M A N I T O B A	Order No. 43/11
THE PUBLIC UTILITIES BOARD ACT	
THE MANITOBA PUBLIC INSURANCE ACT	
THE CROWN CORPORATIONS PUBLIC REVIEW AND ACCOUNTABILITY ACT	March 31, 2011

Before: Graham Lane, CA, Chairman
Len Evans, LLD , Member

MANITOBA PUBLIC INSURANCE: REVIEW AND VARY ORDER 122/10

Background

On December 8, 2010 the Public Utilities Board (Board) issued Order No. 122/10 (Order) with respect to Manitoba Public Insurance Corporation's (Corporation or MPI) General Rate Application (GRA) for rates and premiums for compulsory vehicle insurance, driver insurance premiums and vehicle premium discounts effective March 1, 2011.

Pursuant to the Order, the Board stated that:

> "*The Board hereby orders that a rebate of 10% of 2009/10 vehicle premiums shall be issued by MPI through the issuance of cheques to ratepayers*."
>
> and that:
>
> "*The rebate shall be issued, however, only after production to the Board of the following on or before April 15, 2011:*
>
> - *MPI's external actuary's reviews as at October 31, 2010 and February 28, 2011;*
> - *MPI's unaudited 2010/11 Basic and Corporate financial results, reviewed by MPI's auditor and to be filed with the Board in confidence; and*
> - *an assurance from MPI, in writing, that no material changes to the Basic program are anticipated in 2011, which assurance will be based on MPI's discussions with Government (to be filed with the Board in confidence).*
>
> *Following the receipt of this information, the Board will review the data and provide its final decision with respect to the rebate. MPI is not to pay the rebate until it has the Board's final approval, which will not be unduly withheld*."

In the section within the Order reflecting the Board directives, the Board ordered that:

> "*MPI shall issue a 10% rebate of 2009/10 vehicle premiums in 2011, and by no later than May 31, upon production to the Board of further financial information, as detailed herein, and receipt of the Board's further approval*."

On December 13, 2010, MPI filed with the Board some additional information, relating to a variety of aspects of the GRA, including advice that there were three changes to the revised pro forma financial statements as a result of the Order, compared to the statements previously filed with the Board. The three changes related to the Rate Stabilization Reserve (RSR) balance, investment income and the proposed Cost Allocation Methodology.

On January 26, 2011, the Board received from the Corporation advice that if, following on the filing of further documents by April 15, 2011, the Board could confirm the rebate by April 20, 2011, the Corporation anticipated no difficulty issuing the rebate cheques by May 31, 2011 (in accordance with the Order). Given that the proposed schedule was very “tight”, the Board requested of the Corporation, on January 27, 2011, that the Corporation file the required and/or related information ahead of April 15, 2011, as the same was available.

On March 18, 2011, MPI advised the Board that it was prepared to file three pieces of information in advance of April 15, 2011, namely the Basic AutoPac-Appointed Actuary's Report as at October 31, 2010, (Actuary’s Report) prepared by Mr. Jim Christie of Ernst & Young , preliminary draft Fourth Quarter Financial Statements (Financial Statements), and a recent government press release announcing enhancements to PIPP coverage. MPI asked that all three documents be filed in confidence. The government press release was made public later in the day on March 18, 2011, such that the Corporation’s request for an early and confidential filing then related only to the Actuary's Report and Financial Statements.

The government press release provided that MPI was expecting that the value of its outstanding claims liability could be reduced by approximately $250 million, or 20%, and as well that PIPP benefits for the catastrophically injured would be enhanced, at an expected cost of about $40 million.

On March 24, 2011, the Board advised the Corporation that it would accept the Financial Statements in confidence, but required that the Actuary’s Report be filed on the public record. Subsequently, and also on March 24, 2011, MPI provided the Actuary’s Report and its comments on that report on the record, together with the Financial Statements which were filed in confidence.

