

**ANNUAL REPORT**  
**FISCAL YEAR 2006/07**  
**ENDING MARCH 31, 2007**

**THE PUBLIC UTILITIES BOARD**  
**MANITOBA**

May 31, 2007

The Honourable Steven Ashton  
Minister of Intergovernmental Affairs  
301 Legislative Building  
Winnipeg, Manitoba  
R3C 0V8

Dear Minister Ashton:

Reference: Annual Report, the Public Utilities Board (Manitoba)

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 2006/07 annual report for the year that ended March 31, 2007.

The Board mandate is to determine the public interest that defined as being not only of the interests of consumers in fair and reasonable rates and terms but also the financial health of utilities and other subject operators. Upon application, either initiated by an applicant or directed by the Board, the Board sets rates and/or terms of service, following a review of the applicant's financial, general and environmental operations. The Board may approve, vary or deny applications.

The Board's regulatory jurisdiction currently includes the major Crown and municipal utilities of Manitoba, with the major exception of the City of Winnipeg's water and sewer utility. The Board also oversees safety for pipeline distributors of natural gas and propane. The Board's mandate extends to the licensing and oversight of privately owned cemeteries and crematoriums, pre-arranged funeral plans and perpetual care trust accounts, and natural gas brokers.

The Board hears appeals of decisions by Manitoba Hydro (with respect to natural gas service disconnection), 911 service license refusals, and decisions by the Highway Traffic Board with respect to highway accesses and adjacent signage. Further, the Board is required to approve non-City owned transportation operators and agreements between such operators and the City of Winnipeg (by virtue of the City of Winnipeg Charter Act). Recently, the Board assumed responsibility to set the maximum rates permissible for the cashing government cheques and the maximum charges allowed for payday loans.

During the period under review, the Board held public hearings with respect to Manitoba Hydro, Centra Gas, Manitoba Public Insurance, municipal water and sewer utilities, Stittco Utilities Man Ltd., a major crematorium operation, the cashing of government cheques and an appeal of a Highway Traffic Board highway access decision. The Board also conducted public or ex parte paper reviews of rate and other applications by Manitoba Hydro, Centra Gas and numerous water and sewer utilities. Arising out of these processes, the Board directed rate and terms of service changes; made amendments to rate schedules and related processes; provided approval for a major expansion of a crematorium to include an enclosed scattering ground for human cremains; and made recommendations to Crown Corporations, municipal utilities other operations subject to the Board's review, and government.

I have both the responsibility and privilege of being the full-time Chairman of the Board; there are also seven very involved, productive and effective part-time members. The Board has a full-time staff of six, led by Executive Director Gerry Gaudreau CMA, and a roster of experienced professional Board Advisors (legal, accounting, actuarial and engineering). Board members, staff and advisors are dedicated to providing Manitoba effective and efficient service within the jurisdiction of the Board.

Sincerely,

Graham F.J. Lane, C.A.  
Chairman

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## Chairman's Report

### Review of Board Proceedings For the Fiscal Year Ended March 31, 2007

#### 1. INTRODUCTION

The Public Utilities Board (Board) determines the public interest, which has been defined to include fairly treated customers and consumers and financially viable utilities. In recent years, and with the enactment of *The Sustainable Development Act*, the public interest in energy efficiency, conservation and clean energy has also been established.

The Board is comprised of an appointed full-time Chairman and seven part-time members, ably assisted by staff and Board Advisors. The Board is a quasi-judicial administrative tribunal that makes decisions independent of government direction, in accordance with enabling legislation, regulation and stated public policy. The Board fulfils its mandate through public hearings, paper reviews and direct intervention, each involving enquiry, research, consultation and careful deliberation.

Major Board responsibilities are:

1. Establishing fair and reasonable rates and terms for:
  - a. electricity,
  - b. natural gas and propane, as provided by pipeline,
  - c. basic compulsory automobile insurance rates, and
  - d. water and sewer utilities (excluding the operations of the City of Winnipeg and the Manitoba Water Services Board).
2. Overseeing natural gas and propane pipeline safety, capital expenditures and general operations.
3. Licensing and/or overseeing:
  - a. privately owned cemeteries and crematoriums; including the monitoring of funeral directors' trust accounts pursuant to *The Prearranged Funeral Services Act*, and perpetual care trust funds; and
  - b. 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. consumers subjected to the disconnection of natural gas service, and
  - d. customers with contract disputes with natural gas brokers.
5. Establishing maximum rates for:
  - a. Payday Loans and
  - b. Cashing of government cheques.

6. Approving and licensing operators of fixed fare transportation services pursuant to agreements with the City of Winnipeg.

The Board is a member of the Canadian Association of Members of Public Utility Tribunals (CAMPUT) and the Manitoba Council of Chairs of Administrative Tribunals (MCAT). Canadian and Manitoba regulatory practices and related matters are discussed and professional development provided, through CAMPUT and MCAT, respectively. The Board also participates within the Canadian Standards Association (where natural gas and propane safety standards are established) and the Organization of MISO States (OMS), the latter related to the generation and transmission of electricity.

The Board's Chairman is a Board member of MCAT, and a voting member of CAMPUT and OMS. OMS was formed in 2004 and exists to provide a co-ordinated view of electrical transmission issues among the 14 American member states and one Canadian member province, Manitoba, which participate in the Midwest Independent Transmission System Operators (MISO), in which Manitoba Hydro operates as both a seller and purchaser of wholesale electricity.

During the period April 1, 2006 to March 31, 2007, the Board issued 174 Orders and 195 licenses (2006-174 Orders and 213 licenses), and attended to a host of other matters. During the fiscal year ended March 31, 2007, the Board expended \$1.259 million in direct costs (2005/06- \$1.040 million), including approximately \$231,000 expended on ensuring natural gas pipeline safety. As well, the Board directed regulated utilities to pay a further \$1.581 million (2005/06- \$2.298 million) to meet Board Advisor and intervener costs related to Board proceedings. The Board met its direct costs through levies on regulated utilities and other parties and applicants. Regulated utilities also bore their direct costs of participating in the Board's regulatory proceedings.

Taking into account all costs incurred by all parties to Board processes, overall regulatory costs for the fiscal year ended March 31, 2007 approximated \$2.8 million (2005/06- \$3.3 million), excluding sums expended by the regulated entities. The approximately one hundred and sixty utilities and industries regulated by the Board have estimated annual revenues in excess of \$3 billion; regulatory costs account for only 1/10<sup>th</sup> of 1% of revenue generated.

While most regulated utilities are generally monopolies, some operators are active in competitive markets. The Board's reach affects every Manitoba resident, business and organization.

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

Regulated utilities make application to the Board when seeking amended rates or, in some cases, some other operational or structural change. For the larger utilities, or when a proposed rate increase or other change is judged by the Board to either be exceptionally large or controversial, the Board generally hears the application through a public hearing. Hearings may be formal affairs, conducted in a court-like atmosphere, with sworn witnesses and evidence received

subject to cross-examination.

