

MANITOBA)
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THE PUBLIC UTILITIES BOARD ACT)
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THE MANITOBA PUBLIC INSURANCE)
CORPORATION ACT)
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THE CROWN CORPORATIONS PUBLIC)
REVIEW AND ACCOUNTABILITY ACT)

Order No. 145/03

October 6, 2003

BEFORE: G.D. Forrest, Chairman
E. Jorgensen, Member
D. Côté, Member

**MANITOBA PUBLIC INSURANCE 2004/2005 GENERAL RATE APPLICATION
MOTION OF MANITOBA CAR AND TRUCK RENTAL ASSOCIATION AND
COALITION OF MANITOBA MOTORCYCLE GROUPS**

1.0 APPEARANCES

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Kathy L. Kalinowsky

Counsel for the Manitoba Public Utilities Board
(the "Board")

K. McCulloch

Counsel for Manitoba Public Insurance
Corporation ("MPIC")

R. Oakes

Counsel for Coalition of Manitoba Motorcycle
Groups ("CMMG")

J. Foran, Q.C.

Counsel for Manitoba Car and Truck Rental
Association ("MCTRA")

2.0 BACKGROUND

Procedural Order 111/03, dated July 3, 2003 respecting MPI's General Rate Application ("GRA") for approval of Vehicle and Drivers' Premiums to become effective March 1, 2004 established the deadline for filing of motions to be September 19, 2003.

On September 19, 2003, MCTRA filed two motions for consideration of the Board. One of MCTRA's motions sought to exclude any evidence relating to discussions and communications between representatives of MCTRA and MPI and, more particularly, a meeting between Mr. Peter J. Wintemute, FCA, witness for MCTRA and Mr. Jack W. Zacharias, President and Chief Executive Officer of MPI, in furtherance of resolving outstanding issues. In the other motion MCTRA sought an Order of the Board compelling MPI to provide full and adequate responses to several information requests submitted by MCTRA.

As well, the CMMG filed a motion seeking an Order of the Board compelling MPI to provide full and adequate responses to several information requests submitted by CMMG.

Copies of the motions were forwarded to all parties of record. With the concurrence of CMMG, MCTRA, and MPI, the Board set the matter down for hearing on September 29, 2003 at 1:30 p.m. in the Board's offices.

3.0 MCTRA MOTION RESPECTING THE EXCLUSION OF CERTAIN EVIDENCE

At the commencement of the hearing, counsel for MCTRA stated that after further consideration, MCTRA was withdrawing its motion to exclude evidence relating to discussions and communications between representatives of MCTRA and MPI. MCTRA counsel indicated that he had reached an understanding with counsel for MPI that advance notice would be given to MCTRA should the matter arise during the hearing. This notice would allow counsel for MCTRA to consider the matter and to pursue the relevance of such evidence before the Board at that time. Any subsequent motions could then be dealt with by the Board at the GRA hearing.

4.0 MCTRA MOTION RESPECTING INFORMATION REQUEST RESPONSES

MCTRA submits that MPI has not adequately responded to various information requests as required by Rule 15(1)(a) of the Board's Draft Rules of Practice and Procedure.

4.1.0 Information Request MCTRA/MPI I-25

MCTRA requested MPI to provide full particulars of methodology used, the resources expended and the alternatives considered in providing the information related to the allocation of Claims Expenses as shown in Section SM.8.7, Volume I of the GRA. MCTRA contended that MPI had not complied with Order 203/02 that stated:

“The Board will, however, direct MPI to review the allocation of Claims Expenses to assess if it is more reasonable to allocate a fixed amount to some specified level and then to allocate the remainder on the basis of a percentage of remaining Claims Costs.”

MCTRA contends that MPI had not provided a proper reply to this information request and that such a response was necessary to enable MCTRA to determine if the review was meaningful and in compliance with Order 203/02.

4.1.1 MPI Position

MPI submitted that the information contained in Volume I, Section SM.8.7 satisfied the requirements of Order 203/02. MPI submitted that it had assessed the matter of allocation Claims Expenses on a fixed/variable basis and had concluded that approach was no more reasonable than the existing MPI allocation. MPI also suggested the current method of allocating claims expenses used by MPI was fair, reasonable and equitable.