The Board was advised that the Financial Statements had yet to be tabled in the Legislature, and that the specific content of the Financial Statements would be subject to further transactions yet to be processed however, significant changes to the “numbers” were not anticipated.

On March 30, 2011, the Board held a one-day special hearing to receive submissions from the Corporation and from Interveners with respect to the rebate as provided in the Order.

This Order reflects the Board's decision with respect to the rebate, following the special hearing.

The Board will issue a second Order related to the rebate and this Order as quickly as possible following the tabling in the Legislature of MPI’s financial statements for 2010/11 (that expected to occur in April), such that interveners will be able to review the said statements ahead of the actual payment of the rebate. The second Order will also reflect the reasons for the Board's decision to “up the rebate”.

Opening Comments

At the special hearing of March 30, 2011, the Board made opening comments to provide context for the hearing, including comments with respect to the Board's review of MPI’s March 24, 2011 filings.

The Board noted that as at December 13, 2010, MPI's anticipated RSR Balance as of February 28, 2011 was $203.1 million, and that if MPI did not act on the Board’s recommendation (included in the Order and reiterated in Order 145/10) to set aside approximately $20 million to establish a Road Safety Fund to be used to undertake new road safety initiatives, to be developed through MPI”s involvement and cooperation with interested parties including interveners, the RSR would then be expected to be approximately $49 million over the Board’s maximum RSR range of $154 million (unless the Board was to vary its rebate direction).

The Board advised that it was mindful at that time of the fact that MPI's forecasts were based, in part, upon forecasts of claims incurred and assumptions related to year end 2010/11 Unpaid Claims, and that the quantum of net income to be reported for 2010/11 and the RSR balance as of February 28, 2011 could be affected by a review of claims development and related matters as of October 31, 2010 (the review being conducted by MPI’s external actuary). The Board noted the importance of, and reliance upon, each of the balance of the RSR, the actuarial reviews, action taken with respect to the same, and MPI’s forecasts.

The Board stated that past rebates have been driven, in large part, by excess RSR, and are usually largely related to previously inaccurate forecasts of incurred claims. While ratepayers typically receive rebates warmly, there are four difficulties associated with the payment of rebates, those relating to intergenerational inequity and the concept of fair and reasonable rates:

1) Revisions between forecasted and actual incurred claims are often material;

2) Rebates are expensive to pay (administrative, postage, and, potentially, an impact on investment revenue);

3) Rebates can affect RSR balances and trends; and

4) As the re-evaluation of prior years' incurred claims involves more than one fiscal insurance year, the rebates that are paid out do not always go to, particularly with respect to the amounts paid, the policyholders who paid what has later been judged to have been too much.

The Board noted that the Actuary's Report as of October 31, 2010, had as in prior reports, reflected excess Unpaid Claims carried in MPI's books, and that, this time, the quantum of excess was reported to be over $200 million (even higher than previously reported excesses in prior years).

The Board noted the following historical *Incurred But Not Reported* (IBNR) adjustments, which have had a significant impact on the accuracy of the net claims incurred forecasts provided at a succession of annual fall rate hearings:

IBNR Adjustments ($ Millions)

Fiscal Year	Favourable Net Claims Development
2005	$22.4
2006	$38.2
2007	$69.5
2008	$58.3
2009	$137.6
2010	$87.9
2011	$263.6
TOTAL	**$677.5**

The Board also stated that with respect to annual claims incurred, also a major element of MPI's costs as reported in its annual reports, and a major contributor to the financial picture of MPI that the Board relies upon when setting rates and deciding on rebates, there has also been a long series of annual adjustments, all reducing claims incurred with respect to prior years' claims incurred, as follows:

Claims Incurred ($ Millions)

Fiscal Year	Applied For Forecast	Actual	Difference	
			$	**%**
2005	$505.1	$457.2	($47.9)	-9.5%
2006	$539.5	$520.9	($18.6)	-3.4%
2007	$556.0	$534.9	($21.1)	-3.8%
2008	$582.4	$525.3	($57.1)	-9.8%
2009	$615.9	$519.5	($96.3)	-15.6%
2010	$624.9	$515.8	($109.1)	-17.5%
TOTAL			**($350.2)**	**-10.2%**

For 2010/11, the Board noted that, based on the Actuary's Report, it is apparent that the difference between forecast and actual will be the highest yet, in excess of $200 million.

