Closing Submissions of The Taxi Coalition

2024 General Rate Application

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Introduction

1 On June 15, 2023, Manitoba Public Insurance ("**MPI**") filed its 2024 General Rate Application ("**GRA**") provisionally seeking approval by the Public Utilities Board ("**PUB**" or "**Board**") for premiums to be charged with respect to compulsory vehicle insurance of the 2024/25 insurance year. Pursuant to Manitoba Order in Council no. 94/2023 issued on April 2, 2023, which directed MPI to propose no changes to rates pending an organizational review which is to be completed by December 31, 2023, MPI seeks no overall change in the Basic vehicle premium rates for the 2024/25 insurance year.

2 Notwithstanding the fact that MPI is not formally seeking a change to rates, MPI's rate indication based on Accepted Actuarial Practice ("**AAP**") as at June 15, 2023 indicated a provisional overall decrease of 0.13%. MPI's updated rate indication filed October 4, 2023 indicates a further overall rate decrease of 1.48%.

3 The Taxi Coalition ("**TC**") has been granted intervenor status in the GRA. The TC has identified 4 chief areas of concern in the GRA which are:

1. the proposed new VFH Framework;
2. minimum credibility standards for ratemaking;
3. the proposed Fleet Rebate Allocation; and
4. the Capital Management Plan.

4 The TC proposes to address each of these areas in turn and will seek directives from the Board with respect to each of these areas in order to ensure a fair and reasonable approach to ratemaking, along with just and reasonable rates.

ISSUE 1: Proposed new VFH Framework

Whether MPI's proposed VFH Framework requires revision prior to approval in order to ensure that it is fair and reasonable for all VFH stakeholders

Background

5 For the 2024 GRA, MPI proposes a new Vehicle for Hire (**"VFH"**) framework to replace its existing VFH insurance model.

6 Previously, the VFH framework was premised on a time band model (the **"Time Band Model"**) which offered VFH operators the option of registering for up to four time bands which corresponded to certain hours of the day. Premiums charged reflected the number of time bands selected by the VFH operator.

7 MPI acknowledged in past GRAs as well as the current GRA that the Time Band Model required revision and MPI committed to completing a "robust review" of the VFH framework and the development of a new framework. MPI was also directed by PUB Order 4/23 to file a revised VFH Framework, which would include an explanation of the proposed blanket policy, ensure that the blanket policy would not involve cross-subsidization, and ensure that the technology necessary to participate in the blanket policy would be available to all VFH operators.

8 The new VFH Framework proposed by MPI in this year's GRA would eliminate the existing Time Band Model and replace it with two VFH insurance products:

(a) a Transportation Network Company (**"TNC"**) Blanket Policy; and

(b) Full-time VFH Insurance.

(a) TNC Blanket Policy

9 Under the proposed TNC Blanket Policy, time will be separated into 4 periods. Periods where a TNC driver is travelling to pick up a passenger and periods where a TNC driver is transporting a passenger to a destination are referred to as the 'ride-sharing periods'. When the TNC driver is operating in a ride-sharing capacity, the TNC dispatcher will provide insurance coverage for the

TNC driver. Non-ride sharing periods will be covered by the TNC driver's registered owner Basic policy which must be maintained by the driver.

10 Under the TNC Blanket Policy, TNC drivers are permitted to spend as much time or as little time as they want in the non-ride sharing capacity, meaning that they are permitted to operate in a ride-sharing capacity on a part-time basis, should they so choose. In other words, and while not described as such, the proposed TNC Blanket Policy includes a part-time option for TNC drivers.

11 In order to participate in the Blanket Policy, the TNC dispatcher will be required to provide an annual estimate of km driven by its TNC drivers during the ride-sharing period. MPI will then assess a premium to be paid by the TNC under the Blanket Policy.

12 Initially the Blanket Policy premium will be calculated by multiplying the estimated number of km that TNC drivers are expected to drive by a per km rate. At policy year end, MPI will finalize the premium based on a reconciliation of (1) the actual km travelled and (2) the actual claims experience. MPI will then use a rebate/surcharge scale to determine whether a rebate or surcharge is required and, if so, the amount of the rebate or surcharge. At the end of the policy year, MPI will collect any outstanding premium or issue a refund if there is a surplus. In other words, MPI will perform a 'true up,' so to speak, of the TNC experience on an annual basis.

13 As part of its GRA Application, MPI has set out a method, or formula, for calculating the per km rate[1], which MPI would like the Board to approve, but not the actual per km rate itself.