4.1.2 Board Findings

The Board notes MPI's position that this is in compliance with Order 203/02. The Board is of the view that the information sought by MCTRA can be pursued during cross-examination at the

GRA hearing. It is for MCTRA and others to argue and for the Board to decide whether the information submitted by MPI in this application meets the requirements of Order 203/02.

4.2.0 Information Request MCTRA/MPI II-59

MCTRA requested a copy of the industry standard by the Insurance Bureau of Canada in order to fully understand the MPI response and to determine whether this standard supports MPI's position that the cost of administering claims is dependent on the cost of the claim.

4.2.1 MPI Position

MPI stated that the matter of cost allocation had been reviewed by the Board in 1998, and that a consultant's report concluded MPI's cost allocation was appropriate and in accordance with guidelines of insurance industry organizations in Canada and the U.S. Counsel for MPI submitted a copy of the consultant's report for review by MCTRA.

4.2.2 Board Findings

The Board notes MCTRA's position that this consultant report did not address MCTRA's concerns. The Board agrees that the report only considered the appropriateness of MPI's allocation of Claims Expenses between the Basic Program and MPI's two competitive business lines. In the Board's view, this report does not provide the necessary detail requested by MCTRA, in respect of the allocation of claims expenses by major insurance use. The Board will therefore require MPI to file the industry standard respecting allocation of claims expenses between major insurance uses. If there is no documented industry standard, then MPI is to confirm the standard practice utilized by the industry.

4.3.0 Information Request MCTRA/MPI II-63

In respect of this information request concerning the external actuary's report to MPI, MCTRA stated that MPI failed to identify what assumptions are based on historical trends and what assumptions are based on management estimates. Additionally, MCTRA sought a schedule

setting out the factor and assumption changes used in support of deferred acquisition expense and deferred policy acquisition cost. MCTRA submitted this schedule is necessary in order for MCTRA to understand and assess the appropriateness of any adjustments made by MPI's external actuary.

4.3.1 MPI Position

MPI stated that the entire process surrounding the preparation of the external actuary's report is collaborative and it is not possible, practical, nor relevant to differentiate between historical trends and management assumptions. The actuary considers all information sources including historical trends internal actuary's analyses, current economic climate, program changes and other factors. Discussions with management are a standard and normal procedure in the preparation of such reports. However, MPI submitted that ultimately, the external actuary must be satisfied that all elements are reasonable and in accordance with accepted actuarial practices, or otherwise the actuary would not be able to sign off on the report.

4.3.2 Board Findings

The Board understands that there are numerous assumptions, in addition to historic analyses that constitute the basis for an actuarial assessment of the adequacy of the many elements of an insurance corporation's operation, including reserves, unpaid claims, unearned premiums, and deferred policy acquisition costs. The Board is also of the view that any report must be considered in its totality, considering all input data, without attempting to isolate certain elements. The Board also considers it is the professional responsibility of an external actuary to assess the reasonableness of all data, be it provided by management or based on historic trends.

The Board sees little value in attempting to isolate certain elements respecting deferred acquisition expense and deferred policy acquisition cost as this information is already provided in the application and clarification can be obtained during the hearing through the cross-examination process.

4.4.0 Information Request MCTRA/MPI II-66

MCTRA had requested a detailed explanation of the accounting and management information systems for MPI's Fleet Program. In response MPI provided certain information and confirmed MPI's internal auditors had audited the system. MCTRA requested MPI to file the internal auditor's report, but MPI declined to do so. MCTRA contended it was necessary to have this report filed, especially where there is no external audit performed, to enable MCTRA and others to assess the validity of the data used to calculate rebates in respect of MPI's Fleet Program. MCTRA also stated this was not a unique request.

4.4.1 MPI Position

MPI emphasized that the internal audit covers a broad scope of activities, and is prepared to assist management in various aspects. MPI expressed the view that if such documents were to be made public, the effectiveness of the internal audit function would be severely compromised. MPI urged the Board carefully weight the potential harm that could result by allowing the documents to become public. Any questions concerning the internal audit could be pursued in cross-examination.

4.4.2 Board Findings

The Board is not prepared to order production of this internal audit report. If MCTRA has concerns with the question of the extent to which the Fleet Program was reviewed in that report, they can be canvassed in cross-examination. The Board will allow great latitude during this process to afford MCTRA the opportunity to obtain the relevant information.

