

March 31, 2012

The Honourable Jim Rondeau  
Minister of Healthy Living, Seniors and Consumer Affairs  
319 Legislative Building  
Winnipeg, Manitoba  
R3C 0V8

Dear Minister Rondeau:

Reference: 2011-12 Annual Report, The Public Utilities Board

Pursuant to the provisions of Section 109(1) of *The Public Utilities Board Act*, and on behalf of my fellow Board members and myself, I am pleased to convey to you the Public Utilities Board's (Board) Annual Report for the year ended March 31, 2012. The year under review was the Board's 99<sup>th</sup> year of service to Manitoba.

The Board's mandate remains to determine the public interest with respect to matters prescribed or otherwise assigned. With respect to monopoly utilities, where regulation is a proxy for competition, which includes the Basic component of Manitoba Public Insurance, the public interest involves the setting of just and reasonable rates (based on prudent expenditures) sufficient to provide for the financial health of the regulated entity. Upon application, either initiated by a regulated entity or having been directed to be filed by the Board, rates are set considering economic, social and environmental factors. The Board may approve, vary or deny applications brought before it, often also providing recommendations as well as commentary.

The Board's regulatory jurisdiction covers three of the Province's major Crown Corporations, other natural gas and propane pipeline distributors, and, with the exception of the Manitoba Water Services Board (rates set by that body are subject to appeal to this Board), all municipal water and sewer utilities except for setting rates for the City of Winnipeg's water and sewer utilities. The Board also oversees the safety of pipeline distribution of natural gas and propane, natural gas brokers, and has regulatory oversight, through licensing and review, of privately owned cemeteries and crematoriums. The Board is the appeal body for service disconnection decisions taken by Manitoba Hydro and Centra Gas, the former when the customer is serviced with electricity and natural gas, municipal water and sewer utilities; and the gas and propane distributors Swan Valley Gas Corporation and Stittco Utilities Man Ltd. The Board is also the appeal body for 911 service licence refusals and decisions by the Highway Traffic Board (pertaining to highway access and signage). Further, by virtue of *The City of Winnipeg Charter Act*, the Board is required to approve any non-City owned fixed-fare transportation operations.

Government amended the Board's initial role with respect to setting maximum rates for payday loans; now, the Board is an advisor to government, expected to review rates on a triennial basis. Finally, the Board continues to have the responsibility to set maximum rates for the cashing of government cheques.

During the year ended March 31, 2012, the Board held public oral hearings with respect to Manitoba Hydro, Manitoba Public Insurance, and many municipal and privately-owned water and sewer utilities. It also heard oral public appeals of Highway Traffic Board highway access and signage decisions, and conducted both public and *ex- parte* paper reviews of rate applications by various entities subject to the Board's jurisdiction, including Centra Gas. Arising out of these processes, the Board set rates, directed terms of service, and determined processes, while offering recommendations to government, Crown Corporations, municipal and other public entities.

The seven part-time Board Members and full-time Chair were assisted by both a staff of five and a roster of Board legal counsels and advisors. I retire as of April 1, 2012, and am to be succeeded by Regis Gosselin, MBA, CGA.

Sincerely,



Graham Lane, BA, CA  
Chairman

Le 31 mars 2012

M. Jim Rondeau  
Ministre de la Vie saine, des Aînés et de la Consommation  
Palais législatif, bureau 319  
Winnipeg (Manitoba)  
R3C 0V8

Monsieur le Ministre,

Objet : Rapport annuel 2011-12, Régie des services publics

Conformément aux dispositions du paragraphe 109(1) de la *Loi sur la Régie des services publics*, j'ai le privilège de vous présenter, de la part des autres membres de la Régie et en mon nom propre, le rapport annuel de la Régie des services publics pour l'exercice qui s'est terminé le 31 mars 2012. L'exercice visé par le rapport constituait la 99<sup>e</sup> année de service de la Régie au Manitoba.

Le mandat de la Régie consiste à déterminer l'intérêt public relativement aux questions prévues par règlement ou autrement. En ce qui concerne les services publics monopolistiques, pour lesquels la réglementation constitue un substitut à la compétition, et lesquels comprennent l'assurance de base de la Société d'assurance publique du Manitoba, l'intérêt public passe par la mise en place de tarifs justes et raisonnables (sur la base de pratiques de dépense prudentes) suffisant à subvenir aux besoins de santé financière de l'entité réglementée. Sur demande, présentée par une entité réglementée ou déposée sur ordre de la Régie, les tarifs sont établis en tenant compte de facteurs économiques, sociaux et environnementaux. La Régie peut approuver, modifier ou rejeter les demandes qui lui sont présentées, et transmet souvent des recommandations et des commentaires.

Les compétences de la Régie en matière de réglementation s'appliquent à trois des principales sociétés d'État de la province, aux autres distributeurs de gaz naturel et de propane par gazoduc, et, à l'exception de la Commission des services d'approvisionnement en eau du Manitoba (les tarifs établis par la Commission peuvent faire l'objet d'un appel devant la Régie), aux services d'eau et d'égouts municipaux sauf pour les tarifs des services publics d'eaux et d'égouts de la Ville de Winnipeg. La Régie supervise aussi la sécurité de la distribution de gaz naturel et de propane ainsi que les courtiers en gaz naturel, et assure la surveillance réglementaire des cimetières et des crématoriums privés en les examinant et en leur délivrant des licences. La Régie entend les appels interjetés par rapport aux décisions d'Hydro Manitoba et de Centra Gas, concernant les interruptions de service lorsqu'un abonné de Manitoba Hydro est approvisionné à la fois en électricité et en gaz naturel; aux services d'eau et d'égouts municipaux; aux services publics de distribution de gaz naturel et de propane de Swan Valley Gas Corporation et de Stittco Utilities Man. Ltd. Elle entend également les appels relatifs aux refus de permis de centre 911 et aux décisions du Conseil routier (en ce qui a trait aux accès routiers et aux panneaux de signalisation). De plus, en vertu de la *Loi sur la Charte de la ville de Winnipeg*, la Régie doit autoriser toute exploitation de transport non urbain à tarif fixe.

Le gouvernement a modifié le rôle initial de la Régie concernant l'établissement des taux maximaux des prêts de dépannage; cette dernière joue à présent un rôle de conseillère du gouvernement et devrait examiner les taux tous les trois ans. Enfin, la Régie conserve la responsabilité d'établir des taux maximaux relatifs à l'encaissement des chèques du gouvernement.

Au cours de l'exercice ayant pris fin le 31 mars 2012, la Régie a tenu des audiences publiques orales au sujet de Manitoba Hydro, de la Société d'assurance publique du Manitoba et de nombreux services d'eau et d'égouts municipaux et privés. Elle a également entendu des appels publics oraux concernant des décisions du Conseil routier relatives aux accès routiers et aux panneaux de signalisation, et a procédé à des audiences publiques et à des études *ex parte* relativement à des demandes tarifaires présentées par diverses entités soumises à sa compétence, dont Centra Gas. À la suite de ces travaux, la Régie a fixé des tarifs, ordonné des modalités de service et déterminé des procédés, tout en faisant des recommandations au gouvernement, à des sociétés d'État, à des organismes municipaux et à d'autres entités publiques.

Les sept membres à temps partiel de la Régie et son président à temps plein ont été assistés par cinq employés et une équipe composée d'avocats et de conseillers de la Régie. Je quitterai mes fonctions le 1<sup>er</sup> avril 2012, et M. Régis Gosselin, MBA, CGA me succèdera.

Je vous prie d'agréer, Monsieur le ministre, mes sincères salutations.

Le président,



Graham F.J. Lane

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## Chair's Report

### Review of Board Proceedings For the Year Ended March 31, 2012

#### 1. INTRODUCTION

For entities and fields for which it has responsibilities, the Public Utilities Board (Board) approves, recommends and sets rates; oversees pipeline safety; acts as an appeal body; and, deals with such other matters as are either prescribed by legislation or otherwise assigned by government.

In its decisions and recommendations, the Board determines the public interest, taking into account economic, social and environmental factors. Rates set by the Board are to reflect prudent expenditures and provide for both fairly-treated consumers and financially-viable monopoly utilities. (With the enactment of *The Sustainable Development Act* in 1998, the factors to be considered in determining the public interest were expanded, and now includes energy efficiency and conservation.)

The Board is comprised of a government-appointed full-time Chair and a roster of part-time members, assisted by staff and external legal counsels and other advisors. The Board is a quasi-judicial administrative tribunal; it makes decisions independent of government direction, in accordance with enabling legislation, regulation and/or transparently stated public policy.

The Board fulfils its mandate through a variety of processes, including oral public hearings and transparent paper reviews. As required, the Board's processes involve enquiry, research, consultation, careful deliberation and, as well, public dissemination of decisions and notices of upcoming processes.

Major Board responsibilities as at March 31, 2012, were:

1. Establishing fair, just and reasonable rates and terms for:
  - a. Manitoba Hydro's province-wide electricity service;
  - b. Natural gas and propane services provided by pipeline;
  - c. Basic compulsory automobile insurance rates and fees (Manitoba Public Insurance);  
and

- d. water and sewer utilities (with the exception of the City of Winnipeg).
2. Natural gas and propane pipeline safety, capital expenditures and general operations.
3. Licensing and/or overseeing:
  - a. Privately-owned cemeteries and crematoriums; including perpetual care trust funds (under *The Cemeteries Act*);
  - b. Funeral Service Providers (under *The Prearranged Funeral Services Act*); and
  - c. Natural gas brokers.
4. Hearing appeals of:
  - a. Highway Traffic Board decisions, pursuant to *The Highways Protection Act*;
  - b. applicants denied 911 emergency response centre licenses, pursuant to *The Emergency 911 Public Safety Answering Point Act*;
  - c. municipal customers of the Manitoba Water Services Board objecting to rates established by that body;
  - d. consumers disconnected from water and sewer utilities, natural gas or propane service, and customers disconnected from electrical service where their residence is heated by natural gas provided by Centra Gas Manitoba Inc.; and
  - e. customers of private natural gas brokers.
5. Establishing and/or advising government with respect to maximum rates for:
  - a. Payday loans (advising); and
  - b. Cashing of government cheques (setting maximum rates).
6. Approving operators of fixed fare transportation services pursuant to agreements with the City of Winnipeg (pursuant to *The City of Winnipeg Charter Act*).