14 The method for calculating the per km rate involves dividing the revenue required from the TNC Blanket Policy for the rating year by the expected annual kilometers in the ridesharing period (also known as Periods 2 and 3), using the following formula:

$$\textit{Rate per KM} = \frac{\textit{(Expected Revenue from Passenger VFH – Expected Revenue from All Purpose)}}{\textit{Expected Annual Kilometer in P2 and P3}}$$

15 The projection of annual kilometers is based on historical kilometer data supplied by TNCs.

16 MPI has indicated that, as it stands, it is unable to provide information regarding the annual kilometres driven by the TNCs as part of its determination of pricing as certain TNCs have claimed that the information is proprietary and confidential. MPI has further indicated that the TNCs have

[1] See 2024 GRA Application, Part VII – RC Appendix 11, pg. 4.

refused to share the information on the public record. The TNCs also refuse to share the information through the confidential process with the intervenors. As a result, MPI seeks a directive that would allow it to restrict the sharing of specific third-party confidential data with registered intervenors in future General Rate Applications.

(b) Full-time VFH Insurance

17 When the Time Band Model is removed, MPI proposes transitioning all VFH stakeholders to a Full-Time model. Those VFH customers currently operating on a less than full-time basis will be required to register for Full-Time insurance.

18 TC(MPI) 1-19 provides insight on how many policies would be impacted by the decommissioning of the Time Band Model. They are:

- 22 of 197 Accessible VFH policies;
- 13 of 82 Limo VFH policies;
- 137 of 1492 policies; and
- 5 of 567 Taxi VFH policies.[2]

19 MPI was asked during cross-examination how the decommissioning of the Time Band Model would add value to customers. The response was simply that the product is largely ineffective because it was only used by a small number of customers.[3]

20 Although MPI has initiated a telematics project to help assist it in developing a part-time model for Taxi VFH, the telematics project has stalled. There has been delay in all key milestones for target delivery of the telematics project including retendering the RFP, device installation, data gathering, final reporting and project wrap up. While initially targeted to be completed by January of 2025[4], there is now no target delivery date.[5]

21 If the new VFH Framework is approved, MPI expects to begin implementation after Release 3 of Program NOVA is complete. Although a target date of April 2025 had previously been set, MPI

[2] See TC(MPI) 1-19.
[3] Transcript of Proceedings, pg. 399 lines 7-23.
[4] Part V – Value Assurance, pg. 126.
[5] Transcript of Proceedings, pg. 400, line 25 and pg. 401, lines 1-13.

has indicated that that date is now uncertain.

Issue

22 From the TC's perspective, there are 2 main issues with the proposed new VFH Framework. They are:

(a) whether the proposed new VFH Framework is fair and reasonable and takes into consideration the interests of all stakeholders, including the Taxi VFH; and

(b) whether the directive sought by MPI to restrict access to the sharing of specific third-party confidential data with registered intervenors in future General Rate Applications should be accepted by the Board.

TC Position – New VFH Framework

23 It is the TC's position that the proposed new VFH Framework fails to properly take into consideration the interests of all stakeholders, including Taxi VFH for at least two reasons.

24 First, MPI was directed to ensure that the TNC Blanket Policy could be made available to all VFH stakeholders. Notwithstanding this direction, and despite MPI's assertions to the contrary, it is clear from a review the TNC Blanket Policy proposed by MPI that the TNC Blanket Policy is specifically designed for TNCs and cannot, at least as it stands now, be used for other VFH stakeholders.

25 More specifically, and as indicated above, the starting point for calculation of premiums under the TNC Blanket Policy is based on expected revenue from Passenger VFH less the expected revenue from All Purpose under the current rate model.

26 Although all VFH stakeholder groups are ostensibly eligible to participate in the TNC Blanket Policy provided they meet the minimum technological and reporting requirements, not all VFH stakeholders fall within the Passenger VFH insurance use. Some VFH stakeholders fall within the Taxi VFH, Limo VFH, and Accessible VFH insurance uses. As such, the per km formula does not currently work for all VFH stakeholders and MPI has not set out in its formula or Application how the TNC Blanket Policy would work for any VFH stakeholder other than a TNC.

27 The fact that the formula for the calculation of TNC Blanket Policy premiums is only available to, and/or workable for, TNCs and not other VFH stakeholders, was acknowledged during cross examination of Simmi Mann, MPI customer value proposition lead during the following exchange[6]:

MS KAREN WITTMAN:	*… So the per kilometre formula as it currently stands would not be workable for taxi Vehicle for Hire, correct?*
MS SIMMI MANN:	*Correct. So this blanket policy was developed in general based on passenger Vehicle for Hire historical experience. So the examination of the feasibility or what a taxi model would look like for a blanket policy is just a different examination.* *If they are eligible to take a blanket policy, this would just be a separate development for MPI.*
…	
MS KAREN WITTMAN:	*Sure. And – and the point I'm trying to get to is that, as this is presented right now and the materials we have in front of us –*
MS SIMMI MANN:	*Correct.*
MS KAREN WITTMAN:	*--… it isn't set out in this how this blanket policy would work for a Vehicle for Hire stakeholder other than a TNC?*
MS SIMMI MANN:	*Correct.*

28 It is, therefore, the TC's position that prior to approving the proposed TNC Blanket Policy, MPI should be directed to put forward versions of its Blanket Policy that could be adopted by VFH stakeholders other than TNCs.

