

MANITOBA) Order No. 103/06
)
THE PUBLIC UTILITIES BOARD ACT) July 6, 2006

BEFORE: Graham F. J. Lane, C.A., Chairman
Leonard Evans, Ph.D. (Hon.), Member
Eric Jorgensen, Member

PROCEDURAL ORDER FOR A PUBLIC HEARING
REGARDING MANITOBA PUBLIC INSURANCE
CORPORATION'S APPLICATION FOR APPROVAL OF
RATES AND PREMIUMS CHARGED FOR COMPULSORY
DRIVER AND VEHICLE INSURANCE COMMENCING
MARCH 1, 2007, AND APPROVAL OF INTERVENERS

EXECUTIVE SUMMARY

By this Order, the Public Utilities Board of Manitoba (Board) establishes a timetable for a public hearing of Manitoba Public Insurance Corporation's (MPI) application for approval of its rate bases and premiums to be charged on compulsory driver and vehicle insurance commencing March 1, 2007.

The Board also accepts interveners to the hearing process and provides such interveners with direction and comments pertaining to expectations and suggestions.

INTRODUCTION:

The Public Utilities Board of Manitoba (Board) held a Pre-Hearing Conference (PHC) at its offices in Winnipeg, Manitoba on Friday, June 23, 2006 at 9:00 a.m. to review and:

- a) approve a timetable for a public hearing of Manitoba Public Insurance Corporation's (MPI) application for approval of its rate bases and premiums to be charged on compulsory driver and vehicle insurance commencing March 1, 2007; and
- b) consider applications from prospective interveners and matters related thereto.

This Procedural Order flows from this PHC.

The following exhibits were entered into the record:

- a) Notice of Public Hearing and PHC dated June 9, 2006 - Exhibit #1;
- b) the Board's Rules of Practice and Procedure - Exhibit #2; and
- c) a proposed timetable - Exhibit #3.

Parties seeking Intervener status were asked to:

- i) indicate their constituency;
- ii) indicate the areas of the application they intended to test;
- iii) provide their reasons for requesting Intervener status;
- iv) specify plans to call evidence; and
- v) indicate their intentions with respect to awards of costs.

The Board advised prospective interveners that in awarding costs the Board will employ its published criteria for such awards. The Board noted that the costs of the regulatory process flow through to the ratepayers, and indicated a thorough yet cost-effective hearing process will be sought. The Board suggested an effective hearing would be best achieved through the cooperation of interveners with the Board and each other, and through the avoidance of duplication of effort.

The following parties applied for Intervener status:

1. Consumers' Association of Canada (Manitoba) Inc./Manitoba Society of Seniors (CAC/MSOS), represented in person at the PHC by its counsel, Mr. Byron Williams, (accompanied by Ms. Myfanwy Bowman);
2. Coalition of Manitoba Motorcycle Groups (CMMG), represented in person at the PHC by its counsel, Mr. Raymond Oakes;
3. Manitoba Bar Association (MBA) represented in person at the PHC by its counsel, Mr. Robert Dawson;
4. Manitoba Used Car Dealers Association (MUCDA) represented in person at the PHC by Mr. Nick Roberts;
5. The Manitoba Chiropractors' Association (MCA) represented in person at the PHC by its counsel, Ms. Pamela Reilly;
6. Resource Conservation Manitoba/Time to Respect Earth's Ecosystem (RCM/TREE), represented in person at the PHC by Prof. Peter Miller;
7. Scootering Manitoba, which was not represented at the PHC but subsequently sought status; and
8. Canadian Automobile Association Manitoba (CAA), represented in person at the PHC by Mr. Michael Mager and Ms. Jeanie Dalman.

MPI was represented at the PHC by its President, General Counsel and Director of Actuarial Services (Ms. M. McLaren, Mr. K.M. McCulloch and Mr. Don Palmer, respectively).

APPLICATIONS FOR INTERVENER STATUS

1. CAC/MSOS

CAC/MSOS reported its reasons for intervention to be:

- a) assess whether the proposed premiums are just and reasonable;
- b) assess MPI's projected revenues and expenses from the perspective of reasonableness, necessity and prudence;
- c) consider the appropriate mechanism for setting the Rate Stabilization Reserve;
- d) assess whether projected future savings from the immobilizer program should affect upcoming rates;
- e) loss prevention issues;
- f) MPI's 2007-08 business plan;
- g) assess the reasonableness of MPI's investment strategy;
- h) issues related to the Personal Injury Protection Plan (PIPP), including claims control and service quality; and
- i) Driver and Vehicle Licencing (DVL) related issues.

CAC/MSOS indicated it would appear throughout the hearing, participate in the testing of evidence and present final argument. CAC/MSOS stated that it will not call a witness but will engage expert consultation for preparation of interrogatories and cross-examination, and will seek a cost award estimated to be in the range of \$55,000 to \$78,000.

MPI did not oppose the granting of Intervener status to CAC/MSOS, and the Board will grant Intervener status to CAC/MSOS.

2. CMMG

CMMG indicated its focus to be assisting the Board in critically evaluating MPI's methodology and data, particularly in relation to cost allocation. CMMG reported that it will appear throughout the hearing, test the evidence and present final argument. CMMG indicated that while it will not call a witness, it will use consulting services.