The Board is a member of the Manitoba Council of Chairs of Administrative Tribunals (MCAT), the Association of Canada's Energy and Utility Regulators (CAMPUT), and the Canadian Automobile (insurance) Rate Regulators (CARR). Canadian and Manitoba regulatory practices and related matters are discussed and professional development is provided through these three associations.

The Board also participates within the Canadian Standards Association (CSA), wherein natural

gas and propane safety standards are established, and is a member of the Organization of MISO States (OMS), the members of the latter providing regulatory oversight with respect to the generation and transmission of electricity within the American mid-west and Manitoba. The Mid-West Independent Systems Operators (MISO) is an [Independent System Operator](#) (ISO) and the [Regional Transmission Organization](#) (RTO) that provides open-access transmission service and monitors the high voltage [transmission system](#) throughout the [Midwest United States](#) and [Manitoba, Canada](#). The year reported on was, as usual, a busy one. The Board issued 159 Orders and 209 licences (2011 - 163 Orders and 174 licences), and attended to a host of other matters. (Orders carry the weight of law, and are binding on regulated entities although subject to appeal.)

During the most recent fiscal year, the Board expended \$1.036 million in direct costs (2010/11 - \$1.301 million), including engineering services with respect to natural gas pipeline safety. As well, the Board directed regulated entities to pay \$2.097 million (2010/11 - \$3.076 million) to meet external Board legal counsel and advisor fees and disbursements, and intervener cost awards of \$1.075 million (2010/11 - \$453,000). The Board meets most of its costs through direct levies on regulated entities; it also has a self-directed budget provided by the Province. In addition, and not reported herein, regulated entities also bear direct costs of their participation in Board proceedings.

The three hundred plus entities regulated by the Board have annual revenues in excess of \$4 billion (thus, identified regulatory costs account for 1/10<sup>th</sup> of 1% of revenue generated).

Most entities regulated by the Board are monopolies, though some of those monopolies also operate in competitive markets (examples being Stittco, private natural gas brokers and Centra Gas' fixed price and term contracts, and Manitoba Public Insurance Special Risk Extension Division). The Board's decisions affect virtually every Manitoba resident.

## **2. OVERVIEW OF BOARD PROCESSES**

Regulated entities make application to the Board either seeking amended rates or, in some cases, operational or structural changes. When large entities are involved (such as Manitoba Hydro, Centra Gas and Manitoba Public Insurance), or a proposed rate change is considered to be either exceptionally large or controversial, the Board hears the application through an oral public hearing process.

Board hearings may either be conducted in a court-like atmosphere, with sworn witnesses and

testimony subject to cross-examination, or, as in the case of smaller utilities or issues judged to be of a less technical or sensitive nature, held in a less formal setting. In the interests of restraining regulatory costs, the Board employs less formal processes as long as those processes do not compromise the integrity of the Board's proceedings.

For public hearings related to Manitoba Hydro, Centra Gas, Manitoba Public Insurance, some municipal water and sewer proceedings, the review of maximum fees and charges for either the cashing of government cheques or the making of payday loans, and appeals of Highway Traffic Board decisions, interveners representing special or general interests often participate. Intervenors pose questions, cross-examine witnesses and set out positions. In addition, at all public hearings of the Board, presenters from the general public are able to address the Board.

For major hearings, applicants, interveners and the Board usually retain counsel and often employ expert witnesses. Witnesses provide sworn testimony, while interveners assist the Board in understanding issues involved.

While it has been fairly rare for interveners to participate formally in water and sewer hearings, this has occurred recently due to ever-increasing rates, changed accounting standards affecting utility costs and rates, and the importance of water and sewer service delivery (with more stringent standards for water quality being imposed by government). Generally, the Board refrains from its own use of external counsel and advisors in the case of water and sewer utilities, this in the interest of cost constraint and taking into account the responsibilities of elected municipal councils and their professional staffs.

Prior to a Board hearing, with the exception of *ex parte* hearings which take place in camera, a public notice is issued. (Notices advise of upcoming hearings and inform consumers and other parties of the opportunity to participate, and also advise of the availability of cost awards in support of interventions.) Transcripts of major hearings are posted on the Board's website and made available on request to interested parties. In the interest of transparency, copies of Board decisions are posted on the Board's website, directly issued to those involved in the hearing, and on request, provided to the media and members of the public. As well, major Board decisions are accompanied by a news release.

The Board's Rules of Practice and Procedure (Rules) guide public hearings; the Rules are available to all participating parties in advance of a hearing and are posted on the Board's website. The Board has a Code of Conduct, formalizing its internal conflict of interest rules for its members, which remain in place after a member leaves the Board. Board decisions may be

appealed to either the Board itself, by a motion to review and vary, or, in certain defined circumstances, to the Manitoba Court of Appeal. Very few Board decisions are appealed.

In some cases, where special circumstances exist, the Board issues interim orders. In rare occasions, the Board issues interim rates arising out of reviews not participated in by interveners or the general public – such a proceeding is denoted as an *ex parte* hearing. *Ex parte* decisions are later finalized through public processes. As with all of its decisions, reasons supporting *ex parte* decisions are made public.

Interim *ex parte* decisions are subject to confirmation, repeal or variance through a subsequent public or other Board proceeding. At such proceedings, the utility, registered interveners and the public are or may be present. *Ex parte* decisions may also be appealed, either to the Board through a motion to vary, or to the Court (although such appeals are rare, as the decisions are preliminary in nature, subject to review and finalization or amendment by the Board itself).

In 2008, the Supreme Court of Canada (SCC) altered the approach for judicial review challenges of decisions by administrative tribunals. In the past, there were three standards of review for the Court to consider with respect to an application to set aside a decision of an administrative tribunal, those being correctness, reasonableness *simpliciter*, and patent unreasonableness. Now, there are only two grounds, with reasonableness *simpliciter* and patent unreasonableness merged into one. The stricter standard of correctness will apply to claims of errors of law and/or fact; the reasonableness standard will apply to the judgment calls of administrative tribunals.

This decision was later commented on in March 2010 in another decision by SCC, which supported the notion that the courts are to defer to an administrative tribunal with respect to applying the standard of reasonableness. The Board has a long history of providing full reasons for its decisions, following processes informed by legal advice as to jurisdiction and other matters requiring correctness.

In 2011/12, there was one request for leave to appeal filed with the Court of Appeal; Manitoba Hydro is seeking to quash a Board subpoena seeking disclosure in confidence to the Board of the Utility's export contracts. The Board had a stated case before the Manitoba Court of Appeal with respect to MPI. In the stated case the Board asked the court for its opinion as to whether the Board has jurisdiction to require MPIC to disclose to the Board actual and projected financial information and MPIC's policies, plans and decisions relating to MPIC's divisions other than the Basic insurance program. The Court declined to answer the Board's question noting its preference to have a question based on an issue that arises before the PUB in a specific hearing. The court

also noted the wide scope of documents requested and the Board's ability to subpoena information it requires and concluded that the question is too speculative to be answered.

As previously noted, and in an effort to restrain regulatory costs, the Board often reaches its decisions by way of a public paper review. These processes generally occur in the case of relatively small utilities, such as Swan Valley Gas Corporation, Stittco Utilities Man Ltd., or smaller municipal, private and cooperatively owned water and sewer utilities.

Under the paper review process, the Board first reviews the application (a process that involves questions being asked of the applicant and responses considered) then, when initially satisfied that an oral hearing may not be required, directs the applicant to publish a notice of its application with an indication of matters to be addressed through the proceeding. If no substantive concerns arise through correspondence to the Board from ratepayers, the Board concludes its review process and issues an Order communicating its findings and directives.

In both the oral and paper hearing processes, the Board informs itself as to the particulars of each application through a written process involving the interrogation (by information requests) of the applicant and, in rare cases, registered interveners.

A significant number of water and sewer applications, particularly those involving large rate increases, are heard by way of public hearings, which have taken place throughout Manitoba. The Board has determined that such hearings are best held in the communities, so that people affected by the decisions have an opportunity to attend.

As part of its general process, the Board assesses the financial statements and revenue requirements of the utility, considering the particulars as well as broader issues to arrive at available options. Within those options, the Board determines the public interest. As previously indicated, the Board requires the applicant to advertise its application and share with the Board any objections or comments it may receive. In some cases, comments from the public result in the Board holding a public hearing, rather than proceeding by way of paper process.

As previously indicated, the Board operates pursuant to statute and formal Rules of Practice and Procedure, and, for larger proceedings affecting a material number of ratepayers, in a court-like manner. Accordingly, Board process requires Board members to declare conflicts of interest prior to a hearing or decision process – rarely is such notice required.

Generally speaking, the Board sits in panels of three, particularly for applications heard by way of public oral hearing. However, with respect to the hearing of rate applications of smaller utilities,

or appeals of decisions of the Highway Traffic Board, the Board usually proceeds with less than a three-person panel. Board members are assigned to at least one major area of responsibility – electricity, natural gas, automobile insurance, and water and sewer (although all members are made aware of matters being heard or having been heard by other members).

Board members also regularly meet as a committee of the whole, and discuss matters pertaining to important cases before the Board, Board operations, and to establish and/or amend general Board policies. The Board's Rules allow for electronic exchanges between members, and all Board members are kept up-to-date on regulatory developments through meetings and electronic communications.

### **3. *REGULATED ENTITIES***

#### ***i. Manitoba Hydro – Electricity***

Manitoba Hydro (MH) is Manitoba's largest Crown Corporation, with annual revenues in excess of \$2 billion and a staff complement of approximately 6,600.

MH is very important to the Province, through the provision of required electricity and natural gas, by furthering economic and sustainable development, by building First Nations' relationships, and by its annual contributions to the Province's Consolidated Fund (water rentals, capital tax, payroll tax, debt guarantee levies, income taxes on employee and agent income, spin-off corporate and other taxes, and the inclusion of the Utility's annual net income within the Province's Summary Accounts). The net income of all Crown agencies (which include MH, Centra and MPI, but not municipal utilities) are consolidated within the Province's overall accounts in determining the Province's overall surplus or deficit each year.

The Province borrows on MH's behalf to meet MH's financial requirements, and MH debt represents approximately one-third of the provincial government's overall borrowings. MH's plans for future major new generation, transmission and other capital expenditures approximate \$20 billion, and if those plans are implemented, substantial new borrowings will be required and guaranteed by the Province.