For public hearings related to Manitoba Hydro, Centra Gas Manitoba, Manitoba Public Insurance, Stittco Utilities Man Ltd, and the setting of maximum fees and charges for the cashing of government cheques and payday loans, interveners representing various special or general interests usually participate. Together with the Board, interveners 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, and usually do, address the Board. Intervenors and the Board may retain expert witnesses, who together with witnesses and witness panels put forth by the applicant or other subject party provide testimony. Testimony either supports, opposes or provides options with respect to matters before the Board. Interventions are intended to assist the Board in reaching decisions, by presenting views that, while reflective of their sponsoring organization provide information of the public interest.

Prior to Board hearings, and with the exception of *ex parte* hearings taking place in-camera, public notices are issued advising of upcoming hearings and informing of the opportunity to participate and 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. Copies of Board decisions are issued to those involved in the hearing, the general media and, on request, members of the public. As well, major Board decisions are noted by media release and posted on the Board's website.

The Board's Rules of Practice and Procedure, finalized in 2006, guide public hearings; the rules are available to all participating parties in advance of a hearing and are posted on the Board's website. Board decisions may be appealed to either the Board itself, by a motion to reconsider and vary, or in certain defined circumstances, to the Court. Historically, very few Board decisions are appealed.

In some cases, where special circumstances are present, the Board issues interim direction, these generally representing decisions on rates reached through reviews not attended or participated in by interveners or the general public. Such proceedings are denoted as an *ex parte* hearing. Reasons supporting *ex parte* decisions are made public, and circulated to affected or interested parties (interveners, the media, and on request, the 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. In 2006/07 only one matter was appealed, that to the Court through a motion for leave to appeal, this with respect to a Board decision (which had been reconsidered by the Board on its own action). The Court has yet to conclude its consideration of the matter, which concerns the disposal of human cremains and the expansion of a crematorium.

In an effort to restrain regulatory costs, the Board often reaches its decisions by way of a public paper review for relatively smaller utilities, such as Swan Valley Gas Corporation, Stittco Utilities Man Ltd., many municipal water and

sewer utilities, and cemeteries and crematoriums, . Under this process, the Board requires the applicant to publish a notice of its application with an indication of matters to be addressed through the proceeding. 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 some cases, registered interveners. An increasing number of water and sewer applications, particularly those involving large rate increases, have been heard by way of public hearings, which have taken place throughout Manitoba.

As part of its general process with respect to utility rate applications, the Board assesses 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 and comments it may receive. In some cases, comments from the public result in the Board changing its approach to an application, and 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, in a Court-like manner. Accordingly, Board process requires Board members to declare any real or perceived conflict of interest prior to a hearing or decision process, as decisions of the Board must be independently reached by unbiased adjudicators. Generally speaking, the Board sits in panels of three members for applications heard by way of public oral hearing. Board members are assigned to at least one major area of responsibility – electricity, natural gas, water and sewer, etc. Board members also regularly meet as a committee of the whole to discuss matters pertaining to Board operations and establish general Board policies. Board meetings are minuted.

### **3. REGULATED ENTITIES**

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

Manitoba Hydro (MH) is Manitoba's largest Crown Corporation, with annual revenues approaching \$1.5 billion and a staff of 6,000. MH is important to the Province, contributing through the provision of electricity and natural gas; furthering of economic and sustainable development; First Nations relationships; and by annual contributions to the Province's Consolidated Fund (water rentals, capital tax, payroll tax, debt guarantee levies and income taxes on employee and agent income). MH's debt represents approximately 50% of the provincial government's overall borrowings, and MH's generation, transmission and other planned capital expenditures will involve substantial new investments and borrowings.

MH reported earned net income of \$420 million in 2005/06, following earnings of \$136 million in 2004/05 and a loss of \$428 million in 2003/04, the latter due to drought. MH's 2005/06 results were assisted by excellent water conditions and higher export sales prices, the latter due to higher natural gas prices following 2005 hurricanes. As of the date of

issuance of this report, MH's results for 2006/07 were not known, though expected to be a profit in the range of \$125 million.

Following many years of no rate increases, in 2004 the Board varied MH's rate application and provided the Utility a 5% across-the-board increase as of August 1, 2004 and two conditional rate increases of 2.25%. The first of the two conditional increases was applied for and implemented in 2005. While MH initially declined to pursue the second conditional increase, citing improved operating results related to increased net export revenue, MH applied for a 2.25% rate increase in January 2007 (water conditions had worsened hampering export sales and profits).

The Board heard the application for an across-the-board increase of 2.25% by way of a public paper process, and provided an interim rate increase of 2.25% effective March 1, 2007. The Board directed MH to file a two-year rate application on or before August 1, 2007, and limited the applicability of the March 1, 2007 rate increase to 2007. With the increase, the Utility remains as the lowest priced electricity utility in Canada, if not North America.

#### Cost of Service Study

MH employs a Cost of Service Study (COSS) methodology to test the adequacy of annual revenues and fairness of rates between electricity customer classes. COSS allocates electricity revenues and expenses to the various customer classes, then allocates net export revenue to each class, and determines the ratio between each class' costs and revenues. A ratio of 1:1 is the conceptual objective, though a Zone of Reasonableness of 95 to 105% has been established as the operative target for each class. Since the COSS is based on historical embedded costs and does not consider marginal, non-direct environmental costs or market rates, the results of the COSS, though significant, are only one guide assisting MH and the Board in rate setting. In reviewing MH's rates following an application by the Utility, the Board considers a range of factors, which go beyond the COSS.

Currently, rate setting involves the subsidization of Manitoba consumer, commercial and institutional rates by MH's net export profits. Thus, ongoing and significant net export revenues are critical to MH's low rates. Heretofore, only certain variable direct costs had been attributed to export revenues in the COSS. The Board had directed MH to create a separate export class, and allocate both expenses and revenues to that class, to improving the COSS. As well, the Board directed that the "cost" of uniform residential rates, brought about by legislation, should be applied as a first charge against net export revenue. MH filed their COSS in accordance with Board direction, and a public hearing was held in May and June 2006. Participation was extensive by consumer advocates, industry and environmentalists.

The Board provided directions to MH based on the Board's perspective of the public interest. In this case, the Board included the following matters are being important to the public interest: environmental impact, marginal cost of generation, energy efficiency, the plight of low-income customers, the situation of customers now served by diesel-generated electricity, communities and peoples affected by MH's generating plants, intergenerational equity, and the Utility's financial strength.



The resulting Order provided, among other comments and directions, definitive responses to four key COSS questions discussed at the hearing:

- a) there is to be one export class;
- b) costs, including direct, indirect, fixed and variable, are to be allocated to the export customer class in a manner that reflects cost causation, similar to the methodology applied to the domestic customer classes;
- c) net export revenue is to be allocated to the domestic classes, including diesel customers, using the methodology recommended by MH; and
- d) supplemental information on carbon emissions costs and marginal cost are to accompany the COSS model based on historic embedded costs.

