

MANITOBA) **Order No. 22/13**
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THE PUBLIC UTILITIES BOARD ACT) **March 7, 2013**

BEFORE: Régis Gosselin, B.A., C.G.A., M.B.A., Chair
Karen Botting, B.A., B.Ed., M.Ed., Member
Anita Neville, B.A. Hons., Member

MANITOBA PUBLIC INSURANCE: VARIATION OF ORDER 157/12

Background

On December 3, 2012 the Public Utilities Board (Board) issued Order No. 157/12 (Order) with respect to Manitoba Public Insurance Corporation's (Corporation or MPI) General Rate Application (GRA) for rates and premiums for compulsory vehicle insurance, driver insurance premiums and vehicle premium discounts effective March 1, 2013.

On January 14, 2013, the Corporation filed a letter with the Board, asking the Board to vary one aspect of the Order, relating to the Board's decision that a Road Safety Technical Conference (Technical Conference) take place on or before March 31, 2013. Specifically, the Board ordered that:

A Road Safety Research Technical Conference take place to discuss Road Safety matters, involving interveners and community partners, to be held on or before March 31, 2013.

MPI's Position

In its letter of January 14, 2013, MPI expressed concern with respect to the breadth of the scope of the Technical Conference, and cited the following reasons:

Mandate of the PUB

MPI stated that the mandate of the PUB is to review and approve rate bases and premiums charged for compulsory driver and vehicle insurance, and that it had difficulty understanding how hosting the Technical Conference was part of the Board's mandate.

Road Safety Budget

The Corporation noted that for 2012/13, its overall budget for Road Safety and Loss Prevention programs was \$13.8 million, of which \$12.4 million or 90% was allocated to the Basic line of business. These expenditures equate to approximately 1.5% of Basic rates. Within this overall funding, costs are budgeted by program category as follows:

- Driver Education and Training 40%
- Awareness and Advertising 16%
- Enforcement Enhancement 4%

- Auto Crime 31%
- Other (Including Road Safety administration) 8%

MPI stated that it has always been open to Interveners at GRA hearings, and the Board in its orders, to indicate whether the budgeted amount for Road Safety should increase or decrease, or whether certain expenditures should be eliminated or expanded upon, within the context of approving rates. MPI stated that this analysis can occur at a GRA hearing rather than at the Technical Conference.

Parties involved in the Technical Conference

MPI expressed concern that the range of potential participants in the Technical Conference as listed by the Board in the Order is wide, and that Manitobans, who own and operate fewer than 1% of the vehicles in North America, should not bear the cost of the Technical Conference "that could impact road safety on the scale that could lead to technological change in vehicle manufacturing."

Content of the Technical Conference

MPI cited cycling safety as an example of a potential topic for the Technical Conference, and questioned whether it was the Board's intention to establish a multiday hearing merely on cycling road safety. Similarly, MPI questioned whether areas of Road Safety under the jurisdiction of Transport Canada would be included, such as the development and enforcement of safety regulations and standards, the testing and promotion of safety technologies, and the introduction of safety management systems as a reliable and cost-effective way to prevent and manage safety risks in all modes of transportation.

MPI questioned whether the Board intended to discuss areas of police responsibility at the Technical Conference, and stated that the direction of Road Safety within Manitoba is the responsibility of the Province of Manitoba, and specifically Manitoba Infrastructure and Transportation.

MPI queried also how many days would be spent in the Technical Conference, and what the accompanying costs would entail.

Proposed Next Steps

MPI advised, as was stated at the GRA hearing in the fall of 2012, that it intends to study the merits of introducing a Roadway Infrastructure Improvement Partnership Program, and suggested that this item be discussed on one day during the GRA hearing to take place in the fall of 2013. Similarly, MPI suggested that a discussion relative to the Driver Education and Training Program be discussed over the course of one day at the upcoming GRA hearing.

In other words, MPI suggested that two days be set aside at the upcoming GRA to hear from participants on issues of Road Safety as the same relate to Basic expenditures.

Interveners' Positions

On January 17, 2013, the Board invited Interveners to comment on MPI's January 14, 2013 letter, in response to which the Interveners suggested the following:

CAC

CAC stated that the jurisdiction of the Board is to set just and reasonable rates, pursuant to section 77 of *The Public Utilities Board Act*, section 26 of *The Crown Corporations Public Review and Accountability Act* and section 33(1.1) of *The Manitoba Public Insurance Corporation Act*. CAC stated that the determination of just and reasonable rates includes consideration of the reasonableness of the Corporation's expenditure forecasts and a determination of whether the current and projected expenditures are prudent and necessary.