Following a decade of no rate increases, the Board approved the following overall rate increases for MH:

<b>Effective date</b>	<b>Approved</b>
August 1, 2004	5.00%
April 1, 2005	2.25%
March 1, 2007	2.25%
July 1, 2008	5.00%
April 1, 2009	2.80%
April 1, 2010	2.90% interim; 1.9% final
April 1, 2011	2.00% interim; 2.0% final
April 1, 2012	2.00% interim

Notwithstanding these increases, which, since 2004, have exceeded the increases in the Consumer Price Index, the Board understands that MH's rates are the lowest in North America, particularly with respect to rates for industrial large-volume customers.

The low level of the Utility's rates arises in part due to the 'older' average age of generation and transmission assets (the last completed major generation project was Limestone, completed early in the 1990s -- Wuskwatim Generating Station and required additional transmission assets are expected to be partially in service in 2012/13). As well, the fixed-cost nature of hydro-generation plants, and MH's practice, accepted by Generally Accepted Accounting Principles (GAAP), to defer and/or capitalize expenditures related to energy efficiency measures and with respect to its further capital asset development plans, goodwill and deferred income taxes with respect to its purchase of Centra Gas, and other illiquid assets also contribute to low rates.

As operating and administrative costs increase and as new major capital assets come into service, rate levels are expected to increase. In fact, MH currently projects required rate increases in the range of 3.5% per year for every projected future year (out twenty years).

Starting in 2004, the Board has indicated its concerns as to MH's risks. The basis for the increases granted for 2008, 2009 and 2010, and those granted on an interim and a final basis for 2011 and 2012, have been explained in significant detail in a series of Board Orders.

As indicated, one of the primary reasons for the aggregate total of rate increases since 2004 has been the Board's assessment of MH's risks, which include not only the risk of drought but risks such as future interest rate changes, foreign exchange fluctuations, reduced domestic and export demand, capital expenditure forecast over-runs and lower than expected export prices.

The Board has not only expressed a desire to attain and sustain a debt to equity ratio of 75:25 for

MH, a target established and supported by most participants to MH proceedings, past and present, as being required to mitigate against the future realization of some of the various risk factors that a utility of MH's magnitude and experience face, but suggested that the ratio itself may be subject to question, given not only the level of capital expenditures and new borrowings now contemplated but also the components of MH's debt:equity ratio.

In a related Order, issued in 2008, the Board made some 30 directives, including seeking an independent risk assessment and requirements for MH to report on its risk mitigation plans. MH was reminded of some of those directives in the Board orders issued in 2011 and on March 31, 2012. Some of the 30 directives remain outstanding as at March 31, 2012, four years later, even following the 2011 hearing, the most lengthy, expensive and complex oral hearing in the Board and MH's history.

On February 2, 2009, MH filed an application for approval of a 4% rate increase, to be effective April 1, 2009. In an Order released March 30, 2009, following a paper review process in which all interveners to the 2008 Rate Application participated, the Board approved a smaller rate increase of (effectively) 2.8% which took effect April 1, 2009.

The Board remains concerned with MH's risk profile, as underscored by the Board's subsequent rate decisions following the 2011 oral hearing: to finalize a further, effectively, 2.8% increase as of April 1, 2009, and to provide interim increases of 2.9% for April 1, 2011 and for 2.0 % April 1, 2012 (whereas MH sought 3.5% increases for both years). The Board later finalized the two last interim increases at 1.9% and 2.0% ; these finalized rates , reflect the Board's awareness of the economic realities facing ratepayers brought about by the then-underway and not fully subsided recession, and the Board's conclusion that MH failed to meet its onus in defending its application for higher and finalized rate increases.

In the 2011 hearing, the process (and its length and cost) was complicated by the allegations of a whistleblower and by MH's slowness in responding to the Board's directives for information (the Board's access to the Utility's export contracts being the subject of the case before the Manitoba Court of Appeal).

#### Diesel Rate Application

Four remote and northern communities remain "off grid" (not connected to the transmission grid and reliant on diesel generated electricity). Diesel generation results in very high service costs (involving significant subsidization by the federal and provincial governments and Manitoba

Hydro's grid customers), environmental issues and less than adequate electricity service to the residential and other customers of MH located in these communities.

On October 5, 2006, MH applied to the Board for *ex parte* approval of proposed amendments to interim Diesel Zone rates. The application was to increase rates to meet increased fuel and operating costs since 2004, as well as to provide for gradual recovery (through rates) of a deficit that has accrued while awaiting finalization of a Settlement Agreement involving the Federal Department of Indian and Northern Affairs (INAC). The Settlement Agreement includes provisions requiring federal contributions to MH operating and capital costs related to electricity service to First Nations communities served by diesel-generated electricity. The Board approved the application on an interim *ex parte* basis, effective January 1, 2007.

Since then, interim rates have been further adjusted, awaiting finalization of the Settlement Agreement. On November 16, 2009, the Board held a one-day hearing at which MH updated the Board and interveners on the progress of the agreement with INAC. While rates in the Diesel Zone continue to be insufficient, there was sufficient doubt as to the eventual terms of the INAC agreement to preclude the Board from further increasing the rates at that time. Accordingly, MH was once again directed to file an application to amend and finalize diesel community rates and all outstanding and interim Orders related to the Diesel Zone following finalization of the tentative Settlement Agreement with the federal government.

An extensive oral hearing was held during the September to December 2010 period, and involved as interveners INAC, Manitoba Keewatinowi Okimakanak Inc., and Consumers' Association of Canada (Manitoba) Inc./Manitoba Society of Seniors (CAC/MSOS ). The Board, concluding from the Hearing that the present service continued to be inadequate and excessively costly to the community, reduced the tail-block rate for residential and other small consumers and indicated an intention to further reduce the tail-block rate for those consumers to grid rate levels over time, and, also, made the following two major recommendations:

1. that, either through INAC and/or MH, and with the agreement and cooperation of the affected First Nations, each and all of the housing stock in the four communities be reviewed, and a comprehensive inventory of deficiencies be developed towards a goal of upgrading or replacing the housing stock so that Demand Side Management (DSM) measures to reduce electricity consumption and heating bills (from what they would otherwise be, or be expected to be), can be effectively employed; and

2. that the existing Electricity Service Limitations in the Diesel Zone be removed by way of connecting the communities to the transmission grid; and, concurrently, upgrading First Nations' housing stock.

The Board concluded that the establishment of just and reasonable rates would be best represented by grid rates for all Residential and non-government General Service consumption, with no restriction as to heating electrically. Rates were then, again on an interim basis, approved to be charged in the Diesel Zone communities of Barren Lands First Nation and Brochet, Northlands Denesuline First Nation (Lac Brochet); Sayisi Dene First Nation (Tadoule Lake); and Shamattawa First Nation (Shamattawa), to take effect for January 1, 2011 to December 31, 2011.

Subsequently, in 2011, the Board again reviewed the situation facing the four remote northern First Nation communities. Noting 'ever-increasing' diesel costs and environmental risks, on-going economic and social challenges, a still not finalized Settlement Agreement, the Board once again on an interim basis, and on a 'split' decision, (one subject to finalization to follow the completion of the Settlement Agreement and a further hearing process,) reduced the residential rates in the communities to the level charged those served by the grid (the rest of the Province).

#### Weekly Surplus Energy Rate Settings (*Ex Parte* Process)

MH rates for Manitoba customers are primarily based on the cost of the service provided to various customer classes. In setting rates, the Board also considers environmental, general economic and other factors.

Industrial customers benefit from much lower electricity rates than residential customers, both in absolute terms and also relative to the "discount" from average Canadian electricity prices enjoyed by all customer classes, as the firms within the large industry rate class do not require the use of MH's distribution assets, being served directly off transmission lines.

As well, MH's Surplus Energy Program (SEP) provides large industrial customers the opportunity to purchase "excess" electricity (either generated or purchased by MH) at similar rates to those made available to export customers by way of MH's opportunity sales. Opportunity export sales prices have fallen significantly since the onset of the recession in 2008, driven in part by reduced growth in industrial demand, and also the advent of commercial production natural gas from shale deposits.

Through an *ex parte* process, the Board establishes weekly interim rates for MH's SEP; the rates are determined based on sales prices for export sales to the United States, and provide comparable rates for sales to Manitoba industry. Approximately 50% of MH's export sales are expected to be established by contract; the rest to be sold by way of opportunity sales, which are based on current electricity market wholesale prices and the level of excess generation and transmission available to MH.

As part of MH's 2008 and 2009 Rate applications, the Utility filed further information on the SEP program, requesting that the Board approve an extension of the program to March 2013. While the Board expressed concern over the low prices being obtained for electricity sold in the 11 p.m. to 7 a.m. off-peak period, where the power sold can be for as low as .5 of 1 cent per kWh., the Board recognizes that the SEP price only mirrors opportunity sales export pricing and, accordingly, the Board extended authorization for SEP to March 2013.

Since the global credit crisis of 2008/09, the recession and the slow-down in the demand for electricity that followed, MH's SEP pricing has remained at very low levels, representative of much lower opportunity export revenue that has yet to recover, affecting MH's current profitability.

#### Rates for Manitoba Industrial Customers

At a public rate hearing held in late 2008 and early 2009, the Board considered an application by MH for a special rate to apply to a portion of future electricity demand by new and expanding large industrial electricity customers. MH expressed the concern, accepted by the Board, that a new industrial customer, or a significant expansion of an existing industrial customer, could drive up domestic electric demand and rates, as industrial rates are well below the marginal cost of new generation and transmission.

In an Order issued on July 10, 2009, the Board denied the application and provided parameters for a new Energy Intensive Industry Rate (EIIR) proposal to be developed by MH in consultation with its industrial stakeholders. While MH filed a revised application on February 12, 2010, and because the stakeholder consultation process was not yet complete, the application has been held in abeyance. Consultation continues as at the date of this report, with a revised application still on hold.

On August 7, 2009, in the midst of the recession, MH applied to the Board for approval of a temporary change to allow concessions for billing related to demand charges to General Service

Large and General Service Medium customers experiencing reduced demand (directly resulting from reductions in their operations caused by the recession).

By an Order issued September 4, 2009, the Board amended the Utility's application and approved a temporary deferral of payments otherwise required on a calculated portion of a customer's energy bill, with interest to be charged at a rate equivalent to MH's cost of short term debt.