By the Order, the Board directed MH to:

- a) consider establishing a new energy intensive industrial class for new industry;
- b) file environment-oriented studies on ending declining block rates;
- c) file, for industrial customers, a proposal to initiate inverted and time of use rates (on a revenue neutral basis), and the elimination of the current winter ratchet;
- d) file reports related to communities served by diesel generation with respect to matters ranging from an assessment of rate fairness to collection practices and experience; and
- e) file a two-year General Rate Application with the Board, no later than August 1, 2007.

A public hearing is anticipated for late 2007, at which MH rates and other matters will be considered by the Board.

#### Diesel Rate Application

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 operating costs since 2004, as well as to provide for gradual recovery through rates of a deficit that accrued awaiting finalization of a Settlement Agreement with the Federal department of Indian and Northern Affairs. The Board approved the application on an interim *ex parte* basis, effective January 1, 2007.

MH has been 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. 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.

#### Weekly Surplus Energy rate settings (ex parte process)

MH rates are currently based on the cost of the service provided to various customer classes. Industrial customers benefit

from much lower electricity rates than residential customers, 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.

Through the ex parte process, the Board establishes interim rates for MH's SEP each week; the rates have served as a proxy for MH's opportunity sales prices for export sales to the United States, though it provides rates for sales to Manitoba industry. Approximately 50% of MH's export sales are by contract; the rest are opportunity sales, which are based on current market electricity wholesale prices and the level of excess generation and transmission available to MH.

In the latter part of 2006 and through the first quarter of 2007, MH imported a significant amount of electricity as low water levels affected MH's hydroelectric generation. This contributed to MH's application for an interim 2.25% rate increase, an application accepted by the Board with new rates established as of March 1, 2007.

#### MH and Planned Major Capital Expenditures

MH has extensive and significant capital expenditure plans to expand and improve generation, transmission, distribution and administrative assets. While for the beneficial purpose of enhancing service and profitability, the plans will affect MH's borrowings and related debt:equity ratio, increasing debt until such time as new plant is in service and additional sales develop and contribute to retained profits. With ever-present extant risks of future droughts and other potential problems, MH requires a strong balance sheet, hence the Board's ongoing focus on the Utility's debt:equity ratio and attention to rate adequacy.

Wind is an environmentally friendly, clean energy source, complementing MH hydroelectric resources, and MH has contracted to purchase electricity produced from a 99 MW wind farm located near St. Leon. Other projects are being considered, with requests for proposal having been issued for an additional 300 MW of wind generation and plans for up to 1000 MW of wind generation over the next two decades. While wind generation has its advantages, the Board expects arrangements based on present day costs will place some limited pressure on MH's overall costs and rate prospects as new projects are committed to.

The Wuskwatim generation station, now under construction, will provide an additional 200 MW of generation when in service, at a capital investment of approximately \$1.3 billion. MH's prospective partner in the project is Nisichawayasihk Cree Nation. Other capital investments in new generation are also being contemplated, these being Keyask and Conawapa. As well, enhancements of existing generating stations and new transmission capacity are likely over time. 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 as well provide for reduced consumer bills and environmental gains, through reduced energy consumption and carbon emissions.

MH is constructing a new head office at a projected cost of approximately \$280 million; the new building, plans for which are associated with MH's purchase of Winnipeg Hydro, is expected to allow for consolidation of administrative functions.

The Board has no mandate to pre-approve MH's capital expenditures, though capital expenditures are a major component of overall costs and represent the majority of rate causation. Involvement of the Board in capital expenditure approval would minimize the potential for disallowance of costs in setting rates. With MH's sole shareholder being the Province, the utilitarian value of disallowance of costs for rate setting, from a consumer perspective, is questionable as MH's customers are also the Province's taxpayers. Under the previous private ownership of Centra Gas, the Board disallowed approximately \$20 million of future contract losses in the late 1990s, directly impacting the shareholder but not consumers.

Thus, there is a regulatory argument for expanding the Board's authority with respect to MH to include pre-approval of major capital expenditures, an authority provided the Board with respect to Centra Gas operations. Such a mandate would provide an additional check and balance on capital expenditures (a primary contributor to revenue requirement and customer rates). The current situation leaves capital expenditure responsibility with MH and government, though it does result in reduced regulatory costs.

#### 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 14 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 MH is a Crown Corporation assisted by government involvement, the issues addressed by OMS to-date have not required extensive Board involvement. This may change with the Board's new electrical reliability responsibilities (see below).

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

Centra Gas provides natural gas to approximately 250,000 residential, commercial and institutional customers. Centra Gas was purchased by MH in 1999, and is integrated within MH's general operations. Centra Gas has no employees of its own; all its operational costs are allocated to it by MH through inter-company charges, subject to the Board's review.

Centra Gas primarily serves Winnipeg and southern Manitoba, as the costs of pipeline development and maintenance are very high. Approximately half of MH's customers rely on natural gas for space heating, the other half depend on electricity, propane, fuel oil and wood. With respect to this other half, electricity dominates.

Natural gas is purchased for distribution in Manitoba from continental energy markets, where price is determined by supply and demand (often affected by speculation) and is unregulated. Natural gas purchased from Western Canadian and American producers is transported to Manitoba through pipelines owned by external parties, and distributed within Manitoba through Centra Gas's infrastructure. Centra Gas's natural gas storage facilities are in Michigan, though consideration has been given to developing additional storage in Saskatchewan.

Centra Gas' commodity costs are affected by hedging activities entered into by Centra Gas to reduce rate volatility. Hedging involves financial derivatives entered into with counter-parties and gains and losses on hedging form a component of Centra Gas' overall natural gas costs that are passed through without mark-up to its customers.

Centra Gas amends its primary gas rates for its commodity cost experience and forecasts on a quarterly basis, reflecting on-going market fluctuations. Centra Gas 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 Gas' operating and financial costs. The Utility also is provided, through Board-approved rates, sufficient additional revenue to offset MH's costs of acquiring Centra Gas and to provide reasonable retained earnings to serve as a financial reserve.

Expansion has been limited to small extensions since MH's acquisition as result of natural gas price increases since 1999, while delinquency, bad debts and service disconnection have become major problems. Net Income is limited to full recovery of costs incurred by MH, the amortization of MH's acquisition-related costs, and the development of adequate surplus. Considerable attention is placed on reducing customer gas consumption through improved customer awareness, insulation and furnaces.

#### Rate and Operational reviews

Annually, the Board holds a public hearing into the natural gas commodity and transportation to Manitoba costs of Centra Gas. The hearing also considers matters such as the allocation of unaccounted for gas costs, matters related to the purchase, transportation and storage of natural gas, and Centra Gas' hedging practices.