CAC noted that at last year's GRA hearing, MPI mused about the potential for an aggressive redesign and expansion of its Road Safety Programming including potential investments in infrastructure, a potential redesign of driver education programming, a potential expansion of support for enforcement activities and an expanded role in the gathering of data and the facilitation of research.

CAC stated that an understanding of MPI's current and planned activities in terms of Road Safety and the means by which it intends to ensure cost effective investments is essential to the determination of whether the Corporation's proposed expenditures are prudent and necessary. CAC stated that insight into the Corporation's Road Safety plans also will assist in the assessment of the reasonableness of its forecasts relating to accident costs.

CAC presumed that the Board's intent in directing the Technical Conference was based upon:

- A recognition of the importance of Road Safety expenditures to the rate setting process;
- A response to the possible aggressive expansion by MPI of its Road Safety investments and the attendant controversy that might be associated with proposals to invest in infrastructure or policing;
- The recognition that there might be parties who could assist the Board's understanding of these controversial issues who would not ordinarily attend a General Rate Application;
- A desire to further the discussion of these potentially controversial subjects in a less formal adversarial process with a broader base of attendees; and
- A recognition that the scope of the proceeding must be tied to the objectives of the rate setting process.

CAC stated, recognizing the potential controversy associated with the potential expansion of the Road Safety Program of MPI, and the utility of inviting participants who might not otherwise be involved in the GRA hearing process, that there would be value in holding the Technical Conference to further the discussion of Basic Road Safety Programming and its impact upon projected costs and rates of the Basic Program.

CAC stated that a successful Technical Conference would assist MPI and other parties by clarifying and narrowing the issues that might be addressed at the GRA hearing.

CAC suggested that the March 31, 2013 deadline to hold the Technical Conference be extended, and stated that it reserved the right to seek costs with respect to the Technical Conference.

CMMG

CMMG stated that MPI should work with the Board to resolve the jurisdictional "tug of war" that has been ongoing between the Board and MPI, and expressed disappointment that MPI would not work cooperatively to involve all stake holders in the Technical Conference given the importance of the issues and the goals which should be shared by MPI, the Board, Interveners and outside agencies.

CMMG stated that the issues to be discussed at the Technical Conference should include wildlife collisions, driver education and training, and research into motorcycle safety issues.

CMMG stated that at past GRA hearings, MPI has not answered adequately or discussed fully issues of Road Safety, but rather has indicated that it is not prepared to undertake any new initiatives in various areas, such as wildlife collision strategies and developing research components regarding motorcycle road safety. CMMG stated that MPI's evidence has been that it alone decides whether or not to act on a particular issue, and more likely than not it refuses to change the status quo.

CMMG called on the Legislature to amend *The Crown Corporations Public Review and Accountability Act* to broaden the jurisdiction of the Board, but in the interim, stated that the Technical Conference should take place over the next year, although the timing of the conference should be flexible.

CAA

CAA stated that choices made by MPI with respect to its annual and strategic long term Road Safety initiatives directly impact Basic rates, and therefore are within the jurisdiction of the Board.

CAA advised that it has similar questions as MPI with respect to the scope of the Technical Conference, but that it supports the idea that discussions relative to Road Safety take place separately from the GRA process.

CAA expressed the view that the Technical Conference is a more consultative process with a less formal structure than a GRA hearing, which would be beneficial. In addition, CAA stated that dealing with this matter at the GRA would be more costly, and would be less focused on Road Safety than would the Technical Conference.

CAA stated that driver education, infrastructure, distracted driving and impaired driving should be discussed in the context of the Technical Conference, which will enable more open communication about planning and research.

CAA expressed disappointment that MPI was not eager to host the Technical Conference or separate meeting that would provide a more consultative process with community groups and Interveners.

Board Findings

Pursuant to the Board's Rules of Practice and Procedure, and in particular subsections 36(1) and 40(2) thereof the Board may, on its own initiative, review, rescind, change, alter or vary any decision or Order that it has made. The Board's jurisdiction in this regard flows from section 44(3) of *The Public Utilities Board Act*.

Board decisions may be appealed in accordance with the provisions of section 58 of *The Public Utilities Board Act*. The procedural rules applicable to the Board's review of its decisions are reflected in the Board's Rules of Practice and Procedure, which may be viewed on the Board's website, www.pub.gov.mb.ca.

The Board expressed in the Order that “matters of Road Safety need to be given a higher priority by the Corporation than has been assigned in the past, including motorcycle safety, wildlife collisions and other road safety investments”. Further and as also expressed in the Order, the Board seeks the furtherance of MPI's goal, as reflected in its Corporate Strategic Plan, that it will become a community leader and act as the central repository to facilitate the sharing of data amongst stakeholders for research and making informed decisions, and to take a more active role in Road Safety research.

