

**MANITOBA**

Order No.98/14

**THE PUBLIC UTILITIES BOARD ACT**

**THE MANITOBA PUBLIC INSURANCE ACT**

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

August 29, 2014

Before:

Régis Gosselin, B ès Arts, C.G.A., M.B.A., Chair  
Karen Botting, B.A., B.Ed., M.Ed., Vice Chair, Acting Chair  
The Hon. Anita Neville, P.C., B.A. (Hons.), Member  
Susan Proven, P.H.Ec. Member  
Allan Morin, B.A., ICD.D., Member

**MANITOBA PUBLIC INSURANCE CORPORATION:**

**ORDER WITH RESPECT TO MOTION TO COMPEL ANSWERS  
TO FIRST ROUND INFORMATION REQUESTS**

## TABLE OF CONTENTS

Page

1.0	EXECUTIVE SUMMARY .....	4
2.0	BACKGROUND INFORMATION .....	4
3.0	POSITIONS OF THE PARTIES.....	6
<b>3.1</b>	<b>CAC</b> .....	<b>6</b>
<b>3.2</b>	<b>CMMG</b> .....	<b>14</b>
<b>3.3</b>	<b>ARM</b> .....	<b>15</b>
<b>3.4</b>	<b>CAA</b> .....	<b>17</b>
<b>3.5</b>	<b>Bike Winnipeg</b> .....	<b>17</b>
<b>3.6</b>	<b>MPI</b> .....	<b>18</b>
4.0	ANALYSIS.....	28
5.0	INFORMATION REQUESTS REGARDING ROAD SAFETY AND LOSS PREVENTION 55	
<b>5.1</b>	<b>PUB Information Requests</b> .....	<b>55</b>
<b>5.2</b>	<b>CAC Information Requests</b> .....	<b>60</b>
<b>5.3</b>	<b>CMMG Information Requests</b> .....	<b>67</b>
<b>5.4</b>	<b>ARM Information Requests</b> .....	<b>72</b>
6.0	INFORMATION REQUESTS REGARDING BENCHMARKING.....	72
<b>6.1</b>	<b>PUB Information Requests</b> .....	<b>72</b>
<b>6.2</b>	<b>CAC Information Requests</b> .....	<b>76</b>
<b>6.3</b>	<b>CMMG Information Requests</b> .....	<b>81</b>
7.0	INFORMATION REQUESTS REGARDING IT PROJECTS, COST CONTAINMENT INITIATIVES .....	83
<b>7.1</b>	<b>PUB Information Requests</b> .....	<b>83</b>
<b>7.2</b>	<b>CAC Information Requests</b> .....	<b>86</b>
<b>7.3</b>	<b>ARM Information Requests</b> .....	<b>92</b>
8.0	INFORMATION REQUESTS REGARDING OPERATIONS .....	107
<b>8.1</b>	<b>PUB Information Requests</b> .....	<b>107</b>
<b>8.2</b>	<b>CAC Information Requests</b> .....	<b>109</b>
<b>8.3</b>	<b>CMMG Information Requests</b> .....	<b>117</b>
9.0	INFORMATION REQUESTS REGARDING INVESTMENTS .....	120
<b>9.1</b>	<b>PUB Information Requests</b> .....	<b>120</b>

9.2	<b>CAC Information Requests.....</b>	<b>125</b>
9.3	<b>CMMG Information Requests.....</b>	<b>131</b>
10.0	<b>OTHER INFORMATION REQUESTS.....</b>	<b>132</b>
10.1	<b>CAC Information Requests.....</b>	<b>132</b>
10.2	<b>CMMG Information Requests.....</b>	<b>134</b>
11.0	<b>BOARD FINDINGS.....</b>	<b>137</b>
12.0	<b>IT IS ORDERED THAT:.....</b>	<b>138</b>

## **1.0 EXECUTIVE SUMMARY**

Manitoba Public Insurance Corporation (MPI or Corporation), the monopoly provider of compulsory auto insurance in Manitoba, has filed with the Public Utilities Board (Board or PUB), the independent regulator of MPI, its 2015 General Rate Application (GRA or 2015 GRA), with respect to compulsory driver and vehicle insurance (Basic Rates) for the fiscal year commencing March 1, 2015, ending February 29, 2016.

MPI refused to answer certain Information Requests (IR) posed by the Board's advisors and a number of interveners to the GRA process, asserting irrelevance of the questions arising out of the scope of the Board's rate-setting jurisdiction. Three interveners filed motions to compel MPI to provide responses to the IRs. After considering the submissions of the moving parties and MPI, the Board hereby orders MPI to provide answers to some of the Information Requests.

## **2.0 BACKGROUND INFORMATION**

On June 16, 2014, MPI filed the 2015 GRA, and on July 9, 2014, the Board held a Pre-Hearing Conference with respect to the GRA, after which the Board issued Procedural Order 81/14 on July 17, 2014. Procedural Order 81/14 included a timetable for the exchange of information in the GRA process. In particular, the deadline for service upon MPI of First Round Information Requests was July 11, 2014. MPI was to provide responses to the First Round Information requests by Thursday, July 31, 2014.

On July 11, 2014, MPI was served with First Round Information Requests by each of the Board, CAC, CMMG, ARM and CAA.

On July 31, 2014, MPI provided a letter to the Board Chairman, copied to all parties to the GRA, advising that approximately 40 percent, or 314 of the Information Requests (Impugned IRs) put forward by the parties to MPI would not be answered. Instead, MPI provided the following standard response to the Impugned IRs:

Basic insurance rates are set prospectively based on pro forma financial projections of expenses and revenues and actuarial modeling. This information request has no bearing on the reasonableness of the financial projections or actuarial modeling used to determine rates effective March 1, 2015. This is consistent with the Corporation's understanding of the PUB's mandate as stated in *The Crown Corporations Public Review and Accountability Act* and by the Court of Appeal. Considerable information of an operational nature was provided in the filing, though rate setting does not entail an operational review or audit of Manitoba Public Insurance. For these reasons, the Corporation declines to incur the additional staff effort and operating expenses associated with responding to this information request.

On each of August 11 and 13, 2014, motions were filed by interveners to the GRA process, namely Consumers' Association of Canada (Manitoba) Inc. (CAC), Coalition of Manitoba Motorcycle Groups Inc. (CMMG) and Automotive Recyclers of Manitoba Ltd. (ARM), to compel MPI to provide answers to the Impugned IRs.

On August 18, 2014, MPI filed a written reply to the interveners' motions, pursuant to which it categorized the Impugned IRs into six categories:

- 1) Road Safety and Loss Prevention;
- 2) Benchmarking;
- 3) Services;
- 4) IT projects and Cost Containment Initiatives;
- 5) Operations; and
- 6) Investments.

The motions filed by CAC, CMMG and ARM were heard by the Board, in an oral hearing, on Friday, August 22, 2014.

### **3.0 POSITIONS OF THE PARTIES**

#### **3.1 CAC**

CAC sought in its motion (CAC Motion) 4 items of relief:

- That the Board direct MPI to produce full and adequate responses to Impugned IRs posed by CAC and by the Board's advisors;
- That the Board make a determination that MPI's initial response to the Impugned IRs was not in compliance with the Board's Rules of Practice and Procedure (Board Rules) 15 and 16, given MPI's failure to provide specific reasons supporting its contentions relative to the Impugned IRs;
- That the GRA schedule be amended given the delays caused by the inadequacies in the First Round Information Requests answered by MPI; and
- That MPI be required to pay all costs related to the Impugned IR responses.

CAC stated that MPI's refusal to answer the Impugned IRs, which in CAC's view were relevant and material, raised a number of fundamental concerns, including:

- The Board would be deprived of the information required to set "just and reasonable rates" in the public interest;
- The interveners would be deprived of their ability to participate fully in the GRA proceeding, and would be prejudiced in their ability to prepare expert evidence in a timely manner; and
- There would be inordinate expense and delay caused.

CAC stated that there were three areas of agreement as between it and MPI, relative to the matters in issue:

1) The applicable statutes (The Public Utilities Board Act, C.C.S.M. c. P280 (PUB Act), The Crown Corporations Public Review and Accountability Act, C.C.S.M. c. C336 (CCPRA) and The Manitoba Public Insurance Corporation Act, C.C.S.M. c. P215 (MPIC Act) are to be read harmoniously and as a whole;

2) The PUB has expertise in Basic rate-setting; and

3) The PUB has jurisdiction to compel disclosure of responses to the Impugned IRs.

CAC characterized MPI's position relative to the Impugned IRs as "radical" given:

1) The well-established practices of the PUB and judicial consideration of these practices;

2) The well-established practices of other Canadian regulators;

3) Well-established regulatory principles;

4) Over one hundred years of jurisprudence; and

5) The language of the CCPRA.

With respect to the well-established practices of the PUB and judicial consideration of these practices, CAC pointed to Board Order 5/12, issued with respect to Manitoba Hydro, wherein the Board stated that its role must involve:

- Ensuring that Hydro's forecasts are reasonably reliable;
- Ensuring that actual and projected costs incurred are necessary and prudent;
- Assessing the reasonable revenue needs of the Corporation in the context of the overall general health of Hydro;
- Determining an appropriate allocation of costs between classes; and
- Setting just and reasonable rates in accordance with statutory objectives.

CAC also referenced a number of Court of Appeal decisions relative to the PUB and interpretation of the relevant statutes, including the 1989 Stated Case, the 1995 CMMG

decision, the 2005 CAC Decision, the 2011 Stated Case Leave Application, the 2011 Stated Case and the 2012 Hydro Decision (all case citations at Appendix "B").

With respect to the well-established practices of other Canadian regulators, CAC provided authorities relative to the Ontario Energy Board (OEB), which also has the mandate of setting just and reasonable rates and which conducts a comprehensive review of the utility's costs, and relative to the British Columbia Utilities Commission (BCUC), which has the mandate of setting rates that are not unjust and not unreasonable and may disallow the recovery of unreasonable or imprudent costs in customer rates. CAC recognized that the governing legislation of the OEB and BCUC are not identical to that of MPI but argued that the general principles under which those entities operate apply equally to MPI.

CAC also provided a decision from the Alberta Energy and Utilities Board (AEUB), which has the mandate of setting just and reasonable rates, and in connection with which the utility must fully explain and support overall project costs and project cost components, in order that the AEUB can ensure that the applicant's onus is met, particularly if there are project components that have large differences between forecast and actual costs, appear to be high relative to industry norms or involve affiliate transactions. The AEUB sought information relative to projects at some meaningful level beyond the overall cost of the project, and noted that in the absence of complete information the prudence review may be severely hampered, perhaps resulting in a situation where it is difficult to fully take into account the best interests of the utility's customers. CAC stated that pursuant to this authority, it is apparent that looking at benchmarks is not a management function in the rate-setting context, but rather is a simple rate-setting function.

CAC also provided an authority from the Federal Court of Appeal relative to the National Energy Board, wherein the Court discussed the close relationship between just and reasonable tolls and costing issues, including the allocation of costs within divisions of the applicant, whether costs have been or are being incurred prudently, and whether the applicant's compensation plans are reasonable.

CAC argued that all of these authorities, taken together, establish how commonplace the examination is, of whether costs are just and reasonable or necessary and prudent.



With respect to well-established regulatory principles and over one hundred years of jurisprudence, CAC identified that the mandate of the Board relative to Basic Rates, to approve rates that are just and reasonable is a mandate that dates back for over 130 years in North America and is a universal standard with key universal criteria, including the assessment of whether costs embedded within rates are necessary and prudent.

CAC stated that MPI's argument relative to the Impugned IRs strikes at the heart of an essential regulatory role, characterized in The Process of Ratemaking, Goodman, as follows: "Computation and allocation of costs of service lies at the heart of the tasks of a regulatory agency's administration of the just and reasonable standard."

CAC stated that a review by the Board of whether MPI's costs are necessary and prudent is a core value, or core principle of the Board's oversight of MPI since that jurisdiction was afforded to the Board.

CAC also stated that in assessing just and reasonable rates, one standard outranks all others in the importance attached to it; cost of service, or the view that the relevant cost is necessary cost, or cost reasonably or prudently acquired. CAC stated that the cost of service standard does not apply only to private sector utilities, citing Principles of Public Utility Rates by James C. Bonbright, who stated that:

A cost standard of rate making has been most generally accepted in the regulation of the levels of rates charge by private utility companies. But even more significant is the widespread adherence to cost, or to some approximation of costs, as the basis of rate making under public ownership.

CAC further quoted from Goodman (supra) for the propositions that a regulator can disapprove of rate increases when the applicant could not defend their rates or control their costs, and that no rate increases should be permitted until applicants have exhausted every reasonable effort toward economy in their business. Similarly, there is reference in Goodman to the regulator comparing costs as between railroad carriers in assessing whether those carriers were exercising reasonable diligence in their business. CAC argued that the PUB does not need

express authority to conduct benchmarking of MPI because to do so is implicit in the ratemaking authority.

Goodman also provides, citing the National Association of Insurance Commissioners that "A rate in a non-competitive market is excessive if it is likely to produce a profit that is unreasonably high for the insurance provided (not applicable to MPI) or if expenses are unreasonably high in relation to services rendered." CAC argued that this is a critical point in Manitoba's non-competitive, monopoly environment wherein consumers are vulnerable.

CAC stated that in other jurisdictions where "just and reasonable" rates are set, there are also other government bodies that have duties and powers relative to the utilities, but the work of those bodies does not usurp the role of the regulator in setting just and reasonable rates, or assessing the necessity and prudence of expenditures.

CAC also stated that by reference to cases from other jurisdictions, it does not suggest that the Manitoba statutory framework to which the Board is subject is at all changed. CAC submits that these cases give insight into the universal meaning of setting "just and reasonable" rates, which is equally applicable in Manitoba.

With respect to the language of the CCPRA, CAC commented upon the following subsections specifically:

s. 26(4)(a): In reaching a decision pursuant to this Part, The Public Utilities Board may take into consideration:

(i): the amount required to provide sufficient moneys to cover operating, maintenance and administration expenses of the corporation;

(v): any other reserves that are necessary for the maintenance, operation, and replacement of works of the corporation;

(viii): any compelling policy considerations that the board considers relevant to the matter; and

(ix): any other factors that the board considers relevant to the matter  
(emphasis added).

With respect to s. 26(4)(a)(i), CAC noted the use of the word "required", as opposed to the word "desired" or some other word; meaning that the Board should not consider the Corporation's wish list of expenses, but only those expenses that are required pursuant to the just and reasonable standard.

With respect to s. 26(4)(a)(v), CAC noted the use of the word "necessary"; a word that does not invite a rubber stamp, but invites judgment, assessment and analysis by the Board.

With respect to s. 26(4)(a)(viii), CAC stated that to protect monopoly consumers, clearly efficiency is a relevant policy consideration, which is a long accepted concept in regulatory law pursuant to the authorities referenced above, as well as pursuant to s. 77 of the PUB Act, the breadth of which is reinforced by s. 26(4) of the CCPRA. CAC stated that a core element of setting just and reasonable rates is the assessment of prudence and reasonableness of costs.

CAC also cited s. 27(3) of the CCPRA, which provides, in the context of a multi-year rate order, that where the Board is satisfied that the circumstances of a corporation have changed substantially, it may review the order and modify it in any manner that the Board considers reasonable and justified in the circumstances.

CAC submitted, with respect to the relevance of the Impugned IRs, that one must start with a review of s. 14 of the Board Rules, wherein it is provided that Information Requests shall be relevant to the proceeding before the Board. CAC cited authority from the Supreme Court of Canada, in *R. v. J.-L.J.*, wherein the Court stated that "Evidence is relevant "where it has some tendency as a matter of logic and human experience to make the proposition for which it is advanced more likely than that proposition would appear to be in the absence of that evidence"....and that "the concept of relevance provides a low threshold....".

CAC stated that evidence relevant to the GRA process is evidence that could assist the Board in the determination of just and reasonable rates, including with respect to the provisions of s. 26 of the CCPRA and any of the five factors listed by the Board in Order 5/12.

On the strength of all of the foregoing, CAC stated that a consideration of whether costs are necessary and prudent must form part of a consideration of whether rates are just and

reasonable, and that given MPI's agreement that the Board is to approve just and reasonable (or fair and equitable) rates, it follows necessarily that the Board must have jurisdiction to consider whether Basic's actual and projected costs are necessary and prudent, and is in fact obliged to do so (emphasis added). CAC stated that the Board cannot tell MPI how to spend its money, for example by approving or rejecting MPI's Human Resource Management System project. The Board can, pursuant to a GRA, look at the necessity of expenditures and, if it is not satisfied that MPI is operating in a prudent and efficient manner, the Board has the power to determine that Basic Rates should not be approved as applied for.

CAC noted that a review of expenditures is particularly necessary to protect the vulnerable ratepayers of a monopoly, and that to decide otherwise would be to effectively neuter the Board, and create a "regulatory rubber stamp". CAC stated that MPI's resistance to answer the Impugned IRs is grounded in a fundamental, radical and unusual misapprehension of the law and of PUB's role in setting just and reasonable rates.

CAC noted that the Board has a dual role to fulfill: the protection of the health of the Corporation, and the safeguarding of the interests of vulnerable ratepayers in a monopoly environment. CAC submitted that the Board needs the tools to complete its task of reviewing and approving just and reasonable rates to maintain public confidence in the system. CAC stated that the Board has been assessing the necessity and prudence of MPI's costs for decades, as a core element of its rate-setting function, and is obligated to continue to do so.

CAC stated that in carrying out its duties, the Board should not usurp the legitimate management function of MPI's Board of Directors, but that rate regulation is the price of a monopoly; a trade-off for consumers who have no choice relative to the purchase of Basic insurance coverage.

CAC stated that the Board can decide which costs incurred in Basic should be passed on to ratepayers and embedded within Basic Rates, and which costs should not be passed on; specifically, those costs that are not necessary and prudent.

CAC also stated that the process that has unfolded relative to the Impugned IRs was "backwards", because MPI failed to comply with Board Rules 15 and 16, and in particular the

requirement in Rule 16(a) that a party who is unable or unwilling to provide a full and adequate response to an Information Request shall file and service a response, where the party contends that the Information Request is not relevant, setting out specific reasons in support of that contention.

MPI, at the time of its refusal to answer the Impugned IRs, provided only the standard response referenced above, forcing CAC to try to understand that response and argue against it at the time of filing its motion. CAC asked the Board to clarify the proper manner in which a utility registers its objection to an Information Request, pursuant to the Board Rules, and advised that CAC was willing to include some information on relevancy in the Information Requests filed.

CAC submitted to the Board a proposed, amended schedule for the balance of the 2015 GRA, including a variety of changes to the dates approved by the Board previously, a third round of Information Requests to be submitted to MPI after receipt of answers to the Impugned IRs, if the Board so orders, and a revised start date for the GRA hearing, of October 22, 2014.

With respect to costs, CAC stated that the interveners have been put to an extraordinary expense because of the approach taken by MPI relative to the Impugned IRs, for several reasons:

- CAC has had to prepare an argument relative to an issue that it thought was well settled in Canadian law, and in Manitoba, relative to the Board's ability to consider whether MPI's costs are necessary and prudently incurred;
- CAC had to prepare its argument without specific reasons from MPI as to why the Impugned IRs were not answered; and
- CAC's preparation relative to the 2015 GRA process has been disrupted, because a significant number of its First Round Information Requests have not been answered, such that:
  - o preparation of its potential expert witnesses has been hindered;

- consideration of whether those expert witnesses will be called to testify before the Board has been delayed; and
- preparation of CAC's counsel relative to the issues before the Board has been hindered.

### **3.2 CMMG**

CMMG sought in its motion (CMMG Motion) the same items of relief reflected in the CAC Motion.

In support of its motion, CMMG commented upon the history of MPI GRA hearings before the Board, and noted that on only one prior occasion in 23 years of participation was it forced to file a motion to compel MPI to respond to an Information Request.

CMMG noted that while MPI has advised the Board that it wishes to work in a collaborative, non-confrontational manner, its actions infer otherwise. Similarly, CMMG noted that while MPI speaks about the "significant financial cost" of the regulatory process, its refusal to answer the Impugned IRs have only caused the costs of all parties to increase significantly, and has taken the GRA process "off the rails".

CMMG stated that Manitoba ratepayers expect MPI to conduct itself in a transparent and accountable manner, and noted that there was no mention of MPI refusing to answer IRs at the Pre-Hearing Conference held on July 9, 2014.

CMMG adopted the submissions of CAC relative to the statutory framework of the Board, and added that s. 26(4)(a)(ix) confers up on the Board an extremely wide statement of jurisdiction. CMMG likened the Board's jurisdiction to that of a landowner constructing a new house; the landowner would not agree to pay a set price for the house unless the details of construction were known, including details relative to the foundation, wall construction, windows, etc. CMMG stated that the Board needs a very wide jurisdiction to ensure that Manitoba consumers get value for their insurance dollar.

CMMG stated that Information Requests are asked to ensure an orderly, efficient cross-examination at the GRA hearing that saves time and money for all parties and should be answered by MPI.

CMMG stated that MPI's operating expenses should be an area of concern, given that in 2008/09 those expenses were \$41.2 million and have increased to \$65.4 million in 2012/13 and \$69.9 million in 2014/15. CMMG noted that MPI has been providing evidence relative to benchmarking to the Board for the last number of years, and raised an argument of estoppel relative to MPI's refusal to answer questions relative to benchmarking. Pursuant to the doctrine of estoppel, a party may be prevented from alleging a certain fact because of that party's previous conduct.

With respect to Road Safety, CMMG stated that it was alarming that MPI had not been doing "hot mapping" prior to being ordered to do so by the Board, given that this type of tracking is a tool of the trade of experts in Road Safety.

CMMG stated that the revenue generated by MPI is money that belongs to the public of Manitoba, that the Board must ensure that the spending of those funds is reasonable and prudent, and that the only way to do so is to order full and adequate responses to the Impugned IRs.

CMMG adopted CAC's submissions relative to the GRA hearing timetable, and asked that MPI be ordered to pay costs relative to CMMG's Motion.

### **3.3 ARM**

ARM's application for intervener status in the 2015 GRA was its first such application in many years. ARM's application was heard by the Board at the Pre-Hearing Conference held July 9, 2014, and its intervention was neither consented to nor opposed by MPI.

Pursuant to Board Order 81/14, ARM was granted intervener status in the 2015 GRA with a limited scope, as follows:

To assist the Board in critically evaluating MPI's new Physical Damage (PD) Re-engineering Program, reviewing MPI's cost containment initiatives relative to recycled parts and suggesting improvements in reducing physical damage repair costs.

Board Order 81/14 was not objected to by MPI, by way of an application to review and vary the Order, or by way of an appeal.

On July 11, 2014, ARM served upon MPI twenty-nine First Round Information Requests, and in response, MPI provided a standard response to every Information Request posed by ARM. MPI did not provide substantive responses to any of ARM's Information Requests. ARM filed a motion to compel answers to its Information Requests (ARM Motion) and sought the same items of relief as sought in the CAC Motion.

In support of its motion, ARM adopted the submissions of CAC relative to the statutory framework of the Board, and of CMMG relative to the history of GRA proceedings before the Board. ARM recognized that the scope of its intervention in the GRA process was significantly more narrow than that of CAC and CMMG, and stated that it believed that the Impugned IRs which it posed were within the scope of the intervention granted to it by the Board.

ARM stated that administrative law principles do not support the action taken by MPI relative to the Impugned IRs. In particular, ARM cited the rule of *Audi Alteram Partem*, the rule of fair play and the fundamental rules of natural justice which demand that parties be allowed to cross-examine and test evidence in a proceeding. ARM cited the following authorities in support of its argument: *Kay Swee Pin v. Singapore Island Country Club*, *Secretary of State for the Home Department v. AF, Innisfil (Corporation of the Township) v. Corporation of Township of Vespra* and Canadian Administrative Law, 1<sup>st</sup> edition, 2008 (all citations at Appendix "B").

ARM noted that in the 2015 GRA, MPI has provided evidence relative to controlling operating costs, including the Physical Damage Re-engineering Program, which evidence should be permitted to be tested through the GRA process. ARM advised the Board, with respect to twenty-eight of its twenty-nine Impugned IRs, of the source documents within the GRA that ARM sought to test.



ARM stated that these legal principles must apply in this case, which is a central and core exercise to the Manitoba public and an issue of public good. ARM submitted that Courts have accorded greater deference to specialized tribunals in the areas for which they have jurisdiction.

ARM stated that the Board's jurisdiction is to review and approve just and reasonable rates for compulsory driver and automobile insurance (emphasis added), not simply to review and approve rates which would be, in essence, a rubber stamping of MPI's rate application.

