

Manitoba Branch of the Consumers' Association of Canada

Closing Submissions

Manitoba Public Insurance

Vehicles for Hire 2018 Interim Application

January 9, 2018

Introduction

On February 28, 2018, *The Local Vehicles for Hire Act*¹ (“Act”) will come into force in the Province of Manitoba. The Act repeals *The Taxicab Act* and dissolves the Taxicab Board. The Act enables municipalities to make by-laws regulating the vehicle-for-hire industry, including taxis, limousines and vehicles hired through an online application, a digital network or platform or a website.

The Act provides that “Winnipeg must make a by-law regulating the vehicle-for-hire industry in the city.” The Act also states that information must be collected and shared between Manitoba Public Insurance (“MPI”), the Registrar of Motor Vehicles and municipalities with vehicle-for-hire by-laws. The Act allows for municipal by-laws to establish a Vehicles for Hire Commission.

In the City of Winnipeg, the *City of Winnipeg Vehicles for Hire By-law*, By-Law 129/2017 was passed by Council on December 13, 2017. The By-law regulates dispatchers of vehicles for hire, vehicles for hire and drivers of vehicles for hire. The By-law also divides vehicles for hire into two categories: taxis, including standard taxis and accessible taxis, and Personal Transportation Provides (PTP) vehicles, consisting of standard PTP vehicles, accessible PTP vehicles, and limousines.²

On December 15, 2017, MPI filed an Application for Interim 2018/19 Vehicles for Hire Premium Rates with the Public Utilities Board (“PUB”).

On December 22, the Manitoba Branch of the Consumers' Association of Canada (“CAC Manitoba”) was approved as an Intervener in the Application for Interim 2018/19 Vehicles for Hire Premium Rates.

CAC Manitoba Position on MPI's Interim Application

In the context of the Act coming into effect on February 28, 2018 and the resulting short timeframe under which the PUB must approve rates for vehicles for hire, CAC Manitoba recommends that MPI's Application for Interim 2018/19 Vehicles for Hire Premium Rates be approved.

In the interim, until a final determination is made by the PUB following a full hearing of the 2019 General Rate Application (“GRA”), CAC Manitoba believes that MPI's approach is reasonable. MPI's proposal provides for sufficient flexibility to refund or charge additional premiums, if necessary.

The *Crown Corporations Governance and Accountability Act* provides that all new rates for service proposed by MPI must be reviewed and approved by the Public Utilities Board.³ In the case of MPI, rates for service means “rate bases and premiums charged with respect to

1 Bill 30, 2nd Session, 41st Legislature, Manitoba, 66 Elizabeth II, 2017.

2 CAC (MPI) 1, Attachment A.

3 *Crown Corporations Governance and Accountability Act*, C.C.S.M. c. C336, s 25(1).

compulsory driver and vehicle insurance provided by that corporation.”⁴ *The Public Utilities Board Act* applies to a review relating to rates for services.⁵ The factors to be taken into consideration by the Public Utilities Board in setting rates are listed at section 25(4) and 25(5) of the *Crown Corporations Governance and Accountability Act*.⁶

Under section 47(2) of the *Public Utilities Board Act*, the Board “may, instead of making an order final in the first instance, make an interim order and reserve further directions, either for an adjourned hearing of the matter, or for further application.”⁷

In this Application, MPI has developed and evaluated its rating model for vehicles for hire according to the following criteria:

- Is the rating model fair and equitable?
- Is the rating model actuarially-based?
- Is the rating model flexible enough to accommodate different regulatory frameworks throughout the province as a result of Bill 30?⁸

Based on its review of MPI's evidence, CAC Manitoba is satisfied that the criteria outlined above are met, in the context of this interim application.

CAC Manitoba has also reviewed the written presentations submitted by UBER Canada to the PUB. CAC Manitoba notes page 17 of MPI's closing submissions, which attempts to address the concerns raised by UBER by offering “to provide contingent and excess coverage for rideshare operations through a special risk commercial umbrella policy.” Given Manitoba's legislative requirement for all drivers in Manitoba to be covered by Basic insurance, CAC Manitoba is satisfied, in the interim, that MPI's proposal is a reasonable attempt to address UBER's concerns.