Subsequently, MH requested that the payment deferral agreed to by the Board be converted into an outright forgiveness, a concession, for a very limited number of large industrial customers that had applied for the deferral. This matter was considered in the 2011 hearing, and in the Board Order that followed that hearing, the Board rejected 'outright forgiveness' and directed MH to secure payment of the amounts deferred. (Reference to the Board's Order will provide a better understanding of the Board's reasons.)

#### Electrical Reliability

Pending proclamation of legislation and related regulations, an Order-in-Council has been passed which appoints the Board as the adjudicator for any alleged violation of electrical reliability standards, such authority being granted under Section 107 of the Board's Act. During 2010, the Board was required to deal with one such violation.

A Board Order issued in late 2010 upheld a \$25,000 fine, as proposed by the Midwest Reliability Organization and uncontested by MH. No further violation has been reported since that occasion.

#### MH and Planned Major Capital Expenditures

MH has significant new major capital expenditure plans, which include the building of three new generation stations and a major new transmission line (Bipole III). The first of the three new generation stations, Wuskwatim Generation Station, is expected to begin operations in MH's 2012/13 fiscal year.

While projected by MH to enhance service reliability and profitability, the plans would also provide for increased exports (and potentially imports in the case of a drought), if implemented the plans would result in significantly increased MH borrowing and, hence, potentially negatively affect the Utility's debt:equity ratio (increasing debt at least until such time a new plant is in service and profitable, sufficient to generate additional sales at pricing allowing for increased retained earnings -- to allow the debt:equity ratio to return to the target 75:25 debt:equity ratio).

With ever-present risks of future droughts and other potential problems (currency fluctuations, interest rate changes, updates to construction cost forecasts, the lingering effect of the recession and shale gas production affecting demand and export pricing) that could negatively impact on the Utility's future profitability, the Board accepts that MH requires a "strong" balance sheet. Therefore, the Board has maintained its on-going focus on the Utility's debt:equity ratio and rate adequacy, and its requirement for MH to provide it with sufficient evidence, including the concluded export contracts (perhaps in strict confidence to protect commercially sensitive terms,) to support the higher rate increases. These higher rates sought by MH represent approximately twice the expected ongoing annual rate of inflation.

Wind is considered an environmentally friendly, clean energy source, complementing MH hydro-electric resources, and MH is purchasing electricity produced from a wind farm operating near St. Leon, recently expanded. In 2008, MH let out contracts for an additional 300 MW of wind generation, and, during 2011, a contract was let to a third party supplier and those additional turbines are now in operation. The additional wind supply has been assisted by a significant loan from MH.

While wind generation has its advantages, particularly with respect to furthering environmental goals (and, hence, assisting in export sale potential), the Board understands that investments in further wind generation (based on present day costs and the withdrawal of federal incentives) will place upward pressure on MH's overall costs and rate prospects (assuming, further new wind projects are committed to).

The Wuskwatim generating station, expected to be in service before the end of MH's 2012/13 fiscal year, as previously indicated, is to provide an additional 200 MW of generation at a capital investment of approximately \$1.6 billion, including related transmission capability. MH's partner in the project is Nisichawayasihk Cree Nation (NCN), which has the opportunity to acquire up to a 33% interest in the project (MH is to lend the vast majority of the investment required of NCN to NCN, and to provide NCN further loans as may be necessary for NCN to meet its own loan obligations during the earlier years of Wuskwatim operations, which are expected to produce losses).

Other major capital investments in new generating stations are also expected by MH and the Province, these being Keeyask and Conawapa. As well, enhancements of existing generating stations and new transmission capacity, including the planned Bipole III, are anticipated, bringing projected capital expenditures over the next ten or so years, and including "normal" capital

expenditures, to \$20 billion or more (if expended, the largest capital investment by a Manitoba Crown corporation in history).

The Board has recommended that government establish an independent review of MH's development plans, and in that review, consider options not yet reviewed, at least publicly, by MH. Much has changed since MH developed its plans and the Board questions whether the economics of the plan continue to meet the realities of the current marketplace.

MH is also involved with and is developing plans for additional expenditures to improve energy efficiency and heat retention in co-operation with its customers. Improvements in energy efficiency release generation capacity for export sales, and are anticipated to provide for reduced consumer bills and environmental gains through reduced energy consumption and carbon emissions.

MH now occupies its new head office in downtown Winnipeg (constructed at a cost of approximately \$280 million). The new building was committed as a condition of MH's purchase of Winnipeg Hydro, and allows for the consolidation of MH administrative functions.

The Board lacks the mandate to pre-approve MH's capital expenditures, though capital expenditures are a major component of overall costs. Involvement of the Board in capital expenditure approval would minimize the potential for disallowance of costs in setting rates, and would provide increased assurance to ratepayers that the Utility's capital expenditures are sound.

With MH's sole shareholder being the Province, the utilitarian value of a possible future disallowance of costs for rate-setting (from a consumer perspective) is questionable, as MH's customers are also the Province's taxpayers.

Again, among the 30 directives to MH of the Board's rate decision of July 2008, the Board called for MH to propose a plan for a public regulatory review of its capital program plans and its expected implications for consumer rates, if any. Again, neither a proposal from MH nor a plan of government has been received, and dates for this review have, accordingly, yet to be established. The Board continues to hold to the premise that a thorough and independent public review of MH's capital development plan, a review that would best consider alternative development plans by MH is critically needed.

#### Organization of MISO States (OMS) Activities

The Board's involvement with OMS has been limited, largely due to Board resource limitations.

OMS is “consensus” orientated, in place to bring forward the views of member American state jurisdictions and Manitoba on issues related to electricity generation and transmission across state/province and national boundaries, for joint presentation to the U.S. federal regulator.

Because Manitoba has only one electrical distributor (MH), and it is a Crown Corporation assisted by government involvement, the issues addressed by OMS to-date have not required extensive Board involvement. This is changing, not only due to the Board’s new electrical reliability responsibilities (see Outlook section); OMS has become an important source of independent information with respect to the MISO market, the principal market for MH export electricity, for the Board.

*ii) Centra Gas Manitoba Inc. (Centra)*

Centra distributes natural gas to approximately 250,000 residential, commercial and industrial customers. Centra was purchased (from a private firm by MH in 1999) and has been integrated fully within MH’s general operations. Centra has no employees of its own -- operational costs are allocated to Centra subject to the Board’s review.

Centra still primarily serves Winnipeg and southern Manitoba, as the costs of pipeline development and maintenance are very high and population density and industrial requirements are of particular importance with respect to the economics of natural gas distribution. Approximately half of MH’s customers (primarily resident in Winnipeg) rely on natural gas for space heating, the other half depend on electricity (with most of these not having gas heat as an option), propane, fuel oil and wood. With respect to this latter half, electricity use dominates, it being since at least 2009, the higher-cost heat supply.

Natural gas is purchased for distribution in Manitoba from continental energy markets, where price is determined by supply and demand (and often affected by speculation), and is unregulated. Natural gas is purchased from Western Canadian (principally) and American producers and transported to Manitoba through pipelines owned by external parties, to be distributed within, primarily southern, Manitoba through Centra infrastructure. Centra’s natural gas storage facilities that support gas usage during the high consumption winter months are located in Michigan.

Commodity costs were once significantly affected by hedging activities entered into by Centra, the hedging transacted for the purpose of reducing rate volatility. Hedging involves financial derivatives entered into with counter-parties, and gains and losses on hedging formed a significant component of Centra’s overall natural gas costs passed through without mark-up to its

customers.

In a 2009 Order, the Board directed Centra to phase out hedging primary gas purchases for the customers purchasing primary gas from Centra priced on a quarterly basis, and the phase-out was fully completed in the summer of 2011. The phase-out of hedging was concurrent with Centra offering (in competition with private brokers), on an ongoing basis, fixed price and term primary gas contracts to its customers, allowing customers to “lock-in” their primary gas requirements for one to five years.

As to its quarterly priced primary gas operations, Centra amends its primary gas rates for its commodity cost experience and forecasts on a quarterly basis, reflecting on-going market fluctuations. Centra recovers its costs through levies on customers, and the levies recover not only commodity and related transportation to Manitoba costs (at no mark-up), but also Centra’s operating and financial costs. The Utility also is provided, through Board-approved rates, sufficient additional revenue to offset MH’s costs of acquiring Centra and to provide reasonable retained earnings to serve as a financial reserve.

Expansion of Centra’s distribution system has been limited to small extensions since MH’s acquisition, as a result of natural gas price increases experienced during the 1999 to the summer of 2008 period, and population and industry density. Though natural gas commodity prices have since plunged (with additional supply coming on line from shale gas deposits concurrent with the onset of a serious recession that has depressed industrial demand), no major expansion of Centra’s existing distribution system is currently planned.

Centra’s annual net income is intended to be limited to the full recovery of costs incurred by MH, the amortization of MH’s acquisition-related costs, and the development and/or maintenance of adequate surplus. Considerable attention is placed on reducing customer gas consumption through improved customer awareness and through insulation and furnace upgrades.

#### Rate and Operational Reviews

The Board holds public hearings (usually annually) into the natural gas commodity and transportation (to Manitoba) costs of Centra. The hearings also consider matters such as the allocation of unaccounted for gas costs (gas purchased by Centra but not billed to customers), matters related to the purchase, transportation and storage of natural gas, and Centra’s hedging actions and policy.

Annual hearings are held to review Centra’s Cost of Gas, with the Board issuing orders in relation

to its findings, recommendations and directives. The annual reviews supplement and finalize quarterly cost of gas reviews which lead to interim rate decisions, and deal with matters and costs concerning gas supply, transportation and storage.

Generally, once every two years Centra files a General Rate Application to deal with rates and matters not directly dealing with gas supply, transportation and storage (in short, ‘non-gas’ operating and administrative costs and matters). In these hearings, the Board and the Utility, assisted by interveners, also address affordable energy initiatives, specifically for low-income households.

As indicated, quarterly, the Board establishes Centra’s primary gas rates pursuant to a Rate Setting Methodology (RSM) accepted by Centra and all interveners. The RSM determines rates based on actual and projected commodity costs, as impacted by storage and hedging. From the fall of 2008, natural gas prices fell sharply, initially the aftermath of a credit crisis originating in the United States.