ARM asked that it be awarded costs relative to the ARM Motion, given the extraordinary steps taken by MPI in refusing to answer any of ARM's Information Requests, which has caused ARM unexpected work and costs. ARM submitted that a message should be sent to MPI that this is not the way in which it should be conducting itself in the GRA process.

### **3.4 CAA**

CAA filed 9 Information Requests with MPI on July 11, 2014, none of which were answered by MPI other than with the standard paragraph cited above. CAA did not file a motion to compel answers to its First Round Information Requests.

CAA attended the hearing of the motions filed by CAC, CMMG and ARM, and advised the Board that it had no concerns with respect to any of the motions.

### **3.5 Bike Winnipeg**

BW served Second Round Information Requests upon MPI, to which responses are due on September 10, 2014. BW advised the Board that it hoped to avoid having to file a motion to compel answers to those Information Requests in the future.

BW advised the Board that it supports the motions of CAC, CMMG and ARM and relies upon their submissions to the Board, to the extent that those submissions may impact the Information Requests put forward by BW.

BW suggested to the Board that these motions represented an ideal opportunity for the Board to set down definitively its view of its jurisdiction relative to the matters raised by MPI, and the parameters governing the process of asking and answering Information Requests.

### **3.6 MPI**

MPI advised the Board, as it has done in the past, that it acknowledges the importance and many benefits derived from the public rate-setting process. MPI stated that as a result of the GRA process, Basic Rates are fairer and more equitable, and rate-making at MPI has improved.

MPI advised the Board that it is absolutely willing to be transparent and collaborative in the GRA process, to which end it answered some 550 Information Requests posed by the parties, relative to cost allocation, financial projections of expenses and revenues, financial forecasting, proposed rates, rate-making, the Rate Stabilization Reserve (RSR), actuarial modelling and DCAT.

MPI advised the Board that in its view the GRA filing was "extremely thorough and contained massive amounts of information, especially the expense section", totalling some 4,753 pages together with 3,000 pages of materials regarding DCAT.

MPI stated that the rate-making model referenced by CAC in its submissions is the dominant model utilized in North America, but that the Manitoba legislation is "extraordinarily different from that of just about every other North American jurisdiction". MPI conceded that if it were subject to the standard model of regulation referenced by CAC (rate base, rate of return or cost of service regulation), the Impugned IRs would have been answered, and the motions would not be before the Board.

MPI stated that the Board's sole function is "to review and approve proposed changes to rates for Basic, which are proposed annually by MPI". MPI acknowledges that the GRA process is not a "rubber-stamping" process, and that the Board can substitute its own rate order for that proposed by MPI, as has been done on multiple occasions in the past. MPI stated, however, that the information requested in the Impugned IRs is not actually required by the Board to fulfill its mandate.

MPI stated that the key issue before the Board is a determination of its mandate and jurisdiction, which must be done with regard to the applicable statutes, including the CCPRA (in particular s. 26), the PUB Act and the MPI Act, as well as decisions of the Court of Appeal wherein the jurisdiction of the Board has been interpreted and commented upon.

MPI also reviewed the role of the CCC, to review all long-term plans and to receive and review the annual financial statements for MPI's entire business, including Basic and non-Basic lines of business. MPI reviewed the provisions of s. 6 of the CCPRA relative to the duties and powers of the CCC, including (among other things) to facilitate the development of a clearly defined mandate for the Corporation, to facilitate the development of consistent and effective criteria for measuring the Corporation's performance, to review long-term corporate plans and capital expenditure proposals and to provide advice to the LGC on the Corporation's plans, proposals and practices.

MPI stated that the duties and powers assigned to the CCC help to define the duties and powers of the PUB in that any interpretation of the PUB powers in s. 26 of the CCPRA cannot reasonably include those powers of the CCC, because the Legislature has specifically provided them, in other legislation, to the CCC.

MPI reviewed the role of its Board of Directors, including, among other things, to exercise the powers of the Corporation, to direct the management of the business and affairs of the Corporation, to cause the Corporation to conduct a review of its strategic plans and to create an audit committee. MPI stated that the jurisdiction of the PUB does not include the duties and responsibilities given to other bodies referred to in the CCPRA.

MPI reviewed the role of the Auditor General of Manitoba relative to MPI, found at s. 14 of the Auditor General Act, pursuant to which the Auditor General may examine and audit the operations of a government organization relative to a variety of matters, including but not limited to whether public money has been expended with proper regard for economy and efficiency and whether the Assembly has been provided with appropriate accountability.

MPI advised that while the Board may not be aware of it, the Auditor General undertook a detailed audit of the system and practices of MPI in administering the PIPP (one of MPI's two major lines of insurance coverage), and issued a report to the Province of Manitoba with respect to that audit in 2012.

MPI acknowledged that in the course of considering a GRA and setting Basic Rates the Board does not conduct a verification audit of MPI. MPI also acknowledged that the 2012 audit

conducted by the Auditor General relative to the PIPP should not be used as the basis on which the PUB should set Basic Rates. Not only was the audit based upon historical costs incurred, but the audit looked at the operations relative to how the PIPP is administered, including processes and treatment of and communication with individuals. All of the recommendations made by the Auditor General at the conclusion of its audit were followed up through the Legislature.

MPI reviewed the role of the Province of Manitoba, including the receipt and review of financial disclosure and annual reports for MPI's entire business, which are subject to review by a committee of the Legislature. In addition, the Province of Manitoba is responsible for the oversight and control on MPI in a variety of respects, including, among other things, the appointment of MPI's Board of Directors, the designation of MPI's head office, the approval of borrowing money and management of MPI's investment portfolio.

MPI noted that the Province of Manitoba has the ultimate authority to approve and enact Basic Rates, subject of course to the proviso that it cannot approve rates for Basic that have not been approved by the Board.

MPI stated that the Board's mandate to review Basic Rates must be interpreted within this legislated scheme and reviewed ss. 26(1) and 26(2)(c) of the CCPRA, which provide, respectively, that:

Notwithstanding any other Act or law, rates for service provided by....the Manitoba Public Insurance Corporation shall be reviewed by The Public Utilities Board under *The Public Utilities Board Act* and no change in rates for services shall be made and no new rates for services shall be introduced without the approval of The Public Utilities Board.

and

For the purposes of this Part, "rates for service" means....in the case of The Manitoba Public Insurance Corporation, rate bases and premiums charged with respect to compulsory driver and vehicle insurance provided by that corporation.

In addition, in the 2011 Stated Case, the Court stated that "The mandate of the PUB, in the context of this case, is set out in s. 26 of the (CCPRA), that being to review and approve MPI's rate bases and premiums charged with respect to compulsory driver and vehicle insurance."

MPI stated that the two fundamental questions that arise from s. 26 and the 2011 Stated Case are:

- What is meant by "to review and approve the MPI's rate bases and premiums charged with respect to compulsory driver and vehicle insurance"; and
- How does the PUB "review and approve the MPI's rate bases and premiums charged with respect to compulsory driver and vehicle insurance "?

MPI acknowledged, as the Court of Appeal has found in the past, that the Board can, on a rate application, substitute the applied for rate with a different rate to be implemented and this has been done on multiple occasions in the past. The Board's rate decision is, however, subject to the agreement of the LGC before the rate decision will be implemented.

MPI also acknowledged, pursuant to the 2005 CAC Decision, that the PUB can determine the rapidity with which retained earnings ought to be built with Basic and stated that the PUB is to ensure the fiscal health of Basic. MPI stated that it absolutely does not want to have unreasonable charges, or unjust Basic Rates. MPI wants to have Basic Rates that are fair and equitable, or just and reasonable.

MPI also commented upon the 1989 Stated Case, wherein the Court of Appeal found that the Board did not have the jurisdiction to approve or reject the capital project plans of Manitoba Hydro. MPI stated that the question before the Court in the 1989 Stated Case is in essence the same question before the Board on the pending motions; does the PUB have jurisdiction to approve, reject, or vary MPI's capital project plans, operating costs, plans for compensation, incidental to, or as a condition of granting approval for changes in the prices charged?

MPI stated that the legislation considered by the Court in the 1989 Stated Case (the same as today's legislation) was silent on the issue of approval of capital project plans, and that CAC

argued that it was a "practical reality" that capital plans and expenditures could not be ignored in any workable system of rate review. CAC asked that the Court imply such a power in the Board's jurisdiction, and the Court declined to do so, on the basis that the function of the Court is not to legislate.

MPI stated that it is not the role of the Board to ensure that costs are necessary and prudent, though confirmed that it accepts the balance of the Board's role is as reflected in Board Order 5/12, relative to Manitoba Hydro (with the necessary changes to "Basic" where applicable). MPI specifically and expressly accepts that the Board's jurisdiction includes setting just and reasonable rates in accordance with statutory objectives, and stated clearly that it would not want Basic Rates to be set that were unjust, unreasonable and/or unfair or inequitable.

MPI stated that while "just and reasonable" rates are also set in other jurisdictions, rate-setting is done pursuant to an "incredibly prescriptive" form of regulation of rate base, rate of return or cost of service regulation; an entirely different model than that in place in Manitoba pursuant to the CCPRA.

MPI stated that to the extent that the Board has, in the past, considered whether Basic's actual and projected costs are necessary and prudent, the Board has erred, on the basis that the Board had no power to do so, either explicitly or implicitly. MPI stated that the Board has in the past "rewritten the legislation", and the boundaries of the legislative framework governing MPI, thereby trenching upon the statutory authority of other bodies. MPI did not comment upon its role in past proceedings before the Board, nor did MPI address why it did not previously raise any objection to the manner in which the Board proceeded relative to costs on those occasions.

MPI has filed information on Basic's prospective costs, and has stated its agreement that "the role of the PUB is to scrutinize the prospective costs of the Corporation", within the context of the decision of the Court in the 1995 CMMG Decision, wherein the issue before the Court was whether the Board had the jurisdiction to approve a rate different than that applied for by MPI. MPI stated its agreement with the comments of the Court in the 1995 CMMG Decision relative to the Board's function of protecting consumers from unreasonable changes, ensuring the fiscal health of Basic and ensuring fairness between different classes of consumers.

MPI stated that pursuant to ss. 26(4)(a) (viii) and (ix) of the CCPRA, one must consider a proper interpretation of what is "relevant", and that these subsections do not provide the PUB with broad powers that go beyond the scope of the specified provisions that exist in the legislation or that belong to another body of government. MPI stated that what is relevant to the GRA must be relevant to the mandate of the PUB, namely setting Basic Rates. Information which is relevant must be capable, assuming that it were true, of logically establishing some fact which the Board needs to accomplish its mandate.

MPI stated that "when evidence is admitted in a proceeding, the agency is saying that it is capable of logically proving the existence of some fact or matter which has to be established in order for the agency to perform its statutory mandate."

MPI cited a decision by the Ontario Court of Appeal, *Ontario (Provincial Police) v. Cornwall (Public Inquiry)*, [2008] O.J. No. 153, wherein the Court found that evidence must be reasonably relevant to the proceeding. The Court also stated that to determine relevancy, the subject matter of the inquiry must be examined; in this case the legislative scheme pursuant to which the Board finds its jurisdiction, and no deference is owed to the tribunal on the definition of the subject matter of the inquiry.

The Court identified four errors made in that case:

- 1) The failure to consider the context and circumstances in which the tribunal was established;
- 2) The failure to consider relevant wording in the preamble of a governing document that provided valuable insight into the issues before the tribunal;
- 3) The failure to consider relevant wording in a governing document harmoniously and with reference to the document as a whole; and
- 4) By virtue of making errors 1) to 3) above, the misidentification of the subject matter of the inquiry and the assumption of a mandate that was beyond that contemplated in the applicable legislation.

MPI stated that the PUB ought to be mindful of these potential errors, and must avoid expanding its jurisdiction by making declarations of relevance, which is what it is being asked to do by CAC, CMMG and ARM pursuant to the pending motions. MPI stated that the Board has only the jurisdiction prescribed by the applicable legislative scheme and that determinations of relevancy must fit within that scheme.

MPI stated that the Board does not have unlimited authority pursuant to ss. 26(4)(a) (viii) and (ix) to expand the scope of its jurisdiction by making declarations of relevance; any factors that the Board would consider pursuant to those subsections must relate to the approval of rates.

MPI also stated that the PUB's authority to consider policy considerations and other factors that it considers relevant to the matter cannot be construed as authority to reverse a properly enacted legislative scheme.

MPI stated that its rate-making methodology, developed with input of the Board and interveners over many years, has been thoroughly tested at GRA hearings and is actuarially sound and statistically driven. MPI also stated that there are two objectives of its rate-making methodology:

- 1) Determine the overall costs expected to arise during a given policy period; and
- 2) Allocate those expected overall costs equitably amongst insured with the expected cost to the insured being the rate they are required to pay.

MPI also stated that its rate-making methodology ties directly to costs, thereby assuring equity, and that it minimizes cross-subsidization between customers and classes, and provides for rates that are responsive to changes in claims patterns. The methodology ensures complete enumeration of expected costs, allowing for assurance that MPI's break-even target is achieved.

MPI stated that the Impugned IRs are seen to be for the purposes of an operational review, or audit, are not consistent with the Board's mandate and are under the jurisdiction of various different government entities.



MPI stated that matters of Road Safety are within the jurisdiction of the CCC to be reviewed, and that similarly the Auditor General could undertake a review of MPI's Road Safety program, including its efficiency, effectiveness and critical evaluation. MPI stated that its Board of Directors and the Province of Manitoba are to provide direction and review of MPI's Road Safety initiatives and to make decisions relative to whether certain Road Safety program should proceed.

MPI stated that merely alleging that ratepayers fund the Road Safety program through their rates does not give rise to a wholesale review of this expenditure, just like the decision of the Court in the 1989 Stated Case that the Board could not approve or reject the capital projects of Manitoba Hydro, regardless of the fact that these costs were embedded within rates. MPI also stated that time spent by the Board on Road Safety matters in the past, including at the 2014 GRA hearing was not a good or appropriate use of resources.

MPI stated that there are aspects of Road Safety that are relevant to the Board for approving Basic Rates, including the budgeted amount for the Road Safety program in the year of the application; this is relevant because MPI seeks to recover those expenditures within Basic Rates. MPI acknowledged that these expenditures and their nature are relevant for the purposes of ensuring that all components of the budget are for the Basic program.

MPI stated that benchmarking is within the jurisdiction of the CCC to be reviewed, and that the Board's mandate of approving Basic Rates does not include the power to compel MPI to produce wide-ranging information on benchmarking, though MPI acknowledged that specific questions on the benchmarking of rates may be relevant.

MPI stated that new and enhanced services being developed or examined by MPI is an issue for the Province of Manitoba and not for the Board, pursuant to the comments of the Court in the 2011 Stated Case.

MPI stated that IT projects, as well as the Physical Damage Re-engineering Project and cost containment initiatives are also outside the mandate of the Board, in support of which MPI cited

the 1989 Stated Case. MPI stated that the Board may not conduct a wholesale review of these projects, but that questions dealing with the budgeted amount of IT projects and ensuring that all components of the budget are for the Basic program have been answered.

MPI stated that its arguments relative to MPI's operations are the same as its submissions relative to Road Safety set out above.

MPI stated that Information Requests relative to the forecasted performance of the Corporation's investment portfolio are very relevant to the Board, because the GRA assumes that income will be generated from the investment portfolio and the Board must be able to determine whether projected income forecasts are reasonable, failing which rates will be excessive or deficient. MPI stated, however, that historical information relative to performance of the portfolio is irrelevant to the Basic Rates to be set.

MPI stated, however, that Information Requests relative to decisions to invest, including the what, when, why and how of investing are beyond the mandate of the PUB, on the basis that the management of the investment portfolio is the responsibility of the Minister of Finance and it is not the role of the PUB to "second guess" the Minister of Finance on investment decisions.

MPI stated that the PUB's mandate is to ensure that Basic Rates are sufficient to satisfy the costs of Basic, including any reserve, or in other words that Basic Rates are actuarially sound and statistically driven, but that this mandate cannot be read as broadly as suggested by CAC, CMMG and ARM, such that the boundaries of the legislative framework would be re-written.

MPI stated that the PUB should dismiss the pending motions, and order that none of the Impugned IRs need be answered. As well, MPI asked that there be no amendments to the GRA timetable, and that costs be decided at the end of the 2015 GRA process.

MPI stated, in answer to why it has taken a new position relative to the Board's jurisdiction in the middle of a GRA process, that it asserts this position now because of the "enormous" amount of Information Requests posed by the parties to the process. MPI submitted an exhibit reflecting

that from the 1990 GRA to the 2012 GRA, the average number of Information Requests posed to MPI was 600 per year, with over 800 at the 2010 GRA and approximately 1200 at each of the 2011 and 2012 GRAs. MPI did not provide information relative to the 2013 GRA or the 2014 GRA, but stated that in the 2015 GRA, approximately 784 Information Requests (including parts) were posed in the First Round, including the Impugned IRs, together with 250 Information Requests in the Second Round.

MPI agreed that once the Board decides upon Basic Rates pursuant to a GRA, the Corporation's response to the rate decision is entirely within the realm of the Board of Directors of MPI.

MPI advised the Board, in a letter submitted by MPI's Chief Executive Officer, Mr. Dan Guimond, dated August 18, 2014, that "It appears that the mandate provided to the PUB through the legislation is not being followed. The Basic line of business, as a result of this jurisdictional issue, now has a serious capital deficiency and a deficiency in premiums." When asked about this statement at the hearing of the pending motions, MPI stated that in each of the last two years, Basic has posted losses of approximately \$60 million per year, and that the RSR was less than half of what MPI believes it should be, partially because at the 2014 GRA the Board granted a 0.9% rate increase instead of the 1.9% rate increase that MPI applied for.

After a review of the content of the 2015 GRA, and the components which gave rise to the \$69 million loss to Basic in 2013/14, MPI acknowledged that the main reasons for the recent losses in Basic were claims costs, higher than expected interest rates and actuarial adjustments.

MPI stated that it seeks to work with the Board in a collaborative way to establish parameters relative to what evidence is or is not relevant to and admissible in the GRA process.

## 4.0 ANALYSIS

### Role of the Board

In the past, the Board has characterized the key elements of its independent review function and rate-setting role as follows:

- Ensuring that forecasts are reasonably reliable;
- Ensuring that actual and projected costs incurred are necessary and prudent;
- Assessing the reasonable revenue needs of an applicant in the context of its overall general health;
- Determining an appropriate allocation of costs between classes; and
- Setting just and reasonable rates in accordance with statutory objectives.

(Board Order 5/12 issued January 17, 2012 relative to Manitoba Hydro)

The Board's rate-setting role includes the consideration of evidence that is relevant to these key factors; evidence that can assist the Board in the determination of the issues, including the setting of just and reasonable rates.

Basic Rates are reviewed by the Board, and the Board's approval is required prior to MPI implementing any change in Basic Rates pursuant to the CCPRA, which provides as follows:

s. 26(1) Notwithstanding any other Act or law, rates for services provided by Manitoba Hydro and the Manitoba Public Insurance Corporation shall be reviewed by The Public Utilities Board under *The Public Utilities Board Act* and no change in rates for services shall be made and no new rates for services shall be introduced without the approval of The Public Utilities Board.

s. 26(3) The PUB Act applies with any necessary changes to a review pursuant to this Part for rates for services.

s. 26(4) In reaching a decision pursuant to this Part, The Public Utilities Board may

(a) take into consideration

(i) the amount required to provide sufficient moneys to cover operating, maintenance and administration expenses of the corporation,

- (ii) interest and expenses on debt incurred for the purposes of the corporation by the government,
  - (iii) interest on debt incurred by the corporation,
  - (iv) reserves for replacement, renewal and obsolescence of works of the corporation,
  - (v) any other reserves that are necessary for the maintenance, operation, and replacement of works of the corporation,
  - (vi) liabilities of the corporation for pension benefits and other employee benefit programs;
  - (vii) any other payments that are required to be made out of the revenue of the corporation,
  - (viii) any compelling policy considerations that the board considers relevant to the matter,
  - (ix) any other factors that the board considers relevant to the matter;  
and
- (b) hear submissions from any persons or groups or classes of persons or groups who, in the opinion of the board, have an interest in the matter.  
(emphasis added)

As well, it is clear that the Board has broad powers to compel the production of documents. Pursuant to the PUB Act:

s. 24(4): The Board, except as herein otherwise provided, as respects....the production and inspection of documents....and all other matters necessary or proper for the due exercise of its powers, or otherwise for carrying any of its powers into effect, has all such powers, rights and privileges as are vested in the Court of Queen's Bench or a judge thereof;

s. 27(2): The Board...may, where it appears expedient....

- (c) require the production of all books, plans, specifications, drawings and documents; and

s. 28(1): In matters within its jurisdiction, the Board may order and require any ...person....or other corporation to do any act, matter, or thing that the.... person....or other corporation is or may be required to do under this Act or any other Act of the Legislature or under any order, regulation, direction or agreement.

In addition, pursuant to Rule 12 of the Board Rules:

The Board, on its own initiative or upon motion by any party may order any person or party in a proceeding to produce any document relating to the proceeding.

The Board's power to compel evidence was also referenced in the 2011 Stated Case wherein the Court stated that "In fact, the PUB has authority to require that the MPIC disclose specific information in relation to a specific rate application".

The Board accepts that in considering and assessing its jurisdiction, and the parameters within which it may compel the production of documents and information, it must review the broader context of its governing legislation, namely the PUB Act and the CCPRA. The Board also accepts that in considering and assessing its jurisdiction it must consider the MPIC Act, and the jurisdiction of other bodies relative to MPI.

The Board recognizes that pursuant to the CCPRA, and in particular s. 6 thereof, the Crown Corporations Council (CCC) has a series of duties and powers relative to MPI which include, among other things, a duty to facilitate criteria for measuring MPI's performance and a duty to review MPI's long-term plans and capital expenditure proposals. The CCC also has the power to request that MPI or MPI's auditor provide reports to it or that MPI's auditor undertake additional audits or other work.

MPI advised the Board that it is unsure of what criteria the CCC utilizes for the measurement of MPI's performance against other Crown Corporations, and that the CCC prepares an annual report for the Province of Manitoba relative to MPI, the content of which is confidential.

The Board notes, having considered the duties and powers of the CCC pursuant to the CCPRA, and having heard the submissions of MPI, that the role of the CCC does not appear to include any review of the driver and vehicle premium rates charged by MPI to policyholders, including Basic Rates. Moreover, there is no indication that the CCC's role has included any analysis of whether costs incurred by the Corporation, and in particular Basic, are necessary and prudent, either for the purposes of rate-setting or otherwise. The CCC has no duties or powers relative to Basic Rates, and does not appear to carry out its mandate in a public forum. MPI acknowledges that the review conducted by the CCC relative to MPI is a different type of review than that done by the Board. As such, the Board finds that the work of the CCC relative to MPI is very different in focus and perspective than that done by the Board relative to reviewing and approving Basic Rates and that there is no conflict of legislative authority as between the Board and the CCC.

The Board recognizes that pursuant to the Auditor General Act, the Auditor General of Manitoba (Auditor General) may choose to examine or audit the operations of MPI on a periodic basis with regard to, among other things, whether public money has been expended with proper regard for economy and efficiency and whether the form and content of financial information documents is adequate and suitable.

The Board has been provided with no information that the Auditor General has conducted any type of examination or audit of MPI relative to Basic Rates, or relative to whether any costs incurred by MPI or Basic were necessary and prudent. MPI acknowledges that the Auditor General conducts a type of review different from that which the Board conducts.

MPI advised the Board that in 2012 the Auditor General undertook a detailed audit of the system and practices of MPI in administering the Personal Injury Protection Program (PIPP). The report flowing from that audit was provided to the Province of Manitoba, but has not been filed with the Board, and MPI has acknowledged that the report should not be used as the basis on which the PUB should set Basic Rates. Further, the work undertaken by the Auditor General was conducted in a private, as opposed to public, forum.

The Board concludes, on the basis of the foregoing, that the work that has been or could be done by the Auditor General relative to MPI is very different in focus and perspective than that done by the Board relative to reviewing and approving Basic Rates and that there is no conflict of legislative authority as between the Board and the Auditor General.

The PUB recognizes that pursuant to the CCPRA, MPI's Board of Directors has duties to be fulfilled which include exercising the powers of the Corporation, directing the management and business and affairs of the Corporation and establishing an Audit Committee which also has specific duties to be fulfilled. Presumably, the Board of Directors of MPI also considers whether the costs incurred by the Corporation, including Basic, are appropriate.