29 Aside from the fact that the TNC Blanket Policy is only able to be made available to TNC dispatchers and their drivers and not all VFH stakeholders, there is a second issue with the proposed new VFH Framework that is of concern to the TC: the absence of a part-time option for Taxi VFH.

[6] Transcript of Proceedings pg. 499.

30 The TC acknowledges that the numbers of Taxi VFH who have taken advantage of a part-time option is low. In large part, however, this is a reflection of the way in which the Time Band Model operates and its inherent inflexibility. The fact that the Time Band Model is unworkable for most VFH stakeholders is abundantly apparent from MPI's own stakeholder consultation. This does not mean, however, that there is not a significant portion of VFH stakeholders, including Taxi VFH, Limo VFH and Accessible VFH, who would appreciate a part-time option.

31 Although providing part-time VFH services remains an option for TNC drivers under the new VFH Framework, as they will be able to take advantage of the Blanket Policy, given that no Blanket Policy is available for Taxi VFH coupled with the decommissioning of the Time Band Model means that part-time options will no longer be an option for Taxi VFH.

32 As the timeline for completion of the telematics project has been significantly delayed and there is, hence, no part-time option for Taxi VFH on the horizon, the TC submits that MPI should be directed to delay decommissioning the Time Band Model until such time as it has developed a part-time option for Taxi VFH and is ready to implement the TNC Blanket Policy. In addition, MPI should be directed to consult with other VFH stakeholders prior to decommissioning the model to canvass the desirability of part-time options for them.

<u>Proposed Directive to Restrict Intervenor Access to Third Party Data</u>

33 The second issue with respect to VFH from the TC's perspective is the directive sought by MPI from the Board that certain information received from TNCs and used to set the initial per kilometer rate under the Blanket Policy be kept confidential and not disclosed to Intervenors, nor the public generally.

34 The TC is opposed to the proposed directive. Not only does it contravene the general principles of accountability and transparency that govern regulatory proceedings, but is also effectively a pre-emptive effort to seek a decision from the PUB on a confidentiality motion that has not yet been filed. This is improper and should not be allowed.

35 Leaving aside the issue that no motion has been filed, and although the Board has the ability to set rates relying on confidential filings, the TC submits that it should avoid doing so wherever possible in order to maintain a regulatory process that is transparent and accountable and to ensure public confidence in the system. The TC further submits that the Board should refrain from

setting rates on confidential filings in this case as the request by MPI to treat the third-party data at issue does not meet the requirements of the test for confidential treatment set out in Rule 13 of the Board's *Rules of Practice and Procedure.*

36 Rule 13 provides as follows:

> **Confidentiality**
>
> 13. (1) Where, a document is filed with the Board by a party in relation to any proceeding, the Board shall, subject to subsection (2), place the document on the public record.
>
> (2) The Board may receive information in confidence on any terms it considers appropriate in the public interest,
>
> (a) If the Board is of the opinion that disclosure of the information could reasonably be expected
>
> i. to result in undue financial loss or gain to a person directly or indirectly affected by the proceeding; or
>
> ii. to harm significantly that person's competitive position
>
> or
>
> (b) If
>
> i. the information is personal, financial, commercial, scientific or technical in nature; or
>
> ii. the information has been consistently treated as confidential by a person directly affected by the proceeding; and
>
> iii. the Board considers that the person's interest in confidentiality outweighs the public interest in the disclosure of the information.
>
> (3) Where disclosure of any document is refused due to a claim for confidentiality and a claim for public disclosure of such documents has been made, the Board shall hear such claim on a motion made under Rule 22, and may
>
> (a) order the document be placed on the public record, subject to Subsection13(5);
>
> (b) order the document not be placed on the public record, with such conditions on access imposed as the Board considers appropriate;
>
> (c) order an abridged version of the document to be placed on the public record; or

(d) make any other order the Board finds to be in the public interest.

(4) For purposes of hearing a motion in respect of a disputed claim under Subsection (3), the Board may examine the document or other evidence in question to ascertain whether or not the claim for confidentiality or the claim for public disclosure will be sustained.

(5) Where the Board has decided to place on the public record any part of a document that was filed in confidence in accordance with Subsection 13(2) and 13(3), the party who filed the document shall be given an opportunity to request that it be withdrawn prior to its placement on the public record.

37 The effect of Rule 13(1) is to create a presumption that documents that are filed with the Board will be placed on the public record. The presumption is consistent with, and reflects, the general public policy goal of maintaining regulatory processes that are transparent and accountable.

38 Despite the presumption that all proceedings before the Board are public, the Board maintains discretion to receive information in confidence where it considers it appropriate to do so in the public interest and where the requirements of Rule 13(2) are met.

39 Generally speaking, where a party seeks to provide information to the Board in confidence, the onus will rest on the party seeking to deny public access to the information to establish that extraordinary circumstances exist to justify a departure from the fundamental goal of a transparent and accountable regulatory process.

