



August 7, 2019

Via E-Mail

The Manitoba Public Utilities Board
Attention: Darren Christle, Board Secretary/Executive Director
400 – 330 Portage Avenue
Winnipeg, MB R3C 0C4

Insurance Brokers Association of Manitoba
Attention: Grant Wainikka, Chief Executive Officer
c/o MLT Aikins LLP (Curtis Unfried)
30th Floor – 460 Main Street
Winnipeg, MB R3C 4G1

Dear Sirs:

RE: Intervention Application of Insurance Brokers Association of Manitoba

This is further to the email of Mr. Christle dated July 31, 2019 and to the subsequent Intervener Application Form (the "Application") submitted by the Insurance Brokers Association of Manitoba ("IBAM") to the Public Utilities Board ("the Board") on August 2, 2019.

The following will serve as the response of Manitoba Public Insurance ("MPI") to the Application:

MPI is not opposed to the Application, but would like the Board to take the following comments into consideration when deciding upon IBAM's participation in this General Rate Application ("GRA"):

- a) Board Order 92/19, among other things, grants intervenor status to those who applied for same, confirms the Final Issues List, identifies the procedures to be followed and sets the GRA timetable. IBAM's Application was filed weeks past the deadline, during the exchange of first round information requests and responses (notwithstanding IBAM's attendance at the Overview Workshop on June 24, 2019). MPI respectfully submits that, should its Application be granted, IBAM must be subject to the same obligations set out in Order 92/19 as the other parties, and must not be afforded any special treatment. For example, as the deadline for submission of first round information requests expired on July 15, 2019, MPI respectfully submits that IBAM's participation be limited to a single round of information requests.

- b) Under Rule 43 of its Rules of Practice and Procedure, the Board may award costs to an intervenor who has: "...insufficient financial resources to present the case adequately without

an award of costs.” In its Application, IBAM is seeking an award of costs but did not include financial statements or a preliminary draft budget and cost summary sheet for the hearing. At page 20 of Order 92/10, the Board directed that each of the approved intervenors for this GRA file their detailed cost estimates within a period of 14 days. MPI submits that although its Application seeks an award of costs, IBAM has failed to establish that it has insufficient resources to adequately present its case without such an award. If IBAM remains eligible for a cost award, MPI expects that IBAM will be required to establish a need for costs and provide a detailed costs estimate as a condition of its participation as an intervenor seeking costs.

- c) In its Application, IBAM says that it will make reasonable efforts to ensure that its participation is not unduly repetitive of other intervenors (page 9). It says further, on page 3, that intervenor status is required “so that the Board will fully and properly understand the issues relating to broker agreements entered into with MPI, the work undertaken and the services that brokers provide in the delivery of MPI services, and the other insurance related services that brokers provide to all citizens of the Province of Manitoba.”
- d) In order to accomplish this, IBAM commits to full and active participation, as may be required, including, but not necessarily limited to, the submission of evidence, the cross-examination of witnesses and providing written submissions for the Board’s consideration (page 8 of the Application). Earlier in the Application, IBAM says (at page 6, and again at page 7) that it will be in attendance throughout the hearing, will monitor discussion(s) and will provide evidence and/or additional information, as required. While the Application contemplates the filing of pre-filed testimony (submission of evidence), cross-examination of witnesses and written submissions, it does not specifically commit to *viva voce* evidence to help the Board “fully and properly understand” the issues IBAM relies upon in seeking intervenor status.
- e) An intervenor must add value to the process. If the intention of IBAM is to submit evidence only in writing, while exercising its right to cross-examine MPI and intervenor witnesses, there would be little value added to the process. As it concerns MPI witnesses, there are currently six lawyers scheduled to be in attendance to cross-examine MPI on various issues, including cost of operations and cost containment measures. Perhaps more importantly, from a procedural fairness perspective, if IBAM’s evidence is limited to pre-filed testimony, it would necessarily be accepted on its face without the benefit of having been tested (except perhaps less rigorously by way of Information Requests).
- f) By Directive dated July 24, 2019, the Government of Manitoba instructed MPI to engage in a process of conciliation with IBAM to reach an agreement regarding the Future Service Delivery Strategy of customer transactions under *The Manitoba Public Insurance Corporation Act* and *The Drivers and Vehicles Act*. The conciliator was agreed to on August 2, 2019 (appointment pending) and negotiations are expected to commence in the fall of 2019. The Directive sets out principles to be applied in the negotiations, one of which is that IBAM and MPI will not make public statements about the subject matter of the negotiations during the continuation of the conciliation process. MPI understands this to mean, should the conciliation process

proceed, that IBAM and MPI could discuss historical facts and issues at the GRA, but will not be permitted to discuss the status and content of the negotiations.

MPI respectfully requests that the Board carefully consider each of the foregoing factors when deciding upon the Application, and any conditions that should be attached to it, should the Board allow IBAM to participate as an intervenor at this stage of the GRA.

Yours truly,


for Steve M. Scarfone
Legal Counsel

SMS/nr