The PUB notes, however, that relative to Basic Rates, the role of the Board of Directors of MPI is to oversee and approve the preparation and filing of the GRA, for the approval of Basic Rates to be charged by MPI pursuant to its monopoly. The Board of Directors of MPI is not a body independent to MPI's business, as the PUB is, and it performs no independent review function relative to Basic Rates. MPI acknowledges that the review conducted by its Board of Directors relative to Basic Rates is a different type of review than that done by the Board. Moreover, the work of the Board of Directors is not conducted in a public forum.

The PUB concludes, on the basis of the foregoing, that the mandate of the Board of Directors of MPI is very different in focus and perspective than that of the PUB relative to Basic Rates and that there is no conflict of legislative authority as between the PUB and the Board of Directors of MPI.

The PUB recognizes that pursuant to the MPI Act, the Province of Manitoba has a variety of controls over MPI, including among other things, the appointment of its Board of Directors, the designation of its Head Office, the approval of any funds to be borrowed, and the review and approval of its Annual Report.

The PUB recognizes that in its assessment of the Corporation, including Basic, the Province of Manitoba may well consider whether costs incurred by the Corporation, including Basic, are necessary and prudent. To the PUB's knowledge, however, the Province of Manitoba does not



consider Basic's costs in the context of setting Basic Rates. In addition, the Province of Manitoba does not consider Basic's costs or Basic Rates in a public forum.

The PUB also notes that the Province of Manitoba does not have power to enact Basic Rates; the LGC can do so only where those rates have been reviewed and approved by the PUB. As stated by the Court of Appeal of Manitoba in the 1995 CMMG Decision, where the PUB does not approve of Basic Rates, the LGC "...can, of course, leave rates as they are if he does not agree with the rates approved by the Board, but that is his only alternative to establishing those rates which the Board has approved." In other words, the LGC cannot implement Basic rates without the concurrence of the PUB. Given this legislative framework, it is clear that the mandate of the Province of Manitoba relative to MPI is very different in focus and perspective than that of the PUB relative to Basic Rates, and that there is no conflict of legislative authority as between the PUB and the Province of Manitoba. .

The PUB notes that in its last rate order issued with respect to MPI, Order 151/13 flowing from the 2014 GRA, the PUB made recommendations to the Province of Manitoba with respect to MPI's investment portfolio, the total equity of the Corporation and the Corporation's Road Safety efforts. The PUB expressed no opinion or recommendation that its own jurisdiction relative to MPI be expanded in any way. The PUB took a similar approach in Order 157/12 flowing from the 2013 GRA. The PUB understands and accepts its role relative to Basic Rates, in the context of the role of the Province of Manitoba and the overall legislative scheme.

### **Summary of Findings - Role of The Board**

As set out above, the PUB respects the roles and jurisdiction of each of the CCC, the Auditor General, the Board of Directors of MPI and the Province of Manitoba relative to MPI, but finds that none of these entities has a legislative responsibility to review and approve Basic Rates. MPI argues that the respective roles of these bodies as described in the various pieces of applicable legislation necessarily exclude the jurisdiction of the PUB in the same areas. The Board finds that the roles granted to each of these bodies pursuant to legislation do not create powers that overlap or conflict with the powers of the Board or necessarily imply the exclusion of the role of any other body in a particular subject area. Legislative authority may be given to

various statutory bodies and is presumed to be integrated within a plan of the Legislature, to work harmoniously.

The Board also notes that pursuant to s. 26(1) of the CCPRA its jurisdiction is provided "Notwithstanding any other Act or law..." and that "...rates for service provided by....the Manitoba Public Insurance Corporation shall be reviewed by The Public Utilities Board under The Public Utilities Board Act..." (emphasis added) which includes, in s. 77, that the Board shall set just and reasonable rates. The Board's rate review and approval authority relative to Basic Rates is clear, and the Board understands that its decision making role within the GRA process is based upon this specific jurisdictional threshold.

### **Volume of Information Requests**

It is apparent from the submissions of MPI relative to the pending motions that it is dissatisfied with the volume of Information Requests that have been posed by the parties to the GRA process. The Board notes that the volume of Information Requests posed to MPI is not determinative of whether those requests relate to matters within the Board's jurisdiction. Further, the Board notes that over the years additional issues have been brought forward to the Board by MPI through the GRA process which have given rise to an increase in the number of Information Requests posed to MPI, including, but not limited to:

- The analysis and selection of a methodology by which MPI's Rate Stabilization Reserve (RSR) range should be calculated, including Dynamic Capital Adequacy Testing (DCAT);
- The analysis, selection and ongoing review of a Cost Allocation Methodology, relative to the allocation of costs among MPI's lines of business;
- The analysis, selection and ongoing review of an Interest Rate Forecasting Methodology, relative to MPI's investment portfolio;
- The analysis and disposition of excess retained earnings by way of rebates;

- The implementation of International Financial Reporting Standards; and
- Various other areas that were not examined by the Board in the earlier years of the exercise of its mandate.

In addition, MPI has acknowledged that some 470 of the First Round Information Requests served this year are relevant to the GRA process, and that there has been a "real increase over time" in the number of Information Requests posed which it considers to be legitimate.

The Board notes that the majority of Information Requests asked by the parties and answered by MPI in the GRA process are not referred to in cross-examination at the GRA hearing. The parties have advised that:

- The Information Request process is approached with a view to identifying issues that are germane to testing the evidence filed in the GRA;
- After an excessive reserve within MPI was discovered, and approximately \$336 million rebated to ratepayers in 2010, interveners began to exercise additional diligence in preparing the Information Requests posed to MPI;
- In many instances, the responses provided by MPI satisfy the onus upon the Corporation to establish that the rates applied for are just and reasonable;
- As such, through the Information Request process, the issues to be addressed through the GRA hearing are narrowed considerably, making the hearing process more efficient;
- All of the specific Information Requests relative to a certain issue may not be referenced at the GRA hearing, though the issue is still canvassed on cross-examination; and
- In the case of CMMG, some of the Information Requests submitted to MPI are prepared by its membership, and the answers conveyed to those individuals, as well as to CMMG as an umbrella organization, for informational purposes.

### **Previous Decisions of the Court**

It is clear that the Board, in the proper exercise of its jurisdiction, is to consider and assess MPI's overall financial health and to set just and reasonable (or fair and equitable) Basic Rates. These aspects of the Board's jurisdiction have been referenced by the Court of Appeal of Manitoba on multiple occasions, and are not opposed by MPI. A brief review of the relevant Court decisions in respect of the Board's jurisdiction is as follows.

In the CMMG Decision, the Court of Appeal stated that "The Board's function is not only to protect consumers from unreasonable changes, but also to ensure the fiscal health of the Corporation and fairness between different classes of consumer...it is a Crown Corporation that is made accountable to the Board by the (CCPRA). It is the Corporation's accountability which gives the Board its broad power to approve a different rate than that sought by the Corporation."

Similarly, in the 2005 CAC Decision, the Court of Appeal considered s. 26 of the CCPRA and stated that:

The intent of the legislation is to approve fair rates, taking into account such considerations as cost and policy or otherwise as the PUB deems appropriate. Rate approval involves balancing the interests of multiple consumer groups with those of the utility. The PUB's decision to build retained earnings more rapidly than proposed in order to better protect the utility and consumers from the financial impact of future drought, clearly meets the intent of the legislation and is within the jurisdiction afford the PUB in s. 26 of the (CCPRA).

The role of the PUB under the (CCPRA) is not only to protect consumers from unreasonable charges, but to ensure the fiscal health of Hydro. It is clear the PUB understood its role in this regard.

The PUB has two concerns when dealing with a rate application; the interests of the utility's ratepayers and the financial health of the utility. Together, and in the broadest interpretation, these interests represent the general public interest (emphasis added).

In the 2011 Stated Case Leave Application, the Court stated that "Arguably, by the Orders, the Board has gone beyond reviewing and approving (or disapproving) basic rates and costs...."; clearly accepting that the Board has the jurisdiction to so approve or disapprove.

In the 2011 Stated Case, the Court accepted that the role of the PUB was to ensure the financial health of MPI, and considered what information was required to be provided by the Corporation to enable the Board do so.

In the 2012 Hydro Decision, the Court stated that "Hydro's motion must be assessed bearing in mind that PUB has broad powers to be exercised within its mandate to set rates to be charged by Hydro to Manitoba consumers of power. One needs only to look at the factors listed in s. 26(4) of the (CCPRA) to know that the financial health of Hydro is a key factor for PUB's rate-setting role. This includes relevant evidence with respect to "risk", such as Hydro's debt/equity ratio." The Board notes that the same provisions of the CCPRA apply to MPI, and in particular to Basic.

As set out above, in its Order 5/12 relative to Manitoba Hydro, the Board stated that its rate-setting role must involve:

- Ensuring that Hydro's forecasts are reasonably reliable;
- Ensuring that actual and projected costs incurred are necessary and prudent;
- Assessing the reasonable revenue needs of the Corporation in the context of the overall general health of Hydro;
- Determining an appropriate allocation of costs between classes; and
- Setting just and reasonable rates in accordance with statutory objectives.

Order 5/12 was not appealed by Hydro, and MPI agrees that four of the five aspects of the Board's role reflected above also apply to Basic Rates. MPI does not agree with the second item on the list; that the Board's role includes "ensuring that actual and projected costs incurred are necessary and prudent". MPI states that if the Board considers its role is to ensure that costs are necessary and prudent, then it has "rewritten the boundaries of the legislative framework governing MPI - and in doing so the PUB trenches upon the statutory authority of the other legislated entities and 'second-guesses' their decisions and exercise of powers."

### **CCPRA**

In considering MPI's submission, it is necessary to review closely the applicable provisions of the CCPRA:

s. 26(4)(a): In reaching a decision pursuant to this Part, The Public Utilities Board may take into consideration:

- (i): the amount required to provide sufficient moneys to cover operating, maintenance and administration expenses of the corporation;
- (ii): interest and expenses on debt incurred for the purposes of the corporation by the government;
- (iii): interest on debt incurred by the corporation;
- (iv): reserves for replacement, renewal and obsolescence of works of the corporation;
- (v): any other reserves that are necessary for the maintenance, operation, and replacement of works of the corporation;
- (vi): liabilities of the corporation for pension benefits and other employee benefit programs;
- (vii): any other payments that are required to be made out of the revenue of the corporation;
- (viii): any compelling policy considerations that the board considers relevant to the matter; and
- (ix): any other factors that the board considers relevant to the matter

(emphasis added).

s. 26(5): In the case of a review pursuant to this Part of rates for services of the Manitoba Public Insurance Corporation, The Public Utilities Board may take into consideration, in addition to factors described in subsection (4), all elements of insurance coverage affecting insurance rates.

In particular, the language of s. 26 of the CCPRA must be read in its entire context, and in its grammatical and ordinary sense, harmoniously with the scheme and object of the CCPRA and the intention of the Legislature. In particular, the CCPRA must be read in the context of the Board's mandate of setting just and reasonable rates and the balancing of the interests of MPI with the interests of ratepayers in the public interest.

Pursuant to s. 26(4)(a)(i), the Board has the jurisdiction to consider the amount required to provide sufficient moneys to cover operating, maintenance and administration expenses of the corporation (emphasis added). Can the Board determine whether an amount is required without considering whether the amount is necessary and prudent? The Board concludes that it cannot. To do otherwise would be to accept the blanket statement of the Corporation that every expense that it forecasts for Basic is required. The Board concludes that to determine whether a particular expense is required pursuant to s. 26(4)(a)(i) and should properly be embedded within Basic rates, the Board must consider whether the expense is necessary and prudent.

Pursuant to s. 26(4)(a)(v), and in setting just and reasonable rates, the Board may consider any other reserves that are necessary for the maintenance, operation, and replacement of works of the corporation (emphasis added). "Other reserves" would include the Rate Stabilization Reserve (RSR), a reserve established to protect Basic from rate increases made necessary by unexpected events and losses arising from non-recurring events or factors. In setting the appropriate methodology and resultant dollar range for the RSR, a topic which has attracted much attention in the GRA proceedings in past years, and continues to do so, the Board is to consider what is necessary, and the Board believes prudent, for the needs of Basic. Otherwise,

the Board would be left to accept the submissions of the Corporation, on their face, that in its view a particular reserve was necessary.

Pursuant to s. 26(4)(a)(vii), and in setting just and reasonable rates, the Board may consider any other payments that are required to be made out of the revenue of the corporation. Again, in the context of the legislation, and the Board's mandate to set just and reasonable rates, it is the view of the Board that there must be an examination of whether a payment is necessary and prudent, to determine whether it is required, and should form part of Basic Rates.

MPI submits that ss. 26(4)(a)(viii) and (ix) above, although worded broadly, do not permit the Board to claim jurisdiction that it does not otherwise have pursuant to the legislative scheme, and the Board agrees with that submission. Pursuant to those two subsections, however, the Board can consider any compelling policy considerations or any other factors that it considers to be relevant to setting just and reasonable Basic Rates, which is the "matter" referenced in the subsections.

With respect to policy considerations, the Board is mindful of both its mandate to set just and reasonable Basic Rates, and its role as the only gatekeeper of Basic Rates charged to Manitobans by a monopoly insurer. As reflected above, while many other bodies play a role in the business of MPI, and may perform a review function relative to certain aspects of its business, no other entity reviews Basic Rates, or conducts a review from the perspective of Basic rate-setting. The Board finds that the efficiency of MPI relative to its costs, namely the necessity and prudence of those costs, is a policy matter that the Board may properly consider in setting Basic Rates.

In determining relevancy, pursuant to ss. 26(4)(a)(viii) and (ix), the Board again takes guidance from the Manitoba Court of Appeal. In the 2012 Hydro Decision, the Court stated that "Relevance of evidence is determined by the purpose for which it is sought or provided."

The Board also notes the authority of the Supreme Court of Canada, in R. v. J.-L.J., relied upon by CAC, wherein the Court stated that "Evidence is relevant "where it has some tendency as a



matter of logic and human experience to make the proposition for which it is advanced more likely than that proposition would appear to be in the absence of that evidence"....and that "the concept of relevance provides a low threshold....".

The Board accepts that evidence relevant to the GRA process and the mandate of the Board is evidence that could assist the Board in the determination of just and reasonable Basic Rates, including with respect to the provisions of s. 26 of the CCPRA and any of the five components of its role as listed in Order 5/12. The Board also accepts that it cannot make declarations of relevance through which its jurisdiction can be expanded, but finds that in the context of its jurisdiction to set Basic Rates, it is the Board, and not MPI, that determines the relevance of evidence to be submitted.

With respect to the relevance of an assessment of whether costs are necessary and prudent, it is agreed by MPI that costs incurred by Basic are embedded within Basic Rates and charged to ratepayers. If Basic's costs increase, all other factors being equal, Basic Rates will increase. Conversely, if Basic's costs decrease, all other factors being equal, Basic Rates will decrease.

As such, the Board finds that pursuant to the CCPRA, it has jurisdiction to consider whether the costs incurred by Basic are necessary and prudent, for Basic rate-setting purposes. The Board cannot order that MPI must incur a particular cost or that MPI is prohibited from incurring a particular cost. The Board can order, however, that a particular cost be excluded from consideration for Basic rate-setting, and the Board has operated on the foregoing basis in the past.

Examples include:

<b>Order</b>	<b>Board Decision</b>
151/13	1.8% applied for rate increase was denied and 0.9% rate increase ordered; One reason cited was continuing increase in MPI's operating expenses including for salaries & benefits well beyond the rate of inflation; MPI had no savings in operating expenses over the last two years;

151/13	Road Safety & Loss Prevention were significant issues for MPI and affected Basic's revenue requirement in a direct and material way and impact rates; it was important to maximize the value from those programs; MPI should review the cost-benefit of current Road Safety programs;
151/13	MPI had not fully established that its current portfolio of Road Safety expenditures was prudently and reasonably optimized to maximize value to ratepayers or to minimize economic and social costs of collisions;
151/13	MPI did not have a cost containment framework in place; there was a clear need for further benchmarking within MPI; MPI must file a benchmarking framework with indicators to which MPI intended to be held accountable; MPI should compare itself with other public insurers and benchmark the productivity of employees in relation to their own performance over time and in comparison with employees of other public insurers;
157/12	MPI must develop productivity factors to enable the assessment of cost containment measures; costs form a significant component of rates and are directly related to decisions on Basic Rates; there was concern about operating and claims costs being incurred; cost containment at MPI must be a priority;
162/11	Prudency of corporate wide expenditures and spending trends should be reviewed to ensure that costs flowing through cost allocation methodology are prudent and support establishment of just and reasonable Basic Rates
162/11	Board denied MPI request to establish Information Technology Optimization Fund (ITOF) of \$65 million from Basic Retained Earnings to fund IT Optimization Project (Project); Project must be funded from annual operations; ITOF would not be considered for rate-setting purposes or for review of Rate Stabilization Reserve (RSR) target range;
122/10	Cost of donation of King Street Property (\$1.1 million value) could not be allocated to Basic for rate-setting purposes.

The Board notes that in each of the GRA proceedings giving rise to the above-referenced Orders, CAC specifically asked the Board to consider whether MPI's costs were necessary and prudent. At no time did MPI raise an objection to CAC's characterization of the issue or the

Board's jurisdiction to make that consideration. Similarly, MPI did not seek to review or appeal any of the conclusions referenced above.

### **Additional Authorities**

The Board has also considered the decision of the Supreme Court of Canada in *ATCO Gas and Pipelines Ltd. v. Alberta (Energy and Utilities Board)* [2006] 1 S.C.R. 140 (ATCO) wherein the Court stated that "tribunals and boards obtain their jurisdiction over matters from two sources: (1) express grants of jurisdiction under various statutes (explicit powers); and (2) the common law, by application of the doctrine of jurisdiction by necessary implication (implicit powers)".

The Court in ATCO stated further that pursuant to the doctrine of jurisdiction by necessary implication,

...the powers conferred by an enabling statute are construed to include not only those expressly granted but also, by implication, all powers which are practically necessary for the accomplishment of the object intended to be secured by the statutory regime created by the legislature....Canadian courts have in the past applied the doctrine to ensure that administrative bodies have the necessary jurisdiction to accomplish their statutory mandate:

When legislation attempts to create a comprehensive regulatory framework, the tribunal must have the powers which by practical necessity and necessary implication flow from the regulatory authority explicitly conferred upon it.

The Board has also considered the decision of the Supreme Court of Canada in *Bell Canada v. Canada (Canadian Radio-Television and Telecommunications Commission)* [1989] 1 S.C.R. 1722 (Bell) wherein the Court stated that:

The powers of any administrative tribunal must of course be stated in its enabling statute but they may also exist by necessary implication from the wording of the act, its structure and its purpose. Although courts must refrain from unduly broadening the powers of such regulatory authorities through judicial law-making, they must also avoid sterilizing those powers through overly technical interpretations of enabling statutes (emphasis added).

In the 1997 Centra Gas Decision (citation at Appendix "B"), having cited the above Bell quotation with approval, the Manitoba Court of Appeal identified the approach to be taken to assess Board's jurisdiction upon review of its governing legislation:

Thus, the proper approach to the interpretation of legislation, such as the provisions under review here, is obvious. In this respect I can do no better than to refer to several passages of the leading American authority of ***Consolidated Edison Co. of New York, Inc. v. Public Service Commission of the State of New York***...Chief Judge Cooke stated (at p. 752):

It is, of course, a fundamental postulate of administrative law that the Public Service Commission, like other agencies, is possessed of only those powers expressly delegated by the Legislature, together with those powers required by necessary implication.... Nevertheless, the absence of explicit statutory authorization need not be fatal to a given assertion of regulatory power by the commission. For, as we have recognized previously, the Legislature on occasion broadly declares its will, specifying only the goals to be achieved and policies to be promoted, while leaving the implementation of a program to be worked out by an administrative body....In such cases, the sheer breadth of delegated authority precludes a precise demarcation of the line beyond which the agency may not tread. What is called for, rather, is a realistic appraisal of the particular situation to determine

whether the administrative action reasonably promotes or transgresses the pronounced legislative judgment....

Thus the proper approach in this matter is to adopt the procedure suggested by Chief Judge Cooke in **Consolidated Edison Co. of New York**, which is to make a “realistic appraisal” of the facts and issues in order to determine whether the administrative order complained of “reasonably promotes” or transgresses the legislative intent, after having examined the legislative scheme as a whole. Once this is done, the answer on the facts of this case is inevitable.

The provisions in the Board’s order, designed to ensure that no cross-subsidization exists between regulated and unregulated entities, clearly meet the fundamental jurisdictional test of power over discriminatory rates (sec. 82) and are consistent with broader consideration of protection of the public interest under secs. 74(1) and 77. It is not unreasonable that the Act would allow the Board to be concerned about the corporate structure that could well, at the end of the day, affect the rates offered to the utilities’ customers. How can it be said that this is not a matter that affects the public interest? As noted earlier in **Bell Canada v. Canada (CRTC)**, the powers of any administrative tribunal may often need to be exercised by necessary implication from the wording of the Act, its structure and purpose.

As the interveners have argued, if the Board does not examine the necessity and prudence of the costs of MPI, the Board will, in effect, be rubber-stamping the GRA. MPI's expenses would have been accepted at face value and embedded within Basic rates without any regard to whether those expenses, and hence Basic Rates, are just and reasonable. This approach could give rise to unnecessary and/or imprudent expenses being embedded within Basic Rates, such that those rates would not be just and reasonable.

The Board finds that it cannot properly assess whether Basic Rates are just and reasonable without reviewing whether the costs incurred by Basic and embedded within Basic Rates are just and reasonable (or necessary and prudent). The Board recognizes that its jurisdiction is set

by three pieces of Manitoba legislation; the PUB Act, the CCPRA and the MPI Act, and that this legislative scheme is unique to Manitoba. All parties are agreed, however, that the mandate of the Board is to set just and reasonable Basic Rates.

The Board has set just and reasonable Basic Rates for over twenty years in fulfillment of its mandate relative to MPI, and to the public of Manitoba. Given that the role of the Board is to set just and reasonable Basic Rates, it must follow that the Board must also consider whether the expenses that form a significant part of Basic Rates are also just and reasonable (or necessary and prudent). The Board cannot determine the appropriateness of Basic Rates without determining the appropriateness (necessity and prudence) of the costs embedded within those rates. The Board finds that this jurisdiction arises by the specific language of s. 26(4) of the CCPRA and by necessary implication on the basis of the Manitoba legislative scheme, and flowing from fundamental regulatory law principles.

Unlike in the 1989 Stated Case relied upon by MPI, neither the Board nor any party to the GRA proceeding is suggesting that the Board should approve or reject Basic's capital projects or other expenditures, or otherwise direct its management or affairs. Rather, the Board must consider the necessity and prudence of actual and projected costs in setting just and reasonable Basic Rates. In the context of the motions filed, the Board must consider whether the information sought pursuant to the Impugned IRs is relevant to the Board's mandate.

MPI states that the PUB's mandate is to ensure that Basic Rates are sufficient to satisfy the costs of Basic, including any reserve, or in other words that Basic Rates are actuarially sound and statistically driven. The Board agrees with this statement, and notes that the words "actuarially sound and statistically driven", on which basis the Board has set Basic Rates for so many years, are not found within the CCPRA, the PUB Act or the MPI Act. As such, it would appear that these criteria have been implied into the Board's jurisdiction. The same is true for the Board's ability to assess the necessity and prudence of costs, for all of the reasons reflected above.

### **Past Practice**

The Board also notes the past practice of MPI and the interveners to the GRA process relative to the type of information sought in the Impugned IRs. As noted by CAC and CMMG, in many instances the information requested in the Impugned IRs was provided consistently and repeatedly by MPI in past GRA proceedings. The Board recognizes that the provision of information in the past does not create jurisdiction of the Board where none exists pursuant to the legislative scheme, but states that MPI's past approach is indicative that until very recently, MPI shared the interpretation of the legislative scheme advanced by the interveners and the Board.

### **Impugned IRs**

MPI has identified six subject areas to which the Impugned IRs relate. As set out above, MPI states that responsibility for each of those subject areas relative to MPI lies with administrative bodies other than the PUB, including the CCC, the Auditor General, the Board of Directors of MPI and/or the Province of Manitoba. The Board has rejected that submission.

The Board recognizes that it cannot conduct a wholesale review of MPI's business, nor can it compel MPI to undertake or refrain from undertaking specific initiatives. The Board can, however, require information to determine whether MPI's actual and projected costs are necessary and prudent, and should be embedded within Basic Rates. Similarly, the Board can require information to determine whether costs are incurred with a view to obtaining savings for Basic, and if so the extent of those savings.

The Board comments with respect to each of the six subject areas as follows.