40 In this case, the information over which confidentiality is claimed is third party information about historical kilometer data supplied by TNCs in Manitoba. Neither MPI nor the proprietor of the information, however, has placed on the public record how the information qualifies as proprietary and meets the test set out in Rule 13. More specifically, neither MPI nor the third party has provided an explanation as to how providing the data would:

1. reveal the third party’s market share to potential competitors;
2. establish how a competitor would use the information to compete;
3. establish how supplying this information would significantly harm its competitive position; or

4. establish how supplying this information would result in undue financial loss to it or undue financial gain to a competitor.

41 The TC recognizes that MPI is in a difficult position in that it is being asked to communicate and advance a position taken on behalf of a third party. That said, treating this information as confidential is not consistent with the public nature of the GRA and the expectation of transparency and accountability. In seeking this directive, MPI or, more accurately the third party, is effectively seeking to circumvent the Board's well-established CSI process and avoid a motion on the very issue. This ought not to be allowed.

42 One of the arguments raised by MPI in support of maintaining confidentiality over the TNC data was the experience in other jurisdictions, notably British Columbia and Saskatchewan, both of which, it was suggested, accepted third party TNC data on a confidential basis in order to set TNC Blanket Policy premium rates.

43 A review of the applications for blanket policies filed in both British Columbia and Saskatchewan reveal that initial TNC Blanket Policy rates were based on taxi per km rates data, not data from third party TNCs.[7] In British Columbia, these taxi-based initial TNC Blanket Policy rates were set for a 10-year period (2019-2018) in prescribed rate tables[8]. In Saskatchewan, as of 2021, the rate initially set in December of 2018 based on taxi data remained unchanged.[9] Consequently, other jurisdictions can offer little guidance on how TNC claims over confidentiality of data have been handled.

44 What is clear, however, is that other jurisdictions relied on taxi data and that data was not subject to any confidentiality filings. In other words, despite the fact that information about the taxi market share was made publicly available during the introduction of a new blanket policy that was designed to compete directly with taxis, any concerns taxis may have raised over the sharing of their data does not appear to have been accepted.

[7] TC-8, pg 31; TC-9; TC-10, pg. 2.
[8] TC-8, pgs. 14 & 22.
[9] TC-10, pgs. 2 & 3.

Recommendation:

45 The TC therefore recommends the following:

- Prior to approving the proposed TNC Blanket Policy, MPI should be directed to put forward versions of its Blanket Policy that could be adopted by VFH stakeholders other than TNCs.
- MPI should be directed to delay decommissioning the Time Band Model until such time as it has developed a part-time option for Taxi VFH.
- MPI should be directed to consult with other VFH Stakeholders prior to decommissioning the Time Band Model to canvass the desirability of part-time options for them.
- The Board should not grant MPI's request for a directive restricting the sharing of the third-party data used to calculate the per kilometer rate for the TNC Blanket Policy. At a minimum, that information should be shared on an unredacted basis with registered interveners.

ISSUE 2: Minimum Credibility Standards for Ratemaking

Whether MPI should be directed to increase its judgmentally selected minimum credibility standard of 10%

Background

46 As part of its ratemaking methodology, MPI calculates ‘new relativities’ for all distinct vehicle groups. The ‘new relativities’ are derived from weighted credibility averages of ‘actual’ or ‘raw relativities’ and ‘current relativities’ for different rating variables.[10]

47 ‘Actual’ or ‘raw relativity’ is reflective of the indicated relativity, being what is indicated to be charged to that vehicle group in the future, recognizing the most current and actual loss experience, in addition to historical experience.[11] Current relativity, on the other hand, is more reflective of past or existing loss experience.[12]

48 The purpose of doing a weighting between the raw and current relativities is to ensure that excessive weight or credibility is not given to the most current or indicated experience without giving some weight to historical experience. This weighting militates against large fluctuations that can occur in the raw relativities or, in other words, rate volatility, and is particularly important or more pronounced where the individual groups, such as small insurance uses, are too small to be statistically reliable.[13]

49 In MPI’s new relativities calculation, the credibility assigned to each raw relativity is subject to a minimum 10% credibility. A 90% credibility is then assigned to the current relativity.[14]

50 Raw relativities for smaller groups or small insurance uses are frequently assigned this minimum 10% credibility. Examples of small insurance uses include Passenger VFH in the Private Passenger Major Class and Taxi VFH in the Public Major Class.[15]

51 Where an unnecessarily low minimum credibility standard is used, the result is that the raw relativity is given minimal weight. In other words, the actual or most recent driving experience is

[10] Transcript of Proceedings, pg. 925.
[11] Transcript of Proceedings, pgs. 925-926.
[12] Transcript of Proceedings, pg. 926.
[13] Transcript of Proceedings, pg. 927.
[14] Transcript of Proceedings, pg. 928.
[15] Transcript of Proceedings, pg. 928.

given minimal weight. The effect of a lower minimum credibility standard for smaller insurances uses is that the most recent driving experience of customers in those small insurance uses is only minimally reflected in the rates they pay and their historical experience is given the most weight. Were a higher minimum credibility standard to be assigned, rates paid by customers in these smaller insurance uses would more accurately reflect their actual/most recent driving experience.[16]