More recently, while oil prices have recovered sharply (though still only two-thirds the peak of the summer of 2008), natural gas prices have not. A new non-conventional supply of natural gas (extraction from shale), has developed, increasing the supply of natural gas and driving down costs. As of the submission of the report, the spot rate for natural gas continues to hover in the \$2 range, with the historic relationship between natural gas and oil prices (with natural gas prices normally in a range of 1/6<sup>th</sup> to 1/9<sup>th</sup>) broken.

Since the diversion of gas and oil commodity prices, the cost of heating by natural gas, particularly if a high-efficiency furnace is in place, has become sharply lower than space heating by electricity. At the peak of natural gas prices, space heating by electricity was less expensive than by natural gas, raising the risk that conversions from gas space heating to electric space heating would add more demand pressure on electric generation. That risk has abated.

Centra’s hedging of its primary gas purchases, which saved its customers tens of millions of dollars during the natural gas commodity price climb in 2005, cost its customers the same or more as natural gas commodity prices retreated. With the North American oil and natural gas market, wherein American experience looms larger than Canadian when it comes to affecting pricing, significant natural gas price fluctuation can be expected, hence the Board’s directive, followed by Centra, for Centra to leave the field of hedging its quarterly set ‘system gas’ product, and offer, instead, a fixed price and term product in competition with private brokers.

The next filing of a non-gas General Rate Application, concurrent with a review of gas supply, transportation and storage, is expected for 2012.

### Franchise Agreements

*The Public Utilities Board Act* provides that a franchise granted to any owner of a public utility by a municipality is subject to the approval of the Board. The authority to grant or refuse a franchise to sell gas, or to directly purchase gas, or revoke an existing franchise to sell gas, or to directly purchase gas within the Province, is within the mandate of the Board. Accordingly, Centra applies to the Board for approval, renewal or extension of franchise agreements.

Small extensions of Centra's service adjacent to current service areas continue to occur from time to time.

### Service Disconnection

The Board has broad responsibilities with respect to the provision of natural gas in the Province, and as one of its mandates, the Board oversees Centra's service disconnections. Manitoba has a cold winter climate, and heat is critical to human health and welfare, particularly during the period from October through May. The Board concerns itself with ensuring that Centra's economic concerns (the Utility expects payment of its bills), valid as they may be, do not trump concern over the safety of adults and children living in properties heated by natural gas.

In February 2008, the Board and Centra concluded an effort to develop a process intended to reduce natural gas service disconnections as well as MH/Centra's bad debt and collection costs. The Board approved a new disconnection policy that allows MH to place an electricity load limiter (which restricts electrical service) in cases where customer bill delinquency exists. The new approach provides for the Board's oversight of disconnections of both electric and natural gas service when natural gas service is in place. The new approach balances MH's need to collect its accounts (to restrict its bad debt losses) with the need of customers for an assured space heating source during Manitoba winters. The results have been startling.

The number of residential annual gas disconnections has declined dramatically from a range of 5,000 to 9,000 to close to zero (even the annual disconnection of electrical service has decreased); saving MH/Centra bad debt and collection costs, and, perhaps more importantly, customers the costs, anxiety and other ramifications that arise out of service disconnection.

## Gas Safety

As previously stated, the Board is charged with the responsibility for overseeing natural gas and propane pipeline safety in the Province under *The Gas Pipe Line Act*. The Board utilizes the services of an engineering advisor, Energy Consultants International Inc. (ECI), to assist in monitoring safety on the Board's behalf.

During 2007/08, a long-standing effort to place more direct safety responsibility with Centra was concluded. During 2008/09, the Board and Centra arrived at a mutually-agreeable plan and the Board delegated some of its direct gas safety oversight responsibilities to Centra, reducing the need for involvement by the Board's engineering advisors. Concurrently, and as a condition of the delegation, Centra implemented a Quality Assurance Program, including extensive auditing.

The Board now relies on the new safety program (quarterly reporting, annual audits and other measures) to ensure that natural gas safety matters are properly and timely managed by Centra. Board and Centra staff meet quarterly, to discuss the safety program, review events and consider emerging issues. As one result of the change, the Board's gas safety costs have fallen sharply, assisting the general public interest as no additional risk has been taken on through the change.

### ***iii) Stittco Utilities Man Ltd. (Stittco)***

Since the early 1960s, Stittco has provided pipeline propane gas to customers (now less than 1,000) in Thompson, Snow Lake and Flin Flon.

Generally, Stittco applies annually for an increase in the Utility's non-commodity rates. Non-commodity costs include costs incurred by Stittco for the distribution of propane, and allowed costs are recovered in rates through a basic monthly charge and delivery charges based on customer consumption. With lower projected propane consumption volumes, combined with the approved increases in non-commodity costs, there is a resulting ongoing annual increase in charges to customers separate from the costs of supply and transportation to Manitoba.

Propane gas costs continue to fluctuate, with the effects reflected in rates on a quarterly basis. The propane commodity price represents about  $2/3^{\text{rds}}$  of the price charged to customers. The effect of these fluctuations is mitigated somewhat for the consumer by the quarterly rate setting process.

Propane service, including the commodity, is much more expensive than heating by way of electricity, the problem for residential customers has been the cost of conversion.

*iv) Swan Valley Gas Corporation (SVGC)*

SVGC is a wholly owned subsidiary of SaskEnergy Incorporated. SVGC acquired natural gas distribution franchise rights for the Swan Valley region of Manitoba on July 4, 2000. At that time, the Board directed that SVGC be regulated under a “least cost regulation” approach, a regulatory model involving less direct Board oversight based on paper-based hearing processes rather than oral hearings. This was intended to restrain regulatory costs that are passed on to customers through rates.

Similar to the approach taken with Centra and Stittco, SVGC does not “mark-up” its natural gas commodity and transportation costs, which are passed on to customers through rates at cost, upon Board approval. These costs include SVGC’s actual natural gas commodity costs and, as well, costs related to the transport of gas to SVGC at the Many Islands Pipeline metering station located in Manitoba.

Using the paper review process, the Board regularly reviews SVGC’s commodity and non-gas costs; while commodity costs have fallen, the departure of a major industrial customer from the use of gas has placed increased pressure on continuing residential, commercial and institutional customers.

*v) Natural Gas Brokers*

Licensed natural gas brokers offer consumers a fixed-rate option as an alternative to Centra’s regulated quarterly cost-based Primary Gas Rate. While the Board licenses brokers, broker contracts are unregulated and Primary Gas prices are market-driven. The Board supervises the sales activities of brokers through a Code of Conduct, and has the authority to cancel a retail contract.

Two retail residential brokers operated in Manitoba since the mid-1990s, following natural gas deregulation. Generally, retail brokers market through door-to-door consumer contact or through the internet. Now, there is only one residential retail broker actively pursuing the residential market.

In addition to overseeing the terms under which Centra distributes primary gas for brokers to their

customers, and establishing and monitoring the Code of Conduct that governs the brokers' marketing to consumers, the Board intervenes and investigates with respect to complaints from broker customers. Rarely has the Board had to hold a public hearing to resolve a customer complaint; generally, the Board is able to facilitate a reasonable outcome through discussions between the broker and the customer.

The Board regularly reviews the policies and procedures employed by brokers. The sole remaining residential broker has 'competition' for the fixed price and term residential market, because Centra now offers fixed-price fixed-term primary gas contracts (the latter "in competition" with private brokers). Centra began offering fixed-price fixed-term contracts in February 2009.

A significant number of private brokers serve the commercial and industrial gas supply market; larger gas users are assumed to be more equipped to make informed choices as to either contracting for fixed terms or receiving Centra's quarterly gas supply product.

*vi) Manitoba Public Insurance (MPI)*

MPI was established in 1971 as the monopoly provider of 'basic' motor vehicle insurance. Currently, the annual revenues of MPI, including investment income, approach \$1 billion, and its investment portfolio exceeds \$2 billion. MPI insures approximately 800,000 drivers and 1 million vehicles.

With respect to the Personal Injury Protection Plan (PIPP), which provides accident benefit coverage, all Manitobans have coverage, whether they are drivers or not, and whether the accident occurs in Manitoba or anywhere else in either Canada or the United States.

The objectives for the Crown Corporation were established in the enacting legislation, and have been pursued since. However, substantial changes have occurred over the past forty years. The most significant change took place in 1994, when Basic plan benefits were changed to reflect a total "no-fault" environment for accident benefits.

Other major changes include:

- a) the introduction of a Bonus/Malus system in 1988 to reward good drivers and provide penalties for poor experience (this program was replaced by a Driver Safety Rating program, the subject of a 2009 Board hearing and decision);

- b) the sale of the general property insurance segment to the private sector in 1989;
- c) the introduction of a no-fault retirement benefit in the late 1990s;
- d) the transfer of DVL (driver and vehicle registration and driver conduct regulation) responsibilities to MPI from the Province in 2004, and the subsequent effort to integrate DVL operations within MPI's overall administration;
- e) changes in 2006 and 2010 to the allocation of the cost of claims to better reflect the no-fault nature of the program;
- f) the 2009 and 2010 substantial benefit improvements for accident victims with catastrophic injuries; and
- g) the 2010 implementation of the driver rating system replacing the Bonus/Malus system mentioned in a) above.

The investment portfolio increased substantially, as expected, following the adoption of total no-fault; providing an important source of revenue to restrain premium levels as well as a source of investment capital for Manitoba municipalities, schools, hospitals and the provincial government. MPI's premiums are among the lowest in Canada while benefits (excluding consideration of pain and suffering - no longer being compensable under the no-fault design) and coverage are reported to be among the most generous.

Over the past decade, the Board has directed MPI to rebate premiums in excess of \$600 million to MPI's Basic premium ratepayers. During the same period, rates have remained stable, with decreases in recent years. In Canada, only the four public automobile insurers (MPI in Manitoba, ICBC in British Columbia (which still relies on the 'tort' system of bodily injury compensation), SGI in Saskatchewan and SAAQ in Quebec have been able to maintain reasonable rate stability.

Unlike the situation of the Board's other regulated utilities, MPI's rates are in force only for a particular insurance year; this means an annual rate hearing is required. Given that new vehicles join the fleet each year and the experience on existing vehicles is constantly changing, annual hearings continue, though the Board continues to explore ways to reduce duplication and improve regulatory efficiency.

Items initially raised in past hearings that are likely to continue to be a focus of the annual hearings include premium refund potential, the continuing impact of the DVL acquisition and related matters, road safety initiatives and MPI's investment practices.