#### **Road Safety and Loss Prevention**

In Order 151/13, the Board made several findings relative to Road Safety, including those reflected above. At last year's GRA hearing, the Board heard from three expert witnesses

regarding Road Safety and Loss Prevention, two of whom were called by MPI at the request of the Board.

The Board finds that there is much more than a mere allegation, as MPI states, that ratepayers fund the Road Safety program of MPI through Basic Rates. That linkage is an undisputed fact. Moreover, unlike many other expenses incurred by Basic, Road Safety and Loss Prevention costs are incurred with a view to reducing collisions, and in turn claims costs. As such, Road Safety and Loss Prevention costs have a dual impact upon Basic Rates; as both expenditures and a potential savings mechanism. As such, the Board must be provided with sufficient information relative to those initiatives to enable the Board to consider necessity and prudence of the expenditures and potential savings.

#### Benchmarking

As set out above, in Order 157/12 the Board ordered MPI to develop productivity factors to enable the assessment of its cost containment measures. MPI did so. Prior to commentary by the Board relative to benchmarking, MPI's efforts relative to internal or external benchmarking of costs and claims or other aspects of its business were very limited.

The Board must be provided with evidence of both internal and external benchmarking to assess the necessity and prudence of Basic's expenses, for the purpose of setting Basic Rates, and as the Board stated in Order 151/13, the Corporation should provide a benchmarking framework, along with benchmarking indicators to which the Corporation intends to be held accountable.

#### Services

MPI must file with the Board sufficient information relative to new or enhanced ratepayer services to enable the Board to consider whether the associated costs are necessary and prudent, whether the new or enhanced ratepayer services are being offered with a view to obtaining savings for Basic, and if so the extent of those savings.

The Board notes that pursuant its analysis, none of the Impugned IRs related to the services offered to ratepayers by MPI.



### IT projects and Cost Containment Initiatives

Similar to Road Safety and Loss Prevention expenditures, cost containment initiatives are undertaken with a view to reducing costs. As such, cost containment initiatives have a dual impact upon Basic Rates; as both expenditures and a potential savings mechanism. As such, the Board must be provided with sufficient information relative to those initiatives to enable the Board to consider necessity and prudence of the expenditures and potential savings.

With respect to cost containment initiatives, the Board must comment upon the Impugned IRs posed by ARM. MPI states that the information sought is not within the purview of Basic Rates, and that if ARM had posed Information Requests dealing with rate-making or actuarial modelling, it would have responded to those Information Requests. The Board notes that any such Information Requests would have been outside the scope of ARM's limited intervention in the GRA, which is as follows:

To assist the Board in critically evaluating MPI's new Physical Damage (PD) Re-engineering Program, reviewing MPI's cost containment initiatives relative to recycled parts and suggesting improvements in reducing physical damage repair costs.

The Board notes that MPI neither opposed the intervention of ARM on the foregoing basis, nor appealed the Board's decision granting intervener status. The Board also notes that any Information Requests posed by ARM relative to rate-making or actuarial modelling may have been duplicative, when compared with the Information Requests posed by the other interveners, and accordingly outside the scope of proper intervention.

The Board does not accept the submission by MPI that by permitting the assistance of ARM through its intervention, the Board made an "admission" that it does not have a specialized knowledge in the named areas. Rather, and as the Board stated when it granted limited intervener status to ARM, it has a unique perspective to bring to the GRA process, with an interest in the outcome of the proceeding.

### Operations

MPI must file with the Board sufficient information relative to its operations to enable the Board to consider whether the associated costs are necessary and prudent, and as well whether the operations are being conducted with a view to obtaining savings for Basic, and if so the extent of those savings.

### Investments

The Board acknowledges the role of the Province of Manitoba and potentially other bodies relative to MPI's investments. In particular, the Board has in the past heard evidence from the Assistant Deputy Minister of Finance, Mr. Gary Gibson (Mr. Gibson) relative to his role and that of the Department of Finance in respect of MPI's investments. As reflected in Order 151/13, in practice, Mr. Gibson manages the MPI investment portfolio jointly with MPI through a committee known as the Investment Committee Working Group (ICWG), which is co-chaired by Ms. Heather Reichert, the Vice President of Finance and Chief Financial Officer of MPI.

The ICWG provides support and advice to the Minister of Finance with respect to MPI's investments. The ICWG seeks consensus between the Department of Finance and MPI on recommendations to be provided to the Minister of Finance on investment decisions within the portfolio. Mr. Gibson advised the Board at the 2014 GRA that the ICWG is responsible for MPI's investment returns, but that ultimate responsibility for the portfolio rests with the Minister of Finance.

Mr. Gibson also testified that triggering a portfolio review (in terms of asset mix) is MPI's decision to make, as opposed to that of the Department of Finance, and in Order 151/13, the Board directed MPI to do so. The Board expressed some concerns over MPI's partial withdrawal from U.S. markets and lack of investment in foreign markets. Given the size of the Corporation's portfolio (\$2.3 billion), the Board expressed the view that all investment options should be considered seriously, particularly given the changes in interest rate environment over the last five years.

The Board expressed the strong view that MPI ought to have the composition of its investment portfolio reviewed by an external expert consultant, with a view to determining whether the current asset mix should continue, or should be revised. Given the importance of investment income to the financial performance of Basic, and given the evidence of Mr. Gibson that triggering a portfolio review is MPI's decision to make, the Board directed MPI to do so. The Board stated that the review should encompass an examination that generates recommendations for improving the management of the portfolio, including strategies to manage the volatility of the portfolio, given that the volatility in the value of the investment portfolio is one of the major risks faced by the Corporation.

The Board also expressed the view that it was not appropriate for MPI to speculate on increasing interest rates, thereby risking ratepayers' funds. Rather, MPI should seek to immunize itself to the extent possible from the impact of changing interest rates. The Board stated that the legislation which allocates responsibility for MPI's investments to the Minister of Finance was established purposefully, to create some separation between management of the portfolio and MPI itself.

The Board stated that it does not disagree with the current joint approach of MPI and the Department of Finance through the ICWG, but recommended that the Province cause a process audit of the management of the portfolio to be conducted, with a view to clarifying issues surrounding the roles and responsibilities related to MPI's investment portfolio. In addition, a process audit would ensure that best practices are being followed with respect to MPI's investments, including steps to be taken when any one of its asset classes exceeds the target range provided for in the Investment Policy Statement, as was the case regarding MPI's cash holdings in 2014.

MPI has agreed that Information Requests relative to the forecasted performance of the Corporation's investment portfolio are very relevant to the Board, because the GRA assumes that income will be generated from the investment portfolio and the Board must be able to determine whether projected income forecasts are reasonable, failing which rates will be excessive or deficient.

MPI stated, however, that historical information relative to performance of the portfolio is irrelevant to the Basic Rates to be set. The Board rejects this submission on the part of MPI, and finds that information relative to historical investment returns, including the methodology by which historical forecasts were set, have value to the Board in assessing the forecasts of future investment income advanced by MPI, including the forecasting methodology being advanced by MPI.

The Board recognizes that pursuant to the applicable legislation, it cannot direct MPI or the Department of Finance to invest in a particular asset class, or to buy or sell particular investments. The Board finds, however, that it can require the provision of information regarding MPI's investment portfolio in its assessment of determining just and reasonable Basic Rates. The Board must have regard to whether MPI's investment income forecasts are reasonably reliable and whether the reasonable revenue needs of Basic are met, in the context of the Corporation's overall financial health, and with regard to the volatility of the investment income which may be derived from MPI's large investment portfolio.

### **Summary of Findings - Jurisdiction**

The Board has found that it has both explicit and implicit jurisdiction to consider whether Basic's costs are necessary and prudent, for the purposes of setting Basic Rates. The Board also recognizes that it has specialized expertise and knowledge with respect to the setting of Basic Rates, which necessarily includes the five aspects of its role cited by the Board in Order 5/12, and listed above.

### **Natural Justice**

The Board must also comment upon the issues of natural justice raised by CMMG and ARM relative to the Impugned IRs. In many instances, the Impugned IRs relate to and reference specific excerpts of the GRA filing. In other words, MPI included information in the GRA filing in the normal course and then refused to answer questions with respect to that evidence. MPI

advised the Board that some of the information was filed to be helpful, to be collaborative and for context, even though the information "did not really go to" ratemaking.

The Board compliments MPI on the comprehensive nature of the GRA filings that it has put forward in the past, including the 2015 GRA. In addition, the Board appreciates the re-formatting of the GRA materials that MPI has undertaken in the last two years, which has made the GRA more reader-friendly. The Board finds, however, that having put evidence forward within the GRA filing, in the absence of any qualifications or advice with respect to the scope of that evidence, including any limited basis on which it was put forward, MPI has admitted the relevance of that evidence to setting Basic Rates, and to the scope of the Board's jurisdiction relative to the GRA.

In addition, the Board finds that, having put the evidence forward, MPI is obligated to allow that evidence to be tested, including through the submission of Information Requests and through cross-examination.

Given its findings reflected above, the Board has considered each of the Impugned IRs and whether MPI should be compelled to provide responses. The Board's findings with respect to each Information Request are set out below, organized by topic area and by party.

As reflected above, CAC has requested a finding by the Board that MPI's initial response to the Impugned IRs was not in compliance with Board Rules 15 and 16, given MPI's failure to provide specific reasons supporting its contentions relative to the Impugned IRs. CAC also asked the Board to clarify the proper manner in which an applicant registers its objection to an Information Request, pursuant to the Board Rules, and advised that CAC was willing to include some information on relevancy in the Information Requests filed.

Pursuant to Rule 9 of the Board Rules, the Board has a broad discretion if it determines that a party has not complied with a requirement of the Rules:

Where a party to a proceeding has not complied with any requirement of these Rules or any direction of procedure or order issued by the Board, the Board may stay the proceedings until satisfied that such requirement has been complied with

or take such other steps as it considers just and reasonable, including the withdrawal of status of any Intervener in the proceeding.

The Board notes the provisions of Board Rule 16 relative to Information Requests, which provides as follows:

16. A party who is unable or unwilling to provide a full and adequate response to an interrogatory shall file and serve a response:

- a) where the party contends that the interrogatory is not relevant, setting out specific reasons in support of that contention;
- b) where the party contends that the information necessary to provide an answer is not available or cannot be provided with reasonable effort, setting out the reasons for the unavailability of such information, as well as any alternative available information in support of the response that the party considers would be of assistance to the party making the information requests;
- c) where the party contends that the information sought is of a confidential nature, setting out the reasons why it is considered confidential and any harm that would be caused by making it public; or
- d) otherwise explaining why such a response cannot be given.

On July 31, 2014, when MPI gave notice of its refusal to answer the Impugned IRs, it provided general, but not specific, reasons for doing so. Further specificity with respect to the refusals to answer the Impugned IRs was provided together with MPI's written submission on the motions, filed August 18, 2014. At that time MPI provided a reason for not answering each of the Impugned IRs, though the Board notes that in many instances MPI's comments on relevance were based solely upon MPI's position relative to the Board's jurisdiction, as opposed to the relevance of a particular IR to Basic Rates.

The Board agrees with CAC that MPI did not comply with Board Rule 16 in this instance, however, the Board notes that each of CAC, CMMG and ARM filed their respective motions to compel without specificity as to the refusals being provided by MPI, and without requesting that specificity be provided.

In the future, the Board agrees that when MPI (or other party) refuses to answer an Information Request, it should have careful regard to Board Rule 16 and ensure that specificity is provided pursuant to one of the sub-paragraphs of Board Rule 16, for each and every Information Request that is not being answered.

Similarly, the Board agrees that the party posing an Information Request can choose to provide some detail as to the relevance of the Information Request, however, doing so is not strictly required by the Board Rules, and in many cases the relevance of the Information Request will be obvious and agreed upon by the responding party. The Board asks that parties posing Information Requests exercise their best judgment and discretion in determining whether Information Requests should include information as to relevance.

## **5.0 INFORMATION REQUESTS REGARDING ROAD SAFETY AND LOSS PREVENTION**

### **5.1 PUB Information Requests**

#### **PUB 1-87:**

MPI Objection: The Corporation's definitions of road safety and loss prevention are not relevant to the setting of Basic insurance rates for the application year. However for information, these terms have been defined in past GRA proceedings.

Disposition: This Information Request need not be answered on the basis that it relates to information filed previously with the Board.

**PUB 1-88:**

MPI Objection: Road Safety and loss prevention expenses have been reflected in the projected operating costs for 2015/16 and through the outlook period. Providing the requested information will not affect these projections, and are therefore not relevant to setting of Basic insurance rates.

Disposition: The Board does not require that this Information Request be answered at this time.

**PUB 1-89(a)(b):**

MPI Objection: Any and all prevention strategies being undertaken by the Corporation have been reflected in the operating costs and claims forecasts for 2015/16 and through the outlook period.

Disposition: The loss prevention strategies undertaken by the Corporation impact directly the claims costs which it incurs. In addition, in order to assess the necessity and prudence of the costs incurred for loss prevention strategies, the Board requires these Information Requests to be answered.

**PUB 1-92:**

MPI Objection: The investigation of emerging vehicle technologies is an operational activity and therefore not germane to the rate making methodology. If and when, these emerging technologies impact the pro forma financial statements and/or the actuarial modeling, information will be provided.

Disposition: The Board does not require that the part of this Information Request relative to the implementation of technologies in other jurisdictions be answered at this time. The Board does require that the balance of the Information Request be answered, given the impact of emerging vehicle technologies upon claims costs.



**PUB 1-93(a)(b)(c):**

MPI Objection: The Project Charter for the High School Driver Education Program Redevelopment project was provided for information in AI.10. This includes long-term projected financial impacts to claims costs and operating expenses which are relevant for rate setting purposes.

Disposition: The HSDE program represents the single greatest expenditure within MPI's Road Safety and Loss Prevention budget and changes to that program will impact both Basic expenditures and future claims costs. The requested information is required to assess the necessity and prudence of costs and the Board requires these Information Requests to be answered.

**PUB 1-94(a)(b)(c):**

MPI Objection: The information requested in (a) is not relevant to the setting of Basic Insurance rates for the year of the application. The information requested in (b) does not affect operating expenses for the year of the application or through the outlook period. The information requested in (c) was provided in SM.3.6.5.

Disposition: The summative evaluation report will inform the Board and the Corporation in order that reductions in claims costs can be pursued. For this reason, and to assess the necessity and prudence of the costs incurred relative to the evaluation, the Board requires that PUB(MPI) 1-94(a) and (b) be answered. The Corporation need not answer PUB(MPI) 1-94 at this time, on the basis that some information on this point has already been provided.

**PUB 1-95:**

MPI Objection: The requested information is not relevant to setting of Basic insurance rates, except to the extent that education and awareness initiatives have been reflected in forecasted operating costs for 2015/2016 and through the outlook period.

Disposition: In order to assess the necessity and prudence of the costs incurred and the potential for claims costs savings, the Board requires this Information Request to be answered.

**PUB 1-96:**

MPI Objection: The requested information is not relevant to setting of Basic insurance rates, except to the extent that education and awareness initiatives have been reflected in forecasted operating costs for 2015/2016 and through the outlook period.

Disposition: In order to assess the necessity and prudence of the costs incurred, the Board requires this Information Request to be answered. In addition, please advise of the anticipated impact upon costs arising from changes to the Calendar.

**PUB 1-97(a)(b)(c):**

MPI Objection: The depth of analysis conducted by the Corporation relative to collision and claims data was provided in SM.3.3. Providing additional information will not affect the claims forecast for 2015/16, and is therefore not relevant to the setting of Basic insurance rates for the application year.

Disposition: The Board does not require that these Information Requests be answered at this time.

**PUB 1-98(a)(b):**

MPI Objection: Detailed information about road safety programs and initiatives is not relevant to the setting of Basic insurance rates for the application year. Overall road safety and loss prevention expenditures have been reflected in forecasted operating costs for 2015/16 and through the outlook period.

Disposition: In order to assess the necessity and prudence of the costs incurred relative to the Road Safety portfolio, and the potential to minimize the economic costs of collisions (or reduce claims costs), the Board requires these Information Requests to be answered.

**PUB 1-99(a)(b)(c):**

MPI Objection: The organizational structure for the Road Safety department is not relevant to the setting of Basic insurance rates, except as it relates to the impact on operating costs, which has been reflected in the forecast for 2015/16 and through the outlook period.

Disposition: The Board does not require that these Information Requests be answered at this time.

**PUB 1-100(a)-(f):**

MPI Objection: The work undertaken by the external firm is not relevant to the setting of Basic insurance rates for the application year. An overview of the three-year road safety planning cycle for road safety was provided for information at SM.3.6.2.

Disposition: In order to assess the necessity and prudence of the costs incurred relative to the Road Safety strategy, and the potential to minimize the economic costs of collisions (or reduce claims costs), the Board requires that Information Requests 100(a), 100(b) and 100 (e) be answered. The Board does not require that Information Requests 100(c), 100(d) and 100(f) be answered at this time.

**PUB 1-101(a)(b):**

MPI Objection: The requested information is not relevant to setting of Basic insurance rates for the application year. This is operational in nature and does not factor into the approval of rates. This information sought has no bearing on the 2015 rates.

Disposition: In order to assess the necessity and prudence of the costs incurred, the Board requires that Information Request 101(b) be answered. The Board does not require that Information Request 101(a) be answered at this time.

**PUB 1-102(a)(b)(c):**

MPI Objection: The requested information is not relevant to setting of Basic insurance rates for the application year. This is operational in nature and does not factor into the approval of rates. This information sought has no bearing on the 2015 rates.

Disposition: In order to assess the necessity and prudence of the costs incurred for the initiatives referenced, the Board requires that Information Requests 102(a) and (b) be answered, and that the details of anticipated resultant costs and cost savings of the initiatives be provided. The Board does not require that Information Request 102(c) be answered at this time.

**PUB 1-103(a)-(d)**

MPI Objection: The methodologies used by the Corporation in analyzing motor vehicle collisions are not relevant to the setting of Basic insurance rates, except to the extent that this analysis has been incorporated in the claims forecasts for 2015/16 and through the outlook period.

Disposition: In order to assess the necessity and prudence of the costs incurred for the initiatives referenced, and the potential to reduce claims costs, the Board requires that these Information Requests be answered. Please also advise of whether the Corporation is of the view that publishing collision data, including the location of "hotspots" can influence driver behavior and in turn decrease the frequency and/or severity of collisions and resultant claims costs.

**5.2 CAC Information Requests**

**CAC 1-186**

MPI Objection: This is operational in nature and does not factor into the approval of rates. This information sought has no bearing on the 2015 rates.

CAC Response: This IR requires MPI to expand "from discussing road safety to discussing a comprehensive loss prevention strategy" which is relevant to basic insurance rates.

Disposition: See the disposition relative to PUB(MPI) 1-89(a)(b) above.

### **CAC 1-187**

MPI Objection: The organizational structure for the Road Safety department is not relevant to the setting of Basic insurance rates, except as it relates to impact to operating expenses, which has been reflected in the forecast for the 2015/16 and the outlook period. The qualifications of the Road Safety Manager are not relevant to the setting of Basic insurance rates in any way.

CAC Response: This IR requires MPI to provide a new Road Safety organization chart along with the CVs for the manager and senior road safety staff which is relevant to basic insurance rates.

Disposition: The Board accepts MPI's submission on this issue. These Information Requests need not be answered.

### **CAC 1-188**

MPI Objection: The work undertaken by the external firm is not relevant to the setting of Basic insurance rates for the application year. An overview of the three-year road safety plan was provided for information in SM 3.6.2.

CAC Response: This IR requires MPI to provide a new Road Safety organization chart along with the CVs for the manager and senior road safety staff which is relevant to basic insurance rates.

Disposition: The Board anticipates that CAC's Response with respect to this Information Request was submitted in error. Regarding CAC(MPI) 188(a), see the disposition of PUB(MPI) 1-100(a) and 100(b) above. Regarding CAC(MPI) 188(b), in order to assess the necessity and prudence of the costs incurred for the Road Safety Strategic Plan, as well as a potential reduction in claims costs arising from that Plan, a response to the Information Request is required.

#### **CAC 1-189**

MPI Objection: The Project Charter for the High School Driver Education Redevelopment project was provided for information in AI.10. This included long-term projected financial impacts to claims costs and operating expenses which are relevant for Basic rate setting purposes.

CAC Response: This IR requires MPI to provide information on road safety programming which directly impacts basic insurance rates.

Disposition: See the disposition relative to PUB(MPI) 1-93(a)(b)(c) above.

#### **CAC 1-190**

MPI Objection: The methodologies applied by the Corporation in analyzing motor vehicle collisions are not relevant to the setting of Basic insurance rates for the application year, except to the extent that this analysis has been incorporated into the claims forecasts for 2015/16 and through the outlook period. This is operational in nature and does not factor into the approval of rates. This information sought has no bearing on the 2015 rates.

CAC Response: This IR requires MPI to provide information on road safety which directly impacts basic insurance rates.

Disposition: In order to assess the necessity and prudence of the costs incurred for the initiatives referenced, and the potential to reduce claims costs, the Board requires that these Information Requests be answered.

#### **CAC 1-191**

MPI Objection: Legislation is the responsibility of the Government of Manitoba. The MPIC Act can be viewed online at: <http://web2.gov.mb.ca/laws/statutes/ccsm/p215e.php> This includes amendments to Bill 49 made this year.

CAC Response: This IR requires MPI to provide information on road safety which directly impacts basic insurance rates.

Disposition: The Board accepts MPI's submission on this issue. This Information Request need not be answered.

#### **CAC 1-192**

MPI Objection: Detailed information about road safety programs and initiatives is not relevant to the setting of Basic insurance rates for the application year. Overall road safety and loss prevention expenditures are reflected in operating costs for 2015/16 and through the outlook period.

CAC Response: This IR requires MPI to provide information on road safety which directly impacts basic insurance rates.

Disposition: In order to assess the necessity and prudence of the costs incurred for the initiatives referenced, and the potential to reduce claims costs, the Board requires that these Information Requests be answered.

**CAC 1-193**

MPI Objection: Detailed information about road safety programs and initiatives is not relevant to the setting of Basic insurance rates for the application year. Overall road safety and loss prevention expenditures are reflected in operating costs for 2015/16 and through the outlook period.

CAC Response: This IR requires MPI to provide information on road safety which directly impacts basic insurance rates.

Disposition: In order to assess whether the Corporation's forecasts are reasonably reliable, and to assess whether actual costs are necessary and prudent, the Board requires that these Information Requests be answered.

**CAC 1-194**

MPI Objection: Inter-jurisdictional comparison of casualty rates is not relevant to the setting of Basic insurance rates for the application year. Manitoba-specific data on traffic collisions is available for information in the annual Traffic Collision Statistics Report. The 2012 version of this report is available on-line at: <http://www.mpi.mb.ca/en/PDFs/TCSR2012.pdf>

CAC Response: This IR requires MPI to provide information on road safety which directly impacts basic insurance rates.

Disposition: Evidence relative to claims frequency, including a comparison of claims frequency in Manitoba with that in other jurisdictions, is fundamental to the setting of Basic Rates. The Board requires that a response to the Information Request be provided.



**CAC 1-196**

MPI Objection: This is operational in nature and does not factor into the approval of rates. This information sought has no bearing on the 2015 rates.

CAC Response: This IR requires MPI to provide information on road safety generally and road safety programming which directly impacts basic insurance rates.

Disposition: In order to assess the necessity and prudence of the costs incurred for the initiatives referenced, and the potential to reduce claims costs, the Board requires that these Information Requests be answered.

**CAC 1-197**

MPI Objection: This is operational in nature and does not factor into the approval of rates. This information sought has no bearing on the 2015 rates.

CAC Response: This IR requires MPI to provide information on road safety which directly impacts basic insurance rates.

Disposition: In order to assess the necessity and prudence of the costs incurred for the initiatives referenced, and the potential to reduce claims costs, the Board requires that these Information Requests be answered.

**CAC 1-198**

MPI Objection: The assumptions used to prepare the current PIPP claims forecast are provided in the Claims Incurred section of the Rate Application. The Corporation has already provided detailed information of PIPP claims by injury type in Appendix D of the Claims Incurred section, however, the CAC is requesting an even further breakdown of this data. Providing the

requested information is not relevant to the assumptions used in the Corporation's claims forecast.

CAC Response: This IR requires MPI to provide information on road safety which directly impacts basic insurance rates.

Disposition: In order to adequately assess the assumptions used to prepare the current PIPP claims forecasts, which form part of the Corporation's rate-making methodology, the Board requires that these Information Requests be answered.

#### **CAC 1-199**

MPI Objection: The assumptions used to prepare the current claims forecast are provided in the Claims Incurred section of the Rate Application. Providing the requested information is not relevant to the assumptions used in the Corporation's claims forecast.