52 It was confirmed during cross examination of MPI that the decision to assign the minimum credibility of 10% was judgmental; in other words, it was a subjective decision of MPI. It was further confirmed on cross-examination of MPI's Vice President and Chief Actuary that MPI is uncertain how or why the minimum credibility of 10% was assigned.[17]

53 MPI further confirmed on cross examination that it would be open to MPI to select a higher minimum credibility standard, and that this could be done while still ensuring that enough weight is given to historical experience (current relativity) to minimize rate volatility.[18]

54 In contrast to approach to credibility for small insurance uses, in the proposed TNC Blanket Policy, there will be an annual reconciliation of actual claims experience[19] and a rebate/surcharge scale based on that reconciliation. As a result, MPI will effectively be giving 100% credibility to the most current Passenger VFH driver experience.

Issue

55 The TC says the issue to be addressed is whether MPI should be directed to increase its judgmentally selected minimum credibility standard of 10% in its new relativities calculation.

TC Position

56 In some contexts, MPI has recognized the importance of incentivizing safe driving. This is evident, for example, in the fleet rebate program and the DSR scale. It is also being introduced by MPI in the proposed TNC Blanket Policy which is, as noted above, being given almost 100% credibility to the most current Passenger VFH driver experience.

[16] Transcript of Proceedings, pgs. 929-931.
[17] Transcript of Proceedings, pg. 931, lines 4-13.
[18] Transcript of Proceedings, pg. 931-932.
[19] in addition to the annual reconciliation of actual km travelled.

57 In contrast, under the current rate model, the raw relativities for small insurance uses such as Taxi VFH and Passenger VFH are subject to the minimum credibility standard of 10%. Were a higher minimum credibility standard to be assigned to small insurance uses, rates paid by these customers would more accurately reflect their actual/most recent driving experience. This, it is submitted, would assist in incentivizing safer driving for these same customers.

58 While the minimization of rate volatility is a legitimate policy goal for MPI, the TC submits that it is possible to continue to minimize rate volatility through the use of weighted credibility averages in the new relativities calculation while increasing the minimum credibility standard. If MPI selected, for example, a minimum credibility standard of 30%, this selection, as acknowledged by MPI during cross examination, would allow 70% credibility to be assigned to current relativities in the new relativities calculation.[20]

59 The TC's position is that it is both possible and advisable for MPI to strike a balance between the promotion and incentivization of safe driving and militating against rate volatility. Assigning a higher minimum credibility standard to small insurance uses would allow for actual driving experience to be more accurately reflected in rates paid while still giving a significant amount of weight to current relativities (or past loss experience).

<u>Recommendation:</u>

60 The TC therefore recommends that the Board direct MPI to increase its judgmentally selected minimum credibility standard of 10% in its new relativities calculation. Alternatively, the TC asks that the Board direct MPI to analyze its judgmental selection of 10% credibility and report to the Board in the 2025 GRA on whether its selection remains appropriate, or whether it should be increased.

[20] Transcript of Proceedings, pg. 931, lines 18-25 & pg. 932, line 1.

ISSUE 3: Fleet Rebate Re-Allocation

Whether MPI's proposed fleet rebate re-allocation ought to be deferred

<u>Background</u>

61 Historically, MPI evenly distributed the cost of the net fleet rebate across three major classes: Private Passenger, Commercial and Public (the **"three major classes"**). The net fleet rebate is distributed across the three major classes and not others as only customers in these major classes qualify for fleet policies. In practice, this even distribution meant that the three major classes all had the same value for the net fleet rebate added to the rate indication as an expense, and in 2023 resulted in a $20.93 charge to all customers in these major classes.

62 As the fleet program has consistently been in a rebate situation, all vehicles in the same major class as fleet vehicles see a reduction in premiums. In other words, the non-fleet customers benefit from the fleet program (presuming it remains in a rebate situation) by paying lower premiums. The even distribution implies that the benefit of the fleet rebate is shared equally between all rate payers within the three major classes. All major classes, however, do not benefit to the same extent. Instead, and generally speaking, major classes with more fleet vehicles benefit more than other major classes with fewer fleet vehicles.

63 In order to combat the apparent disparity of cost causation, during the 2023 GRA, the PUB ordered MPI to file an analysis and proposal for modifications to the fleet program.

64 In the course of its analysis of the fleet program, MPI identified a number of deficiencies and areas that required redress. Ultimately, MPI determined that the issues are complex and require a more in-depth review, for which it requires additional time and resources. MPI therefore seeks to defer the full review until the 2025 GRA.

