

MANITOBA

Order No. 77/13

THE PUBLIC UTILITIES BOARD ACT

THE MANITOBA PUBLIC INSURANCE ACT

**THE CROWN CORPORATIONS PUBLIC
REVIEW AND ACCOUNTABILITY ACT**

July 15, 2013

Before: Régis Gosselin, B.A., C.G.A., M.B.A., Chair
Karen Botting, B.A., B.Ed., M.Ed., Member, Acting Chair
Anita Neville, B.A. Hons., Member

**MANITOBA PUBLIC INSURANCE CORPORATION
PROCEDURAL ORDER
TIMETABLE FOR A PUBLIC HEARING
(2014/15 RATES AND PREMIUMS FOR COMPULSORY DRIVER
AND VEHICLE INSURANCE)
and APPROVAL OF INTERVENERS**

Summary

By this Order, the Public Utilities Board of Manitoba (Board) accepts interveners to the Board's public hearing of the application of Manitoba Public Insurance Corporation (MPI or Corporation) for approval of base rates and premiums for compulsory driver and vehicle insurance (the new rates are to take effect March 1, 2014). This Order also provides interveners with direction pertaining to the proceeding, and establishes a timetable for the hearing.

Introduction

The Board held a Pre-Hearing Conference (PHC) at its offices in Winnipeg on Friday, June 28, 2013, for the purposes of:

- (a) considering applications from prospective interveners and matters related thereto; and
- (b) establishing a timetable for the hearing.

This Order arises from the PHC.

The following exhibits were entered into the record of the proceeding by Board counsel:

1. Notice of Public Hearing and PHC, dated June 17, 2013;
2. the Board's Rules of Practice and Procedure (Rules); and
3. the hearing timetable.

Parties seeking Intervener status were asked to:

- i. indicate their constituency and interests;
- ii. outline the areas of MPI's application that they intended to test;
- iii. provide their reasons for requesting Intervener status;
- iv. specify their plans to call evidence/witnesses; and

- v. indicate their interest with respect to seeking an award of costs, and, if interest was expressed, to provide a draft budget.

The Board advised prospective interveners that it intends to apply the criteria set out in the Board's Rules in decisions with respect to the awarding of costs, such decisions being at the sole discretion of the Board.

The following parties applied for Intervener status:

1. Consumers' Association of Canada (Manitoba) Inc. (CAC), represented in person at the PHC by its counsel, Ms. Meghan Menzies;
2. Coalition of Manitoba Motorcycle Groups (CMMG), represented in person at the PHC by its counsel, Mr. Raymond Oakes;
3. Canadian Automobile Association Manitoba (CAA), represented in person at the PHC by Ms. Liz Peters; and
4. Bike Winnipeg (BW), represented in person at the PHC by its counsel, Mr. James Benson.

MPI was represented by Ms. Kathy Kalinowsky (Counsel), and Mr. Michael Triggs (Counsel).

Applications for Intervener Status

CAC

CAC advised that it represents the broad consumer perspective and proposes to test all aspects of the rate application with a view to determining whether the proposed rates are just and reasonable, and in particular CAC will ask:

- Is a rate increase of 1.8% on overall Basic Insurance just and reasonable? Is this increase supported by the evidence?

- Is the new Financial Forecasting model adequate? Can stakeholders have confidence in the Corporation's forecasts and forecasting procedures?
- Are the assumptions in the various operating, capital, revenue claims, and investment income forecasts reasonable and statistically supported?
- Have the accounting policy changes impacted the 2014 GRA and will they impact future GRAs? If so, are the account policy changes prudent and consistent with the public interest?
- Is the corporation adequately controlling its costs relating to operations and staffing?
- Based on the Ward Group's benchmarks, what results are required in order to ensure that the corporation is meeting standards that are consistent with the public interest? How will the corporation ensure that these standards are met?
- What are the corporation's most serious risks and how can they be mitigated in a manner which is consistent with the public interest?
- Is the PIPP infrastructure project realizing on the significant savings that it was expected to deliver?
- Have the anticipated benefits of the Business Transformation Office (BTO) been realized?
- Are the corporation's investments in road safety prudent and consistent with the public interest?
- Is the proposed level of reserves associated with the RSR appropriate? and
- Is the development of DCAT consistent with modern risk management practices?