CMMG advised it will seek an award of costs, and submitted a budget of \$25,500 inclusive of expert advisory services of approximately \$7,000. MPI did not oppose the granting of Intervener status to CMMG, and the Board will grant status.

3. MBA

MBA indicated it will test the evidence, participate throughout the hearing, and make submissions and argument regarding the sufficiency, reasonableness, and/or necessity of the applicant's anticipated expenses in light of MPI's statutory mandate, objectives and standards of ratepayer satisfaction, and the public interest.

MBA indicated its focus to be:

- a) issues arising out of the handling of claims; and
- b) public policy and legal issues.

MBA advised that it may not call a witness, but will collaborate and co-operate fully with CAC/MSOS and MCA, with a view to minimizing duplication and regulatory costs. MBA indicated it will seek a cost award, and provided a budget of approximately \$22,000.

MPI did not object to the granting of Intervener status to MBA, and the Board will grant status with the provision that MBA confirm its intentions with respect to a witness.

4. MUCDA

MUCDA reported its interests relate to Dealer Plate premiums, the loss transfer cost allocation methodology and MPI's immobilizer program. MUCDA reported its intentions to appear throughout the hearing, test the evidence and make final argument. MUCDA advised that it will neither call a witness nor apply for costs

MPI did not object to the granting of Intervener status to MUCDA, and the Board will grant status.

5. MCA

MCA indicated its intentions, that being to assist the Board in testing MPI's financial forecasts and rate setting methodology from the perspective of an injured claimant accessing medical benefits.

MCA indicated it will appear throughout the hearing, test the evidence and present final argument. MCA reported that it may call a witness and will seek an award of costs (proposed budget, approximately \$23,000).

MPI expressed the following reservations with respect to MCA's application:

- a) the contractual relationship between MCA and MPI risks commercial interests detracting from the general objectives of the hearing;
- b) MBA's intervention may cover the same ground and constituency as MCA;
- c) MCA's advocacy role for chiropractic medicine and the potential impact on objectivity;
- d) the risk that MCA may attempt to use the process in an attempt to obtain confidential information it has been unable to obtain through other venues; and
- e) MCA's interest in a cost award, considering MCA's membership and available resources.

While the Board will grant Intervener status to MCA, it respectfully reminds MCA, a new intervener, of the Board's expectation that interveners work co-operatively with each other. Furthermore, the Board encourages MCA to review the Board's Rules of Practice and Procedure, specifically Section 43 respecting the awarding of costs. Awards of costs are entirely at the discretion of the Board and the Board has had a practice of not awarding costs to interveners representing a party with commercial interests and means.

6. RCM/TREE

RCM/TREE indicated its interests continue to be sustainability and, in particular, the relation of sustainability to the "pay as you drive" insurance concept.

RCM/TREE reported an intention to appear throughout the hearing, test the evidence and present final argument. RCM/TREE indicated that it neither call a witness nor seek an award of costs.

MPI suggested that RCM/TREE's intervention may be premature given that MPI will not present any proposal with respect to the pay-as-you-drive insurance concept at the hearing.

The Board, mindful of the applicability of The Sustainable Development Act to both the Board and MPI and RCM/TREE's demonstrated knowledge base in the area, will grant Intervener status to RCM/TREE. Given RCM/TREE's not-for-profit status and demonstrated cost effective interventions, the Board suggests that RCM/TREE consider applying for costs with respect to any out-of-pocket disbursements it incurs through its intervention.

7. Scootering Manitoba

While Scootering Manitoba did not attend the PHC, it subsequently expressed interest in participating indicating an intention to examine the significant premium increases proposed for mopeds and motor scooters, from the perspective

of "rate shock". Scootering Manitoba intends to examine the evidence and make closing argument towards ensuring fairness and equity.

Scootering Manitoba reported that it will not call a witness or apply for costs. The Board, noting that Scootering Manitoba has been a responsible intervener in past hearings, will grant Intervener status to Scootering Manitoba.

8. CAA

CAA reported its intention to maintain a "watching brief" through the hearing, reserving the ability to make closing argument, but will not apply for a cost award.

MPI advised it did not object to the granting of Intervener status to CAA, and the Board will grant status.

BOARD COMMENTS

Regulatory efficiency is a continuing objective for the Board, and all reasonable efforts should be made by parties seeking cost awards to keep their costs at reasonable levels. Cost awards are met by MPI and form a cost component in rates.

While the awarding of costs is a post-hearing consideration and is at the discretion of the Board, the Board prefers interveners seek guidance from Board staff prior to engaging expert witnesses and consultant advisors with respect to intended major areas of investigation, time allotments and professional rates. And, as in the past, the Board will expect

a high degree of co-operation amongst interveners to avoid duplication.

There are two schedules attached, namely:

- a) Schedule A, being the established timetable; and
- b) Schedule B, being the procedures to be followed.

TIMETABLE

A proposed timetable was submitted by MPI for review at the PHC. CAC/MSOS, supported by other interveners, sought a three-day extension to the date for pre-filing expert testimony. MPI objected, noting that this extension would reduce the time MPI will have to prepare rebuttal evidence.