With respect to the net income of MPI, the Board noted the following variances between applied for net income, on which rates are established, and actual net income as follows:

Net Income Approved Forecast Vs. Actual ($Millions)

Fiscal Year	**Approved Forecast**	**Actual**	**$ Difference**
2005	($1.7)	$59.9	$61.6
2006	($5.7)	$88.6	$94.3
2007	$0.4	$61.7	$61.3
2008	$4.6	$84.3	$79.7
2009	$0.6	$7.7	$7.1
2010	($4.2)	$89.8	$94.0
TOTAL	**($6.0)**	**$392.0**	**$398.0**

The Board noted that the Actuary's Report as at October 31, 2010 contained about twice the amount of commentary with respect to the details of the analysis for Accident Benefits, Weekly Indemnity and Accident Benefits – Other indexed, as did the prior year's report (dated October 31, 2009), and that the extra commentary discusses (a) a shift in the new valuation to more direct reliance on the latest experience in the assumption setting process, (b) the reasons for the shift, and, (c) the impact of changes in reliance on different methodologies.

The Board then provided some of its specific understandings arising out of the Actuary's Report as at October 31, 2010, those being that:

1. The overall net favourable runoff reported by Mr. Christie of Ernst & Young, the external actuary, of about $263 million, based on the eight month period ending October 31, 2010, is attributed by the actuary to arise primarily from excess provisions for Accident

Benefits Weekly Indemnity of $74 million and excess provisions for Accident Benefits Other, indexed, of $182 million.

2. For both of these two lines of major business, the actuary has made important changes in both the selection of loss development factor assumptions and in the choice of methodologies from which the final results are selected, not all “pulling” in the same direction. The Board understands that the choice of assumptions is primarily responsible for the downward movement, and is partially offset by the choice of methodologies. This is discussed in detail for the two critical lines of PIPP business in Sections 6.1.6 and 6.1.8 of the E&Y Actuary’s Report.

3. As discussed in the Actuary’s Report narrative, the change in loss development factor assumptions came from placing heavier reliance in this latest valuation on the experience of the last five calendar years, during which time MPI has been using a tabular reserve system for setting individual case reserves on claims more than three years old. The Board suggested that one can think of a tabular reserve factor as being like an annuity factor, designed to capture the time value of money, morbidity, mortality and, where appropriate, inflation indexation.

4. The growing reliance by the actuary on recent experience appears to have been occurring gradually, as seen in recent prior valuations, but it appears the shift in selection of assumptions in Ernst & Young’s latest valuation is a more significant shift than previously, in the apparent belief that after five years of reasonably stable experience, that being the view of the actuary, the recent data has demonstrated reliability.

5. This year’s Actuary’s Report has significantly increased the disclosure and discussion surrounding the selections and considerations for these two key lines of PIPP business. Although the report is an Ernst & Young report, we understand that the underlying analysis originates with MPI, and is reviewed and perhaps altered, and eventually approved by MPI’s external appointed actuary, Mr. Christie of Ernst & Young.

6. This Board is very much interested in learning from MPI if these major changes in assumptions and methodologies originated with MPI or Ernst & Young, which the Board has been unable to discern from the report.

7. The favourable runoff is widespread by accident year, but (not surprisingly) is more concentrated in the more recent and, one could well say, less “mature” years. For one to get a sense of this for all lines combined, on a net of reinsurance basis, the Board suggests considering Exhibit 3, Sheet 17 in the Ernst & Young report, comparing the estimated ultimate cost of claims between the February 2010 valuation (column c) and the focus of this report, the October 2010 valuation (column b).