4 *Ibid*, s 25(2)(b).

5 *Ibid*, s 25(3).

6 Factors to be considered, hearings

25(4) In reaching a decision pursuant to this Part, The Public Utilities Board may

(a) take into consideration

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

(ii) interest and expenses on debt incurred for the purposes of the corporation by the government,

(iii) interest on debt incurred by the corporation,

(iv) reserves for replacement, renewal and obsolescence of works of the corporation,

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

(vi) liabilities of the corporation for pension benefits and other employee benefit programs,

(vii) any other payments that are required to be made out of the revenue of the corporation,

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

(ix) any other factors that the Board considers relevant to the matter; and

(b) hear submissions from any persons or groups or classes of persons or groups who, in the opinion of the Board, have an interest in the matter.

MPIC

25(5) In the case of a review pursuant to this Part of rates for services of the Manitoba Public Insurance Corporation, The Public Utilities Board may take into consideration, in addition to factors described in subsection (4), all elements of insurance coverage affecting insurance rates.

7 *The Public Utilities Board Act*, C.C.S.M. c. P280, s 47(2).

8 December 15, 2017 Application, p. 7.

Issues for Examination in 2019 GRA

While CAC Manitoba recommends that MPI's application be approved in the interim, given the short timeframe until the Act comes into effect, there are number of issue which it recommends should be examined in further detail in the 2019 GRA before final approval is granted to the insurance rating model for vehicles for hire.

Final Approval in 2019 GRA

CAC Manitoba agrees with MPI's proposal that the Corporation submit an application for 2017/18 and 2018/19 rates for service, as well as 2019/20 vehicles for hire Rates for Service at the 2019 GRA. This will allow Interveners and the public to adequately test the evidentiary basis of MPI's rating model for vehicles for hire within a full hearing setting.

CAC Manitoba is satisfied that MPI's proposal would allow for any variance between interim and final approved vehicle for hire rates to be rebated or collected on a customer by customer basis. MPI's proposal also appears to be consistent with section 27 of the *Crown Corporations Governance and Accountability Act*, which allows for compensation or refunds where a final order differs from an interim order.⁹

Taxicab versus Vehicles for Hire Insurance Rates

Two taxi companies, Unicity Taxi Ltd. And Duffy's Taxi (1996) Ltd., have provided written comments in this proceeding, which raise concerns that taxicabs will pay rates much higher than passenger vehicles for hire for the same number of time bands selected for insurance purposes.

While CAC Manitoba recommends that MPI's proposal should be approved in the interim, the issue of rates for taxicab rates compared to passenger vehicles for hire rates should be examined in greater detail in the 2019 GRA. Specifically, the issue of whether, for insurance purposes, the taxicab class should disappear and fall within one of the other definitions of vehicles for hire should be examined.

Interplay Between Legislation and Insurance Rating Model

CAC Manitoba recommends that MPI should be required to provide a detailed study of the interplay between *The Local Vehicles for Hire Act*, The City of Winnipeg By-law No. 129/2017 (and any other municipal regulations that are enacted before the 2019 GRA) and the rating model proposed by MPI for vehicles for hire to be tested in the 2019 GRA.

Such a study would allow the PUB and Interveners to test whether all vehicles for hire and drivers are adequately covered and protected by the insurance rating model within the meaning of the Act and the Regulations.

⁹ Compensation or refunds

²⁷ When a new rate for services or an increased rate is allowed pursuant to an interim order and a final order does not allow any changes or allows changes other than those permitted in the interim order, The Public Utilities Board may make any order to compensate for or to refund any excess amounts collected by the corporation that it considers necessary and appropriate in the circumstances.

