

M A N I T O B A

THE PUBLIC UTILITIES BOARD ACT

THE MANITOBA PUBLIC INSURANCE ACT

**THE CROWN CORPORATIONS PUBLIC
REVIEW AND ACCOUNTABILITY ACT**

Order No. 145/10

December 31, 2010

Before: Graham Lane, CA, Chairman
Len Evans, Member

**MANITOBA PUBLIC INSURANCE: COMPULSORY 2010/11
DRIVER AND VEHICLE INSURANCE PREMIUMS AND OTHER MATTERS
SUPPLEMENTARY ORDER**

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PREAMBLE

The Public Utilities Board (Board) makes this Order, supplementary to Order 122/10 which was issued on December 8, 2010 (the First Order), to reflect the Board's recommendations to MPI and, as well, to provide further commentary and more detailed reasons for the Board's rate-related decisions.

This Order is best read in the context of Order 122/10.

1.0 MAJOR CHANGES IN MPI SINCE 1988

MPI was incorporated in 1971 and began operations in 1972, following a contentious “public” and legislative debate. The rationale for “mandatory insurance” (delivered through a Crown monopoly) was displeasure with the rates, coverage and service provided by private automobile insurers operating in the Province. Initially, brokers opposed the bill establishing “Autopac” vigorously, and continued their opposition until the initial plan (which had the Crown Corporation dealing directly with policyholders and “putting brokers out of business” with respect to the mandatory plan) was changed, and reliance on brokers was retained, with a commission schedule sufficient to satisfy brokers.

Over time, MPI expanded its scope of coverage by developing other lines of business including Extension, SRE, general property and liability insurance and reinsurance assumed. These other lines of business were to be conducted on a competitive basis, with private insurers also allowed to offer those products in the Province.

In its 1985/86 fiscal and insurance year, MPI incurred a large loss on Autopac operations, which generated a negative public reaction. The loss led to major changes to the mandatory program, including a large increase in the Basic deductible (not changed since) and the introduction of a bonus/malus approach involving discounts and surcharges for drivers (since replaced by the Driver Safety Rating program or DSR). The loss and the subsequent product changes, together with a large overall vehicle rate increase, contributed to significant public discourse on public automobile insurance.

The discourse was furthered by the Autopac Review Commission (“Kopstein Commission”), which involved a review of both MPI operations and the legislated approach to automobile insurance in the Province. Judge Kopstein recommended a total no-fault system.

Subsequent to a provincial election and a change in government, the advent of the involvement of the Public Utilities Board (PUB) took place, commissioned (from 1988 onward) to hold annual public rate hearings and set Basic premium rates and fees.

In 1988, there was another change that took place that was neither well known nor fully understood as to its implications. Extra-provincial commercial and P.S.V. (Public Service Vehicles) trucks and buses were provided an exemption from Basic insurance. While there may well be strong economic reasons to do so from a provincial/government perspective, the change resulted in Basic Autopac no longer being a universal mandatory insurance plan, and costs were (and still are) being incurred annually that should be allocated to non-insurance operations and, in the view of the Board, should be recovered from the Province.

In 1994, when primary reliance on the tort system was abandoned in favour of a “total no-fault” system, Personal Injury Protection Plan (PIPP) costs began to develop on an annual basis with respect to those extra-provincial commercial and P.S.V. trucks and buses that had been exempted in 1988 from Basic. In particular, PIPP benefits are being provided without the costs being reflected in premiums charged to the owners of those vehicles. This represents a subsidy of costs related to those exempted vehicles paid by all other vehicle owners.

It is important to note (see Board Order 151/00 – which may be accessed on the Board’s website, www.pub.gov.mb.ca) that PIPP coverage includes payments on a third party basis to claimants injured in accidents “caused by Manitoba motorists beyond Manitoba’s borders”.

In the General Rate Application (GRA) proceeding resulting in Order 151/00, it was reported that “the forecast claims (*related, presumably, at least in part, to PIPP coverage for occupants of the exempted vehicles*) have been projected to increase from \$6.8 million in fiscal 2001 to \$8.4 million in fiscal 2002. The results are attributed by the Corporation to the low frequency – high severity nature of those claims resulting in high variability.”

The Board is unaware (the matter was not so directly addressed in any other Order arising out of a GRA) if a similar volume of annual third-party PIPP claims related to claimants injured in accidents “caused by Manitoba motorists beyond Manitoba’s borders” is still being incurred, this on top of the average \$2 million of PIPP claims paid to Manitoba interprovincial truckers each year.

In the initial years of Board involvement, there were numerous private insurers offering Extension and SRE policies “in competition with” MPI. However, over the past twenty two years, the share of the Extension and SRE market held by private insurers has fallen dramatically; the three private writers with the largest volume in 1988 are no longer operating in the Province and the present three largest private writers develop volumes of less than \$2 million each.

As well, in the past MPI offered general property and liability insurance, and, in that field, MPI was not the dominant insurer, nor was it “dominant” with respect to the reinsurance assumed business (wherein MPI lost approximately \$55 million). A few years after a large loss recorded in 1985/86, MPI left the general property and liability insurance field and no longer participated in the reinsurance assumed field.