5.0 CMMG MOTION RESPECTING INFORMATION REQUEST RESPONSES

CMMG's motion asked the Board to Order MPI to provide a full and adequate response to certain of its information requests pursuant to Section 15(1) and Section 21 of the Board Draft Rules of Practice and Procedure. CMMG stated that the standard for disclosure should be the

very highest degree of compellability since this GRA requests one of the highest increases ever sought for any major class.

5.1.0 Information Request CMMG/MPI II-1

CMMG had requested particulars of all personnel contacted by the external actuary for the loss transfer study. CMMG stated it required the information to assess the thoroughness of the study, and the basis of the statements respecting the use of loss transfer in other jurisdictions in Canada.

5.1.1 MPI Position

MPI indicated the external actuary's report stands on its own. MPI contended that the report represents the results of a review conducted by an expert and that the conclusions represent the practices of other jurisdictions respecting loss transfer.

5.1.2 Board Findings

The Board is of the view that the external actuary's report does stand on its own. The report was submitted by MPI in support of this application and the Board will assess the appropriate weight to be given to it during the hearing. The Board notes that CMMG has retained the services of an actuary, and any differing views respecting loss transfer can be put forward by that individual. The Board will therefore not require MPI to respond to this request.

5.2.1 Information Requests CMMG/MPI II-11 and CMMG/MPI II-14

CMMG had requested MPI to provide the 25 highest premiums charged to motorcycle owners on a non-merit basis, and to provide examples of those receiving increases of 30%. CMMG had requested MPI to provide the specific make, model and year of motorcycles identified, but MPI declined to do so. CMMG contended this information had been provided for cars and light trucks, and should therefore be provided for motorcycles.

5.2.2 MPI Position

MPI stated this would result in having to identify 636 motorcycles and would require considerable resources and time to complete. MPI also stated that motorcycle classes are determined by engine displacement and owner declared value, unlike cars and light trucks. Thus the information request would not provide any information with respect to anomalies, and would be of no relevance to the design of motorcycle rates.

5.2.3 Board Findings

The Board is concerned that the time and effort required to generate all the details requested by CMMG would not result in any major benefit being derived. The Board will, however, take up counsel for CMMG's concession to limit his request to 25 different examples.

5.3.0 Information Requests CMMG/MPI II-67, CMMG/MPI II-68 and CMMG/MPI II-69

CMMG requested MPI to refile Table TI.2 using numerous financial assumptions including inflation rates and capping of management salaries. MPI suggested that the requested scenarios would have no positive impact on the net income, as the GRA request anticipates a \$13.7 million operating loss. After considering MPI's response, CMMG withdrew this request from the motion.

5.4.0 Information Requests CMMG/MPI II-88 and CMMG/MPI II-89

CMMG had requested MPI to provide data concerning changes in loss development ratios over the last nine years with respect to post-PIPP coverages, by cover, for various ages of claims and to provide a comparison of actual versus forecast loss development factors under various other circumstances. CMMG submitted this information is necessary to allow for an assessment by CMMG's actuary. CMMG suggested its request would be less costly and time consuming than having CMMG's actuary manually enter the information.

5.4.1 MPI Position

MPI stated this information is contained in this GRA and in prior GRAs. MPI suggested that if CMMG required further information, it was all on the public record. CMMG and not MPI should spend resources to obtain the information. The Board could then assess the value that this additional information brought to the process when assessing the award of intervenor costs.

5.4.2 Board Findings

The Board agrees with MPI that the information sought is in the public record. The Board is of the view CMMG should assess the importance of this material to its position, and decide whether to present additional evidence utilizing its own resources. The Board will assess the merits of the material when considering intervenor cost awards.

5.5.0 Information Requests CMMG/MPI II-100 and CMMG/MPI II-102

CMMG had requested MPI to refile TI.2 using a 2.5% rate increase with a \$45,000,000 unrealized capital gain considered as investment income, and a separate TI.2 for different investment rates of return. CMMG stated this would result in lower rates and rate stability.

5.5.1 MPI Position

MPI stated capital gains should flow into the income stream only when investments are realized. MPI further contended using unrealized capital gains in the manner suggested would result in reduced future investment income, thereby contributing to rate instability. MPI submitted the requested varying rates of return scenarios are not relevant to this GRA, as these rates were designed using documented inputs and assumptions.