The Board further stated its understanding that it is remains possible that there is still some “conservatism” left in the estimates for these two key lines of PIPP business (in this latest valuation), apart from any explicit provision for adverse deviations, based on three factors:

a) The selection of incurred loss development factors over intervals up to ten years still tend to be above the level indicated by the experience of the five latest calendar years, but much less so than previously in several cases;

b) The selection of paid and incurred tail loss development factors are driven by a detailed 2005 analysis of tabular reserving experience, which called for a 6% loading for incurred development beyond ten years, which seems at least somewhat inconsistent with the experience now accumulated over the past five calendar years; and

c) For the three most recent accident years, which are not subject to tabular reserving, Ernst & Young and MPI have placed some reliance on a Paid Bornhuetter-Ferguson methodology (which, in effect, determines an estimated ultimate amount based on an expected loss ratio, paid loss development assumptions, and reported paid losses). The Board indicated its understanding that this approach “downplays” the information contained in the case reserves for these years. For the Board, unless paid loss experience is exceptionally stable, using paid development models for immature accident years on long tailed lines of business is, the Board suspects, very challenging. (This in large part because the resulting development factors are so large, and therefore the results are highly leveraged.) The Board suggested that one could gain a sense of the results from the different methodologies applied, and referred the parties to columns 2 to 6, and the selected estimates, column 7, for these two key PIPP lines from Exhibit 4, Sheets 5 and 6 in the Actuary’s Report.

The Board also noted that, excluding the rebate it will direct be paid in 2011, since Board Order 151/00 (issued in 2000), the Board has directed MPI to pay rebates totaling $261 million.

The Board asked that the parties provide their perspectives and positions regarding the quantum of the rebate to be ordered to be paid in 2011, and specifically requested that MPI, in its submission, correct any factual misstatements or misunderstandings that the Board may have made or indicated in its opening comments.

MPI's Position

MPI in its submission did not correct any statements contained within the Board's opening comments, and stated expressly that the figures referenced by the Board appeared to be correct, subject to check.

With respect to the quantum of the rebate, MPI suggested there be no change to the 10% rebate provided within Order 122/10. MPI stated that as its rates are set on a prospective basis, considering many factors, rates will not always match costs exactly. MPI also asserted that it has not overcharged ratepayers, but rather, when PIPP was introduced in 1994, it was a new program and it was difficult for MPI to know what amount would be required for particular claims.

Now, seventeen years into the PIPP program, MPI advised it has more data available.

MPI also stated that the rebate direction of Order 122/10 had a retrospective basis (2009/10 financial statements), and was a portion of the 12.9% rebate applied for by MPI, the reduction being on the basis of the Board's concern that MPI's strong financial position could deteriorate.

MPI confirmed that while the new financial information presented to the Board has not been tested, it does indicate a strong MPI financial position, and, as such, the Corporation understood that it would be tempting to increase the rebate based on its 2010/11 draft financial statements.

Nonetheless, MPI recommended that the Board not grant a rebate based on partial information that is unaudited and yet to be approved by either the Legislature or MPI's Board of Directors. Rather, MPI requested that an increased rebate be issued only after a full inquiry, in the context of the upcoming GRA proceeding, as has been done in past rate applications and wherein the Board can consider details.

MPI suggested that the more information the Board would have the better, as opposed to the Board making a decision following a short special hearing, a decision which MPI indicated it would characterize as both "absurd" and "not prudent". MPI referenced Board Order 151/00, wherein it stated the Board had indicated that “excesses” should be dealt with in a reasoned fashion, perhaps over a period of years.

MPI also stated that the material question, from its perspective, was what it would do with the excess funds, and, in particular, by what method the funds would be returned to Manitobans (by rebate cheque or by programs).

To give due consideration to these details, MPI argued, the Board should endorse the 10% rebate provided in Order 122/10 and proceed with the extensive GRA process before deciding upon an increased rebate amount.

MPI also stated that it recognized the need to address its forecasting, has advised its actuary accordingly, and that forecasting will be an issue that will be addressed in the upcoming GRA.