CAC Response: This IR requires MPI to provide information on road safety which directly impacts basic insurance rates

Disposition: The Board anticipates that MPI's Objection with respect to this Information Request as drafted was submitted in error. Evidence relative to claims frequency and severity is fundamental to the setting of Basic Rates. The Board requires that a response to the Information Requests be provided.

#### **CAC 1-200**

MPI Objection: The assumptions used to prepare the current PIPP claims forecast are provided in the Claims Incurred section of the Rate Application. Providing the requested information is not relevant to the assumptions used in the Corporation's claims forecast.

CAC Response: This IR requires MPI to provide information on road safety which directly impacts basic insurance rates

Disposition: In order to adequately assess the assumptions used to prepare the current PIPP claims forecasts, which form part of the Corporation's rate-making methodology, and in order to assess the potential to reduce claims costs, the Board requires that this Information Request be answered.

### **CAC 1-201**

MPI Objection: The assumptions used to prepare the current PIPP claims forecast are provided in the Claims Incurred section of the Rate Application. Providing the requested information is not relevant to the assumptions used in the Corporation's claims forecast.

CAC Response: This IR requires MPI to provide information on road safety which directly impacts basic insurance rates

Disposition: In order to adequately assess the assumptions used to prepare the current PIPP claims forecasts, which form part of the Corporation's rate-making methodology, the Board requires that these Information Requests be answered.

## **5.3 CMMG Information Requests**

### **CMMG 1-2**

MPI Objection: Road Safety expenditures are reflected in forecasted operating costs for 2015/16 and the outlook period. The specific information requested will not affect these forecasts, and is not relevant to the 2015 rates.

CMMG Response: It is necessary for the constituency of the CMMG to breakout motorcycles specific road safety programs and compare and contrast its treatment with the overall road

safety expenditures for private passenger or other major use groups. We also require to know about new initiatives and other programs of the Corporation had previously indicated would pilot shortly.

Disposition: In order to assess the necessity and prudence of the costs incurred for the initiatives referenced, and the potential to reduce claims costs, and to ensure fairness between different classes of consumers, the Board requires that this Information Request be answered.

### **CMMG 1-3**

MPI Objection: Road Safety expenditures are reflected in forecasted operating costs for 2015/16 and the outlook period. The specific information requested will not affect these forecasts, and is not relevant to the 2015 rates.

CMMG Response: CMMG needs to know what changes MPI are making to address the problem of wildlife collisions.

Disposition: In order to assess the necessity and prudence of the costs incurred for the initiatives referenced, and the potential to reduce the claims costs of approximately \$30 million per year attributable to wildlife collisions, the Board requires that this Information Request be answered.

### **CMMG 1-6**

MPI Objection: The rationale for the Corporation's claims forecast and proposed motorcycle rates are provided in the Claims Incurred and Ratemaking sections of the 2015 Rate Application. The requested information does not provide any further evidence in support of the assumptions used in the Corporation's forecasts nor is it required to assess the reasonableness of the Corporation's 2015 Rate Proposal.

CMMG Response: CMMG requires detail as to the wildlife collision experience last year to compare with prior years and determine whether the problem is getting better or worse.

Disposition: In order to assess the necessity and prudence of the costs incurred for the initiatives referenced, and the potential to reduce the claims costs of approximately \$30 million per year attributable to wildlife collisions, the Board requires that this Information Request be answered.

#### **CMMG 1-7**

MPI Objection: There are other legislative requirements for operational audits and reviews of the Corporation, such as the Office of the Auditor General (OAG) and the Crown Corporations Council (CCC) to assess the operational information relating to operational efficiency. The Public Utilities Board is designed for rate setting only, not as an operational review. This is operational in nature and does not factor into the approval of rates. This information sought has no bearing on the 2015 rates.

CMMG Response: Effective(sic) of the money spent and cost controls and benefit allowances are important for recommendation whether MPI's loss prevention is managed effectively in order to reduce claims costs which relates to the required rates.

Disposition: In order to assess the necessity and prudence of the costs incurred for the initiatives referenced, and the potential to reduce claims costs, the Board requires that this Information Request be answered.

#### **CMMG 1-8**

MPI Objection: There are other legislative requirements for operational audits and reviews of the Corporation, such as the Office of the Auditor General (OAG) and the Crown Corporations Council (CCC) to assess the operational information relating to operational efficiency. The Public Utilities Board is designed for rate setting only, not as an operational review. This is

operational in nature and does not factor into the approval of rates. This information sought has no bearing on the 2015 rates.

CMMG Response: CMMG requires to know the motorcycle component of the advertising expenditures to determine if MPI is doing enough to reduce claims experience in this area.

Disposition: In order to assess the necessity and prudence of the costs incurred for the initiatives referenced, and the potential to reduce claims costs, and to ensure fairness between different classes of consumers, the Board requires that this Information Request be answered.

#### **CMMG 1-9**

MPI Objection: This is operational in nature and does not factor into the approval of rates. This information sought has no bearing on the 2015 rates. Details of specific road safety programs and initiatives are not relevant to the setting of Basic insurance rates for the application year. Overall road safety and loss prevention expenditures have been reflected in forecasted operating costs for 2015/16 and through the outlook period.

CMMG Response: The hot mapping was ordered at page 57 of Board Order 51/13 and we need to know if the Corporation is using same effectively to reduce claims costs.

Disposition: In order to assess the necessity and prudence of the costs incurred for the initiatives referenced, and the potential to reduce claims costs, the Board requires that this Information Request be answered.

#### **CMMG 1-40**

MPI Objection: The requested information is not relevant to the setting of Basic insurance rates, except to the extent that it affects operating costs as reflected in the forecast for the 2015/16 and through the outlook period.

CMMG Response: The public has the right to know information relative to these expenditures and determine if same are reasonable and effective.

Disposition: In order to assess the necessity and prudence of the costs incurred for the initiatives referenced, and the potential to reduce claims costs, the Board requires that this Information Request be answered, for the period from to 2009/10 to 2013/14.

#### **CMMG 1-42**

MPI Objection: The requested information is not relevant to the setting of Basic insurance rates.

CMMG Response: The Public needs to understand the relationship between MPI's investment and what expenditures directed at and who determines the use of the funds.

Disposition: The Board accepts MPI's submission on this issue. This Information Request need not be answered.

#### **CMMG 1-43**

MPI Objection: The requested information is not relevant to the setting of Basic insurance rates, except to the extent that it affects operating costs as reflected in the forecast for the 2015/16 and through the outlook period.

CMMG Response: The public has the right to know the level and extent of the MPI funding and whether this is consistent in terms of benchmarking.

Disposition: In order to assess the necessity and prudence of the costs incurred for the initiatives referenced, and the potential to reduce claims costs, the Board requires that these Information Requests be answered, however, only existing and readily available information relative to other insurance companies in Canada need be provided.

#### **5.4 ARM Information Requests**

##### **ARM 1-15, 1-16 and 1-17**

MPI Objection: The rationale for the Corporation's claims forecast is provided in the Claims Incurred section of the 2015 Rate Application. The requested information does not provide any further evidence in support of the assumptions used in the Corporation's forecasts nor is it required to assess the reasonableness of the Corporation's 2015 Rate Proposal. This is operational in nature and does not factor in to the approval of rates. This information sought has no bearing on the 2015 rates.

ARM Response: This is a question that is relevant to road safety in this province due to supervision of whether wrecked vehicles are allowed back on the road after repair.

Disposition: As drafted, the questions posed do not appear to assist the Board in assessing the necessity and prudence of the Corporation's cost containment initiatives relative to recycled parts. These Information Requests need not be answered by the Corporation.

#### **6.0 INFORMATION REQUESTS REGARDING BENCHMARKING**

##### **6.1 PUB Information Requests**

###### **PUB 1-55(a)-(d)**

MPI Objection: There are other legislative requirements for operational audits and reviews of the Corporation, such as the Office of the Auditor General (OAG) and the Crown Corporation Council (CCC) to assess the operational information relating to operational decisions. The Public Utilities Board is designed for rate setting only, not as an operational review.

Disposition: In order to assess the necessity and prudence of the costs incurred and the potential for costs savings, the Board requires that Information Requests PUB(MPI) 1-55(a)(c)



and (d) to be answered. The Board does not require that Information Request PUB(MPI) 1-55(b) be answered at this time.

**PUB 1-59(a)-(h)**

MPI Objection: The table referenced in E.2.1. contains the relevant information relating to the forecast period. Providing 14 years of historical information back to 1999/2000 does not take into account the environment MPI currently operates in. This information is not provided at a Basic level as clearly outlined in Section E.2 the Basic normal operating costs represent a subset of the overall normal operating expenses of the Corporation and are a result of the application of the approved cost allocation methodology.

Disposition: In order to assess the necessity and prudence of the costs incurred and the potential for costs savings, the Board requires that Information Requests PUB(MPI) 1-59(b)(d)(f) and (h) be answered as written. The Board does not require that Information Requests PUB(MPI) 1-59(a) and (e) be answered at this time. With respect to PUB(MPI) 1-59(c), the Board seeks a table to include 1999/2000 through 2012/13 for Basic Normal operations.

**PUB 1-63(a)-(d)**

MPI Objection: Cost containment measures are strictly operational in nature and therefore not germane to the Rate Application. Additional historical benchmarking information is not required for setting future Basic insurance rates. Reports, presentations, and analysis provided by Ward are confidential and the Corporation does not have the authority to release any additional information that has not already been sent. The composition of the benchmark groups is not germane to the process of rate making. In addition, the Corporation cannot release this information as it is confidential.

Disposition: In order to assess the necessity and prudence of the costs incurred and the potential for costs savings, the Board requires that Information Requests PUB(MPI) 1-63(a) and (b) be answered. The Board does not require that Information Request PUB(MPI)1-63(c) be

answered at this time. With respect to Information Request PUB(MPI) 1-63(d), the Board orders that MPI advise of how many insurers are included within each named Group, and whether each of those insurers operates within a private or public market.

**PUB 1-64**

MPI Objection: Historical data that the statistics are based on have been provided in the information previously provided. Please see the audited Universal Compulsory Automobile Insurance Financial Statements for relevant data. There are other legislative requirements for operational audits and reviews of the Corporation, such as the Office of the Auditor General (OAG) and the Crown Corporation Council (CCC) to assess the operational claims cost history and statistics. The Public Utilities Board is designed for rate setting only, not as an operational review. Although this information may have been provided in the past, this does not mean it has relevance to rate setting.

Disposition: In order to assess the necessity and prudence of the costs incurred and the potential for costs savings, the Board requires that this Information Request be answered.

**PUB 1-65(a)(b)(c)**

MPI Objection: There are other legislative requirements for operational audits and reviews of the Corporation, such as the Office of the Auditor General (OAG) and the Crown Corporation Council (CCC) to assess the operational claims cost history and statistics. The Public Utilities Board is designed for rate setting only, not as an operational review. Although this information may have been provided in the past, this does not mean it has relevance to rate setting.

Disposition: In order to assess the necessity and prudence of the costs incurred and the potential for costs savings, the Board requires that these Information Requests be answered.

**PUB 1-66**

MPI Objection: This is operational in nature and does not factor into the approval of rates. This information sought has no bearing on the 2015 rates.

Disposition: Noting that SGI offers rates which are, on average, lower than those offered by MPI, and becoming increasingly so, and in order to assess the necessity and prudence of the costs incurred and the potential for costs savings, the Board requires that this Information Request be answered, to the extent that existing information is available to the Corporation.

**PUB 1-67(a)(b)(c)**

MPI Objection: Benchmarking of claim management is strictly operational and therefore not germane to the Rate Application.

Disposition: In order to assess the necessity and prudence of the costs incurred and the potential for costs savings, the Board requires that these Information Requests be answered.

**PUB 1-81**

MPI Objection: This question is strictly operational in nature and therefore has no bearing on the reasonableness of pro forma financial projections or actuarial modeling used to determine rates. Therefore this question is not germane to the Rate Application.

Disposition: In order to assess the necessity and prudence of the costs incurred and the potential for costs savings, the Board requires that this Information Request be answered.

## 6.2 CAC Information Requests

### **CAC 1-45(a)(b)**

MPI Objection: Keeping claims expense per reported claim within 50 percent of industry average is a risk mitigation strategy. The purpose of the Rate Application is not an examination of the key risk mitigation strategies; therefore, this question is not germane to the 2015 rates.

CAC Response: Corporate strategic plan goal 5 indicates that claims expenses will be maintained at 50% of the industry average. The corporation needs to confirm that this is happening and file the evidence. \*This has been filed in the past.

Disposition: In order to assess the necessity and prudence of the costs incurred and the potential for costs savings, the Board requires that these Information Requests be answered.

### **CAC 1-48**

MPI Objection: This is operational in nature and does not factor in to the approval of rates. This information sought has no bearing on the 2015 rates.

CAC Response: This IR requires information relating to benchmarking currently undertaken by MPI. Specifically it relates to FTE per \$100 million of GPW (gross premiums written). The Canadian Personal Auto Group is 103.07 vs. MPI 153.54. MPI is expected to have a higher ratio and the question is "what adjustment is required to MPI data to make it more comparable to the Canadian Personal Auto Group"? What is the purpose of having a benchmark that is not comparable?

Disposition: In order to assess the necessity and prudence of the costs incurred and the potential for costs savings, the Board requires that this Information Request be answered.

**CAC 1-51**

MPI Objection: Historical data that the statistics are based on have been provided in the information previously provided. Please see the audited Universal Compulsory Automobile Insurance Financial Statements for relevant data. These statistics do not show a comparison to SGI or ICBC. There are other legislative requirements for operational audits, such as the Office of the Auditor General (OAG) and the Crown Corporation Council (CCC) to assess the operational and claims cost history and statistics. The Public Utilities Board is designed for rate setting only, not as an operational review. Although this information may have been provided in the past, this does not mean it has relevance to pure rate setting.

CAC Response: This IR requires operational and claims cost history statistics similar to previous years to highlight trends, comparisons to SGI and ICBC, etc. This information is fundamental in testing the current GRA projections. \*Similar evidence was filed in the past.

Disposition: In order to assess the necessity and prudence of the costs incurred and the potential for costs savings, the Board requires that this Information Request be answered.

**CAC 1-57**

MPI Objection: There are other legislative requirements for operational audits and reviews of the Corporation, such as the Office of the Auditor General (OAG) and the Crown Corporation Council (CCC) to assess the operational information relating to operational decisions. The Public Utilities Board is designed for rate setting only, not as an operational review. Although this information may have been provided in the past, this does not mean it has relevance to rate setting.

CAC Response: This IR requires MPI to file internal indicators similar to last year's CAC(MPI) 1-17, which are needed to test operational efficiency. \*Similar evidence was filed in the past.

Disposition: In order to assess the necessity and prudence of the costs incurred and the potential for costs savings, the Board requires that this Information Request be answered.

**CAC 1-58**

MPI Objection: There are other legislative requirements for operational audits and reviews of the Corporation, such as the Office of the Auditor General (OAG) and the Crown Corporation Council (CCC) to assess the operational information relating to operational decisions. The Public Utilities Board is designed for rate setting only, not as an operational review. Although this information may have been provided in the past, this does not mean it has relevance to rate setting.

CAC Response: This IR requires MPI to file Trend Analyses similar to last year's CAC(MPI) 1-18, PUB(MPI) 1-32(c) and 1-52(a) and (b), which are needed to test operational efficiency.

\*Similar evidence was filed in the past.

Disposition: In order to assess the necessity and prudence of the costs incurred and the potential for costs savings, the Board requires that this Information Request be answered.

**CAC 1-61(a)-(c)**

MPI Objection: There are other legislative requirements for operational audits and reviews of the Corporation, such as the Office of the Auditor General (OAG) to assess the operational and claims cost history and statistics. The Public Utilities Board is designed for rate setting only, not as an operational review. Although this information may have been provided in the past, this does not mean it has relevance to rate setting.

CAC Response: This IR requires MPI to file various P & C (Property and Casualty Insurance companies) type indicators to determine if there are any changing trends, year over year, for further detailed examination similar to last year's CAC(MPI) 1-20.

Disposition: In order to assess the necessity and prudence of the costs incurred and the potential for costs savings, the Board requires that these Information Requests be answered.

**CAC 1-62(a)(b)**

MPI Objection: Historical data that the statistics are based on have been provided in the information previously provided. Please see the audited Universal Compulsory Automobile Insurance Financial Statements, the Revenue section (Earned Units) and the Investment section (CPI) of the rate application or relevant data. There are other legislative requirements for operational audits and reviews of the Corporation, such as the Office of the Auditor General (OAG) to assess the operational and claims cost history and statistics. The Public Utilities Board is designed for rate setting only, not as an operational review.

CAC Response: This IR requires MPI to file operational and claims expenses statistics on a basic earned vehicle unit basis as well as comparing actual operating and claims expenses to increases in Manitoba CPI. This information tests the differences between actual expense increases compared to what the expense increases would have been had the expense increases been indexed to the Manitoba CPI.

Disposition: In order to assess the necessity and prudence of the costs incurred and the potential for costs savings, the Board requires that these Information Requests be answered.

**CAC 1-72**

MPI Objection: The benchmarking exercise compares the Corporation's practices and performance against similar organizations. In addition to understanding performance relative to industry peers, benchmarking provides an objective analysis of the operational and cost structure of the Corporation that is used as an analytical tool to identify potential differences in resources as compared to the benchmark. Thus, the goal of the benchmarking exercise is not to establish benchmark targets (aside from the macro mandate measures which have

historically had targets) for the Corporation, rather it is focused on making external comparisons to improve operational performance and efficiency which is not germane to the 2015 rates.

CAC Response: This IR requires MPI to provide targets for MPI's Corporate Performance measures for the years 2013, 2014 and 2015 for operational efficiency and claims performance per Volume III Benchmarking Appendices page 1 and 7. In order for a corporate performance measure to be effective one needs to set targets and if the target is not achieved, one must explain what happened.

Disposition: In order to assess the necessity and prudence of the costs incurred and the potential for costs savings, the Board requires that this Information Request be answered.

#### **CAC 1-73**

MPI Objection: The composition of the benchmark groups is not germane to the process of rate making.

CAC Response: On page 19 of Section SM.2 a comparison is made between MPI and the other auto groups. This IR requires details relating to the insurers included in the Canadian Personal Auto Group, the Canadian Benchmark Group and the US Personal Auto Group. This information is needed to determine if the comparisons are valid in the context of Basic insurance.

Disposition: See the disposition relative to PUB(MPI) 1-63(d) above.

#### **CAC 1-74**

MPI Objection: The comparison of insurance rates in Winnipeg, Calgary and Toronto was provided for information. The additional requested information will have no bearing on the setting of Basic insurance rates for the application year.



CAC Response: On page 21 of section SM.2 a comparison is made of insurance rates in Winnipeg, Calgary and Toronto. This IR requires the companies included in this comparison to determine the validity of the comparison in the context of Basic insurance.

Disposition: The Corporation has repeatedly held itself out as offering among the lowest auto insurance rates in Canada. That assertion ought to be tested in the context of the GRA process, pursuant to which Basic Rates are set. The Board requires that this Information Request be answered.

### **CAC 1-99**

MPI Objection: The comparison of insurance rates in Winnipeg, Calgary and Toronto was provided for information. The additional requested information will have no bearing on the setting of Basic insurance rates for the application year.

CAC Response: The rate comparisons in the 2013 Annual Report (page 23) are for Winnipeg, Calgary and Toronto. This IR requires MPI to include Halifax, Regina and Vancouver as well as to test some other city comparisons.

Disposition: The Corporation has repeatedly held itself out as offering among the lowest auto insurance rates in Canada. That assertion ought to be tested in the context of the GRA process, pursuant to which Basic Rates are set, particularly with respect to other monopoly auto insurance jurisdictions. The Board requires that this Information Request be answered.

## **6.3 CMMG Information Requests**

### **CMMG 1-11**

MPI Objection: The average required rate for motorcycles in other provinces is not relevant to the calculation of required rates for motorcycles in Manitoba. The requested information does

not provide any further evidence in support of the assumptions used in the Corporation's forecasts nor is it required to assess the reasonableness of the Corporation's 2015 Rate Proposal.

CMMG Response: Benchmarking and comparing rates in other jurisdictions allows the public to determine if the rates charged by MPI are competitive. This has been a proper form of inquiry in numerous rate hearings and MPI has previously provided many examples.

Disposition: The Corporation has repeatedly held itself out as offering among the lowest auto insurance rates in Canada. That assertion ought to be tested in the context of the GRA process, pursuant to which Basic Rates are set. The Board requires that this Information Request be answered.

#### **CMMG 1-28**

MPI Objection: Relevant information for 2015 rates regarding compensation has been provided in Volume II expenses.

CMMG Response: CMMG requires a response that is specific to the question to assist in this area of benchmarking experience.

Disposition: In order to assess the necessity and prudence of the costs incurred and the potential for costs savings, the Board requires that these Information Requests be answered.

#### **CMMG 1-33**

MPI Objection: This question is strictly operational in nature and therefore has no bearing on the reasonableness of pro forma financial projections or actuarial modeling used to determine rates. Therefore this question is not germane to the Rate Application.

CMMG Response: This is a benchmarking question and again operational cost directly related to rates.

Disposition: The Board finds that the question of what process MPI has used to lower operational costs, as drafted, is too broad and as such the Board does not require that a response be provided to that part of the Information Request. With respect to the balance of the Information Request, see the disposition relative to PUB(MPI) 1-66 and PUB(MPI) 1-67(b) above.

#### **CMMG 1-34**

MPI Objection: This question is strictly operational in nature and therefore has no bearing on the reasonableness of pro forma financial projections or actuarial modeling used to determine rates. Therefore this question is not germane to the Rate Application.

CMMG Response: Again this is a benchmarking question and operational cost directly related to rates.

Disposition: In order to assess the necessity and prudence of the costs incurred and the potential for costs savings, the Board requires that this Information Request be answered.

### **7.0 INFORMATION REQUESTS REGARDING IT PROJECTS, COST CONTAINMENT INITIATIVES**

#### **7.1 PUB Information Requests**

##### **PUB 1-54**

MPI Objection: The relevant history on parts costs is already included in the pro forma financial projections and/or actuarial modeling. Additional prior years' data have no bearing on the reasonableness of pro forma financial projections or actuarial modeling used to determine rates. Therefore this question is not germane to the Rate Application.

Disposition: In order to assess the necessity and prudence of the costs incurred and the potential for costs savings, the Board requires that this Information Request be answered.

**PUB 1-62(b)**

MPI Objection: Please refer to Appendix 9 in the Expenses section of Volume 2 of the 2015 GRA for IT expenses for 2009/10 through to 2018/19 including standard compound annual growth rates. Providing an additional 4 years of historic information on top of the 5 already provided does not take into account the current environment in which MPI operates in. During the current year, MPI worked with the PUB to set standards on the reporting periods to be provided and the standard compound annual growth rates.

Disposition: In order to assess the necessity and prudence of the costs incurred and the potential for costs savings, including the trend in spending, the Board requires that this Information Request be answered.

**PUB 1-75(a)(b)**

MPI Objection: The PDR costs and savings have been provided by fiscal year and are included in the Project Charter. There is sufficient information in the application to determine the rates for March 1, 2015. The role of the PUB is not to determine if these costs are just and reasonable, but rather to ensure the rates are just and reasonable. When these aspects impact the forecasts, the GRA will contain the financial impact. There is no financial impact to the 2015 rates.

Disposition: In order to assess the necessity and prudence of the costs incurred and the potential for costs savings, including assertions of savings related to the project, the Board requires that these Information Requests be answered.

**PUB 1-76**

MPI Objection: This is operational in nature and does not factor into the approval of rates. This information sought has no bearing on the 2015 rates.

Disposition: In order to assess the necessity and prudence of costs incurred and forecasted, and the potential for costs savings, including the costs of tendered services, the Board requires that this Information Request be answered.

**PUB 1-79(a)-(c)**

MPI Objection: This is operational in nature and does not factor into the approval of rates. This information sought has no bearing on the 2015 rates.

Disposition: In order to assess the necessity and prudence of the IT costs incurred and forecasted to be incurred in Basic, and the potential for costs savings, the Board requires that these Information Requests be answered. With respect to PUB(MPI) 1-79(a), MPI need not provide the operational impact of the actions. With respect to PUB(MPI) 1-79(b) and (c), please advise of the actual or anticipated costs consequences or savings flowing from each recommendation.