Financial Impact of the Vehicles for Hire Rating Model on MPI

CAC Manitoba recommends that MPI should be required to provide information on the financial impact of the vehicles for hire rating model changes on the Corporation at the 2019 GRA. Financial impacts should include, but not be limited to:

- Overall financial impact of the changes relating to the vehicles for hire model on MPI's Pro-Forma Financials;
- Financial premium impact of the proposed deductible decrease from \$600 to \$500 for taxicabs, limousines and accessible vehicles; and
- Impacts on broker commissions and Service Fees regarding transactions to change time bands for vehicles for hire.

Driver Safety Rating Premium Impacts

CAC Manitoba recommends that MPI should be required to provide information regarding Driver Safety Rating ("DSR") premium discount impacts, if any, resulting from the vehicles for hire rating model implementation at the 2019 GRA. This should include, but not be limited to, any impact on driver behaviour and claims, as well as any losses to DSR premium revenues.

Information Technology Costs

CAC Manitoba recommends that MPI should be required to provide a detailed breakdown of the Information Technology costs related to upgrading or modifying AOL and CARS to manage the vehicles for hire transactions, for testing at the 2019 GRA.

Forecasting of Claims Incurred

CAC Manitoba recommends that MPI's forecasting of claims incurred for vehicles for hire, including additional 'use' codes and time bands, be further examined at the 2019 GRA.

Road Safety and Loss Prevention

CAC Manitoba recommends that the implications of the changing marketplace of vehicles for hire on customer access to reliable, safe and high quality transportation services should be studied.

Road safety is an issue that is routinely examined during MPI rate applications. As it relates to quality of service, the Manitoba Court of Appeal has previously found that the Public Utilities Board has jurisdiction to consider "the nature, quality and adequacy of service before authorizing or approving of increases in rates or tolls."¹⁰

The safety and protection of both drivers and clients of vehicles for hire is a priority issue for CAC Manitoba. A further examination of the impacts of the new vehicles for hire scheme on road safety and loss prevention should be conducted in the 2019 GRA or at a technical

¹⁰ *Brandon Transit Consumers Assn In v Brandon (City)*, 34 Man R (2d) 36, 18 DLR (4th) 459, at paras 10, 24.

conference prior to the GRA proceeding.

In the 2019 GRA, and in subsequent GRAs, CAC Manitoba intends to examine whether safety and training standards are sufficient and adequate for all vehicles for hire, including taxicabs, limousines, accessible vehicles and any ridesharing or Transportation Network Companies (“TNC”) operating in Manitoba.

CAC Manitoba also intends to examine the fairness of safety and training requirements for drivers of vehicles for hire. Safety and training requirements for all vehicles for hire, including taxicabs, limousines, accessible vehicles and ridesharing of TNC vehicles should be equivalent and fair for drivers.

As a specific issue, training relating to transportation of persons with disabilities should be mandatory for all drivers of vehicles for hire. Currently, taxicab drivers must attend mandatory disability training offered by the Independent Living Resource Centre. Under the new vehicles for hire framework, disability awareness training should be mandatory for all drivers and the possibility of additional training, which would provide an incentive through a credit to insurance payments, should be explored.

An issue raised by one disability group with which CAC Manitoba consulted is the definition of “accessible” vehicle in the Winnipeg By-Law. In the By-law, “accessible” in respect of a vehicle means:

- (a) constructed and equipped to permit the loading, transportation and off-loading of individuals who use a wheelchair, or similar device which can accommodate a seated individual, and who cannot self-transfer; and
- (b) **driven by an individual who is physically capable of providing, and trained to provide in compliance with the requirements of this By-law, transportation services to individuals who use a wheelchair, or similar device which can accommodate a seated individual, and who cannot self-transfer;** (emphasis added)

A concern exists that the requirement that the driver be “physically capable” of providing assistance to clients could be prohibitive to persons with disabilities who own an accessible vehicle. Given that fully accessible vehicles are often owned and driven by persons with disabilities, this requirement could lead to a deficit of accessible vehicles for hire eligible to provide services.