Interveners' Positions

CAC/MSOS

Consumers’ Association of Canada (Manitoba) Inc./ Manitoba Society of Seniors (CAC/MSOS) characterized the new financial information as the "end product of ongoing overcharging" and noted the profound issues of intergenerational inequity that will accompany any rebate. CAC/MSOS advocated for a rebate of all funds that exceed the Board ordered maximum RSR balance (that being $154 million as at fiscal year-end 2010/11).

CAC/MSOS stated that there were two key questions for the Board to consider: is the external actuary's adjustment credible? And if so, what should be done?

With respect to the first question, CAC/MSOS noted that the external actuary's adjustment was directionally consistent with prior adjustments, with the original estimate of the external actuary in 2005, when a new reserving method was implemented by MPI, and also with the independent verification of the Actuarial Specialist of MPI's external auditor, KPMG, as reflected in evidence provided at the GRA held in the fall of 2010.

With respect to the second question, CAC/MSOS reported that it has considered the spirit and intent of Order 122/10, as well as Order 145/10 and the evidence now available to interveners. Based on all of those factors, CAC/MSOS reviewed five options it had considered, for the Board’s consideration, with respect to the rebate, and that, in the end, it was advocating that the amount of the rebate to be paid in 2011 should be an amount designed to rebate the total sum above the Board's target RSR range of $154 million as at February 28, 2011 to ratepayers, and as soon as possible.

CAC/MSOS cited five reasons in support of its submission, those being:

- MPI has been aware since 2005 of the possibility of material excess reserves in Accident Benefits - Weekly Indemnity and Accident Benefits - Other;

- Following the tabling of MPI’s 2010/11 Financial Statements, expected to occur on or about April 8, 2011, there will be substantial certainty as to the actual quantum of the amount in excess of required reserves;

- With the certainty that there are well over $200 million in excess reserves, there is no reason to delay the excess be returned to those who paid excess premiums;

- The longer the delay, the greater the risk that those who overpaid especially seniors will not benefit; and

- The quicker the overpayment is returned to consumers, the smaller the temptation for MPI to dissipate the excess reserves.

CAC/MSOS further stated that to order a rebate, as it has suggested, would not be a departure from past approaches to rate rebates, because Order 122/10 “left open” the evidentiary record; the Board has received updated information that suggests a material change in circumstances; MPI has confirmed a material change in circumstances; and, MPI’s audited financial statements should be available before the final rebate is paid.

CMMG

Coalition of Manitoba Motorcycle Groups (CMMG) stated that the Board has to be able to rely on financial information provided to it by MPI, questioned the accuracy and completeness of that information and noted that the Corporation's provision for adverse deviation has almost tripled since 2001 (from approximately $89 million to approximately $238 million).

CMMG asserted that MPI is attempting to consistently and deliberately increase its reserves, and requested that the Board direct payment of the “whole” surplus over the Board ordered RSR limit of $154 million, while recognizing, unfortunately, that a portion of the funds to be rebated is unlikely to reach ratepayers who contributed to the surplus.

CAA

Canadian Automobile Association (Manitoba Division) (CAA) supported the points made by the Board (in its opening comments), and, as well, the submissions of CAC/MSOS and CMMG, and stated that the payment of an increased rebate is important for the credibility of the rate-setting process.

MUCDA

Manitoba Used Car Dealers Association (MUCDA) also supported the points made by the Board in its opening comments. MUCDA asserted that MPI has been overcharging ratepayers for years, and should not be allowed to retain funds to which it was not entitled in the first instance.

Board Findings

The Board notes that the excess reserves the Corporation is now enjoying are “driven” in part by improvements to its forecasting approach, and acknowledges that both the new recognition of the extent of the “excess” and the improvements in the actuarially derived estimates of required Unpaid Claims liabilities are positive developments.