CAC advised that it intends to appear throughout the hearing, to participate in the production of evidence, to participate in the testing of evidence, and present final argument. In particular, CAC advised that it intends to call as an expert witness Mavis Johnson, a road safety specialist, to focus on issues related to road safety and the development, implementation and evaluation of cost effective road safety programs consistent with the mandate of a Crown owned monopoly. CAC has provided to the Board a budget including Ms Johnson's fees.

CAC advised that it will seek a costs award, and provided an intervention budget from \$134,500.00 to \$149,500.00, inclusive of anticipated fees, contingency fees and disbursements.

CAC also requested an increase in the hourly rate payable to its counsel in this matter. Attached to this Order as Schedule "A" is the rate sheet by which Board counsel and counsel for the interveners shall have their rates set, according to years of seniority at the Bar.

CMMG

CMMG, the umbrella group for all organized motorcycle riding groups in Manitoba, advised that it intends to assist the Board in critically evaluating the GRA, testing the evidence and raising issues of concern and interest to the motorcycling public specifically and Manitoba rate payers generally.

CMMG states that although MPI is proposing a rate decrease for the motorcycle class in the application, motorcyclists have been overcharged for almost two decades, and asks that the Board consider those motorcyclists that were forced off the road due to high insurance rates.

CMMG advises that its primary focus will be the rate-making methodologies that relate to the establishment of rates for motorcycles, as well as road safety and loss prevention, particularly with respect to wildlife collision losses.

CMMG will also look for trends in the losses and the forecasted PIPP rate, as well as the Corporation's reserves, and will have questions regarding the Corporation's investment income and expression of concern due to low bond rates. CMMG will also canvass the Corporation's past practices regarding the modelling of changing interest rates upon investment income.

CMMG advised that it intends to appear throughout the hearing, to possibly participate in the production of evidence, to participate in the testing of evidence, and present final argument. In particular, CMMG is attempting to locate a witness that can testify before the Board regarding wildlife collision issues.

CMMG advised that it will seek a costs award, and provided an intervention budget of \$20,850.00 before tax, inclusive of fees and disbursements.

CAA

CAA advised that it intends to participate in the GRA process on a watching brief, for two reasons.

The first reason is for information purposes, given that its membership looks to it for advice and guidance on a variety of automotive, insurance and road safety issues. The second reason is to continue to monitor the overall operations of MPI, ensuring that efficiencies are present so that rates paid are fair and reasonable, and that ratepayers receive a level of service that meets their needs.

CAA advised that it intends to appear throughout the hearing, to possibly participate in the testing of evidence, and present final argument. CAA does not seek any costs award in connection with its watching brief.

BW

BW, which represents just under 800 members, advised that its interest in the GRA process would be strictly regarding matters of road safety. In particular, BW seeks to encourage MPI to effectively message to drivers to change their behaviour so as to make cycling safer on Manitoba roads, which involves an understanding of the psychology and motivation of drivers and how to change their behaviour in sharing the road, and communicating the right message to drivers about how to drive where cyclists are present.

BW advised that the evidence of either Allen Robinson and Brett Robinson (to be called to testify by MPI) or Mavis Johnson (to be called to testify by CAC) may inform the Board with respect to the issues raised.

BW stated that the impact of road safety issues upon Manitoba cyclists is significant and that there is a question of value for rates paid by all motorists, which value can be increased if cycling related accidents can be reduced.

BW advised that it intends to appear throughout the hearing, to participate in the testing of evidence and to present final argument. BW advised that it is not in a position to call a witness with respect to road safety.

BW advised that it would seek a costs award, for \$13,700.00 including fees and disbursements, subject to adjustment at the hourly rate prescribed in the Board's rate sheet, a copy of which is attached hereto as Schedule "A".