As well, the Board has recommended to MPI and the government that MPI's competitive lines of business (Extension and SRE), be made subject to broad general oversight by the Board (the Board has not sought the mandate to set Extension or SRE rates, but has sought access to overall information related to MPI's overall operations). In past Orders, the Board has provided MPI with a number of recommendations related to matters ranging from the use of Extension and SRE profits, the investment of MPI's unpaid Claims Provision and retained earnings, and the placement of the DVL functions within MPI's corporate structure.

In the absence of an expanded mandate, the Board has sought vastly increased transparency by MPI with respect to non-Basic lines of business. The Board's view has consistently been, given the overall integration of MPI's operations, that it should have access to any and all information about the entire Corporation. MPI has maintained that the Board's jurisdiction is limited to matters dealing with Basic Compulsory Insurance, and that absent a change in legislation or direction from government the Board's jurisdiction should remain limited.

All interveners at recent hearings share the view of the Board on this matter MPI has a virtual monopoly in the Extension line of business, with over 90% of the market; in short, Extension's policyholders are also Basic policyholders.

The Board has continued to explore the implications of environmental principles being applied in MPI premium setting, and, as well, pursue a more aggressive MPI approach to road safety – the volume and rate of road deaths, injuries and accidents represent an undesirable toll that needs to be more effectively addressed.

In recent hearings, the Board, assisted by the enquiries of interveners, has attempted to test the reasonableness of MPI's general operating and administrative expenses, which have been increasing at rates well above the rate of inflation. The Board has sought the benchmarking of various MPI metrics against those of 'comparable' insurers, noting significant growth in operating and capital expenses, and the Crown's personnel complement.

The Board has also sought increased assurance that MPI is not absorbing costs that would best be met by the Province; to-date, the Board has not achieved its goal in this respect.

**vii) *Water and Sewer Utilities***

The Board has regulatory rate and financial responsibilities for Manitoba's water and/or sewer utilities. At the end of the 2011/12 fiscal year, the Board has a regulatory caseload of approximately 250 active water and/or sewer utility files, including approximately 220 municipal

utilities and 35 cooperative and privately owned water utilities. As well there are a number of campgrounds that fall under the Board's jurisdiction, to which it is difficult to extend the 'regulatory reach'. To best ensure effective regulation at reasonable cost, the Board has developed approaches to each group.

In 2007, the Board declared all water cooperatives and several privately owned water utilities to be public utilities (to be regulated by the Board). Information requests continue to be sent to each utility as the Board becomes aware of them, indicating the Board's determination to exercise its regulatory mandate. Recognizing that many of these utilities have very small customer bases and annual revenue requirements, the Board implemented a "complaints based process" to constrain regulatory costs.

Most of these utilities are able to introduce rate changes by simply notifying their customers and providing the Board with financial information in support of the rate changes.

The consideration of complex rate applications seeking significant increases has led to increasingly well-attended public hearings outside Winnipeg. While rates have increased substantially, further rate pressure is evident. Nutrient removal from sewage is a major issue yet to be managed, along with the continuation of a trend to metering consumption and upgrading facilities to meet industrial and residential needs. As well, many utilities have inadequate reserves, which will place increased rate pressure on customers as infrastructure needs are addressed.

The Board has recommended that the City of Winnipeg's water and sewer utilities be made subject to the same rate regulation applied to other water and sewer utilities in the Province. During the year ended March 31, 2012, the Board held a hearing in which it reviewed the operations and rate practices of the City with respect to its utilities. The Board provided findings, commentary and recommendations, in Order 56/12 issued a few months after the reporting year. Several important restrictions placed on other provincial water and sewer utilities are not followed by the City (for example, the City regularly transfers 'surpluses' from the annual operations of its utilities to its General Fund, allowing for restraint in property tax increases thus increasing water and sewer rates).

In dealing with rate and deficit issues for water and sewer utilities, the Board is increasingly mindful of the implications of *The Sustainable Development Act*, not only for nutrient removal, but also with respect to conservation of water, and longstanding municipal water rate schedules that allow for decreased rates with higher volumes (declining block rates). The Board encourages

utilities to review their rates regularly and to assess the implications of collapsing multiple rate step schedules to fewer steps or one rate for all water consumption. The Board is aware, however, that the provision of less costly water remains an incentive and attraction for industry, and is in turn an economic development incentive to the industry seeking to locate in specific communities or areas. In these cases, the Board is also aware that subsection 85(15) of its Act allows an affected utility to be made whole by an assessment on the municipal general operations, usually by a special levy.

Efforts are also being made to cooperate with other agencies with respect to the approach to be taken to major infrastructure capital upgrade requirements. The Board participated in a Treasury Board-led initiative to develop a coordinated government process to deal with this issue. A major objective is to better ensure that priority setting is fair, especially important given Manitoba's large infrastructure deficit.

The Board is cognizant of the effects on municipalities with the implementation of Public Sector Accounting Board (PSAB) accounting standards requiring utilities to adopt GAAP in 2009, which will include a requirement for amortization accounting. The Board issued a general Order in June 2009 to outline the Board's requirements with respect to the PSAB accounting standards, and to provide assistance to those preparing rate studies with the transition to the new accounting standards. The Board's website includes the new requirements and forms for use by all utilities to assist in developing utility rate applications.

In the ongoing spirit of cooperative consultation, the Board continues to collaborate with the Association of Manitoba Municipalities (AMM) towards ensuring compliance with the Board and provincial directives, and to update regulatory practices for water and sewer utilities.

### ***viii) Cemeteries and Related Matters***

#### Legislative Review

The Board conducted an extensive consultation process with respect to two provincial "Acts" for which it was held responsible, *The Cemeteries Act (CA)* and *The Prearranged Funeral Services Act (PFSA)*. Staff researched related legislative provisions and practices in neighbouring jurisdictions and across North America. An extensive consultation questionnaire was developed and made publicly available on the Board's website. Invitations to respond were then sent to targeted groups as well as to the public via advertisements. Responses to the questionnaire were then tabulated and analysed. Consultation sessions were held in Winnipeg, Thompson, Brandon

and Swan River; the review panel attempted to provide an opportunity to a large population segment of Manitoba.

Information gleaned from both the questionnaire responses and the public sessions were then synthesized into a series of recommendations made to the Minister for major revamping of both Acts.

To-date, while there has been significant progress in amendments to the PFSA, the Board notes that more work is required with respect to *The Cemeteries Act*, and remains optimistic that appropriate changes will eventually be introduced.

Insofar as the related legislative construct affecting the Board, much of the governing legislation was enacted many decades ago, and circumstances have changed. The regulation of the field has not kept pace with developments, and the legislation is not sufficiently comprehensive. There are significant areas of operation currently without regulatory oversight. In particular, the Board has noted problems with unregulated cemeteries (not-for-profit, municipal and faith-based facilities), with the low level of balances in perpetual care trust accounts, and the magnitude of funds held in trust. Perpetual care trust funds are inadequate for the purpose intended.

The trend in the funeral and cemetery industry now favours cremation over burial, with a reported 60% utilizing cremation services. On-going inflation and reduced investment income expectations have (over a lengthy period of time) resulted in perpetual care accounts producing annual investment income inadequate to provide the contracted-for services. The Board has noted that some private cemeteries are being maintained through subsidies provided by the owners' other lines of business, as a marketing mechanism. Aging infrastructure, declining populations in some locations, declining church membership for some denominations and locations, and ongoing migration to larger population centres have resulted in challenges with respect to currently-unregulated, faith-based and municipal cemeteries.

The Board has noted other problems as well. The proceeds from sales of cemetery services (when sold on a pre-need basis) are not required to be placed into trust accounts. The services and goods purchased are provided upon the need arising (for example, the provision of a plot and marker after the death of the person). However, for-profit private cemeteries are expected to set aside a portion of the funds received for a lot or niche in a perpetual care trust fund. Transactions within perpetual care trust accounts are regularly audited by the Board.

Generally speaking, the Board attempts to meet its mandate with respect to the bereavement

industry through paper reviews and consultation, though hearings involving complainants have occurred. The Board also hears appeals related to the actions of funeral homes, cemeteries and crematoriums.

#### **4. HIGHWAY TRAFFIC BOARD**

As previously indicated, the Board hears appeals of decisions of the Highway Traffic Board pursuant to *The Highways Protection Act*. Appeals generally deal with access to provincial highways by way of driveways and the placement of signs, particularly electronic signage, adjacent to Manitoba highways. Appellants have included local landowners, businesses and the Department of Manitoba Infrastructure and Transportation (MIT).

Generally, in determining these matters, the Board visits the site and holds a public hearing in the area. Board decisions follow an assessment of the facts of the situation and the hearing of positions advanced by the parties to the matter. The Board's decision criteria include fairness and safety.

#### **5. THE EMERGENCY 911 PUBLIC SAFETY ANSWERING POINT ACT**

During 2005/06, *The Emergency 911 Safety Answering Point Act* was enacted; it assigns the appeals process set out in the statute the Board. Applicants for 911 service provision who are refused licensing are now able to appeal the denial to the Board. To-date, no appeals have been filed.

#### **6. CITY OF WINNIPEG CHARTER ACT (Passenger Transport)**

*The City of Winnipeg Charter Act* provides that, where the City signs an agreement providing for an operator to transport customers for a fixed fee within the City of Winnipeg, the agreement must be approved by the Board. The Board must also approve the operator, who or which then becomes subject to ongoing Board oversight. Historically, the Board has dealt with relatively few of these agreements, which have been limited to transport services for children and the elderly.

In 2006, the City entered into an agreement with Avion Services Corporation (Avion), at the time a wholly-owned subsidiary of the Winnipeg Airports Authority (WAA), to provide a shuttle service from the Winnipeg Airport. Avion filed its application with the Board only to withdraw it

in the end.

Unicity Taxi and Duffy's Taxi (UDT) intervened in the process, which led to the Board conditionally approving Avion's request, but with a number of conditions intended to provide better assurance for the public that the service would be in the public interest. In late March 2010, the Board became aware of a change in the ownership of Avion, not contemplated during the hearing. Further, the filings required of Avion as a pre-condition to operating the service were not filed as required by April 1, 2010.

The application is now null and void. Should Avion's new owners contemplate proceeding with a shuttle service, it will constitute a new application and require a new filing and hearing.

## **7. *THE CONSUMER PROTECTION ACT***

The provincial government introduced legislation in the spring of 2006, assigning to the Board the authority to set the maximum rates chargeable for payday loans and for cashing government cheques. The legislation was passed in June 2006 and the Board held hearings in 2007 and 2008, before setting the maximum fees which legislation required it to establish.