That said, the Board is disappointed to have to admonish MPI for (a) not informing the Board much earlier of its knowledge of the indications of an impending material change to its Unpaid Claims liability as the result of the Actuary’s Report, (b) failing to advise the Board of further retroactive benefit enhancements when MPI became aware of same, (c) failing to file the Actuary’s Report it received on or about February 3, 2011 with the Board until March 24, 2011, and, (d) failing to provide the Board the Corporation’s expectations of a materially different net income result for fiscal 2010/11 until March 24, 2011.

Effective regulation can only be achieved in an atmosphere of openness and transparency involving, at least, the regulated entity and its regulator. Failure to achieve that “atmosphere” is not in the public interest, and the Board expects and looks forward to a changed approach by MPI to its meeting its responsibilities with respect to that “atmosphere”. Both MPI and this Board are mandated to operate in the public interest, and MPI itself was established to work for the benefit of its insureds, Manitobans.

The Board also notes that the findings and implications of the E&Y Actuary's Report are unrelated to the 10% rebate conditionally provided in Order 122/10. As such, the Board has considered directing an additional or "new" rebate, over and above the 10% rebate.

The Board does not accept the approach to the discovery of “excess” proposed by MPI at the special hearing of March 30, 2011, contrarily, the Board understands and has empathy for the sentiments and recommendations of the interveners which provided submissions on that day. If MPI has “new plans” that would involve the investment of “policyholder” generated premiums, such would best be presented and tested at the next and future annual GRA hearings, with the outcome to either affect or not affect premium levels as may be warranted.

In considering whether, in essence, to increase the amount of the rebate provided in Order 122/10, the Board was mindful of a number of factors including:

1) MPI will likely have to sell securities to fund an increased rebate, which, while associated with some risk, may also "trigger" new income, perhaps derived from the balance in AOCI (Accumulated Other Comprehensive Income), while decreasing the overall level of its investment portfolio;

2) There is a possibility (though not expected to be material) that MPI's audited financial statements, when tabled in the Legislature, may differ (other than recognizing the altered rebate) from the unaudited draft statements provided in confidence to the Board; and

3) The intergenerational inequities inherent in the payment of rebates driven by actuarial adjustments only intensify with the passage of time. In other words, if a greater rebate is not paid "now", there will be greater inequities a year from now than exist today.

On the basis of all of the foregoing, and for reasons to be set out in a second order to be issued after the finalization and tabling of MPI's audited financial statements, the Board has determined that a total 45% rebate (which includes the initial conditional 10% rebate of Order 122/10) is appropriate, given all of the circumstances.

The Board anticipates that, after payment of the approved revised rebate, the RSR balance (as perceived by the Board) will still remain above the Board's maximum target range of $154 million, even taking into account a notional provision of $20 million for the Board recommended Road Safety fund. (The Board notes and appreciates MPI's indication, at the special hearing of March 30, 2011, that the Corporation does intend to consult widely towards developing enhanced road safety measures.)

The Board also indicates its expectation of an Unpaid Claims liability as at February 28, 2011, which will include adequate IBNR and Provisions for Adverse Deviation, that will adequately provide for the Corporation's claim liabilities. Finally, the Board notes the additional "cushion" expected from the balance in AOCI, and the security which arises from MPI being a monopoly owned by the Province that operates a mandatory program with no risk of loss of policyholders to competition.

Board decisions may be appealed in accordance with the provisions of Section 58 of *The Public Utilities Board Act*, or reviewed in accordance with section 36 of the Board's Rules of Practice and Procedure (Rules). The Board's Rules may be viewed on the Board's website, www.pub.gov.mb.ca

IT IS THEREFORE ORDERED THAT:

1. Order 122/10 is hereby varied, such that MPI shall issue a 45% rebate of 2009/10 vehicle premiums in 2011, and by no later than May 31, 2011, upon production to the Board of its audited 2010/11 financial statements.

THE PUBLIC UTILITIES BOARD

"GRAHAM LANE, C.A."
Chairman

"HOLLIS SINGH"
Secretary

Certified a true copy of Order No. 43/11 issued by
The Public Utilities Board

Secretary