MPI Position

MPI accepted the granting of Intervenor status to the applicants save and except for BW, which intervention MPI opposed. The reasons cited by MPI for its opposition to BW's intervention were:

- BW's request for intervener status is very broad and is difficult to relate to the Board's mandate of setting rates;
- BW's application for intervention does not reference rates;
- MPI does not insure bicycles for physical damage, or cyclists for bodily injury, unless a cyclist is involved in a collision with a motor vehicle, in which case the cyclist would be eligible for PIPP benefits;
- A very small number of PIPP claims involve cyclists;
- MPI has collaborated with BW on a recent advertising campaign and hopes to continue to build upon that relationship going forward; and
- BW's request for costs is significant to address one small aspect of the GRA process when compared with costs requests by other interveners who will address a broader scope of issues.

MPI also directed the Board's attention to MacAulay and Sprague, Practice and Procedure Before Administrative Tribunals, relied upon by MPI at last year's Pre-Hearing Conference, wherein it is reflected, with respect to prospective interveners, that:

The degree of participation will be determined by the extent the agency (Board) feels the intervener's participation will assist it in its mandate. Sometimes two or more individuals or groups may bring before the agency (Board) essentially the same expertise or views. In that case the agency (Board) may require that they pool their resources and appear through a single spokesman.....If the person seeking intervener status is not bringing anything of potential use to the agency, or is simply repeating (that) which will already be brought or could be brought to the agency (Board) by the other parties, the agency (Board) should not grant intervener status out of concerns respecting the public (and the parties') interest in efficient and expeditious proceedings.

Board Comments and Decisions

The Chair identified a number of issues that the Board will be considering within the upcoming GRA proceeding, including those related to Dynamic Capital Adequacy Testing, Road Safety, Investments, Financial Forecasting, Interest Rate Forecasting, IFRS and Benchmarking as well as a variety of other issues.

After considering all submissions with respect to intervener applications, the Board will grant intervener status to CAC, CMMG and CAA. The Board will not grant intervener status to BW given that BW seeks to address a very narrow aspect of the overall GRA process, namely cycling safety in the context of the psychology of drivers of motor vehicles. The Board believes that cycling safety is an issue of significant import and does relate to rates, but as presented by BW is too narrow in scope to support an intervention application and the associated costs. Further, it is the Board's view that the issues identified as being of interest to BW could be brought forward and pursued together with one of the other interveners, be it CAC, CMMG or CAA. Moreover, the GRA hearing process is, as always, a public forum and BW is welcome to attend throughout to observe the proceedings and is encouraged to make a presentation to the Board as was done last year.

As always, the Board expects a high degree of co-operation amongst interveners and with Board Counsel, again to avoid duplication and restrain regulatory costs.

Timetable

It was apparent at the PHC that a consensus was reached on a timetable which accommodates all parties.

The final version of the timetable is attached hereto as Schedule "B". Attached hereto as Schedule "C" are the procedures to be followed.

IT IS THEREFORE ORDERED THAT:

1. Schedule B, as attached, shall be the timetable for the orderly exchange of information by the participating parties.
2. Schedule C, as attached, shall apply with respect to the hearing of the MPI Application.
3. Intervenors to the hearing, subject to the filing of updated budgets, shall be:
 - (a) Canadian Automobile Association;
 - (b) Coalition of Manitoba Motorcycles Groups Inc.; and
 - (c) Consumers' Association of Canada (Manitoba) Inc.

THE PUBLIC UTILITIES BOARD

" Karen Botting, B.A., B.Ed., M.Ed."

Acting Chair

"Hollis M. Singh"

Secretary

Certified a true copy of Order No. 77/13 issued by
The Public Utilities Board

Secretary

SCHEDULE "A"

PUBLIC UTILITIES BOARD OF MANITOBA

RATE STRUCTURE

Counsel

- 20 or more years' experience - \$217.00/hour
- 10 to 20 years' experience - \$190.00/hour
- Associates – up to \$190/hour (subject to agreement)
- Understudies* - \$136.00/hour

* For the purpose of this schedule, understudies are professionals in training in anticipation of taking the lead role as the firm's advisor to the Board at some point in the relatively near future, subject to the Board's agreement.

