

Order No. 111/22

**MOTION BY MANITOBA PUBLIC INSURANCE
SEEKING CONFIDENTIAL TREATMENT OF DOCUMENTS
AND INFORMATION IN THE 2023/2024 GENERAL RATE APPLICATION**

October 12, 2022

BEFORE: Irene A. Hamilton, K.C., Panel Chair
George Bass, K.C., ICD. D, Member
Susan Boulter, Member
Susan Nemec, FCPA, FCA, Member

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1. SUMMARY

By this Order, the Public Utilities Board (Board) grants, the motion of Manitoba Public Insurance (MPI or the Corporation), seeking confidential receipt by the Board of certain documents and responses to Information Requests (IRs) filed by MPI in the 2023/2024 General Rate Application (GRA or the Application).

1.0 Overview

In its Procedural Order 85/22, dated July 29, 2022, the Board outlined the process for the treatment of confidential or commercially sensitive information (CSI) in the GRA (CSI Process). Pursuant to the CSI Process, MPI was not required to bring a separate motion under Rule 13 of the Board's Rules of Practice and Procedure for confidential status of material each time it filed material claimed as such with the Board. Instead, MPI publicly filed redacted material claimed as confidential with the Board. MPI also provided non-redacted copies of material claimed as confidential to the Board, and to Board Advisors and Interveners who executed undertakings of confidentiality and confidentiality agreements, in forms approved by the Board.

The Board directed that, once all material claimed as confidential was filed by MPI, MPI was to file a motion pursuant to Rule 13 of the Board's Rules of Practice and Procedure, seeking confidential status of the material.

The First Round IR responses were filed by MPI on August 30, 2022. The Second Round IR responses were filed by MPI on September 6, 2022.

The within motion was filed on October 3, 2022 and seeks confidential treatment of certain documents and information filed by MPI in the GRA.

MPI's motion requests confidential treatment for the following:

Documents Filed as part of the General Rate Application

1. Part IV – NOV IT &VM – VM – Value Management Chapter
2. Part IV – NOV IT &VM – VM – Appendix 2a
3. Part IV – NOV IT &VM – VM – Appendix 3
4. Part IV – NOV IT &VM – VM – Appendix 4
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(collectively, the "Documents").

On October 4, 2022, through counsel, Consumers Association of Canada (Manitoba) Inc. (CAC) and Insurance Brokers Association of Manitoba (IBAM) advised that they were taking no position on the motion. CAC and IBAM were the only Interveners in this GRA who requested access to the Documents.

The Board did not require an oral hearing on the motion.

2. PARTIES' POSITIONS AND BOARD FINDINGS

2.0 MPI

The grounds for the MPI's request for CSI status of the Documents are, among others:

- That MPI is contractually required to treat some of the information in the Documents as confidential, and is prohibited by their respective owners from making it available to the public;
- That the disclosure of the Documents could reasonably be expected to result in undue financial loss or gain to, or significantly harm, the competitive position of a person directly or indirectly affected by the proceeding; and
- The Documents are personal, financial, commercial, scientific or technical in nature, have been consistently treated as confidential by persons directly affected by the proceeding, and the interest in maintaining confidentiality over the Documents outweighs the public interest in their disclosure.

The motion was supported by the affidavit of Guneet Jassal, Senior Regulatory Affairs Specialist for MPI (Jassal Affidavit), affirmed September 28, 2022, which was filed on a confidential basis. The Jassal Affidavit supported MPI's claim for confidentiality for each of the documents listed in the motion.

2.1 Board Findings

Pursuant to Rules 3(2) and 4(1) of the Board's Rules of Practice and Procedure (Rules), the Board maintains a broad discretion to issue directions on procedure, and may supplement, dispense with, or vary any of the provisions of the Rules.

Proceedings before the Board are public, and documents filed with the Board by a party to a proceeding are placed on the public record. However, the Board may receive information in confidence on any terms it considers appropriate in the public interest, when the test under Rule 13(2) is met:

- (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.

On hearing a motion under Rule 13, the Board may order the information in question be placed on the public record, order the document not be placed on the public record with

such conditions on access imposed as the Board considers appropriate, order an abridged version of the document be placed on the public record, or make any other order the Board finds to be in the public interest. Rule 13(5) allows the filing party to request that the document be withdrawn prior to being placed on the public record where the Board has determined to place any part of the document on the public record.

The Board has reviewed and considered all of the information filed by MPI and has taken into account that the motion was unopposed.

The Board is satisfied that the Documents should be received in confidence, as they meet the test under Rule 13(2). The restrictions requested on the distribution of the Documents are necessary in order to protect third party proprietary information, confidential, proprietary or commercially sensitive information.

The Board therefore grants MPI's motion with respect to the confidential status of the Documents.

3 IT IS THEREFORE ORDERED THAT:

3.1 The Board hereby grants leave to MPI to file the following documents in confidence with the Board:

Documents Filed as part of the General Rate Application

1. Part IV – NOV IT &VM – VM – Value Management Chapter
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Board decisions may be appealed in accordance with the provisions of Section 58 of The Public Utilities Board Act, or reviewed in accordance with Section 36 of the Board's Rules of Practice and Procedure. The Board's Rules may be viewed on the Board's website at www.pubmanitoba.ca.

THE PUBLIC UTILITIES BOARD

"Irene A. Hamilton, K.C"

Panel Chair

"Darren Christle, PhD, CCLP, P.Log, MCIT"

Secretary

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issued by The Public Utilities Board



Secretary