**PUB 1-143(a)(b)**

MPI Objection: The benchmarking information referenced in the question is not used in the preparation of the pro forma financial projections used for rate making and/or actuarial modeling and is therefore not germane to the Rate Application. Please refer to Volume 2 Expense section Appendix 9 for the historical IT spending starting in 2009/10, years prior to this are not relevant to the current operating environment. Historical revenue is available in the respective Annual Reports and Audited Financial Statements which can be found at <http://www.mpi.mb.ca/en/Newsroom/Pages/annualreports.aspx>

Disposition: In order to assess the necessity and prudence of the IT costs incurred and forecasted to be incurred in Basic, and the potential for costs savings, the Board requires that PUB(MPI) 1-143(b) be answered. The Corporation need not answer PUB(MPI) 1-143(a) at this time.

**PUB 1-144(a)(b)**

MPI Objection: This is operational in nature and does not factor into the approval of rates. This information sought has no bearing on the 2015 rates.

Disposition: In order to assess the necessity and prudence of the IT costs incurred and forecasted to be incurred in Basic, and the potential for costs savings, the Board requires that these Information Requests be answered.

**PUB 1-145(a)(b)**

MPI Objection: This is operational in nature and does not factor into the approval of rates. This information sought has no bearing on the 2015 rates.

Disposition: In order to assess the necessity and prudence of the IT costs incurred and forecasted to be incurred in Basic, and the potential for costs savings, the Board requires that these Information Requests be answered.

**7.2 CAC Information Requests**

**CAC 1-3(b)**

MPI Objection: The PDR costs have been provided by fiscal year and are included in the Project Charter. There is sufficient information in the application to determine the rates for March 1, 2015. The role of the PUB is not to determine if these costs are just and reasonable, but rather to ensure the rates are just and reasonable.

CAC Response: The costs of these projects are significant for basic insurance rates not only for this GRA but for many GRA's to come and require public scrutiny and examination to ensure that the costs are required, just and reasonable.

Disposition: In order to assess the necessity and prudence of the costs incurred and forecasted to be incurred in Basic, and the potential for costs savings, the Board requires that this Information Request be answered.

**CAC 1-30**

MPI Objection: How the software will be utilized is operational and does not factor in to the approval of rates.

CAC Response: As part of the PDR project the corporation is planning on acquiring and implementing predictive software, with ratepayers' money. The corporation must provide details as to how this software will be used and how it will impact basic rates.

Disposition: As drafted, the questions posed do not appear to assist the Board in assessing the necessity and prudence of the Corporation's cost containment initiatives relative to the software purchase. These Information Requests need not be answered by the Corporation.

**CAC 1-38 and 1-39**

MPI Objection: How the state of the art systems are utilized is operational and does not factor into the approval of rates. The information sought has no bearing on the 2015 rates.

CAC Response: The Corporation uses "state of the art systems" to control claims costs. The corporation must explain how these expensive computer systems have assisted in controlling claims costs to-date and how basic rates have been impacted.

Disposition: In order to assess the necessity and prudence of the costs incurred and forecasted to be incurred in Basic, and the potential for costs savings, the Board requires that these Information Requests be answered, particularly in the context of increased claims costs of \$80.5 million from 2013 to 2014.

**CAC 1-40(a)-(c)**

MPI Objection: This is operational in nature and does not factor into the approval of rates. This information sought has no bearing on the 2015 rates.

CAC Response: The corporation is claiming that initiatives undertaken to-date have saved or avoided costs of approximately \$60 million per year. The corporation must provide details by initiative of these significant annual savings or cost avoidance amounts.

Disposition: In order to assess the necessity and prudence of the costs incurred and forecasted to be incurred in Basic, and the potential for costs savings, the Board requires that this Information Request be answered, particularly in the context of MPI's assertion of annual savings of \$60 million.

**CAC 1-44(a)(b)**

MPI Objection: When these aspects impact the forecasts, the GRA will contain the financial impact. There is no financial impact to the 2015 rates.

CAC Response: Both the introduction of new service delivery options as well as preparing the organization for the digital economy will impact operating expenses and basic insurance rates.

Disposition: In order to assess the necessity and prudence of the costs incurred and forecasted to be incurred in Basic, and the potential for costs savings, the Board requires that Information



Request CAC(MPI) 1-44(a) be answered. The Corporation need not provide a response to CAC(MPI) 1-44(b).

**CAC 1-82**

MPI Objection: The PDR costs have been provided by fiscal year and are included in the Project Charter. There is sufficient information in the application to determine the rates for March 1, 2015. The role of the PUB is not to determine if these costs are just and reasonable, but rather to ensure the rates are just and reasonable.

CAC Response: This IR requires MPI to file the PD Re-engineering Program Charter budget details (cost category/project, by fiscal year) of \$65,485.774. This project will have significant impacts on basic rates as time goes on (Note the initial costs of this project are a minor amount compared to the "systems lifestyle" costs of this initiative.

Disposition: In order to assess the necessity and prudence of the costs incurred and forecasted to be incurred in Basic, and the potential for costs savings, the Board requires that this Information Request be answered, particularly in the context of a project cost of \$65 million.

**CAC 1-86**

MPI Objection: As per the Court of Appeal decision, plans of the Corporation need not be disclosed to the PUB. When these aspects impact the forecasts, the GRA will contain the financial impact. There is no financial impact to the 2015 rates. Furthermore, the CCC is specifically charged with reviewing plans.

CAC Response: This IR requires MPI to elaborate on the IT five-year strategic plan which will impact basic rates.

Disposition: As drafted, the questions posed do not appear to assist the Board in assessing the necessity and prudence of the Corporation's IT expenditures and/or cost containment initiatives. These Information Requests need not be answered by the Corporation.

#### **CAC 1-87**

MPI Objection: This is operational in nature and does not factor into the approval of rates. This information sought has no bearing on the 2015 rates.

CAC Response: This IR requires MPI to file a copy of the Business Transformation Office developed "structured methodology". It is important for ratepayers to understand whether this is cost saving to basic insurance.

Disposition: As drafted, the question posed does not appear to assist the Board in assessing the necessity and prudence of the Corporation's IT expenditures and/or cost containment initiatives. This Information Request need not be answered by the Corporation.

#### **CAC 1-92**

MPI Objection: There is currently no requirement for an external auditor opinion on compliance with the legislative authorities for filing to the Office of the Auditor General (OAG) or the Province of Manitoba. MPI provides an external audit opinion, as a result, MPI does not feel further evidence is required to provide support to policyholders that MPI has complied with required legislation.

CAC Response: This IR requires MPI to file the recent Compliance to Legislation Authority Audit report which reports whether MPI has complied with the required legislation. The policyholders have the right to know that MPI has complied with the required legislation.

Disposition: The Board requires that a response to this Information Request be provided. If the Corporation is not in compliance with any legislative authority, there could be cost implications

to Basic, including Basic Rates, and the Corporation could be put at risk. The Compliance to Legislation Authority report is a public document.

**CAC 1-181(a)(b)**

MPI Objection: This is historical information from a decision that was made about 8 years ago. It is not germane to the 2015 rates.

CAC Response: This IR requires MPI to file the evaluation analysis informing the decision to use the bodily injury computer system for the proposed Physical Damage system. It is in the public interest to know the rigour through which this decision was made since the costs will be born, in large part, by basic insurance. If the bodily injury system fails to handle the physical damages claims or requires a major customization, the additional costs could be very significant. (Note that the current management team could be long retired by then.)

Disposition: As drafted, the questions posed do not appear to assist the Board in assessing the necessity and prudence of the Corporation's IT expenditures and/or cost containment initiatives. This Information Requests need not be answered by the Corporation.

**CAC 1-182**

MPI Objection: This is operational in nature and does not factor into the approval of rates. This information sought has no bearing on the 2015 rates.

CAC Response: MPI uses a higher proportion of contractors than either its peers or the Insurance Industry as a whole (Volume III Benchmarking, page 17). This IR requires MPI to elaborate on the use of contractors going forward. This adds an additional cost to Basic Insurance rates.

Disposition: See the disposition relative to PUB(MPI) 1-81 above.

### **CAC 1-183**

MPI Objection: This is operational in nature and does not factor into the approval of rates. This information sought has no bearing on the 2015 rates.

CAC Response: MPI uses a higher proportion of contractors than either its peers or the Insurance Industry as a whole (Volume III Benchmarking, page 17). This IR requires MPI to elaborate on the use of contractors going forward. This adds an additional cost to Basic Insurance rates.

Disposition: In order to assess the necessity and prudence of the costs incurred and forecasted to be incurred in Basic, and the potential for costs savings, the Board requires that this Information Request be answered.

### **CAC 1-184**

MPI Objection: This is operational in nature and does not factor into the approval of rates. This information sought has no bearing on the 2015 rates.

CAC Response: This IR requires MPI to comment on the lifecycle costs of the PD RE-engineering program which is relevant to basic insurance rates. (Benchmarking, Appendix 4, page 4, Volume III)

Disposition: In order to assess the necessity and prudence of the costs incurred and forecasted to be incurred in Basic, and the potential for costs savings, the Board requires that this Information Request be answered.

## **7.3 ARM Information Requests**

### **ARM 1-1**

MPI Objection: The rationale for the Corporation's claims forecast is provided in the Claims Incurred section of the 2015 Rate Application. The requested information does not provide any

further evidence in support of the assumptions used in the Corporation's forecasts nor is it required to assess the reasonableness of the Corporation's 2015 Rate Proposal. This is operational in nature and does not factor into the approval of rates. This information sought has no bearing on the 2015 rates.

ARM Response: ARM requires the total for recycled parts over the period that the program has been in operation in order to demonstrate the decline in the use of recycled parts which then results in increased claim costs which as the Corporation says in its overview at page 35: "one of the main drivers behind the observed rate change is the significant increase in the physical damage forecast".

Disposition: In order to assess the necessity and prudence of the costs incurred and forecasted to be incurred in Basic relative to recycled parts, and the potential for costs savings, the Board requires that this Information Request be answered.

#### **ARM 1-2**

MPI Objection: The rationale for the Corporation's claims forecast is provided in the Claims Incurred section of the 2015 Rate Application. The requested information does not provide any further evidence in support of the assumptions used in the Corporation's forecasts nor is it required to assess the reasonableness of the Corporation's 2015 Rate Proposal. This is operational in nature and does not factor into the approval of rates. This information sought has no bearing on the 2015 rates.

ARM Response: The Board needs to understand the inherent conflict in the current structure where the repairers mark up the parts results in a preference for the use of new parts instead of finding recycled parts.

Disposition: In order to assess the necessity and prudence of the costs incurred and forecasted to be incurred in Basic relative to recycled parts, and the potential for costs savings, the Board requires that this Information Request be answered.

### **ARM 1-3**

MPI Objection: The rationale for the Corporation's claims forecast is provided in the Claims Incurred section of the 2015 Rate Application. The requested information does not provide any further evidence in support of the assumptions used in the Corporation's forecasts nor is it required to assess the reasonableness of the Corporation's 2015 Rate Proposal. This is operational in nature and does not factor into the approval of rates. This information sought has no bearing on the 2015 rates.

ARM Response: This looks for the acknowledgement of the conflict stated above.

Disposition: In order to assess the necessity and prudence of the costs incurred and forecasted to be incurred in Basic relative to recycled parts, and the potential for costs savings, the Board requires that this Information Request be answered.

### **ARM 1-4**

MPI Objection: The rationale for the Corporation's claims forecast is provided in the Claims Incurred section of the 2015 Rate Application. The requested information does not provide any further evidence in support of the assumptions used in the Corporation's forecasts nor is it required to assess the reasonableness of the Corporation's 2015 Rate Proposal. This is operational in nature and does not factor into the approval of rates. This information sought has no bearing on the 2015 rates.

ARM Response: This is an issue of cost containment in order to determine if the Corporation is doing ineffective job at controlling cost.

Disposition: In order to assess the necessity and prudence of the costs incurred and forecasted to be incurred in Basic relative to recycled parts, and the potential for costs savings, the Board requires that this Information Request be answered.

#### **ARM 1-5**

MPI Objection: The rationale for the Corporation's claims forecast is provided in the Claims Incurred section of the 2015 Rate Application. The requested information does not provide any further evidence in support of the assumptions used in the Corporation's forecasts nor is it required to assess the reasonableness of the Corporation's 2015 Rate Proposal. This is operational in nature and does not factor into the approval of rates. This information sought has no bearing on the 2015 rates.

ARM Response: This is a question as to whether MPI is making the best use of all the recycled parts available with the view of cost containment.

Disposition: In order to assess the necessity and prudence of the costs incurred and forecasted to be incurred in Basic relative to recycled parts, and the potential for costs savings, the Board requires that this Information Request be answered.

#### **ARM 1-6**

MPI Objection: The rationale for the Corporation's claims forecast is provided in the Claims Incurred section of the 2015 Rate Application. The requested information does not provide any further evidence in support of the assumptions used in the Corporation's forecasts nor is it required to assess the reasonableness of the Corporation's 2015 Rate Proposal. This is operational in nature and does not factor into the approval of rates. This information sought has no bearing on the 2015 rates.

ARM Response: This again a review of the efficacy of the cost containment of the Corporation in this area.

Disposition: The question posed does not appear to assist the Board in assessing the necessity and prudence of the costs incurred and forecasted to be incurred in Basic relative to recycled parts, and the potential for costs savings. This Information Request need not be answered by the Corporation.

#### **ARM 1-7**

MPI Objection: The rationale for the Corporation's claims forecast is provided in the Claims Incurred section of the 2015 Rate Application. The requested information does not provide any further evidence in support of the assumptions used in the Corporation's forecasts nor is it required to assess the reasonableness of the Corporation's 2015 Rate Proposal. This is operational in nature and does not factor into the approval of rates. This information sought has no bearing on the 2015 rates.

ARM Response: This is to assist the Board and understanding the issue of how recycled parts are sourced.

Disposition: The question posed does not appear to assist the Board in assessing the necessity and prudence of the costs incurred and forecasted to be incurred in Basic relative to recycled parts, and the potential for costs savings. This Information Request need not be answered by the Corporation.

#### **ARM 1-8**

MPI Objection: The rationale for the Corporation's claims forecast is provided in the Claims Incurred section of the 2015 Rate Application. The requested information does not provide any further evidence in support of the assumptions used in the Corporation's forecasts nor is it



required to assess the reasonableness of the Corporation's 2015 Rate Proposal. This is operational in nature and does not factor into the approval of rates. This information sought has no bearing on the 2015 rates.

ARM Response: This question is asked with the view to determining whether MPI's running of the RPP has been more cost effective than the previous system.

Disposition: In order to assess the necessity and prudence of the costs incurred and forecasted to be incurred in Basic relative to recycled parts, and the potential for costs savings, the Board requires that this Information Request be answered.

#### **ARM 1-9**

MPI Objection: The rationale for the Corporation's claims forecast is provided in the Claims Incurred section of the 2015 Rate Application. The requested information does not provide any further evidence in support of the assumptions used in the Corporation's forecasts nor is it required to assess the reasonableness of the Corporation's 2015 Rate Proposal. This is operational in nature and does not factor into the approval of rates. This information sought has no bearing on the 2015 rates.

ARM Response: This is a review of the efficacy of the electronic glass program to determine if MPI is containing its cost.

Disposition: In order to assess the necessity and prudence of the costs incurred and forecasted to be incurred in Basic relative to recycled parts, and the potential for costs savings, the Board requires that this Information Request be answered.

**ARM 1-10**

MPI Objection: The rationale for the Corporation's claims forecast is provided in the Claims Incurred section of the 2015 Rate Application. The requested information does not provide any further evidence in support of the assumptions used in the Corporation's forecasts nor is it required to assess the reasonableness of the Corporation's 2015 Rate Proposal. This is operational in nature and does not factor into the approval of rates. This information sought has no bearing on the 2015 rates.

ARM Response: This is a question on the amount of glass claims to determine what cost experience has been and how it is trending.

Disposition: In order to assess the necessity and prudence of the costs incurred and forecasted to be incurred in Basic relative to recycled parts, and the potential for costs savings, the Board requires that this Information Request be answered.

**ARM 1-11**

MPI Objection: The rationale for the Corporation's claims forecast is provided in the Claims Incurred section of the 2015 Rate Application. The requested information does not provide any further evidence in support of the assumptions used in the Corporation's forecasts nor is it required to assess the reasonableness of the Corporation's 2015 Rate Proposal. This is operational in nature and does not factor into the approval of rates. This information sought has no bearing on the 2015 rates.

ARM Response: This is to determine whether steps taken by MPI have resulted in a benefit to the Manitoba consumer by a consequent increase in the usage of recycled parts.

Disposition: In order to assess the necessity and prudence of the costs incurred and forecasted to be incurred in Basic relative to recycled parts, and the potential for costs savings, the Board requires that this Information Request be answered.

#### **ARM 1-12**

MPI Objection: The rationale for the Corporation's claims forecast is provided in the Claims Incurred section of the 2015 Rate Application. The requested information does not provide any further evidence in support of the assumptions used in the Corporation's forecasts nor is it required to assess the reasonableness of the Corporation's 2015 Rate Proposal. This is operational in nature and does not factor into the approval of rates. This information sought has no bearing on the 2015 rates.

ARM Response: This is to determine if there are standards being ignored by MPI in dealing with untrained persons which will result in other costs to the Manitoba insurance consumer.

Disposition: The question posed does not appear to assist the Board in assessing the necessity and prudence of the costs incurred and forecasted to be incurred in Basic relative to recycled parts, and the potential for costs savings. This Information Request need not be answered by the Corporation.

#### **ARM 1-13**

MPI Objection: The rationale for the Corporation's claims forecast is provided in the Claims Incurred section of the 2015 Rate Application. The requested information does not provide any further evidence in support of the assumptions used in the Corporation's forecasts nor is it required to assess the reasonableness of the Corporation's 2015 Rate Proposal. This is operational in nature and does not factor into the approval of rates. This information sought has no bearing on the 2015 rates.

ARM Response: This is a question of safety to the motoring public as a result of MPI's policy on parts only salvage.

Disposition: As drafted, the questions posed do not appear to assist the Board in assessing the necessity and prudence of the costs incurred and forecasted to be incurred in Basic relative to recycled parts, and the potential for costs savings. These Information Requests need not be answered by the Corporation.

#### **ARM 1-14**

MPI Objection: The rationale for the Corporation's claims forecast is provided in the Claims Incurred section of the 2015 Rate Application. The requested information does not provide any further evidence in support of the assumptions used in the Corporation's forecasts nor is it required to assess the reasonableness of the Corporation's 2015 Rate Proposal. This is operational in nature and does not factor into the approval of rates. This information sought has no bearing on the 2015 rates.

ARM Response: This is a question directed to what standards of the processing of the recycled parts are met.

Disposition: As drafted, the questions posed do not appear to assist the Board in assessing the necessity and prudence of the costs incurred and forecasted to be incurred in Basic relative to recycled parts, and the potential for costs savings,. These Information Requests need not be answered by the Corporation.

#### **ARM 1-18**

MPI Objection: The rationale for the Corporation's claims forecast is provided in the Claims Incurred section of the 2015 Rate Application. The requested information does not provide any further evidence in support of the assumptions used in the Corporation's forecasts nor is it

required to assess the reasonableness of the Corporation's 2015 Rate Proposal. This is operational in nature and does not factor into the approval of rates. This information sought has no bearing on the 2015 rates.

ARM Response: This broadens the concern from road safety to also environmental and other health risks.

Disposition: The question posed does not appear to assist the Board in assessing the necessity and prudence of the costs incurred and forecasted to be incurred in Basic relative to recycled parts, and the potential for costs savings. This Information Request need not be answered by the Corporation.

#### **ARM 1-19**

MPI Objection: The rationale for the Corporation's claims forecast is provided in the Claims Incurred section of the 2015 Rate Application. The requested information does not provide any further evidence in support of the assumptions used in the Corporation's forecasts nor is it required to assess the reasonableness of the Corporation's 2015 Rate Proposal. This is operational in nature and does not factor into the approval of rates. This information sought has no bearing on the 2015 rates.

ARM Response: This is seeking information from that contained in the application with a view to testing the evidence of the Corporation.

Disposition: As drafted, the questions posed do not appear to assist the Board in assessing the necessity and prudence of the costs incurred and forecasted to be incurred in Basic relative to recycled parts, and the potential for costs savings. These Information Requests need not be answered by the Corporation.

**ARM 1-20**

MPI Objection: The rationale for the Corporation's claims forecast is provided in the Claims Incurred section of the 2015 Rate Application. The requested information does not provide any further evidence in support of the assumptions used in the Corporation's forecasts nor is it required to assess the reasonableness of the Corporation's 2015 Rate Proposal. This is operational in nature and does not factor into the approval of rates. This information sought has no bearing on the 2015 rates.

ARM Response: This is asking further questions about the evidence in the application about the Corporation's new distributed estimating initiative and obtaining the information that will enable ARM to test the Corporation's evidence.

Disposition: In order to assess the necessity and prudence of the costs incurred and forecasted to be incurred in Basic relative to recycled parts, and the potential for costs savings, the Board requires that this Information Request be answered.

**ARM 1-21 and 1-22**

MPI Objection: The rationale for the Corporation's claims forecast is provided in the Claims Incurred section of the 2015 Rate Application. The requested information does not provide any further evidence in support of the assumptions used in the Corporation's forecasts nor is it required to assess the reasonableness of the Corporation's 2015 Rate Proposal. This is operational in nature and does not factor into the approval of rates. This information sought has no bearing on the 2015 rates.

ARM Response: This is asking further questions about the evidence in the application about the Corporation's new distributed estimating initiative and obtaining the information that will enable ARM to test the Corporation's evidence.

Disposition: As drafted, the questions posed do not appear to assist the Board in assessing the necessity and prudence of the costs incurred and forecasted to be incurred in Basic relative to recycled parts, and the potential for costs savings. These Information Requests need not be answered by the Corporation.

**ARM 1-23**

MPI Objection: The rationale for the Corporation's claims forecast is provided in the Claims Incurred section of the 2015 Rate Application. The requested information does not provide any further evidence in support of the assumptions used in the Corporation's forecasts nor is it required to assess the reasonableness of the Corporation's 2015 Rate Proposal. This is operational in nature and does not factor into the approval of rates. This information sought has no bearing on the 2015 rates.

ARM Response: This is in relation to other cost including health and safety of Manitobans in connection with their exposure to toxic in that contaminants produced as a direct result of the sale of wrecked automobiles.

Disposition: As drafted, the question posed does not appear to assist the Board in assessing the necessity and prudence of the costs incurred and forecasted to be incurred in Basic relative to recycled parts, and the potential for costs savings. This Information Request need not be answered by the Corporation.

**ARM 1-24**

MPI Objection: The rationale for the Corporation's claims forecast is provided in the Claims Incurred section of the 2015 Rate Application. The requested information does not provide any further evidence in support of the assumptions used in the Corporation's forecasts nor is it required to assess the reasonableness of the Corporation's 2015 Rate Proposal. This is

operational in nature and does not factor into the approval of rates. This information sought has no bearing on the 2015 rates.

ARM Response: This is the central question given the rationale referred to in terms of the main drivers behind the observed rate change as about plans to control the physical damage cost.

Disposition: In order to assess the necessity and prudence of the costs incurred and forecasted to be incurred in Basic relative to recycled parts, and the potential for costs savings, the Board requires that this Information Request be answered, particular given that physical damage cost approached \$495.5 million in 2013/14.

#### **ARM 1-25**

MPI Objection: The rationale for the Corporation's claims forecast is provided in the Claims Incurred section of the 2015 Rate Application. The requested information does not provide any further evidence in support of the assumptions used in the Corporation's forecasts nor is it required to assess the reasonableness of the Corporation's 2015 Rate Proposal. This is operational in nature and does not factor into the approval of rates. This information sought has no bearing on the 2015 rates.

ARM Response: This is a central question to our intervention and relates to physical damage cost which will result in the required rates.

Disposition: In order to assess the necessity and prudence of the costs incurred and forecasted to be incurred in Basic relative to recycled parts, and the potential for costs savings, the Board requires that this Information Request be answered.



**ARM 1-26**

MPI Objection: The rationale for the Corporation's claims forecast is provided in the Claims Incurred section of the 2015 Rate Application. The requested information does not provide any further evidence in support of the assumptions used in the Corporation's forecasts nor is it required to assess the reasonableness of the Corporation's 2015 Rate Proposal. This is operational in nature and does not factor into the approval of rates. This information sought has no bearing on the 2015 rates.

ARM Response: It is required that we find out what the policy is with respect to the use of recycled parts to determine if the Corporation is focused on reducing physical damage cost in this fashion.

Disposition: As drafted, the question posed does not appear to assist the Board in assessing the necessity and prudence of the costs incurred and forecasted to be incurred in Basic relative to recycled parts, and the potential for costs savings. This Information Request need not be answered by the Corporation.