### Payday Loans

Following the Board's hearing and subsequent Order establishing maximum rates, the Canadian Payday Loan Association (CPLA) sought a Review and Vary from the Board and a firm from the industry sought leave to appeal from the Manitoba Court of Appeal. In 2009, the government introduced legislation that changed the Board's role in setting maximum rates for payday loans. This made the Board's Order and the case before the Court of Appeal moot. The Board then commenced acting as an advisor to government, with the government setting maximum fees for the industry by regulation.

Although not all of the Board's recommendations were adopted in the final regulation, the legislation represents a significant improvement for those in the unfortunate economic position of having to use a payday loan service.

The Board plans to review the circumstances of payday lending in the Province within the next year or two, and may amend its recommendations to the government following a public review.

### Maximum Fees for Cashing Government Cheques

Hearings on cheque cashing were held in Thompson, Brandon and Winnipeg in 2006 and 2007. CAC/MSOS intervened in the Winnipeg hearings, as did Money Mart and the Northwest Company, two major players in cheque cashing. The hearing concluded in April 2007 and the Board issued its decision in May 2007; the decision recommended placing caps on fees and various measures intended to provide increased consumer protection.

The rates are subject to review every three years, and the Board reviewed the rates in the spring of 2010 via a paper process, issuing an Order on May 12, 2010 reaffirming the rates approved in 2007.

The Board plans to undertake a further review in 2013.

## **8. BOARD ADMINISTRATION**

### Board's Rules of Practice and Procedure

The Board operates in adherence with the relevant legislation and with its Rules of Practice and Procedure (Rules) and the Code of Conduct (Code) for members. This framework provides assurance and guidance to regulated utilities, interveners, Members of the Legislative Assembly, government and other interested parties with respect to the manner by which the Board manages its processes.

The Rules, which were operative in draft form for over a decade, were formally adopted in June 2006, following a process that involved circulating the draft Rules to interested parties. Subsequent to adoption, the Board published the Rules in the Manitoba Gazette and posted them on the Board's website.

Among other things, the Rules set out the Board's criteria for awarding costs to interveners. The Board has full discretion with respect to the award of costs, and exercises that authority to restrain regulatory costs while enabling public participation in Board hearing processes.

### Board Members

The Act makes provision for a minimum complement of three members including a full-time Chair. The Board's roster of part-time members was enhanced in the year under review, with the addition of two new members.

Mr. Régis Gosselin and Mr. Raymond Lafond joined the Board and became immediately involved in the Board's regulatory affairs. Mr. Gosselin will succeed Mr. Lane as the full-time Chair as of April 2012, following eight years of Mr. Lane's leadership.

Further Board changes in 2012 may warrant additional appointments of part-time members, to best ensure the member roster is of a level helpful in scheduling and holding hearings.

#### Staffing and Staff Development

Mr. Hollis Singh, long-time Associate Secretary, was promoted to the role of Board Secretary and Executive Director replacing Mr. Gaudreau in late 2010.

Concurrent with that change, the Board was fortunate to be able to recruit a successor to Mr. Singh, in his former role as Associate Secretary, namely Mr. Kurt Simonsen. Mr. Simonsen is a professional engineer and brings to the Board and the parties it serves valuable knowledge and experience with both industry and government, as well as a passion for the public interest. Associate Secretary Kristine Shields resigned from the Board, recruitment is underway to fill the vacancy.

#### Operational Improvements

The Board remains constantly embarked on a process intended to increase the effectiveness of its regulatory effort. While working to restrain regulatory costs while at the same time dealing with increased and more complex responsibilities, without increases in staff, the Board's overall focus remains on strengthening and preserving services towards the well-being of the public interest. The Board understands the government's need to restrain cost growth.

The timeliness of Order issuance deteriorated following changes to Generally Accepted Accounting Principles for municipal government, and the water and sewer utilities operated by municipalities. Every effort has and will be made to address the service deterioration, with the goal to restore timely service in fiscal 2012/13.

The Board continues to explore ways and means to improve regulatory cost effectiveness, public awareness and consumer involvement.

## **9. OUTLOOK FOR 2012-13 AND RECOMMENDATIONS**

### Manitoba Hydro (Electricity Service)

The Board expects that Manitoba Hydro will file a new General Rate Application in 2012. The Board expects Manitoba's largest Crown utility to meet its onus to fully support its application.

As of the date of the report, MH has not responded to a subpoena issued by the Board in 2011 and had initiated an appeal to the Manitoba Court of Appeal. The Board also notified MH that there were also a number of other directives that the Utility should respond to when it files its next application, or during the hearing of that application.

The Board also notes its recommendation to government that it call an independent review of MH's major development plans, given the changes in the 'landscape' and market that have occurred since the development of those plans is still outstanding.

Manitoba Hydro plans a "decade of investment" that will include the construction of major new generation and transmission assets and the assumption of a large amount of additional debt, supported by new electricity export and import contracts with American counterparties. This "preferred development plan" may well have negative implications for provincial rates. The Board still awaits receipt of a Settlement Agreement between the First Nations, MH and INAC, as required by past Orders concerning the four remote northern First Nations communities served by diesel generation. The electricity service provided these communities is sub-standard, and the Board will pursue its efforts of past interim Orders towards improving the service at a reasonable and just cost to the communities' residents.

### Centra

Centra's arrangements for the purchase, storage and transportation of natural gas will expire in 2013, and Centra is involved in the review of current arrangements with the intent of potentially making changes and entering into new contracts.

The Board will exercise its mandated oversight of this process, which will involve interveners, understandable given the importance of the matter to Manitobans reliant upon natural gas service through Centra.

Further with respect to Centra, the Board will remind Centra that the furnace replacement program for lower income households is well-funded, and that the program demand to date has

been low. Natural gas prices and rates may rise again, it would be best if lower income households had converted to high efficiency furnaces well ahead of that development.

### Regulatory Scope

The City of Winnipeg has been exploring the potential for the rates charged by the City's water and sewer utility to be set by the Board. The Board has previously recommended legislative amendments to this effect, and, following its recent review of the City's utilities, awaits the results of deliberations by the City and the Province.

With the extension of the Board's oversight to include cooperative and privately owned water and sewer utilities, the Board looks forward to an increased involvement in water utility regulation for the benefit of ratepayers and society.

### Recommendations to Government

The Board relies on public policy, as established through legislation, regulations and stated government policy. In cases where public policy has not been established by the legislature or the government of-the-day, the Board may set policy. In such cases, public policy set by the Board is subject to amendment, which may come as a result of legislation, regulation or stated government policy.

The Board's jurisdiction is finite and defined, and there are areas where the Board cannot establish policy even in the absence of legislation, regulation or stated government policy. In some cases, while there may be neither extant legislation nor regulation nor stated government policy, and the matter at issue is within the Board's jurisdiction, the Board may choose not to set policy.

In some such cases, the Board may choose to bring the matter to the attention of government by way of comment and/or suggestion within a Board Order. In all instances, the Board has the protection of the public interest at the forefront of its actions.

The Board has brought the following significant matters to the attention of government since 2004:

- the aforementioned exemption of the City of Winnipeg from the Board's jurisdiction with respect to the setting of water and sewer rates:

*the Board has suggested, supported by the Mayor of the City of Winnipeg, that it may be in the*

*public interest to extend the Board's jurisdiction to include the setting of water and sewer rates for the City, the only municipal body exempt of Board rate setting at this time;*

- the current exemption of the Manitoba Water Services Board (MWSB) from the Board's rate-setting jurisdiction with respect to water and sewer utility rates; MWSB sets water and sewer rates for utility assets owned by the MWSB, and these rates affect municipalities otherwise subject to the water and sewer rate-setting jurisdiction of the Board, the Board does serve as the appeal body for municipalities seeking relief or amendment of MWSB's rates:

*the Board is of the view that all water and sewer utilities in the Province should be subject to its jurisdiction;*

- MPI has held that MPI's Extension, DVL and Special Risk Extension (SRE) divisions are outside of the Board's jurisdiction, unlike MPI's Basic Autopac operations:

*the Board has opined that the extension of the Board's oversight over MPI to include all of its operations would be in the public interest;*

- MH's capital expenditures are not subject to the approval of the Board, unlike the situation with respect to Centra; the Board has opined that as MH's capital expenditures are expected to be valued in the billions of dollars and as the amortization and financing costs associated with capital expenditures are a large component of MH's annual revenue requirement:

*the Board's jurisdiction would best extend to the approval of MH's capital expenditures ahead of actual construction or purchase.*

Some, none or all of these recommendations may be implemented, the decision or action being either within the jurisdiction of government.

Along with providing regulated utilities and other operations with directions pursuant to the Board's jurisdiction, the Board also provides recommendations and suggestions. The Board often takes this approach to provide the utilities an opportunity to consider matters ahead of detailed examination at a public hearing proceeding. Recommendations provided to utilities are published within Board Orders, and may be read by accessing Board Orders on the Board's website.

## **10. CONCLUSION AND ACKNOWLEDGEMENTS**

The Board's website may be found at [www.pub.gov.mb.ca](http://www.pub.gov.mb.ca). Through the website, the public can monitor the Board's activities including Board Decisions, Notices and other significant issues before the Board. The Board's jurisdiction is not contained only within *The Public Utilities Board Act*; provisions of *The Crown Corporations and Public Review and Accountability Act* and *The Manitoba Hydro Act* also relate to the Board. As well, there are other statutes, such as *The Municipal Act*, *The Highway Protection Act* and *The City of Winnipeg Charter Act* that provide the Board with mandates. At some point, it may be worthwhile to consolidate the Board's responsibilities and authority within one Act, to assist with the public's understanding of the Board's mandate.

With respect to that mandate, the public utilities that the Board has oversees are also governed or overseen, in whole or in part, by other agencies. These include the Legislature, Ministers Responsible, the Boards of Directors of Manitoba Hydro and Manitoba Public Insurance, Crown Corporations Council, Clean Environment Commission, the Auditor General, the Manitoba Water Services Board, the Conservation Branch of the Manitoba government, etc. While the Board is cognizant of the significant roles played by the other parties, this does not reduce the statutory mandates and responsibilities provided to and met by the Public Utilities Board.