65 In the interim, and pending MPI's complete review, MPI is proposing to allocate the net fleet rebate based on the number of fleet vehicles in each of the three major classes. Under MPI's proposed interim solution, customers in the three major classes would incur the following costs for the net fleet rebate:

a) <u>Private Passenger:</u> $11.52

b) <u>Commercial:</u> $130.25

c) <u>Public:</u> $249.26[21]

66 While MPI's proposed interim solution will result in:

- a per unit-cost savings of $9.41 for customers in the Private Passenger Major Class (as compared with the per-unit cost from 2023);
- a $109.32 per unit-cost increase for Commercial Major Class customers; and
- a $228.32 per unit-cost increase (which is the equivalent of a 1091% increase) for Public Major Class customers.[22]

67 If MPI evenly distributed the cost of the net fleet rebate across the three major classes as it did in the 2023 GRA, however, this even distribution would result in a $21.18 charge to all customers in the three major classes, reflecting a nominal $0.25 increase in per-unit cost from 2023.[23]

<u>Issue</u>

68 The TC submits that the issue for consideration is whether MPI's interim proposed fleet rebate re-allocation ought to be deferred pending completion of MPI's full review of the fleet rebate program.

<u>TC Position</u>

69 The TC takes the position that MPI's proposed fleet rebate allocation should be deferred pending completion of its review of the fleet rebate program.

70 One of MPI's guiding principles or core values, as it relates to the Basic Insurance Model, is to keep insurance rates stable, predictable, and affordable for Manitobans to the extent possible. This guiding principle and the goal of maintaining stable, predictable, and affordable insurance rates has, in the past, informed both MPI's and the Board's approach to implementing change to various aspects of the Basic Insurance Model.[24] Although the DSR scale continues to depart from what is actuarially indicated, the changes that have been adopted to bring the DSR closer to

[21] TC(MPI) 1-24 (c); Transcript of Proceedings, pg. 924.
[22] TC(MPI) 1-24 (c).
[23] Transcript of Proceedings, pg. 922.
[24] Transcript of Proceedings, pg. 919.

actuarially indicated rates have been adopted on an incremental basis, and gradually over time, in order to avoid rate shock for customers.[25]

71 The TC submits that this same principle ought to apply to the adjustments and revisions to the Fleet Rebate program and, to the extent possible, rate shock and dramatic fluctuations in rates ought to be avoided. This is particularly the case where, as here, the entire fleet program is about to undergo revision and overhaul in the next GRA.

72 As set out above, were MPI to evenly distribute the cost of the net fleet rebate across the three major classes as it did in the 2023 GRA, this would result in only a nominal increase ($0.25) to customers' per-unit costs as compared to 2023. On the other hand, if MPI's proposed interim solution were approved, the result, as set out above, would be a significant increase for the three major classes, including an increase of over 1000% (one thousand percent) for Public Major Class customers. In other words, it would result in significant rate shock.

73 MPI has put forward this interim solution in an effort to address the issue of cost causation. It is, however, only an interim solution. In addition, MPI has admitted that its proposal is not reflective of benefits actually received by customers in the three major classes, as those benefits have not yet been quantified and this analysis has not yet been completed.[26]

74 The TC therefore submits that rather than adopting MPI's proposed interim solution to the cost causation issue, which will result in considerable rate shock for the Commercial and Public Major Classes, the Board should direct MPI to refrain from making any changes to the fleet program until after MPI has completed its full review.

<u>Recommendation:</u>

75 The TC therefore recommends that the Board direct MPI to delay making any changes to the fleet program until after MPI has completed its full review.

[25] Transcript of Proceedings, pg. 919.
[26] TC(MPI)1-24 (a).

ISSUE 4: CAPITAL MANAGEMENT PLAN

Whether the Board should approve MPIs new proposed Capital Management Plan

Background

76 MPI first presented and proposed its Capital Management Plan (**"CMP"**) in the 2020 GRA. At the time, one of the central features of the CMP was a commitment by MPI to transfer Extension surplus (over 200% MCT) to Basic. Within the first year of the CMP's two-year trial period, however, MPI departed from its commitment to transfer surplus Extension to Basic.[27] In fact, MPI transferred a combined total of $117 million of retained earnings from Extension to Driver Vehicle Administration ("**DVA**") in the 2020/2021 and 2021/2022 fiscal years.[28]

77 Although transfers to DVA were temporarily halted in March of 2022 at the direction of the provincial government pending a full review of the DVA program and its funding model,[29] the future of DVA transfers remains uncertain. When asked about this issue, MPI confirmed that the provincial government's operational review of DVA is not complete and no end date for the review has been identified. In the meantime, given that DVA is not currently self-sufficient and no enhanced DVA funding is expected, it is likely that MPI will be required to transfer surplus Extension to DVA starting as early as the 2025 rate setting period.[30]

78 On November 4, 2022, the amendments to section 18 of *The Manitoba Public Insurance Corporation Act,* RSM c. P215 (the "***MPIC Act***") received Royal Assent. Among other things, section 18 of the *MPIC Act* sets out the capital reserve targets that MPI must establish and maintain for each of its lines of business[31], prerequisites for the payment of a rebate from the rate stabilization reserve[32], and how MPI is to deal with a rate stabilization reserve deficiency.[33]

79 Pursuant to the amendments to the legislation, MPI has developed a new CMP for which it seeks approval from the Board as part of its 2024 GRA. While the TC does not take specific issue with the proposed CMP, it does have significant concerns about whether, in practice, the CMP will

[27] Board Order 1-21 (2021 GRA).
[28] Board Order 134-21 (2022 GRA).
[29] 2023 GRA, RSR Appendix 3.
[30] CAC(MPI) 2-7 and CAC(MPI) 2-4.
[31] *MPIC Act,* section 18(3).
[32] *MPIC Act,* section 18(4).
[33] *MPIC Act,* section 18(5).

operate as intended given that one of its key features, surplus Extension transfers, continues to remain both discretionary and plagued by uncertainty.