5.5.2 Board Findings

The Board notes that MPI's accounting policy related to its investment portfolio is to recognize gains or losses on investments on the date of sale. This accounting treatment is in accordance

with Generally Accepted Accounting Policies. The Board is of the view that the information requested by CMMG related to restating TI.2 reflecting unrealized gains is not useful in setting rates as market values may differ substantially from March 1, 2004 to the date that the investments are ultimately sold. Further, MPI does not recognize unrealized gains on its investment portfolio and to suggest such recognition in restating TI.2 would be contrary to MPI's accounting policy.

The Board also does not believe there is merit in recasting the investment income based on 12.61% and 13.61% of premiums instead of 11.61%. The Board shares the view of MPI that there is no evidentiary basis presented that the higher returns are attainable. The Board therefore will deny CMMG's request to provide any additional response to CMMG II-102.

5.6.0 Information Request CMMG/MPI II-104

CMMG had requested MPI to recalculate the rates in TI.2 to reflect the allocation of investment income based on outstanding reserves for each major use. CMMG stated it required this information to test the equity of motorcycle and other rates.

5.6.1 MPI Position

As with the previous request, MPI submitted this issue was not relevant to this GRA, as the rates were designed using documented inputs and assumptions. Further MPI states that because actual motorcycle rates have been considerably below indicated rates for many years, motorcycle premiums were insufficient to fund to their own reserves. Therefore, MPI submitted other major use classes have been subsidizing motorcycles over several years.

5.6.2 Board Findings

The Board is of the view that since motorcycles have not contributed to reserves for at least the last decade, they would not likely benefit from the approach CMMG advocated. The Board is therefore not prepared to require a departure from the current practice and will deny CMMG's request.

5.7.0 Information Request CMMG/MPI II-106

CMMG requested MPI to provide a 5-year rate history for various specific vehicles and various major and insurance use categories, including motorcycles. CMMG requested this data to compare rate stability between motorcycles and other vehicle classes.

5.7.1 MPI Position

MPI did not respond, stating all information requested is a matter of public record and MPI should not be compelled to summarize existing data at its own cost.

5.7.2 Board Findings

The Board agrees all information related to rate comparisons between vehicle classes is available, and is readily and easily accessible by any interested party. The Board will not require MPI to respond to this request.

5.8.0 Information Request CMMG/MPI II-108

CMMG requested MPI to refile TI.2 under another set of financial assumptions, a request similar to that of CMMG/MPI II-67 to II-69.

5.8.1 MPI Position

MPI suggested this request should be withdrawn as was the case with CMMG/MPI II-67, II-68 and II-69.

5.8.2 Board Findings

The Board will not require MPI to respond to this information request as it essentially asks MPI to produce information which the Board considers will be of limited value in this GRA, given the nature of the request related to a forecast net operating loss.

5.9.0 Information Requests CMMG/MPI II-115, CMMG/MPI II-116 and CMMG/MPI II-117

CMMG requested MPI to refile Table T1.2 showing rates using a different cost allocation methodology and direct compensation approach for physical damage and injuries purported to be used in Quebec and Ontario. CMMG contended this would give valuable insight into other allocation methods and the matter of rate equity for motorcycles.

5.9.1 MPI Position

MPI declined to provide the information because the applied for rates were designed using documented inputs and assumptions. Any undertaking would require a huge work effort and there would be little value derived from this.

5.9.2 Board Findings

The Board accepts that a huge work effort would be required relative to this request and given the questionable benefit to be derived, the Board will not require MPI to respond to these information requests.

6.0 IT IS THEREFORE ORDERED THAT:

1. The request by MCTRA for MPI to respond to Information Request MCTRA/MPI II-59 BE AND IS HEREBY ALLOWED.

2. The requests by MCTRA for MPI to respond to Information Requests MCTRA/MPI I-25, II-63 and II-66 BE AND ARE HEREBY DENIED.

3. The requests by CMMG for MPI to respond to Information Requests CMMG/MPI II-1, II-89, II-102, II-104, II-106, II-108, II-115, II-116 and II-117 BE AND ARE HEREBY DENIED.

4. The requests by CMMG for MPI to respond to Information Requests CMMG/MPI II-11 and II-14 BE AND ARE HEREBY ALLOWED to the limited extent of 25 examples in each case.

THE PUBLIC UTILITIES BOARD

“G.D. FORREST”

Chairman

“G.O. BARRON

Secretary

Certified a true copy of Order No. 145/03 issued by
The Public Utilities Board

Secretary