SCHEDULE "B"

ITEM		2013 DATES	DAY OF WEEK
1.	Application filed and served	June 14	Friday
2.	Notice of Public hearing to be published	June 22	Saturday
3. a)	Pre-hearing Conference	June 28	Friday
b)	Interveners complete Registration	June 28	Friday
c)	Settle Hearing Procedure and exchange of information timetable	June 28	Friday
d)	Discuss possibility of joint intervention	June 28	Friday
4. a)	Board to circulate list of Interveners, complete timetable to Interveners and applicant	July 3	Wednesday
b)	Last day to file as an Intervener	July 3	Wednesday
5.	MPI to be in receipt of first round information requests	July 8	Monday
6.	MPI to provide response to first round information requests	August 2	Friday
7.	MPI to be in receipt	August 15	Thursday

	of second round information requests		
8.	MPI to publish reminder notice and any amendments to application	August 24	Saturday
9. a)	MPI to file responses to second round information requests	September 9	Monday
b)	MPI to file and serve any further amendments to application, if required	September 9	Monday
10. a)	Interveners to file pre-filed testimony to all parties	September 11	Wednesday
b)	Parties to file any motions	September 11	Wednesday
11.	Interveners to be in receipt of information requests from all parties	September 16	Monday
12.	Board to hear all motions	September 16	Monday
13.	Interveners to provide responses to all information requests	September 19	Thursday
14.	Board decision on motions, meeting among Counsel, if required	September 19	Thursday
15.	MPI to file rebuttal evidence	September 20	Friday

16. Hearing commences September 24 Tuesday

SCHEDULE "C"
PROCEDURES TO BE FOLLOWED AT THE
MANITOBA PUBLIC INSURANCE CORPORATION
2014 RATE APPLICATION

1. Hearing and Rural Meetings:
 - (a) Winnipeg hearing will be held at the Board's office, 4th Floor, 330 Portage Avenue, Winnipeg, commencing on September 24, 2013 at 9:30 a.m. and continuing thereafter as necessary.
 - (b) Rural Meetings (if necessary) – time, location and place to be identified.
2. Hearing Times Each Day:

9:30 a.m. to 12:00 Noon
1:15 p.m. to 4:00 p.m.
(amendments may be made by the Board at the hearing)
3. Assigned Sittings:

Presenters will be heard commencing at 1:15 p.m. Tuesday, September 25, 2013 and at 7:00 p.m. that day if necessary.
4. Opening Statements by Board Counsel, by Counsel for MPI and other Counsel or representatives of registered interveners.
5.
 - (a) MPI to file their application and supporting evidence.
 - (b) MPI to introduce witnesses. Board Counsel and interveners to cross-examine the Corporation's witnesses (order to be determined).
6.
 - (a) Leading of testimony by witnesses for interveners, if any, will be in alphabetical order by name of interveners 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 interveners 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, e.g. PUB/MPI 1-3, PUB/MPI 2-7.
 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. The Board's Rules of Practice and Procedure (available on the Board's website) 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. Seven (7) paper copies of material are to be submitted to the Board's offices and three (3) copies are to be submitted to Board Counsel at the following address:

Attention: Candace Grammond, Pitblado, 2500 – 360 Main Street, Winnipeg, MB
R3C 4H6.

16. Electronic copies of all material including the evidence of parties, are required to be submitted to the Board's e-mail address: publicutilities@gov.mb.ca. Where schedules or other attachments accompany an electronic file, that filing must be discrete and include only the item and schedules to which each refers. The electronic files shall be named in accordance with their parties prefix as per #7. All electronic filings shall be in Adobe Acrobat format, with protection securities allowing printing, content copying, content copying for accessibility and page extraction.