80 Under the proposed CMP, surplus Extension transfers to Basic continue to be a central feature. In Step 1 of the proposed CMP, titled 'Capital Transfers from Extension', MPI is 'required' to transfer to the Basic RSR all capital in the Extension Reserve in excess of 200% MCT at each fiscal year end. While this step appears to be in line with MPI's initial commitment put forward in the 2020 GRA CMP proposal, MPI includes a caveat to this 'requirement'. The caveat is this: prior to the fiscal year end, MPI's Board of Directors retain discretion to transfer any excess funds from Extension to cover shortfalls in its other lines of business (including DVA).[34] In other words, the decision as to whether excess funds from Extension will, in fact, be transferred to Basic RSR remains at the discretion of MPI's Board of Directors provided they exercise that discretion prior to the fiscal year end.

81 In Step 2 of the proposed CMP, titled, the 'Rebate Trigger,' MPI will review the most recent year end audited MCT, and take into account any transfers from Extension. If the RSR exceeds 120% MCT, a rebate will be triggered.[35]

82 When Steps 1 and 2 are considered together it is clear that whether or not an Extension transfer occurs may have an impact on whether a rebate is triggered. Consequently, notwithstanding the requirement to transfer surplus from Extension to Basic, the discretion afforded to MPI's Board of Directors to transfer that surplus to another MPI line of business means that a rebate that otherwise would have occurred following an Extension transfer will not occur.

83 As for Step 3 of the proposed CMP, the 'Capital Build Trigger', MPI states:

> **…after applying all assumed capital transfers from Extension**, MPI then determines the need for a capital build provision. If the MCT is below 100% at the beginning of the current fiscal year, MPI will require a capital build and will apply for one with its GRA, **unless assumed capital transfers from Extension can build capital to the 100% MCT target in less than five years**.[36]

84 In other words, the Capital Build Trigger is largely based on assumed or forecasted transfers from Extension.

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[34] See Part X – Rate Stabilization Reserve, pg. 8.
[35] See Part X – Rate Stabilization Reserve, pgs. 9-10.
[36] See Part X – Rate Stabilization Reserve, pg. 10.

Issue

85 The TC says that the issue to be addressed is whether MPI's proposed new CMP should be approved as proposed, or whether further clarity, transparency and accountability are required, particularly in relation to 'required' and 'forecasted' surplus Extension transfers, prior to Board approval.

TC Position

86 The TC appreciates that MPI has taken significant strides to improve the accountability, clarity and transparency of its proposed CMP. However, due to the MPI Board of Director's ongoing ability to effect an Extension transfer prior to fiscal year end (and thereby divert funds that might otherwise have been transferred to Basic), the TC remains concerned that the proposed CMP remains discretionary and uncertain, and as a result, vulnerable to significant forecasting inaccuracies.

87 One area of uncertainty stems from the fact that the circumstances under which the MPI Board of Directors will exercise its discretion to effect a transfer remain unclear. While MPI notes that MPI's Board of Directors may exercise its discretion to transfer excess funds out of Extension prior to fiscal year end to cover any subsequent or existing shortfalls to its other lines of business, no insight is provided as to when or understand what circumstances this discretion will be exercised. As such, predicting whether such a transfer will occur is difficult.

88 The uncertainty that stems from not knowing whether MPI's Board of Directors will effect a transfer from Extension is further compounded by the fact that MPI has no official policy in place for funding capital shortfalls for Extension and SRE.[37] In this year's GRA, MPI noted that in the event of a shortfall in these lines of business, there are several actions that MPI is empowered to take to mitigate the shortfalls. The difficulty, however, is that in the absence of an official policy, is it unclear whether MPI will take these alternate actions to mitigate shortfalls or whether it will simply rely on transfers from Extension.

89 In addition to the discretionary nature of the Extension transfers, further concerns arise when the DVA program and its funding model are considered. As noted above, and in addition to MPI's historical practice of transferring excess Extension to DVA instead of Basic, the provincial government's operational review of DVA continues without an end date in sight, DVA is not self-

[37] CAC(MPI) 2-7.

sufficient, and further government funding of DVA funding is not expected.[38] What this means is that forecasted or assumed Extension transfers may not only never happen depending on how MPI's Board of Directors exercises its discretion, but are also unlikely to happen due to the current state of DVA and anticipated further need for funding. Hence, despite a current pause on transfers to DVA, such transfers appear to be inevitable in the future.