Quarterly, the Board establishes Centra Gas's primary gas rates pursuant to a Rate Setting Methodology (RSM) accepted by Centra Gas and all Interveners. The RSM determines rates based on actual and projected commodity costs, as impacted by storage and hedging. Natural gas commodity prices rose to in excess of \$15/GJ in December of 2005 following hurricanes that curtailed production and transportation in the United States. During the winter of 2005/06, warm weather and a Board decision to shield residential consumers from the full impact, prevented further increased delinquency and consumer distress. Also, the impact on customers would have been considerably more marked excepting for Centra Gas' hedging and the lower cost of natural gas in storage.

Subsequently, upon recovery of production and transportation and a warm winter of 2005/06, market prices fell dramatically, to below \$4 at one point, only to gradually recover to the \$7 range. Unfortunately, Centra Gas' hedging,

which saved its customers tens of millions of dollars during natural gas' price climb in 2005, cost its customers the same as prices retreated. With a North American oil and natural gas market, where American experience looms larger than Canadian when it comes to pricing, and where speculation has come to play a large role, natural gas price fluctuation can be expected to continue and to be significant.

MH's acquisition of Centra Gas coinciding with deregulation of natural gas commodity markets, increased interdependency with American situations due to pipeline and commercial arrangements, and upward price movements in the commodity price of natural gas, have increased the annual bills of Centra Gas' customers dramatically. This has led to rising delinquency, bad debts and service disconnection issues. The market share held by natural gas with respect to Manitoba space heating is unlikely to increase with the expected ongoing volatility of natural gas prices.

A Cost of Gas public hearing was held in November 2006. The Board approved Centra Gas' Cost of Gas application for gas costs for its fiscal year 2005/06, and confirmed rates established by previous interim rate decisions through to and including those set on November 1, 2006. The Board then-directed Centra Gas to file a two-year General Rate Application (GRA) and include matters related to the natural gas landscape. Among other things, Centra Gas was also directed to widen the band of its hedging approach and file a business plan with respect to the Capacity Management Program (trading).

Centra Gas filed the application as directed, and a hearing has been scheduled for June 2007 to consider these and other matters under a general rate application. Along with rates, the major issue at the hearing is expected to be an examination of the current competitiveness of the primary gas supply market in Centra Gas' franchise areas. The market currently is comprised of two retail residential private brokers offering fixed-term fixed-price three and five year contracts versus Centra Gas' variably priced product.

#### 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 Gas' handling of service disconnection. Manitoba has a cold winter climate, and heat is critical to human health and welfare from October through May in Centra Gas' franchise area. The Board concerns itself to ensure that economic concerns, valid as they may be, do not trump concern over the safety of adults and children living in properties heated by natural gas.

There were approximately 5,000 (2005 - 6,000) natural gas heated residences in Winnipeg and Brandon disconnected from Centra Gas' supply in the summer of 2006. This number was lower than recent years largely because of the effects of a single bill initiative, involving one bill for both electricity and natural gas being issued by MH, which has apparently motivated more delinquent customers to make arrangements for the orderly payment of their natural gas accounts. Whether these arrangements are kept will be learned over the course of this summer and fall.

Notwithstanding the decline in disconnection experience, the Board remains concerned with the health and safety of the remaining disconnected customers. The Board intervenes upon evidence of health and safety risks or customer appeal of a disconnection. The risk of disconnection prompted by delinquency and “too low” thermostat settings were the primary factors behind the Board’s decision to limit the natural gas rate increase for residential customers as of November 1, 2005. It also led the Board to recommend that Centra Gas expand its energy efficiency programs and subsidize such costs for low-income residential customers.

A project team, consisting of Board and Centra Gas staff, have been working for some three years to develop a process to ensure reconnection of all gas heated customers before at the start of the annual winter heating season. Customers will be reconnected, but with a load limiter on their electrical service which will restrict their use of electricity. This will balance MH’s need to collect its accounts and restrict its losses, against customers’ needs for an assured heating source during Manitoba winters. This project is nearing completion, and implementation is expected to begin in the summer and fall of 2007.

### 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*. Not having engineers on staff, the Board utilizes the services of an engineering advisor, ECI, to assist in monitoring safety on the Board’s behalf.

During 2006/07, the Board has brought to fruition a long-standing effort to place more direct safety responsibility with Centra Gas. Upon satisfactory completion of a plan agreed to by Centra Gas and the Board, the Board will reduce direct oversight by its engineering advisors. Centra Gas will implement a Quality Assurance program, including extensive auditing. The Board will rely on the program, quarterly reporting, annual audits and other measures to ensure that safety matters are being handled appropriately by Centra Gas.

The transition will take approximately one year to complete, and when complete will save Centra Gas and its customers several hundred thousand dollars annually, while enhancing safety.

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

Since the early 1960s, Stittco has provided pipeline propane gas to customers (now, approximately 1,000) in Thompson, Snow Lake and Flin Flon. Stittco filed a general rate application with the Board in early 2006, requesting increased rates and a change in regulatory model. Stittco reported a loss on operations for its 2005/06 fiscal year and over the past two decades has failed to earn the allowable rate on shareholder’s equity permitted by the Board.

After several iterations, a revised application was filed in the fall of 2006 and a hearing was held in Thompson in March

of 2007. For the first time, the Consumers' Association of Canada (Manitoba) Inc. and Manitoba Society of Seniors intervened at a Stittco hearing; the business community was well represented and some residents also attended.

Stittco's propane service is under severe competitive pressure, primarily from MH's electricity in regard to space heating. Since MH's net export profits began to be utilized to reduce electricity rates and the legislature enacted uniform rates throughout Manitoba, electricity has gained a substantial price advantage over propane in Stittco's trading area. Stittco has lost residential customers and new construction in the north has been with electricity heating. Commercial accounts still find propane superior to electricity with respect to requirements unrelated to space heat.

A Board Order on Stittco's application may be expected by late May 2007.

*iv) Natural Gas Brokers*

Licensed natural gas brokers offer consumers a fixed-price alternative to Centra Gas' quarterly cost-based commodity billings. The Board licenses all brokers, although brokers' contracts are unregulated and market-driven. The Board supervises the sales activities of the brokers through a Code of Conduct, and has the authority to cancel a retail contract.

The brokers, two being retail residential market orientated- the rest target commercial accounts, have operated in Manitoba since the mid 1990s following natural gas deregulation. The retail brokers market their service through direct door-to-door consumer contact, and now provide primary natural gas supply to approximately 20% of Centra Gas's residential customers.

In addition to overseeing the terms under which Centra Gas 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 upon receiving 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 Centra Gas and the customer.