The Board's goal is to facilitate a discussion as between MPI, the Interveners and various third parties regarding ways to improve Road Safety and Loss Prevention in Manitoba with a view to potentially decreasing the frequency and/or severity of motor vehicle accidents, which would in turn reduce claims costs to Basic.

At present, only 1.5% of Basic rates are dedicated to Road Safety initiatives which, in the view of the Board, may be too low.

While not in agreement with MPI's circumscribed view of the limits of the Board's authority and jurisdiction, the Board agrees that Road Safety is a complex issue, comprised of a variety of elements, and supports MPI's strategic initiative to become a community leader and central repository in the area of Road Safety.

The Board continues to believe that the Technical Conference would be of assistance in developing MPI's Road Safety programs, given that a technical conference is less adversarial than a GRA hearing and is a proven tool for achieving consensus amongst parties. The Board

did not contemplate that the scope of the Technical Conference would be as broad as implied by MPI. The Board understands the limits of MPI's scope of action. The Board is of the view that a technical conference would be an appropriate vehicle to achieve a consensus for collective action by Manitoba Road Safety stakeholders, including MPI, and a consensus regarding the amount of funds that should be made available by ratepayers to MPI to fund its Road Safety initiatives.

Notwithstanding the foregoing, however, given the limited time available before the next General Rate Application by MPI, the Board hereby finds that the Order shall be varied. The provision requiring that the Technical Conference take place on or before March 31, 2013 is hereby rescinded.

Instead, the Board identifies the following specific issues relative to Road Safety that it will seek to explore with MPI at the 2014 General Rate Application hearing, to take place in the fall of 2013:

- Adequacy and effectiveness, or otherwise, of proposed Infrastructure spending for Road Safety
- Adequacy and effectiveness, or otherwise, of spending to reduce Wildlife Collisions
- Adequacy and effectiveness, or otherwise, of spending to address Distracted Driving
- Adequacy and effectiveness, or otherwise, of spending to improve Motorcycle Safety
- Adequacy and effectiveness, or otherwise, of spending to reduced Impaired Driving costs
- Adequacy and effectiveness, or otherwise, of spending to reduce the severity and frequency of vehicle collisions with cyclists
- Adequacy and effectiveness, or otherwise, of spending on Drivers' Education; and

- The requisite funding necessary to support effective use by MPI of technology in Road Safety.

The Board finds that these issues relative to Road Safety fit within the Board's mandate regarding MPI for the following reasons:

- Road Safety expenditures comprise a portion of Basic's expenses
- MPI has identified that it intends to become a leader in the area of Road Safety, which will entail changes to:

- the nature of its Road Safety efforts; and
- the amount of the expenditures incurred for Road Safety initiatives;
- MPI has already advised that it is reviewing the possibilities of revamping the Driver's Education System and expending funds for infrastructure;
- Different and/or increased Road Safety expenditures carry with them the potential for claims cost savings for Basic; and
- Changes to expenses and potential savings to Basic both directly affect Basic rates.

As proposed by MPI, the Board agrees that some time at the upcoming GRA should be allocated to the discussion of Driver's Education and Infrastructure spending, but states that evidence with respect to the remainder of the above-listed issues should also be tendered.

In particular, the Board expects to hear evidence from individuals to be called as witnesses at the upcoming GRA, relative to the following topics:

- Infrastructure spending strategies, expenditures and claims cost savings, and in particular, the experience within the Province of British Columbia;
- Wildlife collision prevention strategies, expenditures and claims cost savings, and in particular, the experience in the Province of Newfoundland;
- General evidence with respect to potential initiatives, strategies, expenditures and claims costs savings relative to the balance of the issues listed above, namely, Distracted Driving, Motorcycle Safety Issues, Impaired Driving, Cycling, Driver's Education and the role of Technology in Road Safety.

The Board encourages MPI to put forward the names of potential witnesses with respect to each of the three areas listed above, on or before March 31, 2013. If neither MPI nor the Interveners present witnesses with respect to these issues, the Board may do so. In addition, all parties should be prepared for the possibility that, as a result of the evidence heard at the upcoming GRA, the Board may order a technical conference regarding Road Safety to be convened in early 2014.

IT IS THEREFORE ORDERED THAT:

1. Directive 8 of Order 157/12 is hereby rescinded and deleted from the Board Directives Section 11.0 of that Order.

THE PUBLIC UTILITIES BOARD

"RÉGIS GOSSELIN, BA, CGA, MBA"
Chair

"HOLLIS SINGH"
Secretary

Certified a true copy of Order No. 22/13
issued by The Public Utilities Board

Secretary