**ARM 1-27**

MPI Objection: The rationale for the Corporation's claims forecast is provided in the Claims Incurred section of the 2015 Rate Application. The requested information does not provide any further evidence in support of the assumptions used in the Corporation's forecasts nor is it required to assess the reasonableness of the Corporation's 2015 Rate Proposal. This is operational in nature and does not factor into the approval of rates. This information sought has no bearing on the 2015 rates.

ARM Response: This is to determine if the Corporation is buying recycled glass with the view to reducing physical damage cost and ultimately the rates.

Disposition: As drafted, the questions posed do not appear to assist the Board in assessing the necessity and prudence of the costs incurred and forecasted to be incurred in Basic relative to recycled parts, and the potential for costs savings. These Information Requests need not be answered by the Corporation.

**ARM 1-28**

MPI Objection: The rationale for the Corporation's claims forecast is provided in the Claims Incurred section of the 2015 Rate Application. The requested information does not provide any further evidence in support of the assumptions used in the Corporation's forecasts nor is it required to assess the reasonableness of the Corporation's 2015 Rate Proposal. This is operational in nature and does not factor into the approval of rates. This information sought has no bearing on the 2015 rates.

ARM Response: This is to determine if the Corporation is acting efficiently in realization of recycled glass.

Disposition: As drafted, the questions posed do not appear to assist the Board in assessing the necessity and prudence of the costs incurred and forecasted to be incurred in Basic relative to recycled parts, and the potential for costs savings. These Information Requests need not be answered by the Corporation.

**ARM 1-29**

MPI Objection: The rationale for the Corporation's claims forecast is provided in the Claims Incurred section of the 2015 Rate Application. The requested information does not provide any further evidence in support of the assumptions used in the Corporation's forecasts nor is it required to assess the reasonableness of the Corporation's 2015 Rate Proposal. This is operational in nature and does not factor into the approval of rates. This information sought has no bearing on the 2015 rates.

ARM Response: This is to review whether the Corporation has made effective decisions in the management of recycled parts usage with a view to containing cost.

Disposition: As drafted, the question posed does not appear to assist the Board in assessing the necessity and prudence of the costs incurred and forecasted to be incurred in Basic relative to recycled parts, and the potential for costs savings. This Information Request need not be answered by the Corporation.

## **8.0 INFORMATION REQUESTS REGARDING OPERATIONS**

### **8.1 PUB Information Requests**

#### **PUB 1-2(a)(b)(d)**

MPI Objection: The public release of minutes of the Corporation can compromise the efficient and effective functioning of these meetings. Given the nature of the request for the wholesale release of all minutes, the Corporation will decline to release all such minutes. The PUB does not require this information to accomplish its mandate of approving 2015 rates.

Disposition: MPI must file with the Board sufficient information relative to its operations where there are implications for Basic Rates which the Board is being asked to review and approve, and to enable the Board to consider whether the associated costs are necessary and prudent, and as well whether the operations are being conducted with a view to obtaining savings for Basic. The Board requires that a response to the Information Requests be provided, but that the responses be limited to the excerpts of the meeting minutes that relate to the topics listed.

#### **PUB 1-3**

MPI Objection: This is operational in nature and does not factor into the approval of rates. The information sought has no bearing on the 2015 rates.

Disposition: The Board does not require that this Information Request be answered at this time.

**PUB 1-70**

MPI Objection: E.2.1.2. contains the relevant information relating to the forecast period.

Disposition: MPI must file with the Board sufficient information relative to its operations where there are implications for Basic Rates which the Board is being asked to review and approve, and to enable the Board to consider whether the associated costs are necessary and prudent, and as well whether the operations are being conducted with a view to obtaining savings for Basic. The Board requires that a response to the Information Request be provided.

**PUB 1-72(a)(b)**

MPI Objection: There are other legislative requirements for operational audits and reviews of the Corporation, such as the Office of the Auditor General (OAG) and the Crown Corporation Council (CCC) to assess the operational information relating to operational decisions. The Public Utilities Board is designed for rate setting only, not as an operational review. This is operational in nature and does not factor into the approval of rates. This information sought has no bearing on the 2015 rates.

Disposition: MPI must file with the Board sufficient information relative to its operations where there are implications for Basic Rates which the Board is being asked to review and approve, and to enable the Board to consider whether the associated costs are necessary and prudent, and as well whether the operations are being conducted with a view to obtaining savings for Basic. The Board requires that a response to the Information Request PUB(MPI) 1-72(b) be provided. The Board does not require that Information Request 1-72(a) be provided at this time.

**PUB 1-86(a)-(c)**

MPI Objection: The PUB mandate does not extend to the competitive lines of business. This information sought is not germane to the 2015 rates.

Disposition: The Board does not require that these Information Requests be answered at this time.

## **8.2 CAC Information Requests**

### **CAC 1-6(a)-(c)**

MPI Objection: Financial impacts from extended agreements with the Automotive Trades Association and the Manitoba Motor Dealers Association are reflected in the Claims Forecasts already provided for 2015/16 and the outlook period. Accordingly, no further information is required to approve the 2015 rates.

CAC Response: The agreements with the Automotive Trades Association and the Manitoba Dealers Association represent major physical damage labour costs and are relevant to the GRA basic insurance rate setting process. In addition, if there are challenges of increasingly complex vehicle design and construction, the policyholders need to understand the impact on basic rates, if any. \*These agreements have been filed in the past.

Disposition: MPI must file with the Board sufficient information relative to its operations where there are implications for Basic Rates which the Board is being asked to review and approve, and to enable the Board to consider whether the associated costs are necessary and prudent, and as well whether the operations are being conducted with a view to obtaining savings for Basic. The Board requires that a response to the Information Requests be provided.

### **CAC 1-7(a)(b)**

MPI Objection: Financial impacts from extended agreements with the Automotive Trades Association and the Manitoba Motor Dealers Association are reflected in the Claims Forecasts already provided for 2015/16 and the outlook period. Accordingly, no further information is required to approve the 2015 rates.

CAC Response: The updated Manitoba Collision Repair Industry Study is germane to the GRA and basic rates. It is important to understand the financial impact on rates. \*This has been filed in the past.

Disposition: MPI must file with the Board sufficient information relative to its operations where there are implications for Basic Rates which the Board is being asked to review and approve, and to enable the Board to consider whether the associated costs are necessary and prudent, and as well whether the operations are being conducted with a view to obtaining savings for Basic. The Board requires that a response to the Information Requests be provided.

**CAC 1-13(a)(b)**

MPI Objection: The claims portion of the Corporation's forecast is led by the Corporation's Chief Actuary. The detailed assumptions used to produce the claims forecast are provided in the Claims Incurred section of the Rate Application. Providing a list of the current members of the Corporation's forecasting committee is not relevant to the CAC's assessment of the assumptions made by the Corporation in its claims forecast.

CAC Response: The background of the Claims Forecasting Committee membership and expertise is fundamental for an external party to have confidence in MPI's forecast. \*This has been filed in the past.

Disposition: The Board is prepared to rely upon the evidence of MPI's Chief Actuary at the GRA hearing relative to membership of the Claims Forecasting Committee, and does not require that Information Request CAC(MPI) 1-13(a) be answered at this time. As the expertise of the membership of the Committee is particularly relevant to the setting of Basic Rates, the Board does require that MPI respond to CAC(MPI) 1-13(b).

**CAC 1-46**

MPI Objection: The GRA filing provides extensive information on the corporate and Basic budgets. The information being sought is of a governance and operational nature and is not germane to the 2015 rates. Other government entities are charged with the review of MPI operations and financial accounting, including the Auditor General and the CCC.

CAC Response: This IR requires details relating to the corporate (basic) budget guidelines and the results for 2014/14 and 2014/15. The public needs to know that this basic cost accounting management and cost governance tool is being deployed seriously at MPI.

Disposition: MPI must file with the Board sufficient information relative to its operations where there are implications for Basic Rates which the Board is being asked to review and approve, and to enable the Board to consider whether the associated costs are necessary and prudent, and as well whether the operations are being conducted with a view to obtaining savings for Basic and whether forecasts are reasonable reliable. The Board requires that responses to Information Requests CAC(MPI) 1-46(a) (Basic only), 1-46(c), 1-46(d), 1-46(e) and 1-46(g) be provided. The Board does not require that responses to Information Requests CAC(MPI) 1-46(b) and 1-46(f) be provided.

**CAC 1-47(a)(b)**

MPI Objection: This is operational in nature and does not factor into the approval of rates. This information sought has no bearing on the 2015 rates.

CAC Response: This IR requires details relating to the "Service Centre Model" asking for a generic job description of a qualified service centre employee along with the required training an individual would need to be an expert service centre employee. How does the Service Centre Model impact operating expenses (generally) and building expenses (specifically)?

Disposition: As this request does not appear to assist the Board relative to implications for Basic Rates, to enable the Board to consider whether costs are necessary and prudent, or to consider whether operations are being conducted with a view to obtaining savings for Basic, the Board does not require that a response to the Information Requests be provided.

**CAC 1-50**

MPI Objection: This is operational in nature and does not factor into the approval of rates. This information sought has no bearing on the 2015 rates.

CAC Response: This IR requires operating expense details and an explanation relating to the Downtown Allowance and Health and Wellbeing Flexible Spending Plan. The operating expenses directly affect basic rates and require details and an explanation.

Disposition: As drafted, this request does not appear to assist the Board relative to implications for Basic Rates, to enable the Board to consider whether costs are necessary and prudent, or to consider whether operations are being conducted with a view to obtaining savings for Basic, the Board does not require that a response to the Information Request be provided.

**CAC 1-55(a)-(c)**

MPI Objection: There are other legislative requirements for operational audits and reviews of the Corporation, such as the Office of the Auditor General (OAG) and the Crown Corporation Council (CCC) to assess the operational information relating to operational decisions. The Public Utilities Board is designed for rate setting only, not as an operational review.

CAC Response: This IR requires operational information relating to the engagement of consultants which directly impacts basic rates and gives a sense of the external labour required to shore up the 1,894.7 FTEs as of 2012/13.

Disposition: MPI must file with the Board sufficient information relative to its operations where there are implications for Basic Rates which the Board is being asked to review and approve, and to enable the Board to consider whether the associated costs are necessary and prudent, and as well whether the operations are being conducted with a view to obtaining savings for Basic. The Board requires that a response to the Information Request CAC(MPI) 1-55(a) and



(b) be provided. The Board does not require that a response to Information Request CAC(MPI) 1-55(c) be provided at this time.

**CAC 1-56(a)-(d)**

MPI Objection: There are other legislative requirements for operational audits and reviews of the Corporation, such as the Office of the Auditor General (OAG) and the Crown Corporation Council (CCC) to assess the operational information relating to operational decisions. The Public Utilities Board is designed for rate setting only, not as an operational review. The auditor appointment and fees are set by the Department of Finance. The external auditor search RFP is conducted by the Department of Finance as well; therefore, the RFP does not belong to the Corporation.

CAC Response: This IR requires operational information relating to the engagement of auditors and actuaries and the related engagement letters which directly impact basic rates.

Disposition: MPI must file with the Board sufficient information relative to its operations where there are implications for Basic Rates which the Board is being asked to review and approve, and to enable the Board to consider whether the associated costs are necessary and prudent, and as well whether the operations are being conducted with a view to obtaining savings for Basic. The Board requires that a response to the Information Requests CAC(MPI) 1-56(a), 1-56(b) and 1-56(d) be provided, particularly given that the external auditor and appointed actuary provide evidence crucial to the GRA process. The Board does not require that a response to CAC(MPI) 1-56(c) be provided at this time.

**CAC 1-60**

MPI Objection: The detailed listing of donation and sponsorships is not relevant to the setting of Basic insurance rates, except as it relates to the impact to operating expenses, which has been reflected in the forecast for 2015/16 and the outlook period.

CAC Response: This IR requires MPI to file details relating to Donations and Sponsorships for 2013/14 compared to 2012/13 which directly impacts Basic rates.

Disposition: MPI must file with the Board sufficient information relative to its operations where there are implications for Basic Rates which the Board is being asked to review and approve, and to enable the Board to consider whether the associated costs are necessary and prudent. This is particularly so in the case of donations and sponsorships, wherein the nature of the return to MPI is intangible. The Board requires that a response to the Information Request be provided.

#### **CAC 1-64**

MPI Objection: There are other legislative requirements for operational audits and reviews of the Corporation, such as the Office of the Auditor General (OAG) and the Crown Corporation Council (CCC) to assess the operational information relating to operational decisions. The Public Utilities Board is designed for rate setting only, not as an operational review.

CAC Response: This IR requires MPI to file detailed analysis of external labour costs as per Pro Formas Volume II, page 7 which are relevant to rate setting.

Disposition: MPI must file with the Board sufficient information relative to its operations where there are implications for Basic Rates which the Board is being asked to review and approve, and to enable the Board to consider whether the associated costs are necessary and prudent, and as well whether the operations are being conducted with a view to obtaining savings for Basic. The Board requires that a response to the Information Request be provided.

#### **CAC 1-66(a)**

MPI Objection: This is operational in nature and does not factor into the approval of rates. This information sought has no bearing on the 2015 rates.

CAC Response: This IR requires a detailed analysis of various capital asset purchases which impact basic rates as the costs are amortized over the life of the asset.

Disposition: MPI must file with the Board sufficient information relative to its operations where there are implications for Basic Rates which the Board is being asked to review and approve, and to enable the Board to consider whether the associated costs are necessary and prudent, and as well whether the operations are being conducted with a view to obtaining savings for Basic. The Board requires that a response to the Information Request be provided.

#### **CAC 1-67**

MPI Objection: When these aspects impact the forecasts, the GRA will contain the financial impact. There is no financial impact to the 2015 rates.

CAC Response: This IR requires an elaboration of the "digital economy" and potential impacts on the use of building space, etc. which will impact basic rates.

Disposition: This request does not appear to assist the Board relative to implications for Basic Rates, to enable the Board to consider whether costs are necessary and prudent, or to consider whether operations are being conducted with a view to obtaining savings for Basic, the Board does not require that a response to the Information Request be provided.

#### **CAC 1-68**

MPI Objection: There are other legislative requirements for operational audits and reviews of the Corporation, such as the Office of the Auditor General (OAG) and the Crown Corporation Council (CCC) to assess the operational information relating to operational decisions. The Public Utilities Board is designed for rate setting only, not as an operational review.

CAC Response: This IR requires a breakdown of a \$4 million dollar variance relating to external labour by initiative as per Volume II Expenses, Appendix I, page 4, which impacts basic rates.

Disposition: MPI must file with the Board sufficient information relative to its operations where there are implications for Basic Rates which the Board is being asked to review and approve, to enable the Board to consider whether the associated costs are necessary and prudent, whether the operations are being conducted with a view to obtaining savings for Basic and whether the Corporation's forecasts are reasonably reliable. The Board requires that a response to the Information Request be provided.

**CAC 1-69**

MPI Objection: This historical information is not germane to the 2015 rates.

CAC Response: This IR requires a detailed account analysis of special services of \$5,164,000 for basic insurance for 2013/14 per Volume II Expenses, Appendix I, page 3, which impacts basic rates. Various account analyses have been provided in the past.

Disposition: MPI must file with the Board sufficient information relative to its operations where there are implications for Basic Rates which the Board is being asked to review and approve, to enable the Board to consider whether the associated costs are necessary and prudent, whether the operations are being conducted with a view to obtaining savings for Basic and whether the Corporation's forecasts are reasonably reliable, including historical information. The Board requires that a response to the Information Request be provided.

**CAC 1-88**

MPI Objection: The public release of minutes of the Audit Committee can compromise the efficient and effective functioning of these meetings. Given the nature of the request for the wholesale release of all minutes of the Audi Committee, the Corporation will decline to release all such minutes. The PUB does not require this information to accomplish its mandate of approving 2015 rates.

CAC Response: This IR requires MPI to file a copy of the Audit Committee Minutes for the fiscal year 2013/14. This assists in assessing the "operational control" discussions and approvals taken during the last year and lends confidence for the current GRA.

Disposition: See the disposition relative to PUB(MPI) 1-2(a)(b) and (d) above.

### **8.3 CMMG Information Requests**

#### **CMMG 1-23**

MPI Objection: The Corporation does not have "contract" employees. For the average wage break down by level of employee, please refer to Volume II Expenses, Appendix 2 (page 23). In addition, there are other legislative requirements for operational audits and reviews of the Corporation, such as the Office of the Auditor General (OAG) and the Crown Corporation Council (CCC) to assess the operational information relating to operational efficiency. The Public Utilities Board is designed for rate setting only, not as an operational review.

CMMG Response: The operating expense of the Corporation has been a considerable area for inquiry. See page 23 of the Board Order 151/13. We are also concerned that the Corporation is evading the question by indicating it does not have contract employees since it is obvious that they rehired the previous President on the contract and have numerous contract employees.

Disposition: See the disposition relative to PUB(MPI) 1-70 above.

#### **CMMG 1-24**

MPI Objection: This is historical in nature and does not factor into the approval of rates. This information sought has no bearing on the 2015 rates. Relevant information for 2015 rates regarding compensation forecasted has been provided in the Expenses Section of Volume II.

CMMG Response: The only way to review trending and direction of the operating cost is to look at year over year change.

Disposition: MPI must file with the Board sufficient information relative to its operations where there are implications for Basic Rates which the Board is being asked to review and approve, and to enable the Board to consider whether the associated costs are necessary and prudent, and as well whether the operations are being conducted with a view to obtaining savings for Basic. The Board requires that a response to the Information Requests be provided.

### **CMMG 1-27**

MPI Objection: This is operational in nature and does not factor into the approval rates. This information sought has no bearing on the 2015 rates.

CMMG Response: Operating efficiencies including amount of professional staff is partly part of team interest in reviewing the Corporation's operating expense and assessing them for prudence and reasonableness as per page 23 Board Order 151/13.

Disposition: As drafted, this request does not appear to assist the Board relative to implications for Basic Rates, to enable the Board to consider whether costs are necessary and prudent, or to consider whether operations are being conducted with a view to obtaining savings for Basic, the Board does not require that a response to the Information Request be provided.

### **CMMG 1-30**

MPI Objection: The claims expense which includes an allocation of expenses (including compensation) relating to the administration process of claims is out line in the Expense forecast. In addition, there are other legislative requirements for operational audits and reviews of the Corporation, such as the Office of the Auditor General (OAG) and the Crown Corporation Council (CCC) to assess the operation information relating to operational efficiency. The Public Utilities Board is designed for rate setting only, not as an operational review. This is historical in

nature and does not factor into the approval of rates. This information sought has no bearing on the 2015 rates.

CMMG Response: The cost of administrative processing of a claim is directly related to the determination of rates.

Disposition: MPI must file with the Board sufficient information relative to its operations where there are implications for Basic Rates which the Board is being asked to review and approve, and to enable the Board to consider whether the associated costs are necessary and prudent, and as well whether the operations are being conducted with a view to obtaining savings for Basic. The Board requires that a response to the Information Requests be provided.

#### **CMMG 1-32**

MPI Objection: This is operational in nature and does not factor into the approval rates. This information sought has no bearing on the 2015 rates.

CMMG Response: This change in administration of claims may have an affect on claims which directly relate to rate.

Disposition: MPI must file with the Board sufficient information relative to its operations where there are implications for Basic Rates which the Board is being asked to review and approve, and to enable the Board to consider whether the associated costs are necessary and prudent, and as well whether the operations are being conducted with a view to obtaining savings for Basic. The Board requires that a response to the Information Requests be provided.

#### **CMMG 1-39**

MPI Objection: There are other legislative requirements for operational audits and reviews of the Corporation, such as the Office of the Auditor General (OAG) and the Crown Corporation

Council (CCC) to assess the operation information relating to operational efficiency. The Public Utilities Board is designed for rate setting only, not as an operational review.

CMMG Response: Public has a right to know as to whether the expenses by the Corporation in this area are reasonable as expenses directly relates to rate.

Disposition: MPI must file with the Board sufficient information relative to its operations where there are implications for Basic Rates which the Board is being asked to review and approve, and to enable the Board to consider whether the associated costs are necessary and prudent, and as well whether the operations are being conducted with a view to obtaining savings for Basic. The Board requires that a response to the Information Requests be provided, relative to Basic only.

## **9.0 INFORMATION REQUESTS REGARDING INVESTMENTS**

### **9.1 PUB Information Requests**

#### **PUB 1-11**

MPI Objection: Some of the historical information requested in Table 4.4 is found on page 5 and 6 of the investment income document (book value and percentage of the portfolio). The remaining historical information for new MUSH purchases, MUSH amortization and MUSH yield is historical data and is not used in the MUSH portfolio forecast.

Disposition: Given the importance of investment income to the Corporation's forecasted net financial result for rate setting purposes, and to enable the Board to assess whether the Corporation's investment income forecasts are reasonably reliable, the Board requires that a response to the Information Request be provided.



**PUB 1-12(a)(b)**

MPI Objection: The Bloomberg dividend yield forecast is used as the basis for the Canadian equity dividend yield forecast. The historical Canadian dividend yield is not used to determine the dividend forecast for the investment income forecast. Therefore, this information is not germane to the 2015 rates.

Disposition: Given the importance of investment income to the Corporation's forecasted net financial result for rate setting purposes, and to enable the Board to assess whether the Corporation's investment income forecasts are reasonably reliable, the Board requires that a response to the Information Requests be provided.

**PUB 1-14**

MPI Objection: The Bloomberg dividend yield forecast is used as the basis for the U.S. equity dividend yield forecast. The historical U.S. dividend yield is not used in the forecast investment income forecast. Therefore, this information is not germane to the 2015 rates.

Disposition: Given the importance of investment income to the Corporation's forecasted net financial result for rate setting purposes, and to enable the Board to assess whether the Corporation's investment income forecasts are reasonably reliable, the Board requires that a response to the Information Request be provided, and that the table include total equity returns. While the Board could direct that this information be compiled from past GRA filings, and presented to MPI at the GRA hearing, there will potential inefficiencies in that approach, which the Board would prefer to avoid.

**PUB 1-15**

MPI Objection: The information requested is found on page 5 and 6 of the investment income document, except for the funding amount. The infrastructure funding forecast is not based on

historical funding amounts for the infrastructure portfolio. Therefore, this information is not germane to the 2015 rates. Please see Attachment F of the Investment Income section for the historical infrastructure returns.

Disposition: Given the importance of investment income to the Corporation's forecasted net financial result for rate setting purposes, and to enable the Board to assess whether the Corporation's investment income forecasts are reasonably reliable, the Board requires that a response to the Information Request be provided.

**PUB 1-18(a)(b)(c)**

MPI Objection: The RFP, the service agreement, the scope and status of the study have no bearing on the Corporation's investment income forecast for the 2015 GRA.

Disposition: Given the importance of investment income to the Corporation's forecasted net financial result for rate setting purposes, and the significant impact that the portfolio mix has upon MPI's investment income, the Board requires that a response to the Information Requests be provided.

**PUB 1-20**

MPI Objection: As stated in the Investment Policy Statement supplied in the Investment Income section (Appendix A) of the rate application: It is a statutory requirement that the Corporation, pursuant to the requirements of the Act, pay to the Minister of Finance (the "Minister"), all moneys in any reserves established under Section 18 of the Act and such additional moneys as are not immediately required for the purposes of the Corporation as are available for investment. The moneys paid will be invested in accordance with The Financial Administration Act. The Minister has charged the Department of Finance (the "Department") with the operational management of the Fund. Any investment counsel, advisors or custodians that may be required to advise on the Corporation's investments will be engaged on a basis satisfactory

to the Minister where applicable, subject to authorization by the Lieutenant Governor in Council." As a result, this question is asking to assess the effectiveness of the investment decisions made by the Department of Finance. This is historical information that does not factor into the forecast of the investment income. This information sought has no bearing on the 2015 rates.

Disposition: Pursuant to evidence presented to the Board in the past, the practical reality is that the Corporation has significant input into the management of its investment portfolio, while ultimate control lies with the Department of Finance. In addition, impaired investments can impact significantly the overall fiscal health of the Corporation, including Basic. The Board requires that a response to the Information Request be provided.

#### **PUB 1-21**

MPI Objection: As stated in the Investment Policy Statement supplied in the Investment Income section (Appendix A) of the rate application: It is a statutory requirement that the Corporation, pursuant to the requirements of the Act, pay to the Minister of Finance (the "Minister"), all moneys in any reserves established under Section 18 of the Act and such additional moneys as are not immediately required for the purposes of the Corporation as are available for investment. The moneys paid will be invested in accordance with The Financial Administration Act. The Minister has charged the Department of Finance (the "Department") with the operational management of the Fund. Any investment counsel, advisors or custodians that may be required to advise on the Corporation's investments will be engaged on a basis satisfactory to the Minister where applicable, subject to authorization by the Lieutenant Governor in Council." As a result, this question is asking to assess the effectiveness of the investment decisions made by the Department of Finance. This is historical information that does not factor into the forecast of the investment income. This information sought has no bearing on the 2015 rates.