The timing of the annual MPI hearings usually requires interveners to engage consultative advice during the summer. The Board appreciates that effective intervention may involve the retention of effective advisors, and that by restricting the rates the Board may agree to pay, yet imposing a work schedule that encompasses the labour day weekend, recruitment could be unduly hindered.

Accordingly, and notwithstanding the Board's appreciation of MPI's scheduling difficulties, in the interest of improving the likelihood of effective interventions, the Board will approve CAC/MSOS' request.

SCHEDULE "A"

MANITOBA PUBLIC INSURANCE

**PROPOSED TIMETABLE
2007 RATE APPLICATION**

	ITEM	2006 DATES	DAY OF WEEK	ELAPSED WORKING DAYS
1.	Application filed and served	June 14	Wednesday	0
2.	Notice of Public hearing to be published	June 17	Saturday	2
3.	a) Pre-hearing Conference	June 23	Friday	6
	b) Interveners complete Registration	June 23	Friday	
	c) Settle Hearing Procedure and exchange of information timetable	June 23	Friday	
	d) Discuss possibility of joint intervention	June 23	Friday	
4.	Board to circulate list of Interveners, complete timetable to Interveners and applicant	June 29	Thursday	10
5.	Last day to file as an Intervener	June 29	Thursday	
6.	MPI to be in receipt of first round information requests	July 5	Wednesday	14
7.	MPI to provide response to first round information requests	July 31	Monday	32
8.	MPI to be in receipt of second round information requests	August 11	Friday	41

9.	MPI to publish reminder notice and any amendments to application	August 26	Saturday	52
10. a)	MPI to file responses to second round information requests	September 1	Friday	56
b)	MPI to file and serve any further amendments to application, if required	September 1	Friday	
11. a)	Interveners to file pre-filed testimony to all parties	September 8	Friday	61
b)	Parties to file any motions	September 8	Friday	61
12.	Interveners to be in receipt of information requests from all parties	September 15	Friday	66
13.	Board to hear all motions	September 18	Monday	67
14.	Board decision on motions, meeting among Counsel, if required	September 25	Monday	72
15. a)	MPI to file rebuttal evidence	September 25	Monday	
b)	Interveners to provide responses to all information requests	September 25	Monday	
16.	Hearing commences	October 2	Monday	77

SCHEDULE "B"

**PROCEDURES TO BE FOLLOWED AT THE
MANITOBA PUBLIC INSURANCE CORPORATION
2007 INSURANCE RATE HEARING**

1. Hearing and Rural Meetings:
 - a) Winnipeg hearing will be held at the Board's office, 4th floor, 330 Portage Avenue, Winnipeg, commencing on October 2, at 9:00 a.m. and continuing thereafter as necessary.
 - b) Rural Meetings (if necessary) - time, location and place to be identified.
2. Hearing Times Each Day: 9:00 a.m. to 12:00 Noon
1:30 p.m. to 4:30 p.m.
(amendments may be made by the Board at the hearing)
3. Assigned Sittings: Presenters will be heard commencing at 1:30 p.m. and at 7:00 p.m., Tuesday, October 3, 2006, if necessary.
4. Opening Statements by Board Counsel, by Counsel for MPI and other Counsel or representatives of registered interveners.
5. (a) MPI to file their application and supporting evidence.

(b) MPI to introduce witnesses. Board Counsel and interveners to cross-examine the Corporation's witnesses (order to be determined).

6. (a) Leading of testimony by witnesses for interveners, if any, will be in alphabetical order by name of interveners and updated as necessary.
- (b) Witnesses to be available for cross-examination by all parties following each presentation.
7. All interrogatories are to be filed and responded to using the prefixes as assigned by the Board when interveners are registered (set out in the body of the Order). The party requesting information is to use firstly their prefix followed by the prefix of the party being asked e.g. PUB/MPI, etc. Interrogatories are to be numbered sequentially through 1st and 2nd rounds.
8. All pre-filed evidentiary material to be filed at the commencement of the hearing by Board Counsel using assigned prefixes.
9. All witnesses to highlight their evidence.
10. All witnesses to be sworn or affirmed.
11. Daily transcripts will be available. Parties to make arrangements with the Reporter. Transcripts can be found at www.pub.gov.mb.ca at no charge.
12. It is the Board's request that all motions be dealt with pursuant to the Board's Timetable.
13. Board Order No. 163/87 (available at the Board's office) dealing with the Awarding of Costs will apply to all matters before the Board.
14. The Board indicates its willingness to be available for any problems that may arise during the exchange of information at any time, such time to be arranged through Board Counsel.
15. ONLY five (5) copies of material are to be submitted to the Board's offices and five (5) copies are to be submitted to Board Counsel at the following address: Attention: Walter Saranchuk, Q.C., Pitblado, 2500 - 360 Main Street, Winnipeg, MB R3C 4H6

16. Except for all material required to be filed by MPI as previously arranged by MPI and the evidence of parties, electronic copies are acceptable where available and the Board's e-mail address is publicutilities@gov.mb.ca