The Board will review the relationship of the brokers to the natural gas market in Manitoba at its June 2007 Centra Gas hearing; there has not been a major public review of gas broker marketing since its inception in the early 1990's. Matters to be considered include the degree of competition present in the marketplace, conduct of brokers, arrangements between brokers and Centra Gas and the nature of contract offerings by both brokers and Centra Gas. In recent Centra Gas hearings, the Board has suggested that Centra explore the possibility of it entering into fixed-price fixed-term primary gas supply contract competition with the retail brokers, this to enhance the degree of competition in the marketplace. To-date, Centra has not pursued this option, which if it were to be proposed by Centra, would require the Board's approval following a review process to involve interveners, including the brokers.

*v) Manitoba Public Insurance (MPI)*

Manitoba Public Insurance was established in 1971 as the monopoly provider of basic motor vehicle insurance. Currently, the annual revenue of MPI exceeds \$750 million and its asset base approaches \$2.5 billion. MPI insures approximately 700,000 drivers and 900,000 vehicles. With respect to the Personal Insurance Protection Plan (PIPP), which provides accident benefit coverage, all Manitobans, whether drivers or not, and whether in Manitoba or anywhere in Canada or the United States, have coverage.

The objectives for the Crown Corporation were established in the enacting legislation, and have been pursued since. Over the years, substantial changes have occurred. 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 to reward good drivers and provide penalties for poor experience in 1988 (this program is currently under review, and a revised approach is expected to be reviewed at a Board proceeding to occur in the fall of 2007);
- 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
- e) changes to the allocation of the cost of claims to reflect the no fault nature of the program, in 2006.

The investment portfolio has increased substantially following the adoption of total no fault, and now exceeds \$2 billion, providing an important source of revenue to restrain premium levels as well as investment capital for Manitoba municipalities, schools, hospitals and provincial government. 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 in excess of \$180 million to MPI's Basic premium payers. During the same period, rates have remained stable. In Canada, only the four public automobile insurers, MPI in Manitoba, ICBC in British Columbia, SGI in Saskatchewan and SAAQ in Quebec, are able to make that claim).

#### Rate Stabilization Reserve

As indicated, for the second consecutive year the Board directed a 10% rebate be paid by MPI on gross written basic program premiums. The reason for the rebates is that MPI's Rate Stabilization Reserve (RSR) has been above the maximum level judged by the Board to be adequate for consumer protection.

In its 2006 application, as it did in its 2005 application, MPI sought to change the methodology determining the RSR to one followed by private insurers pursuant to direction from the federal regulator. The Board rejected that advice, as private insurers are not monopolies and thus lack MPI's available mechanisms to address any future operating deficit that



may arise. Unlike the competitive market, where a loss incurred by an insurer may not be recoverable through premium increases, MPI is a monopoly with a regulator present to maintain its viability.

### Immobilizers and Vehicle Theft

With the support of the Board, MPI established a vehicle electronic immobilizer program and entered into a partnership with the Province and the City to suppress auto thefts. The initiative has required the setting aside of \$50 million of RSR and the involvement of the Province and the City of Winnipeg.

Nonetheless, reports of auto thefts and public endangerment continue, and the resultant safety issues are of grave concern to the Board and the public. The Board has indicated a willingness to consider more aggressive measures to gain the cooperation of motorists to install immobilizers, including the introduction of surcharges on vehicles considered to be most-at-risk of theft. The Board notes that stolen motor vehicles have been involved in fatalities, injuries and property damage, with an annual economic cost well in excess of \$30 million to MPI alone, let alone the human and economic costs to society as a whole.

### Good-Driving Incentives

MPI has advised the Board that it will propose a change to its merit recognition system for encouraging good driving. The existing bonus/malus system has been virtually unaltered since implemented in 1988. The expected new Driver Reward System was originally scheduled for review in the spring of 2007, but has now been deferred to the fall 2007 Board proceeding.

The Board has expressed support for a revamping of this system for several years, as it considers prevention of accidents to be more desirable than fixing cars and treating injuries after an accident. The cost of motor vehicle accidents are enormous, ranging from the economic to the human.

### MPI General Rate Application hearing, 2007

Major continuing issues are expected to be revisited in the Board's fall hearing of MPI's 2008/09 rate proposal.

Unlike the situations 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, no option to an annual hearing has yet been determined, though the Board continues to explore ways to reduce duplication and improve regulatory efficiency.

Significant issues confronted in this past fall's hearing for 2007 rates were the determination of an appropriate RSR

range, premium refund potential, the continuing impact of the DVL acquisition and related matters, the vehicle immobilizer program 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. 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. Some of the Board's recommendations have not been acted on by MPI, notwithstanding the recommendations have been repeated, annually.

The Board remains committed to sustainable development and continues to explore the implications of environmental principles being applied in MPI premium setting. MPI has been directed to return with proposals related to environmental themes for the fall 2007 proceeding.

### Investment Portfolio

For the last three annual fall Board proceedings, the Board has questioned MPI's investment practices and policies. MPI has less than 20% of its \$2+ billion investment portfolio invested in non-bond assets, and the Board has suggested MPI consider accepting more exposure to equities and other investment classes.

The yields of fixed income securities have fallen considerably over the past ten or more years, now averaging less than 4.5%, and an asset mix favouring bonds over equities by a 4:1 ratio may be expected to produce sub-optimal investment yields in future years.

Restraining premium levels is dependent in large part, not only on reducing accidents, but also on the level of investment earnings.

### *vi) Water and Sewer Utilities*

The Board has regulatory rate and financial responsibilities for Manitoba's one-hundred and fifty municipal water and sewer utilities. As well, there are a number of cooperative utility efforts, involving the participation of municipalities and the Manitoba Water Services Board (MWSB), that the Board is turning its attention to. Finally, the Board is aware of numerous small and generally private utilities which, to-date, have not been subject to economic regulation. The Board is attempting to develop approaches to each group, to maximize effective regulation on a least-cost regulatory basis, also taking into account the Board's limited human resources.

Recognition of the importance of adequate quality water and safe effluent, increasing provincial standards, aging infrastructure, years of inadequate rate increases and inflation, inadequate reserve levels and, in some cases, expanding

population and industry, has led to complex applications for, often, very significant rate increases. In recent years, and after thorough reviews and public hearings, the Board has directed large utility rate increases, some exceeding 50%, for numerous municipal utilities. Increases of this magnitude, while representing rate shock for consumers, are required to allow the municipalities to repair and upgrade aging systems.

The consideration of complex rate applications calling for large increases has led to more and increasingly well attended public hearings, many outside of 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.

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 now allow for decreased rates with higher volumes.

Efforts are also being made to co-operate with other water agencies with respect to the approach to be taken to major infrastructure capital upgrade requirements. With the Board's administrative relationship with the Department of Intergovernmental Affairs, there is improved opportunity for better coordination. In addition, meetings have been held with other interested parties such as MWSB, and the Departments of Water Stewardship and Conservation, to try to orchestrate a more homogeneous provincial plan. In this vein, the Board is planning in 2007 to develop a joint project with the Association of Manitoba Municipalities to update the Board's guidelines for water and sewer utilities.