90 The inherent uncertainty and unpredictability set out above is troubling for another reason, namely that MPI's CMP forecasting is largely predicated on assumed transfers from Extension to Basic. Because the forecasting is based on an assumed transfer of Extension to Basic, but the transfers from Extension to Basic are far from guaranteed (and, in fact, are both unpredictable and uncertain), what this effectively means is that the forecasting is unreliable. Further, if the forecasted or assumed Extension transfers do not occur, Basic ratepayers could be put in an unfavorable position.

91 In previous rate applications, the Board has expressed concern about MPI's transfer of funds from Extension to its other lines of business and the reliability of MPI's assurances about future transfers from Extension to Basic. Notwithstanding these concerns, the Board has found that its hands are tied and that it does not have the jurisdiction to direct MPI on the transfer of Extension excess capital.[39]

92 The TC submits, however, that there remains an inextricable link between Extension and Basic as Basic and customers are substantially one and the same.[40] As a result of the inextricable link between Extension and Basic[41], the TC submits that the Board does, in fact, have at least a limited jurisdiction over Extension insofar as the proposed CMP is concerned. This is particularly so in the proposed CMP where MPI has effectively tied both the forecasts and the build/rebate together. Whether or not a build is triggered, and MPI customers required to pay more, depends in no small part on whether forecasted transfers actually occur.

93 In addition, therefore, to supporting CAC's request for a rebate and its arguments in support thereof, the TC requests that the Board direct MPI to amend its CMP such that if there is a surplus in Extension, forecasted transfers to Basic must occur.

[38] CAC(MPI) 2-7 and CAC(MPI) 2-4.
[39] Board Order 134-21 (2022 GRA).
[40] Transcript of Proceedings, pg. 1456-1457.
[41] Transcript of Proceedings, pg. 1457, lines 3-7; Transcript of Proceedings, pg. 1523, lines 22-25.

94 In the alternative, and consistent with Madam Justice Steel's decision in *Manitoba Public Insurance Corp v Manitoba (Public Utilities Board) et al*, 2022 MBCA 86, the TC requests that the Board issue information-seeking directives for the purpose of encouraging greater clarity, accountability and transparency in the proposed CMP that will address the timing and status of the government's operational review of DVA, an official policy for the funding of capital shortfalls for Extension and SRE, and an update with respect to plans for mitigating diminished forecasting inaccuracy based on uncertainty in the availability of Extension funds.

Recommendation:

95 The TC therefore recommends that MPI be directed to amend its CMP such that if there is a surplus in Extension, forecasted transfers to Basic must occur.

96 In the alternative, the TC recommends that the following information-seeking directives be issued:

- MPI shall seek a status update from the provincial government on its operational review of DVA, stressing the importance of self-sufficiency, its tie to the proposed CMP, and the potential impact of any further delay in the completion of the operational review on Basic.
- MPI shall put forward an official policy for funding capital shortfalls for Extension and SRE and provide specific details on the 'several actions' MPI is permitted take to mitigate the shortfalls, and under what circumstances MPI intends to take such action.
- MPI should provide an update to the Board in the 2025 GRA on if and/or how it intends to combat and mitigate its diminished forecasting accuracy due to the uncertainty in the use of excess Extension funds.

Conclusion

97 In conclusion, the TC recommends that the Board:

a) Direct MPI to put forward versions of its Blanket Policy that could be adopted by VFH stakeholders other than TNCs prior to approving the proposed TNC Blanket Policy.

b) Direct MPI to delay the decommissioning of the Time Band Model until such time as it has developed a part-time option for Taxi VFH.

c) Direct MPI to consult with other VFH Stakeholders prior to decommissioning the Time Band Model to canvass the desirability of part-time options for them.

d) Should not grant MPI's request for declaration restricting the sharing of the third-party data used to derive the per kilometer rate for the TNC Blanket Policy with registered interveners.

e) Direct MPI to increase its judgmentally selected minimum credibility standard of 10% in its new relativities calculation.

f) In the alternative, direct MPI to analyze its judgmental selection of 10% credibility and report to the Board in the 2025 GRA on whether its selection remains appropriate, or whether it should be increased.

g) Direct MPI to delay making any changes to the fleet program until after MPI has completed its full review.

h) Direct MPI to amend its CMP such that if there is a surplus in Extension, forecasted transfers to Basic must occur.

i) In the alternative, direct MPI to:

   - Seek a status update from the provincial government on its operational review of DVA, stressing the importance of self-sufficiency, its tie to the proposed CMP, and the potential impact of any further delay in the completion of the operational review on Basic.

- Put forward an official policy for funding capital shortfalls for Extension and SRE and provide specific details on the ‘several actions’ MPI is permitted take to mitigate the shortfalls, and under what circumstances MPI intends to take such action.
- Provide an update to the Board in the 2025 GRA on if and/or how it intends to combat and mitigate its diminished forecasting accuracy due to the uncertainty in the use of excess Extension funds.