The Board's calendar for 2011/12 was once again diverse, challenging and rewarding, although dominated for this past year by the Board's review of MH's electricity rates and its risk management profile and practices, and the Board's efforts to return to timely service with respect to municipal water and sewer applications. Having a public hearing that thoroughly considered MH's risks, after many years of Board-expressed concern, was a valuable accomplishment for the public interest. Notwithstanding the Court's ruling, yet to come, on the breadth of the Board's jurisdiction over MPI, the support the Board received from Interveners on the matter was also rewarding.

In conclusion, the retiring Chair thanks the other members of the Board, Board advisors, and, particularly, Board staff for their dedication to the work of the Public Utilities Board and its public interest mandate. The Chair has noted that the Board, overall, has been ever mindful of the public's reliance on the Board for thorough and careful thought related to the matters that come before it.

The Board has a long history of fulfilling this objective, and it should remain a goal of the Board into the future.

Finally, I want to express my thanks to government for appointing such an accomplished and talented new Chair, in the person of Mr. Régis Gosselin, as I retire after eight years of service.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'G. Lane', with a large, stylized initial 'G'.

Graham F.J. Lane, B.A., C.A.  
March 31, 2012

## STATUTORY RESPONSIBILITIES

The Board is an independent quasi-judicial administrative tribunal operating pursuant to *The Public Utilities Board Act* (Act). The Act was enacted in 1959, though the Board has regulated entities and similar services pursuant to other legislation since 1912.

During the fiscal year under review, the Board was responsible for the regulation of entities and public utilities (as defined under the Act); namely: Centra Gas Manitoba Inc. (a wholly owned subsidiary of Manitoba Hydro), Stittco Utilities Man Ltd., Swan Valley Gas Corporation and municipal water and sewer utilities.

Pursuant to *The Crown Corporations and Public Review and Accountability Act*, the Board sets premiums and fees charged by Manitoba Public Insurance for compulsory auto insurance and Manitoba Hydro's electricity rates. While the Board reviews and takes into consideration the financial performance and forecasts of Manitoba Hydro in establishing fair and reasonable rates based on prudent expenditures, it does not approve the Utility's capital expenditures.

Other enactments assigning regulatory or adjudicative responsibilities to the Board are:

*The Greater Winnipeg Gas Distribution Act*

*The Gas Allocation Act*

*The Prearranged Funeral Services Act*

*The Cemeteries Act*

*The City of Winnipeg Act* (Passenger carrier agreements)

*The Manitoba Water Services Board Act* (Appeals)

*The Highways Protection Act* (Appeals)

*The Emergency 911 Public Safety Answering Point Act* (Appeals)

*The Consumer Protection Act*

*The Municipal Act*

The Board is also responsible for the administration of *The Gas Pipe Line Act*, and, pursuant to that legislation, authorizes construction and operation of all gas pipelines in Manitoba. The Board's primary concern in exercising these responsibilities is public safety.

The entities and public utilities regulated by the Board have annual revenues in excess of \$4 billion, and which serve and affect virtually every Manitoba resident, commercial enterprise and institution.

## BOARD MEMBERS AND STAFF

Members of the Board:

Graham Lane, CA, Chair (retired as of April 1, 2012)

Robert Mayer, Q.C., Vice-Chair (also retiring from the Board)

Dr. Leonard Evans, LL.D.

Monica Girouard, C.G.A.

Dr. Kathi Avery Kinew

Susan Proven, P.H.Ec.

Régis Gosselin, MBA, CGA - new Chair as of April 2012

Raymond Lafond, CA

Staff Members:

Officers:

Hollis M. Singh, BA (Econ), Executive Director and Secretary

Kurt Simonsen, P.Eng, Associate Secretary

Administrative Staff:

Brenda Bresch, Office Manager

Debra Feuer, Secretary to the Chairman

Carolyn Burton, Administrative Secretary

The Chairman is a full-time appointment of the Lieutenant Governor in Council; the other Board members are part-time appointments. Public hearings of the Board are advertised; applications made by sewer and water utilities where public hearings are not held are made known to those affected, and Board decisions are communicated to the public. Decisions arising out of *ex parte* hearings are shared with the affected utilities and interveners, and posted on the Board's website. All Board decisions are available to the public and are posted on the Board's website.

Board members hear and subsequently decide upon the rate applications and other matters brought before the Board. Board members, staff and advisors are governed by conflict of interest guidelines, this to ensure those appearing before the Board receive unbiased and independent judgements. Board decisions may be appealed to the courts, and, ahead of that, applications may be made to the Board requesting that the Board reconsider a decision. The Board has adopted Rules of Practice and Procedure which are made known and are available to consumers, utilities and other interested parties.

The Board relies upon expert advisors from the fields of accounting, actuarial science, engineering and law; the roster of advisors includes:

Accounting

Actuarial Science

Engineering

Law

Cathcart Advisors Inc.

Eckler Partners LLP

Energy Consultants International Inc. and LAB Consulting Ltd.

Fillmore Riley LLP and Pitblado LLP

## SUMMARY OF BOARD ACTIVITIES

### ORDERS ISSUED

	<u>2011/12</u>		<u>2010/11</u>	
<b>Regulated Industry Orders:</b>				
Water and Sewer Utilities				
Applications for amended rates	37		53	
Applications to address deficits	15		9	
General matters, late payment fees	<u>3</u>	55	<u>3</u>	65
Manitoba Hydro				
Electricity operations	65		65	
Centra Gas Manitoba	<u>15</u>	80	<u>12</u>	77
Natural Gas and Propane Utilities and Pipelines				
Swan Valley Gas Corporation (consumer rates)				1
Stittco Utilities Man Ltd.		5		4
Other Natural Gas				
Service Disconnection				
General matters, Code of Conduct (brokers)				
Manitoba Public Insurance Corporation		10		10
Highways Protection Act		4		3
Fees for cashing Government Cheques				1
Maximum Charges for Payday Loans				
The Cemeteries Act		4		2
The Prearranged Funeral Services Act		1		
Avion				-
<b>Total number of Orders issued</b>		<u>159</u>		<u>163</u>

Note: Copies of the decisions of The Public Utilities Board of Manitoba are available from the Board's office upon request, and are posted on the Board's website ([www.pub.gov.mb.ca](http://www.pub.gov.mb.ca)). The Orders indicated above include Orders related to applications for costs by interveners to the Board's process.

## SUMMARY OF BOARD ACTIVITIES

### LICENCES ISSUED

	2011/12	2010/11
<b>Direct Purchase of Natural Gas</b>		
Brokers	10	10
<b>The Cemeteries Act</b>		
Cemeteries, renewal	11	11
Initial licensing		
Conditional	1	
Columbariums	21	20
Initial licensing		1
Conditional	1	
Mausoleums	5	5
Crematories	19	19
Initial licensing	1	
Conditional	1	
Sales- Owners	11	11
Conditional	1	
Agents	90	72
Agent Transfer	<u>1</u>	<u>1</u>
	<b>163</b>	<b>140</b>
<b>The Prearranged Funeral Services Act</b>		
Renewal	33	24
Initial licensing	1	
Conditional	2	
	<b><u>36</u></b>	<b><u>24</u></b>
<b>Total licenses issued</b>	<b><u>209</u></b>	<b><u>174</u></b>

In addition, the Board receives notice of price changes from cemeteries, crematoriums and with respect to pre-arranged funeral services.

**FINANCIAL INFORMATION**  
**Fiscal Year Ended March 31, 2012**

	(\$000's)			
	<u>2011/12</u>		<u>2010/11</u>	
<b>Levies, Direct and Indirect</b>				
General Board levies on Manitoba Hydro with respect to:				
a) electricity;	320		323	
b) gas operations	<u>446</u>	766	<u>553</u>	876
Costs of Board advisors, paid by Manitoba Hydro:				
a) electricity;	1,559		2,390	
b) gas operations	<u>175</u>	1,734	<u>199</u>	2,589
Costs of interveners, paid by Manitoba Hydro:				
a) electricity;	846		112	
b) gas operations	<u>56</u>	<u>902</u>	<u>70</u>	<u>182</u>
Aggregate Board levies on Manitoba Hydro consolidated (Totals)		3,402		3,647
Levies on Manitoba Public Insurance Corporation (MPI), with respect to:				
General Board levies on MPI	314		312	
Costs of Board advisors, paid by MPI	363		487	
Costs of interveners, paid by MPI	<u>173</u>		<u>271</u>	
Aggregate Board levies on MPI		850		1,070
Levies on				
Stittco Utilities Man Ltd.	2		3	
Swan Valley Gas Corporation	2		2	
Water & Sewer Utilities – City of Winnipeg	63			
Water & Sewer Utilities – All others	53		52	
Fees related to cemetery and funeral related activities	31		29	
Natural Gas Brokers	5	156	6	92
		<u>4,408</u>		<u>\$4,809</u>
<b>Board Expenditures, Direct and Indirect</b>				
<b>Direct costs of the Board</b>				
Salaries & per diems	688		830	
Rate regulation and safety related costs	134		191	
General overheads (rent, technology, utilities, etc)	<u>295</u>	<u>1,117</u>	<u>280</u>	<u>\$1,301</u>
Board Advisor costs billed to regulated entities		2,097		3,076
Intervener costs billed to regulated entities		<u>1,075</u>		<u>453</u>
<b>Aggregate costs related to Board operations</b>		<u>\$4,208</u>		<u>\$4,830</u>

**FINANCIAL INFORMATION (cont'd)**  
**Fiscal Year Ended March 31, 2012**

Revenue and expenses related to Board operations and Board decisions are recorded in the accounts of the Consolidated Fund of the Province of Manitoba and the entities regulated by the Board. The Board incurs costs to its own account, and recovers these costs through statutory levies against Manitoba Hydro, Centra Gas Manitoba Inc., Manitoba Public Insurance, Stittco Utilities Man Ltd., and fees charged to other regulated utilities. The Board directs regulated entities to pay the costs of Board advisors and, upon a Board Order awarding costs, all or a portion of the costs incurred by interveners to its hearings.

Costs and revenues reported do not include costs incurred by the regulated utilities for their own direct costs associated with Board regulatory processes. Such costs include salaries and benefits, notice expenditures, consultants and overheads.

The Board's total direct and indirect costs decreased from \$4.8 million in 2010/11 to \$4.2 million in 2011/12, as some costs related to the Manitoba Hydro 2011 hearing were incurred in the year previous. All other costs remained relatively stable.