The Board attempts to phase in required increases where possible, and encourages municipalities to provide good accounting between their General Fund and their utility, and to build reserve fund balances. Towards furthering these objectives, and when comfortable with the approach being taken by a municipal Utility, the Board has provided limited discretionary rate increase authority. This approach allows required revenues towards specific purposes to be raised without requiring a specific and additional public hearing.

Water and sewer assets are not depreciated, leaving reserve balances as the major defense against large rate increases or grant requests. Related to the latter, the Board is cognizant of emerging accounting standards which will require these utilities to adopt generally accepted accounting practices in 2009-10, which will include amortization accounting.

#### ***vii) Cemeteries and Related Matters***

The Board and Consumer and Corporate Affairs (a Division of the Department of Finance) are considering a joint review of all legislation pertaining to cemeteries, crematoriums, funeral homes, perpetual care accounts and other related matters. 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 is not comprehensive. There are significant areas of operation currently without regulatory oversight.

In particular, the Board has noted problems with unregulated cemeteries (non-privately owned, municipal and faith-based facilities), with the level of balances in perpetual care trust accounts, and the magnitude of funds held in trust. Perpetual care and 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% utilization of cremation. Ongoing 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 private cemeteries are being generally well-maintained through subsidies provided by the owners' other lines of business as marketing devices. Aging infrastructure, declining populations (in some locations), declining church attendance and membership for some denominations and communities, and ongoing migration to larger population centres have resulted in challenges with respect to unregulated faith-based and municipal cemeteries.

While current legislation requires regulated cemeteries and crematoriums to seek approval from the Board for price changes, the Board lacks the jurisdiction and resources to assure itself of the merits of some changes. Price control is largely left to the marketplace; at "time of need", it is questionable as to the degree of market research carried out by grieving families.

The Board introduced filing fees in 2007, primarily to recover its processing costs, but also to encourage more rigour in the fee determination process of private cemeteries and crematoriums.

The Board has noted other problems as well. The proceeds from the sale of cemetery services sold on a pre-need basis are neither required to be nor are they 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 must set aside a portion of funds received in a perpetual care fund, and the transactions within the fund are audited by the Board on a periodic basis.

Generally speaking, the Board attempts to meet its mandate with respect to the bereavement industry through paper reviews and consultation, though hearings including hearings involving complainants have occurred. The Board also hears appeals related to the actions of funeral homes, cemeteries and crematoriums. These appeals relate to the sale of pre-arranged funerals and the cost of a cemetery plot.

During 2006/07, the Board received an application from Neil Bardal Inc. to enclose its scattering grounds within a to-be-expanded crematorium. Following research into industry and government practices in other jurisdictions, the Board issued an Order allowing the expansion and the use of the scattering grounds, touching on many societal issues related to cemetery and funeral matters. A motion seeking leave to appeal (to the Manitoba Court of Appeal) was filed by a party

with private cemetery interests, and the Board held a hearing to reconsider its decision; the outcome being confirmation of its Order. In March 2007, Justice Monnin ruled on the leave to appeal, finding that, while the Board's Order was in the main acceptable, the Board's definition of a cemetery could be overturned by a Court if, upon an application, it interpreted the legal definition to vary from the Board's interpretation. The Board and the appellant have agreed on a factum, and have filed that with Justice Monnin, towards determining if his decision has applicability with respect to the Board's approval of the crematorium expansion and use of a scattering garden.

#### **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 Highways and Government Services.

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.

During the 2006-07 year, the Board received 11 appeals, 7 were resolved without hearing, 3 are still pending resolution as of March 31, 2007, and 1 applicant did not proceed with the appeal.

#### **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 to the Board. Applicants for 911 service provision refused licensing are now able to appeal 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 had to deal 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), 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 in February 2007. In providing its approval, City counsel strongly recommended that the Board hold a public hearing given significant public interest and the concerns of Unicity Taxi, which had an exclusive agreement with the WAA.

However, Avion opined that public hearing was not necessary, on the basis that the matter had been extensively discussed at City Council meetings. The Board, noting that the City did not convene public hearings with interveners and cross-examination of witnesses, confirmed its intent to respect the request of the City and hold a public hearing. Avion subsequently put its application in abeyance, without expressing a reason.

## **7. THE CONSUMERS' 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, but to-date only the cheque cashing provisions have been proclaimed.

Hearings on cheque cashing were held in Thompson, Brandon and Winnipeg, with the latter hearing extended. The Consumers Association of Canada and the Manitoba Society of Seniors (CAC/ MSOS) intervened in the Winnipeg hearings, as did Money Mart and the Northwest Company, two major players in cheque cashing. As well, several presenters have indicated an interest in participating.

The Board made use of an in-camera meeting with the two industry interveners to obtain a broader perspective and more in-depth knowledge of the industry. The Board has now scheduled a final two-day session for April 2007 to hear a number of witnesses ranging from representatives of poverty support groups to pawn shop operators. The Board anticipates making its decision and issuing an Order by late May 2007.

As to payday lending, the Board awaits proclamation of the Act, which in turn is awaiting federal legislation which would cede its authority, under the Criminal Code, to the provinces. This is expected to occur in the spring/ early summer time period, with the Board processes to begin the summer of 2007.

## **8. BOARD ADMINISTRATION**

### Board's Rules of Practices and Procedures

The Board operates pursuant to legislation and its Rules of Practice and Procedures (Rules). The Rules provide assurance and guidance to regulated Utilities, registered Interveners, Members of the Legislative Assembly, government and other interested parties with respect to the manner by which the Board manages its public and ex parte processes. The Rules had been operative in draft form for over a decade. The Board formally adopted its revised Rules 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.

### Staffing

Ms. Jo-Donna Williamson, the Board's Office Manager, retired from Board service in 2006, after 37 years of public service; she is missed. She has been replaced by Kristine Schwanke, who comes to the Board with a wealth of experience in municipal affairs, having served as Chief Administrative Office for both a town and a rural municipality.

### Operational improvements

Beginning in 2004, the Board embarked on a process intended to increase the effectiveness of its regulatory effort, restrain regulatory costs and allow it to meet increased workloads without substantial increases in staff and advisor resources. Since then, the overall cost of regulation has been reduced while the timeliness of Order issuance improved. As well, the Board's directions to water and sewer utilities have been enhanced by the provision of background and detailed rationale for all decisions, and the Board now regularly holds public hearings of municipal water and sewer rate applications outside Winnipeg.

During the fiscal year ended March 31, 2007, the Board introduced further significant changes to its use of advisors and agreed to a change in approach to ensuring natural gas pipeline safety with the co-operation of Centra Gas (Manitoba Hydro) – see above. The change with respect to safety oversight should lead to no reduction in safe practices, and perhaps significant improvement through a new Quality Assurance program and audit to be implemented by Manitoba Hydro. Considerable savings in dollars directly expended by the Board are expected once the new system is fully in place.