Disposition: The realization of gains in a given fiscal year can impact significantly upon the Corporation's net financial results for that year, and this has occurred in the past. Net financial results in a given year directly impact the rate application filed in the following year. Unrealized gains at a given time also inform the Corporation's overall fiscal health at that time. The Board requires that a response to the Information Request be provided.

**PUB 1-24(a)(b)**

MPI Objection: This is operational in nature and does not factor into the approval of rates. The information sought has no bearing on the 2015 rates.

Disposition: The Corporation has provided evidence in the past that its cash flow matching was effective to the extent of approximately 80%. If that matching were improved upon, interest rate risk to the Corporation would be mitigated and the Corporation's forecasts for a given year (and resultant rate application) impacted significantly. On that basis, the Board requires that responses to the Information Requests be provided.

**PUB 1-26(b)**

MPI Objection: The detailed infrastructure holdings are not required to understand our forecast for investment income.

Disposition: Given the importance of investment income to the Corporation's forecasted net financial result for rate setting purposes, and to enable the Board to properly assess the Corporation's investment income forecasts for infrastructure investments, the Board should learn the nature of the Corporation's infrastructure investment holdings. On that basis, the Board requires that a response to the Information Request be provided.

## **PUB 1-27**

MPI Objection: The Financial Forecast Model Test Report was written by the Corporation. Providing a list of individuals involved is not relevant to the PUBs assessment of the information provided.

Disposition: To assess the reasonableness, adequacy and independence of the testing undertaken, and to consider seeking further evidence from the author of the Report, the Board requires that a response to the Information Request be provided.

## **PUB 1-30**

MPI Objection: How the Province of Manitoba determines its CPI forecast is not important to its use as a standard forecasting assumption.

Disposition: The Board does not require that this Information Request be answered at this time.

## **9.2 CAC Information Requests**

### **CAC 1-111**

MPI Objection: The RFP and service agreement have no bearing on the Corporation's investment income forecast for the 2015 GRA.

CAC Response: This request enquires into the expected completion of the ALM study. It is that very study which is used as the reason for declining to discuss the benefits of the "buckets" used by SGI, and providing data on assets and liabilities segmented by time periods, among other things in CAC (MPI) 1-146. Considering the apparent importance of the ALM study, the date and other information requested in question 1-111 are important to the understanding of the current investment income stewardship and forecasts. \*This has been filed in the past.

Disposition: See the disposition relative to PUB(MPI) 1-18 above.

**CAC 1-127(a)(b)**

MPI Objection: Historical decisions on this topic have no bearing on the current investment income forecast.

CAC Response: This is a data integrity question seeking information about how MPI's numbers have been presented and prepared. Throughout its application MPI has spoken about the duration of assets, the duration of liabilities, the duration of weighted interest and the +/- 2 duration mismatch range being changed to +/- 1, because of, among other things, interest forecasting risk. As such, this is a relevant and simple question that is clearly relevant to basic rates and should be answered.

Disposition: The Corporation has provided evidence in the past that its cash flow matching was effective to the extent of approximately 80%. If that matching were improved upon, interest rate risk to the Corporation would be mitigated and the Corporation's forecasts for a given year (and resultant rate application) impacted significantly. On that basis, the Board requires that responses to the Information Requests be provided.

**CAC 1-131**

MPI Objection: The DEX Provincial Total Return Bond Index is not used to forecast the return on MUSH bonds; therefore, it is not relevant to the Corporation's investment income forecast.

CAC Response: This IR asks MPI to contrast the characteristics of the MUSH portfolio to the index they are using as a Benchmark, the DEX Provincial Total Return Bond Index. In CAC(MPI) 1-130, MPI states that MUSH bonds are purchased at a higher spread than Manitoba bonds and they appear to have a 6.7 year duration. It appears that certain financial measures are calculated by the sponsor of the DEX indices. See:

[http://www.canadianbondindices.com/PDF/RE\\_Universe.pdf](http://www.canadianbondindices.com/PDF/RE_Universe.pdf) which indicates that "Several risk measures are calculated for the DEX Fixed Income Indices each day. Modified duration, Macaulay duration and convexity are calculated as market-value weighted averages of the respective measures for constituent bonds." For the quarter and year ended February 2014 the change in overall bond portfolio performance by using MUSH at Book Value or Implied Market Value can be seen in page 7 of attachment to PUB(MPI) 1-19. The comparison of the MUSH returns to the index is problematic, firstly in that MPI records MUSH at book value. If the benchmark index is radically different in character, the comparison may be even more problematic. Interveners must be provided the opportunity to review the characteristics of the MUSH portfolio to the characteristics of the DEX Provincial Total Return Bond Index in order to understand MPI's calculations.

Disposition: Given the importance of investment income to the Corporation's forecasted net financial result for rate setting purposes, and to assess whether MPI's investment return forecasts are reasonably reliable, the Board requires that a response to the Information Request be provided.

**CAC 1-132(a)-(c)**

MPI Objection: The Corporation's historical consideration or use of fixed income derivatives has no bearing on this year's interest rate forecast. The investment section clearly identifies the basis of the assumptions used in the investment income forecast.

CAC Response: The policies allow MPI to do swaps, derivatives and forward transactions. It is not clear whether the interest forecasting risk has been moderated by MPI using the swap or derivative powers which it has. If interveners do not know what, if any transactions have been undertaken, then they cannot know whether they are being properly modelled in the investment return forecast.

Disposition: Given the importance of investment income to the Corporation's forecasted net financial result for rate setting purposes, and to assess whether MPI's investment return forecasts are reasonably reliable, the Board requires that a response to the Information Requests be provided.

**CAC 1-133(a)-(c)**

MPI Objection: The results of historical Asset Liability Management studies are reflected in the Investment Policy Statement (IPS). The IPS, as explained in the Investment Income Section, is the basis to determine the assumptions used in the financial forecast. When these aspects impact the forecasts, the GRA will contain the financial impact. There is no financial impact to the 2015 rates.

CAC Response: Changes in asset allocation will have an important impact on the forecast income from the portfolio. As changes in various classes of equity values and bond values are treated differently for income statement purposes, consumers should know whether MPI is modelling the right portfolio. If MPI is planning on moving assets from classes that effect the income statement to those that don't this is important to the integrity of the forecast.

Disposition: Given the importance of investment income to the Corporation's forecasted net financial result for rate setting purposes, and to assess whether MPI's investment return forecasts are reasonably reliable, the Board requires that a response to the Information Request be provided.

**CAC 1-134(a)-(c)**

MPI Objection: Please see Volume II, Investment Income, Section 4 for a description of how the MUSH portfolio is modeled. The DEX Provincial Total Return Index is not used to forecast the return on MUSH bonds. The historical performance of this index relative to the MUSH portfolio is not relevant to the Corporation's investment income forecast.



CAC Response: This question seeks a discussion of the "factors" which lead to the underperformance of MUSH compared to the benchmark. This discussion is important to understanding the validity of the comparison, in part due to the fact that MUSH bonds are valued at book value. [http://www.canadianbondindices.com/PDF/RE\\_Universe.pdf](http://www.canadianbondindices.com/PDF/RE_Universe.pdf) appears to indicate the DEX Fixed Income indices are based on changing market values, saying "One should instead think of the index as measuring the performance of a portfolio that holds each bond in proportion to its market value." For the quarter and year ended February 2014 the change in overall bond portfolio performance by using MUSH at Book Value or Implied Market Value can be seen in page 7 of attachment to PUB(MPI) 1-19. In CAC(MPI) 1-142, MPI states that the income return for the index in this case did not include "capital appreciation", while "The reference to real estate pooled fund returns are total return, which include both capital appreciation and income. Therefore, the income return of the index and the last two years of total returns for the real estate pooled fund are not comparable". If that logic holds, the MUSH performance and its benchmark, may also fail to be particularly comparable.

Disposition: Given the importance of investment income to the Corporation's forecasted net financial result for rate setting purposes, and to assess whether MPI's investment return forecasts are reasonably reliable, the Board requires that a response to the Information Request be provided.

**CAC 1-146(i)**

MPI Objection: The methodology used to forecast interest rates and income from the fixed income portfolio was clearly explained in the investment income section of the Rate Application. The work of the consultant is not relevant to this Rate Application.

CAC Response: This question asks about the SGI method of using buckets to more closely manage the duration variance risk. Clearly, MPI is aware of the SGI approach, and has not adopted it. In responding to this question, MPI refers to an upcoming ALM study, and declines

to comment until it has that study. Clearly, MPI has internally held views on the merits of its current practice related to duration matching and appropriate variance between asset and liability duration. MPI also has views on the portfolio allocation and immunizing its liability portfolio as can be seen from the low allocations to fixed income assets in February and May 2012 when the liability portfolio was over 10% greater than the fixed income portfolio. In its Duration Matching Discussion Paper, MPI acknowledges that in 2010 it increased the duration bandwidth from 1.5 years to 2.0 years "which increased the Corporation's exposure to interest rate risk." Having courted increased risks,

Disposition: Given the importance of investment income to the Corporation's forecasted net financial result for rate setting purposes, and to assess whether MPI's investment return forecasts are reasonably reliable, the Board requires that a response to the Information Request be provided.

**CAC 1-148(a)-(c)**

MPI Objection: The timing and frequency of reviews of the Investment Policy Statement is not relevant to Basic rate setting. Changes to the policy that could impact the investment income forecast are relevant. This information has been provided.

CAC Response: This question asks about Attachment A, Investment Policy, "Policy Statement - Governance", which refers prospectively to a review in "April 2013" and annually thereafter. This policy document contains the instruction that "the Department should not be taking significant actions based on views regarding the future direction of interest rates." This policy also contains the imperative that "Fixed income management will be governed by the accepted duration ranges as defined in section 8.4 of this Investment Policy Statement". Information provided in Table CAC (MPI)1-46 for August and November 2012, appears to show that while the liability duration remained constant at 8.9, the bond and fixed income portfolio was managed in such a way, so as to reduce the duration of the portfolio from 6.9 to 6.6, thereby causing the duration spread to increase from a -2.0 spread to a -2.3. a level beyond the approved bandwidth of +2. In addition, this document, in the "Investment Policy Strategy" section informs us of the

existence of a policy guideline, that "in order to be able to manage the Fund effectively, the Corporation expects to book approximately \$5 million in gains or losses from fixed income assets in each fiscal year." While this guideline was necessary "in order to be able to manage the Fund effectively...", consumers have been told (in reply to CAC(MPI) 1-125(b)) that this policy "guideline" which was once essential "to be able to manage the Fund effectively", is now a "practice" that is "not currently used". MPI must address fully the questions posed and resolve the apparent inconsistencies.

Disposition: Given the importance of investment income to the Corporation's forecasted net financial result for rate setting purposes, and to assess whether MPI's investment return forecasts are reasonably reliable, the Board requires that a response to the Information Request be provided, particularly the alleged inconsistencies in MPI's evidence filed to date.

### **9.3 CMMG Information Requests**

#### **CMMG 1-36**

MPI Objection: This is operational in nature and does not factor into the approval of rates. This information sought has no bearing on the 2015 rates.

CMMG Response: The assets of the Corporation are key in determining consideration in a year to year change and disposition affect the amount of assets shown on this year's financial statement.

Disposition: Given the importance of investment income to the Corporation's forecasted net financial result for rate setting purposes, the Board requires that a response to the Information Requests be provided.

## **CMMG 1-37**

MPI Objection: Total assets of the Corporation are available in the respective Annual Reports and Audited Financial statements which can be found at <http://www.mpi.mb.ca/en/Newsroom/Pages/annualreports.aspx> This historical information is not germane to the 2015 rates.

CMMG Response: The total assets over that period can be provided without reference to general statements found in other publications of the Corporation.

Disposition: This Information Request need not be answered on the basis that the information has already been provided by MPI.

## **10.0 OTHER INFORMATION REQUESTS**

### **10.1 CAC Information Requests**

#### **CAC 1-5**

MPI Objection: The Claims incurred section of the 2015 Rate Application includes extensive historical claims information going back to 1994/95 (in the exhibits) along with detailed explanations on the assumptions used in the claims forecast. The Corporation does not use the schedules requested by CAC to prepare or test the claims forecast.

CAC Response: The claims frequency, severity and incurred historical tables are fundamental to justifying and testing the claims forecasts going forward.

Disposition: Evidence relative to claims incurred is fundamental to the setting of Basic Rates; whether or not MPI utilizes the schedules requested, if CAC finds value in the schedules as requested, and believes that the information will assist the Board in setting Basic Rates, the information should be provided for review. The Board requires that a response to the Information Request be provided.

**CAC 1-94(a)(b)**

MPI Objection: This is operational in nature and does not factor into the approval of rates. This information sought has no bearing on the 2015 rates.

CAC Response: This IR requires MPI to elaborate on the Risk Management Framework and risk mitigation strategies as referred to in the 2013 Annual Report page 31. The Risk Management Framework is relevant to Basic Insurance.

Disposition: In order to assess the necessity and prudence of the costs incurred and forecasted to be incurred in Basic, and the vulnerability of Basic to risks, including interest rate risk, the Board requires that these Information Requests be answered.

**CAC 1-95**

MPI Objection: The risk mitigation areas listed on page 31 of the 2013 Annual Report are not goal exclusive and therefore also impact goals 2 to 7. The purpose of the Rate Application is not an examination of the key risk mitigation strategies; therefore, this question is not germane.

CAC Response: This IR requires MPI to elaborate on the Risk Management Framework and risk mitigation strategies as referred to in the 2013 Annual Report page 31. The Risk Management Framework is relevant to Basic Insurance.

Disposition: In order to assess the necessity and prudence of the costs incurred and forecasted to be incurred in Basic, and the vulnerability of Basic to risks, including interest rate risk, the Board requires that this Information Request be answered.

## **CAC 1-154**

MPI Objection: The historical income statements and retained earnings information have been provided in previous years applications. All projected information is contained in Volume II Pro Forma Section of the Rate Application. There is no additional value to "re-compile" the information in a new format for rate setting when the information is available for use.

CAC Response: This IR requires MPI to file a historical set of income statements and retained earnings statements for basic insurance to maintain the historical information to test any trend changes. \*This has been filed in the past as part of the pro forma income statements.

Disposition: Given the importance of MPI's income statements and retained earnings to setting Basic Rates, and to enable the Board to review historical information, for the purposes of determining and testing any trends, the Board requires that a response to the Information Request be provided. While the Board could direct that this information be compiled from past GRA filings, and presented to MPI at the GRA hearing, there will potential inefficiencies in that approach, which the Board would prefer to avoid.

## **10.2 CMMG Information Requests**

### **CMMG 1-10**

MPI Objection: Information about product offered by other Canadian insurers is not relevant to the setting of Basic insurance rates in Manitoba for the application year.

CMMG Response: CMMG is of the opinion that equitable rates require that the Corporation advocate for the transferrable rates in order that the motorists is only paying rates which reflect the amount of time using that vehicle. It is an issue of fairness between customers.

Disposition: As drafted, the question posed does not appear to assist the Board in setting Basic Rates. The Information Request need not be answered by the Corporation.

**CMMG 1-14**

MPI Objection: The referenced time period is in the future. There have not been any claims in this period.

CMMG Response: The question should have been referenced in the winter months November 30, 2013 to March 30, 2014.

Disposition: Evidence relative to claims incurred and claims costs is fundamental to the setting of Basic Rates. The Board requires that a response to the Information Request be provided.

**CMMG 1-18**

MPI Objection: The Basic classification plan does not differentiate rates based on whether or not a registered owner has multiple vehicles and/or motorcycles. As a result, the requested information is not relevant to the determination of reasonable rates in the 2015 Rate Application.

CMMG Response: We want to know whether motorcycle owners have a better loss experience than private passenger vehicle owners. This addresses the issue of "fairness between different classes of consumers" stated by the Court of Appeal to be included in the power of review.

Disposition: Evidence relative to claims costs is fundamental to the setting of Basic Rates, particularly where the evidence may assist the Board in ensuring fairness between different classes of consumers. The Board requires that a response to the Information Request be provided.

### **CMMG 1-19**

MPI Objection: The Basic classification plan does not differentiate movement on the DSR scale separately for motorcycles versus passenger vehicles. As a result, the requested information is not relevant to the determination of rates in the 2015 Rate Application.

CMMG Response: We want to know whether motorcycle owners have a better loss experience than private passenger vehicle owners. This addresses the issue of "fairness between different classes of consumers" stated by the Court of Appeal to be included in the power of review.

Disposition: Evidence which may assist the Board in ensuring fairness between different classes of consumers is fundamental to the setting of Basic Rates. In addition, the position of drivers on the Driver Safety Rating (DSR) scale impacts Basic revenue directly. The Board requires that a response to the Information Request be provided.

### **CMMG 1-22**

MPI Objection: The rationale for the Corporation's claims forecast is provided in the Claims Incurred section of the 2015 rate application. The requested information does not provide any further evidence in support of the assumptions used in the Corporation's forecasts nor is it required to assess the reasonableness of the Corporation's 2015 Rate Proposal.

CMMG Response: There has been an area of inquiry that the Board has been concerned with due to the rising costs attributed to distracted drivers. MPI has produced information in this area but we require further information to test same.

Disposition: Evidence relative to claims costs is fundamental to the setting of Basic Rates, particularly where the evidence may assist the Board in ensuring fairness between different classes of consumers. The Board requires that a response to the Information Request be provided.



## **11.0 BOARD FINDINGS**

The Board finds that pursuant to the CCPRA, it has explicit jurisdiction to consider whether the costs incurred by Basic are necessary and prudent, for Basic rate-setting purposes. The Board finds that it also has implicit jurisdiction to consider whether the costs incurred by Basic are necessary and prudent, for Basic rate-setting purposes.

The Board recognizes that it cannot order that MPI must incur a particular cost or that MPI is prohibited from incurring a particular cost. The Board can order, however, that a particular cost be excluded from consideration for Basic rate-setting purposes.

The Board recognizes that its jurisdiction is set by three pieces of Manitoba legislation; the PUB Act, the CCPRA and the MPI Act, and that this legislative scheme is unique to Manitoba.

The Board finds that having put evidence forward within the GRA filing, MPI has admitted the relevance of that evidence to setting Basic Rates. In addition, the Board finds that MPI is obligated to allow that evidence to be tested, including through the asking of Information Requests and through cross-examination.

The Board finds that MPI did not comply with Board Rule 16 relative to the Impugned IRs, and that in the future, when a party refuses to answer an Information Request, it should ensure that specificity is provided pursuant to one of the sub-paragraphs of Board Rule 16, for each Information Request that is not being answered.

The Board finds that each of the CAC Motion, the CMMG Motion and the ARM Motion are granted, in part, and that MPI shall provide responses to the Impugned IRs as reflected above.

With respect to the GRA hearing schedule, the Board accepts the proposal of CAC, and attached hereto as Appendix "C" is a revised hearing schedule including new hearing dates.

With respect to costs of the motions, the Board asks that each party file a proposed Bill of Costs for the Board's review and consideration.

**12.0 IT IS ORDERED THAT:**

1. With respect to the CAC Motion, the CMMG Motion and the ARM Motion, the directions set out in the sections above labeled "disposition" under each specific Information Request is binding upon MPI.
2. Appendix "C", as attached, shall be the timetable for the orderly exchange of information by the participating parties.

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.

THE PUBLIC UTILITIES BOARD

"Karen Botting, B.A., B.Ed. M.Ed."  
Member, Acting Chair

"Hollis Singh"  
Secretary

Certified a true copy of Order No. 98/14  
issued by The Public Utilities Board

\_\_\_\_\_  
Secretary

## Appendix "A" - List of Abbreviations

2015 GRA	2015 General Rate Application
AEUB	Alberta Energy and Utilities Board
ARM	Automotive Recyclers of Manitoba Ltd.
ARM Motion	Motion filed by ARM on August 13, 2014
Auditor General	Auditor General of Manitoba
Auditor General Act	<u>The Auditor General Act</u> , C.C.S.M. c. A180
Basic Rates	Rates charged for compulsory driver and vehicle insurance
BCUC	British Columbia Utilities Commission
Board	Public Utilities Board
Board Rules	Board's Rules of Practice and Procedure
BW	Bike Winnipeg
CAA	Canadian Automobile Association
CAC	Consumers' Association of Canada (Manitoba) Inc.
CAC Motion	Motion filed by CAC on August 11, 2014
CCC	Crown Corporations Council
CCPRA	<u>The Crown Corporations Public Review and Accountability Act</u> , C.C.S.M. c. C336
Corporation	Manitoba Public Insurance Corporation
CMMG	Coalition of Manitoba Motorcycle Groups Inc.
CMMG Motion	Motion filed by CMMG on August 13, 2014
DCAT	Dynamic Capital Adequacy Test
DVL	Driver and Vehicle Licensing
GRA	General Rate Application
ICWG	Investment Committee Working Group
Impugned IRs	Information Requests which MPI refused to answer
ITOF	Information Technology Optimization Fund
LGC	Lieutenant Governor in Council
MPI	Manitoba Public Insurance Corporation
MPI Act	<u>The Manitoba Public Insurance Corporation Act</u> , C.C.S.M. c. P215
OEB	Ontario Energy Board

PIPP	Personal Injury Protection Program
Project	IT Optimization Project
PUB	Public Utilities Board
PUB Act	<u>The Public Utilities Board Act</u> , C.C.S.M. c. P280
RSR	Rate Stabilization Reserve

## Appendix "B" - Citations

### 1989 Stated Case:

*Manitoba (Public Utilities Bd.) v. Manitoba (A.G.)*, [1989] M.J. No. 491 (C.A.)

### 1995 CMMG Decision:

*Coalition of Manitoba Motorcycle Groups v. Manitoba (Public Utilities Board)* (1995), 102 Man. R. (2d) 155 (C.A.)

### 1997 Centra Decision:

*Centra Gas Manitoba Inc. v. The Public Utilities Board of Manitoba*, [1997] 6 W.W.R. 301

### 2005 CAC Decision:

*Consumers' Assn. of Canada (Manitoba) Inc. v. Manitoba Hydro Electric Board*, 2005 MBCA 55

### 2011 Stated Case:

*Public Utilities Board v. Manitoba Public Insurance Corp. et al.*, 2011 MBCA 88

### 2012 Hydro Decision:

*Manitoba Hydro-Electric Board v. Consumers' Assn. of Canada (Manitoba) Inc.*, 2012 MBCA 1

*Ontario (Provincial Police) v. Cornwall (Public Inquiry)*, 2008 ONCA 33

*Transcanada Pipelines Ltd. v. National Energy Board*, 2004 FCA 149

*Innisfil (Corporation of the Township) v. Corporation of Township of Vespra*, [1981] 2 S.C.R. 145

*Kay Swee Pin v. Singapore Island Country Club*, [2008] 2 S.L.R. 802

*Secretary of State for the Home Department v. AF*, [2009] U.K.H.L. 28

Canadian Administrative Law, 1<sup>st</sup> edition, 2008, Guy Reginald

**Appendix "C" - Timetable**

September 5, 2014	MPI to provide responses to first round, unanswered information requests	Friday
September 8, 2014	MPI to file and serve any amendments to application, if required	Monday
September 10, 2014	MPI to file responses to second round information requests	Wednesday
September 12, 2014	MPI to be in receipt of third round information requests relating to delayed first round information requests	Friday
September 24, 2014	MPI to file responses to third round information requests	Wednesday
September 27, 2014	MPI to publish reminder notice and any amendments to application	Saturday
October 1, 2014	Interveners to file pre-filed testimony to all parties	Wednesday
October 2, 2014	Parties to file any motions	Thursday
October 8, 2014	Interveners to be in receipt of information requests from all parties	Wednesday
October 8, 2014	Board to hear all motions	Wednesday

October 14, 2014	Intervenors to provide responses to all information requests	Tuesday
October 14, 2014	Board decisions on motions, meeting amongst counsel, if required	Tuesday
October 17, 2014	MPI to file rebuttal evidence	Friday
October 22, 2014	Hearing commences	Wednesday
	Proposed hearing dates: October 22, 23, 24, 28, 29, 30 and 31, November 4, 5, 6, 7, 12, 13 and 14 (as needed)	
	<b>REVISED</b> hearing dates: October 22, 23, 24, 28 and 29, November 4, 5, 6, 7, 12, 13 and 14.	