilizer Incentive Program in addition to rate levels. CAA intends to appear throughout the hearing, participate in the testing of evidence and present final argument. CAA will not be applying for costs.

Having heard no objection from MPI, the Board will grant intervenor status to CAA.

MPI sought some guidance from the Board on what they believe are escalating intervenor costs. MPI noted that a Special Hearing on Loss Transfer was just recently held with a cost greater than \$60,000 and while final budgets have not yet been submitted, MPI anticipated that the issues for the upcoming general rate application proceedings will be much narrower and consequently, at lower intervenor funding levels.

MBA reminded the Board that costs are a matter for the close of proceedings. Intervenors are aware that intervenor funding forms part of MPI's cost of service and is paid for by the ratepayers. Intervenors must and do balance

the cost of their intervention together with the public interest. To this extent Counsel for MBA has reduced its market hourly fees to the extent possible recognizing the public service characteristics of their intervention.

Other intervenors agreed with MBA's remarks also noting that there are some significant issues being raised by the MPI Application requiring some scrutiny. The Board was reminded of the struggle intervenors have in engaging the best people available to assist them due to the risk of cost awards and any expenditure less than market fee. All intervenors agreed to co-operate to enhance regulatory efficiency.

Board Comments

Regulatory efficiency is paramount and all efforts should be made to keep such costs at level no higher than that needed for the Board to review the reasonableness of MPI's Application.

While the awarding of costs is a post-hearing consideration in the Board's view it is preferable to provide the guidance sought by MPI which would assist all participants. As in the past the Board will expect to see a high degree of co-operation amongst intervenors and to arrive at a determination of interests early in the process to avoid any duplication of areas covered in the information request process. Further, and to the extent possible, the Board again makes its staff and Counsel available to intervenors.

The Board is pleased to note the special consideration being given to the level of hourly rates charged by legal counsel and as noted in other proceedings the tariff of fees should not exceed the lesser of the rates paid by the Board to its advisors and counsel and the fees normally charged by the counsel or advisor in the normal course of business.

The Board is hopeful that with the appropriate and clear division of labour, it may not be necessary for Intervenor counsel to appear throughout the proceeding on the basis that daily transcripts are provided at no charge on line at the Board's website.

TIMETABLE

A proposed timetable was submitted by MPI to known participants of past proceedings which included all parties of this PHC. The attached timetable was agreed to by all parties. CMMG and MUCDA who share the same advisors sought some extension in the date required to file information requests of MPI and CAC/MSOS requested an extension of the date required to file intervenor evidence.

MPI had no objection to the amendments sought by CAC/MSOS which has been incorporated in the attached Timetable. Further, MPI agreed to accommodate on a best efforts basis, CMMG and MUCDA request on the basis that there is strict adherence to the filing date by other intervenors. Other intervenors accepted this undertaking. CMMG also agreed to the extent possible to include its "what if" requests in the first round of information requests.

The Board understands that the timing of these hearings often requires MPI staff to work through the summer period to provide full and complete responses to information requests. The Board appreciates MPI's efforts in this regard.

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) Consumers' Association of Canada
(Manitoba) Inc./Manitoba Society of Seniors;
 - b) Coalition of Manitoba Motorcycle Groups;
 - c) Manitoba Bar Association;
 - d) Manitoba Used Car Dealers Association;
 - e) Insurance Brokers Association of Manitoba;
and

f) Canadian Automobile Association Manitoba.

THE PUBLIC UTILITIES BOARD

"ERIC JORGENSEN"

Chair

"G. O. BARRON"

Secretary

Certified a true copy of
Order No. 109/05 issued by
The Public
Utilities Board

Secretary

SCHEDULE "A"

MANITOBA PUBLIC INSURANCE

**PROPOSED TIMETABLE
2006 RATE APPLICATION**

ITEM	2005 DATES	DAY OF WEEK	ELAPSED WORKING DAYS
1. Application filed and served	June 24	Friday	0
2. Notice of Public hearing to be published	June 25	Saturday	1
3a) Pre-hearing Conference b) Intervenors complete Registration c) Settle Hearing Procedure and exchange of information timetable d) Discuss possibility of joint intervention	July 5	Tuesday	5
4. Board to circulate list of Intervenors, complete timetable to Intervenors and applicant	July 8	Friday	8
5. Last day to file as an	July 8	Friday	8

intervenor			
6. MPI to be in receipt of first round information requests	July 15	Friday	13
7. MPI to provide response to first round information requests	August 9	Tuesday	29
8. MPI to be in receipt of second round information requests	August 22	Monday	38
9. MPI to publish reminder notice and any amendments to application	August 27	Saturday	43
10a) MPI to file responses to second round information requests b) MPI to file and serve any further amendments to application, if required	September 2	Friday	48
11a) Intervenors to file pre-filed testimony to all parties b) Parties	September 9	Friday	52

to file any motions			
12. Intervenors to be in receipt of information requests from all parties	September 16	Friday	57
13. Board to hear all motions	September 19	Monday	58
14a) Board decision on motions, meeting among Counsel, if required b) MPI to file rebuttal evidence c) Intervenors to provide responses to all information requests	September 23	Friday	62
15. Hearing Days	October 3-6 and October 11-14 and continuing as necessary	Monday	68

SCHEDULE "B"

**PROCEDURES TO BE FOLLOWED AT THE
MANITOBA PUBLIC INSURANCE CORPORATION
2006 INSURANCE RATE HEARING**

1. Hearing and Rural Meetings:
 - a) Winnipeg hearing will be held at the Board's office, 4th floor, 330 Portage Avenue, Winnipeg, commencing on October 3-6, 2005 and October 11-14, 2005 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 3, 2005, 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.pub.gov.mb.ca 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 as previously arranged 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