Regulatory reform requires flexibility, and based on legal advice, the Board sought and obtained agreement from government to remove the requirement that the appointment of its advisors be by means of Order-in-Council authority. The Board now makes its own advisor appointments, under its own authority as provided in the Public Utilities Board Act.

Enabled by this change, and continuing its efforts to reduce costs, where effective and given no loss in Board file productivity, the Board has reduced its reliance on external advice and services, and thereby reduced regulatory costs. The Board has implemented a formal Advisor engagement policy setting out the relationship and expectations of the Board.

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

## **9. OUTLOOK FOR 2007-08 AND RECOMMENDATIONS**

### Electrical reliability

Following the 2003 eastern blackout, the American and Canadian governments acted to better assure electric reliability, particularly with respect to interconnected systems. These systems cross the Canada/United States border, and the American regulator, the Federal Energy Regulatory Commission (FERC), has been and is in the process of being provided authority to establish and manage protocols governing electric reliability.

To protect Canadian and Manitoba sovereignty, while allowing FERC's oversight to produce increased reliability, legislation has been introduced to appoint the Board as Manitoba's electric reliability regulator. With the passage of the legislation, the Board would work co-operatively with Manitoba Hydro, OMS, MISO and FERC to best ensure safe and reliable electricity interchanges with American utilities.

### Payday loans industry and Cashing of Government cheques

The Board looks forward to concluding its initial hearings on the cashing of government cheques in the spring of 2007. Subsequent reviews, through hearings or paper proceedings, are to occur at least every three years.

Research is underway with respect to the payday lending industry. The cheque cashing initiative introduced the industry to the Board; the participants are largely common to both matters. Plans are in place to act once the provincial legislation is proclaimed.

Once in place, the Board will hold public hearings at which the Board and registered Interveners will test an "application" or proposal expected to be provided by the industry – the outcome will be approved maximum rates of interest and charges. The Board will not license or audit the industry, day-to-day regulation will be performed by another agency of government.

### Board Cost recovery and Fee structure

A new fee structure, specifically in relation to water and sewer utilities, was developed and submitted to Government for approval. The thrust of the revised structure is to enable smaller utilities to approach the Board with rate proposals without facing onerous regulatory charges.

The Board anticipates that this proposal will be dealt with in the 2007-08 budget process, allowing new fees to be implemented in 2007. Part of the revised fee structure will require an annual fee for all municipal water and sewer utilities, except the City of Winnipeg. The new fee will facilitate the Board's recent policy of not assessing costs to municipal utilities located outside of Winnipeg for travel charges for Board hearings. The Board will also propose



revised fees for gas brokers, cemetery operators, and pre-arranged funeral service providers. As with water and sewer rates, these revised fees will only be implemented on approval by government.

The Board is committed to the user-pay concept. Simply stated, those causing regulatory expense should pay for it. In order to assure that the amounts charged to regulated entities are fair and reasonable, the Board has launched an activity based costing project to identify casual factors and assign costs appropriately. This is expected to be completed during the 2007-08 fiscal year. The results of this exercise may cause the Board to revisit many of its fees, including those mentioned above.

### 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.

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

- the current exemption of the City of Winnipeg from the Board's jurisdiction with respect to water and sewer utilities: *the Board has suggested it may be in the public interest to extend the Board's jurisdiction to include the water and sewer utility of the City, the only municipal body exempt 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 is of the view that all water and sewer utilities in the Province should be subject to its jurisdiction;*
- MPI's Extension 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 of the public interest;*
- In 2003, the Government of Manitoba transferred responsibility for operating its former Driver and Vehicle Licensing (DVL) branch to MPI, and concurrent with the transfer ceased paying MPI approximately \$6 million per annum in compensation for MPI's compensation of brokers providing certain DVL functions: *the Board has recommended to government that the compensation be restored as the revenue flow to the Province arising out of DVL functions has continued and in fact, increased;*
- MPI's long-distance trucking industry have been subsidized by basic rate payers through the non-inclusion of

accident benefit costs in the development of inter-provincial truck premiums, a decision made by the government:  
*the Board has recommended that either MPI be compensated for the annual subsidy by government or MPI transfer funds from SRE annual profits to the Basic program to meet the costs;*

- The Province assesses an investment management fee against MPI and the fee is applied to all of MPI's investments, including Province of Manitoba bonds and short-term securities, as these securities are purchased on the direction of the Department of Finance:

*the Board considers the Province to be in an apparent conflict-of-interest and suggested that the Province cease charging the fee on its own securities that are purchased by MPI;*

- MH's capital expenditures are not subject to the approval of the Board, unlike the situation with respect to Centra Gas (the Board has opined that as MH's capital expenditures have and 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;*

- MH's debt:equity ratio and capital structure has been of significance to the Board in approving and establishing MH's customer class rates for electricity service:

*the Board has suggested to the government that no further dividends be declared payable to the Province by MH until such time as MH's debt:equity ratio has reached the financial target accepted by all parties participating in the Board's MH proceedings.*

None of these recommendations may be implemented by Board direction to the relevant Crown Corporation, as the matters involved are 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 and obtain on a 24 hour basis decisions of the Board and Notices of 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. At some point, it may be worthwhile to consolidate the Board's mandate within one Act, to assist with the public's understanding of the Board's mandate. With respect to that mandate, the utilities that the Board has oversight over are also governed or

overseen, in whole or in part, by others. These include the Legislature, Ministers Responsible, the boards of directors for the agencies, Crown Corporations Council, Clean Environment Commission, the Auditor General, the Manitoba Water Services Board, Conservation Manitoba, etc. While the Board is cognizant of the significant roles played by the other parties, this does not reduce the statutory mandates provided to the Public Utilities Board.

The Board's 2006/07 fiscal year was challenging, rewarding and unique in many ways; for example, the government cheque cashing initiative was the first hearing conducted involving no applicant. The regulatory calendar was and remains full.

I want to thank the other Members of the Board, Board Advisors, and Board Staff for their dedication to the work of The Public Utilities Board and its public interest mandate. In particular, I want to thank Mr. Mario Santos, who left the Board in the summer of 2006; his contributions to Board decisions and governance were most helpful. I cite in particular his pivotal role in the formalization of the Board's Rules of Practice and Procedure. I also welcome Mr. Alain Molgat to the Board. His background in financial issues and his public practice experience have already proven of significant benefit to the Board.

We are ever mindful of the public's reliance on the Board for thorough and careful thought related to the matters that come before us; a fair hearing remains critically important. The Board has a long history of fulfilling this objective, and it remains the goal of the Board into the future.

Respectfully submitted,

Graham F.J. Lane, B.A., CA

May 31, 2007

## STATUTORY RESPONSIBILITIES

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

During the fiscal year under review, the Board was responsible for the regulation of 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 in the Province, with the exception of the City of Winnipeg’s utility.