While CAC Manitoba acknowledges that MPI is not responsible for making amendments to the City of Winnipeg By-law, it recommends that the Corporation should consult with disability groups on issues relating to the vehicles for hire scheme. In some cases, issues could be rectified through changes to the insurance scheme without changes to the by-law. In other cases, MPI may have to change its insurance scheme for vehicles for hire in response to potential future changes to the by-law.

CAC Manitoba recommends that issues relating to persons with disabilities should be studied

prior to and/or during the 2019 GRA.

One of the important aspects of making a final determination regarding the vehicles for hire insurance scheme would be to access research on road safety and quality of service from a customer perspective in jurisdictions where ridesharing services exist. For example, CAC Manitoba is concerned that the marketplace for accessible vehicles could be limited significantly for some customers in the new vehicles for hire scheme if ridesharing drivers are able to pick and choose which customers they decide to accept as clients.

CAC Manitoba acknowledges that some of the issues outlined in this section may overlap with responsibilities of other stakeholders in the province. CAC Manitoba recommends that a representative from the City of Winnipeg (and any other relevant stakeholder) be invited to attend the 2019 MPI GRA and/or any technical conference on road safety to assist in the Board's and other parties' understanding of the shared responsibilities for safety and quality of service of vehicles for hire.

Ridesharing and TNCs

CAC Manitoba recommends that MPI meet with ridesharing companies and TNCs who are considering expanding their services to Manitoba to explain MPI products and the legislative environment in this province. This may assist ridesharing companies and TNCs in making informed decisions regarding whether, how and when to expand their products to Manitoba.

Monitoring of Industry Standards and Best Practices

In its application, MPI states:

Transportation Network Companies (TNCs) are a relatively new business model in North America, and in Canada in particular. Based on MPI's analysis of TNC by-laws and insurance rates in Canada, no industry standard has developed on insurance rating models within or across jurisdictions that currently permit operation of TNCs. Further, coverage and pricing varies by insurance company within and across jurisdictions.¹¹

CAC Manitoba recommends that MPI should monitor best practices and standards of the TNC industry and present the results of its monitoring in the 2019 GRA and subsequent annual rate applications.

Stakeholder Engagement

CAC Manitoba recommends that MPI be ordered to submit a report on stakeholder engagement it has conducted and will be conducting prior to the 2019 GRA relating to vehicles for hire, including any engagement with the City of Winnipeg, other municipalities, consumer groups and disability groups. Engagement with stakeholders would assist in ensuring that all stakeholders have an opportunity to express their concerns and that the vehicles for hire rating model be adjusted, if needed.

¹¹ December 15, 2017 Application, p. 6.

Engagement should include ample opportunity for meaningful stakeholder input by providing information to participants in advance and opportunities for retaining experts, where applicable. MPI's report on engagement should include how stakeholder feedback was taken into consideration in the decision-making process and if feedback was not incorporated, an explanation should be provided regarding why not.

Conclusion

Given the short timeframe until February 28, 2018 when *The Local Vehicles for Hire Act* will come into effect, CAC Manitoba recommends that MPI's application for vehicles for hire be approved by the PUB on an interim basis.

CAC Manitoba recommends that MPI include an application for 2017/18 and 2018/19 rates for service, as well as 2019/20 vehicles for hire Rates for Service to be fully tested during the 2019 GRA.

CAC Manitoba intends to examine a number of issues in further detail at the 2019 GRA. It recommends that MPI be ordered to provide further information regarding:

- the interplay between the Act, the Regulations and the insurance rating model;
- rates for taxicabs versus passenger vehicles for hire;
- the financial impact of the vehicles for hire rating model on the Corporation;
- DSR premium discount impacts, if any;
- information technology costs;
- forecasting of claims incurred;
- road safety and loss prevention, especially relating to safety and training standards and requirements for vehicles for hire operating in Manitoba;
- monitoring of industry standards and best practices; and
- stakeholder engagement.