Pursuant to *The Crown Corporations and Public Review and Accountability Act*, the Board regulates the premiums charged by Manitoba Public Insurance for compulsory auto insurance, related premiums charged on drivers’ licences and other fees, as well as Manitoba Hydro’s electricity rates. While the Board reviews the financial performance and forecasts of Manitoba Hydro, it does not have authority over the utility’s capital expenditure decisions.

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 Consumers’ Protection 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 pipe lines in Manitoba. The Board’s primary concern in exercising these responsibilities is public safety.

The utilities regulated by the Board have annual revenues exceeding \$3 billion, and serve and affect virtually every Manitoba resident and business.

## BOARD MEMBERS AND STAFF

### Members of the Board:

Graham F. J. Lane, B.A., CA, Chairman  
Robert A. Mayer, Q.C., Vice-Chair  
Dr. Leonard Evans, B.A., M.A., LL.D.  
Monica Girouard, C.G.A.  
Eric Jorgensen  
Dr. Kathi Avery Kinew  
Susan Proven, P.H.Ec.  
Mario J. Santos, B.A., LL.B. (resigned 2006)  
Alain Molgat, B. Comm, C.M.A. (from October 2006)

### Staff Members:

#### Officers:

Gerald A. Gaudreau, C.M.A., Executive Director and Secretary  
Hollis Singh, BA (Econ), Associate Secretary  
Gerald O. Barron, F.C.G.A, Associate Secretary

#### Administrative Staff:

Kristine Schwanke, Office Manager  
Debra Feuer, Secretary to the Chairman  
Brenda Bresch, 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, and applications made by sewer and water utilities where public hearings are not heard 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 comprise the membership of panels that 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, to ensure those appearing before the Board receive unbiased and independent judgements. Board decisions may be appealed to the courts, and 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:	PricewaterhouseCoopers LLP
Actuarial Science	Eckler Partners LLP
Engineering	Energy Consultants International Ltd. and LAB Consultants
Law	Fillmore Riley LLP and Pitblado LLP

## SUMMARY OF BOARD ACTIVITIES

### ORDERS ISSUED

	<u>2006/07</u>		<u>2005/06</u>
<b>Regulated Industry Orders:</b>			
Water and Sewer Utilities			
Applications for amended rates	31		39
Applications to address deficits	51		32
General matters, late payment fees	<u>3</u>	85	- 71
Manitoba Hydro			
Electricity operations	60		57
Centra Gas Manitoba	<u>15</u>	75	<u>21</u> 78
Natural Gas and Propane Utilities and Pipelines			
Swan Valley Gas (consumer rates)	1		1
Stittco Utilities Man Ltd.	3		1
TransCanada Calibrations (safety audit)	-		-
Other Natural Gas			
Service Disconnection*	-		1
General matters, Code of Conduct (brokers)	-		-
Manitoba Public Insurance Corporation	6		15
Highways Protection Act	-		1
Fees for cashing Government Cheques	1		-
The Cemeteries Act	<u>3</u>		<u>6</u>
Total number of Orders issued	<u>174</u>		<u>174</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. \* Approximately 6,000 natural gas service disconnections occurred in Winnipeg and Brandon during the fiscal year under review, 99% of these properties were reconnected subsequent to payment arrangements having been made. The Board works co-operatively with Manitoba Hydro/Centra Gas to ensure that health and safety concerns are addressed and remain the highest priority in these matters. Only in one case was a Board Order required to direct a reconnection.

**SUMMARY OF BOARD ACTIVITIES**

**LICENCES ISSUED**

	<b>2006-07</b>	<b>2005-06</b>
<b>Direct Purchase of Natural Gas</b>		
Brokers	<b>11</b>	<b>11</b>
<b>The Cemeteries Act</b>		
Cemeteries, renewal	12	11
Initial licensing	-	-
Columbariums	18	17
Mausoleums	5	5
Crematories	17	16
Agents/Owners	104	121
Agent Transfer	<u>3</u>	<u>10</u>
	<b>159</b>	<b>180</b>
<b>The Prearranged Funeral Services Act</b>		
Renewal	24	22
Initial licensing	1	-
	<u>25</u>	<u>22</u>
<b>Total licenses issued</b>	<b><u>195</u></b>	<b><u>213</u></b>

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

**FINANCIAL INFORMATION**  
**Fiscal Year Ended March 31, 2007**

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 utilities 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 Public Insurance and Stittco Utilities Man Ltd. and fees charged to other regulated utilities. The Board directs the utilities 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.

	( \$000'S )			
	<u>2006/07</u>		<u>2005/06</u>	
Levies, Direct and Indirect (\$000)				
General Board Levies on Manitoba Hydro with respect to:				
a) electricity; and	\$318		\$314	
b) gas operations	<u>610</u>	928	<u>623</u>	937
Costs of Board Advisors, paid by Manitoba Hydro:				
a) electricity; and	475		432	
b) gas operations	<u>573</u>	1,048	<u>883</u>	1,315
Costs of Intervenors, paid by Manitoba Hydro:				
a) electricity; and	119		98	
b) gas operations	<u>96</u>	<u>215</u>	<u>223</u>	<u>321</u>
Aggregate Board levies on Manitoba Hydro consolidated		2,191		2,573
Levies on Manitoba Public Insurance Corporation (MPI), with respect to:				
General Board Levies on MPI	312		315	
Costs of Board Advisors, paid by MPI	244		414	
Costs of Intervenors, paid by MPI	<u>58</u>		<u>248</u>	
Aggregate Board levies on MPI		614		977
Levies on:				
Stittco Utilities Man Ltd.	33		18	
Swan Valley Gas Corporation	3		5	
Water & Sewer Utilities	22		22	
Fees related to cemetery and funeral related activities	26		29	
Natural Gas Brokers	6		6	
Government (cheque cashing and payday loans)	<u>111</u>	<u>201</u>	<u>0</u>	<u>80</u>
		<u>\$3,006</u>		<u>\$3,630</u>
<b>Board Expenditures, Direct and Indirect (\$000)</b>				
Direct costs of the Board:				
Salaries and Per Diems	661		599	
Rate regulation and safety related costs	231		231	
General overheads (rent, technology, utilities, etc.)	<u>367</u>	1,259*	<u>210</u>	1,040
Board Advisor Costs, billed to regulated utilities		1,308		1,729
Intervenor costs billed to regulated utilities		<u>273</u>		<u>569</u>
Aggregate costs related to Board operations and directions		<u>\$2,840</u>		<u>\$3,338</u>

\* Increases in Board direct expenditures were primarily due to costs associated with cheque cashing and payday loans rate setting (\$111K) and legal costs related to an appeal of a Board Order (\$45K). The increase in salary expense was more than offset by a decrease in advisor costs.

The above reporting of costs and revenues does not include costs incurred by the regulated utilities with respect to their own direct costs associated with regulatory processes. Such costs include salaries and benefits, notice expenditures, consultants and overheads.