Thereafter, MPI’s continuing lines of business included Basic mandatory insurance (delivered on a monopoly basis), and the Extension and SRE lines of business (offered in competition with private insurers). The Government continued to administer DVL services (vehicle registration and driver licensing).

From MPI’s inception to 1994, the tort system governed accident benefit payments, which involved court decisions and lawyers representing claimants. Through a series of court judgments, inflation and ongoing high accident levels, annual claims incurred increased dramatically over the years – leading to premium increases that led to policyholder and electorate distress. Upon forecasts of even higher premiums being required, the Government of the day brought in “total no-fault” to replace the tort system in 1994, and this largely took lawyers out of the claims settlement business.

The introduction of total no-fault led to “long-tail” claims (PIPP claimants can receive benefits arising out of an accident, and on a “no fault” basis, for as long as the remainder of their lives), and to the rapid development of large unpaid claims provisions and investment portfolios. As a

result, over time, investment income expectations have become a major component of MPI's revenue and an important consideration within the Corporation's annual rate applications for Basic automobile insurance.

Also over time, MPI brought in on-line services allowing brokers to interact electronically with MPI, providing for faster and more efficient processing of annual insurance policies and the collection of registration and driver premiums and fees.

Initially (and for an extended period of time) the Province compensated MPI for its costs of compensating brokers for collecting driver registration and license fees on behalf of the Province, and the Province operated an extensive bureaucracy to regulate drivers and vehicles.

As the ease (for brokers) of transacting business with MPI increased, the percentage of the total volume of Extension automobile business written in Manitoba by private insurers gradually decreased; 2009 information indicates that MPI held 95% of the Extension market, with no private insurer having even a 0.5% share.

In 2005, the government transferred responsibility for the administration of DVL to MPI, and MPI chose to place DVL operations within the Extension line of business to "keep it out of the purview of PUB" (per the oral evidence of the former Vice-President and Chief Financial Officer of MPI at the time).

Ahead of that transfer, the Province discontinued compensating MPI for its costs of compensating brokers for collecting registration and driver license fees on behalf of the Province. In the GRA proceeding that followed the DVL transfer, MPI advised the Board that it anticipated incurring a cost of \$40 million (over five years) as a result of the transfer, because the "agreement" with the Province provided for annual payments to MPI by the Province of \$21 million (and that amount neither increased to meet inflation nor was expected to meet MPI's total cost of administering DVL).

Prior to the transfer of DVL to MPI, MPI's practice had been to transfer deemed "excess" retained earnings from Extension and SRE to Basic's Rate Stabilization Reserve (RSR). Following the DVL transfer, MPI declined to continue the transfers and, as well, refused to

provide the Board with forecasts of future annual net income for Extension and SRE operations (in the past, such forecasts were provided).

In 2006, MPI initiated its anti-theft campaign (which involved immobilizers at a multi-year cost of \$50 million to MPI and its ratepayers) and the WATSS program (a Winnipeg-based effort involving MPI, the Winnipeg Police Service, and the Provincial Justice department, towards suppressing automobile thefts), with most of the costs assigned to MPI (the program continues).

In 2007, as a result of changes to generally accepted accounting principles for governments, MPI became part of the overall “government enterprise” for the government’s own annual fiscal and budgetary reporting. MPI’s net income is now reported as part of the Government’s, regardless of the fact that Government is statute-barred from withdrawing MPI’s net income to its own account (at least directly).

In 2009, MPI announced an agreement with brokers (reflecting changes in driver and vehicle licensing requirements) that is expected to result in motorists only having to visit a broker once every five years. Under the agreement, brokers’ commissions for Basic would fall over time from 5% to 2.5% while commissions for Extension would remain at 18.5%, and a lump sum would be paid to brokers. (The agreement was enacted by way of a regulation.)

Over the years, all significant changes to MPI operational parameters have arisen through legislative amendments; those amendments are not discussed with the Board prior to their disclosure at a subsequent annual GRA proceeding. Major changes have included the move to total no-fault (PIPP), the introduction of retirement income benefits (RIB) for those receiving weekly indemnity benefits (brought in with retroactive effect), the transfer of DVL to MPI, the agreement between the brokers and MPI with respect to the new five year licensing cycle, and the enhancement of benefits for those catastrophically injured in motor vehicle accidents (also with retroactive effects). In the case of private insurance, any provision of additional benefits on a retroactive basis is not a “normal” practice, as premiums are established on the basis of the coverage of the particular premium year.

MPI has not provided the Board with options to the current coverage and benefit structure for Basic, Extension and SRE, reducing the confidence the Board has in MPI’s longer term

forecasts of Basic net income and prospects for the overall MPI financial situation (given the reoccurrence of changes made through legislation with retroactive effect). As well, Government has control over MPI's investment policies and practices, and investments are a critical factor in MPI's annual rate-setting. (MPI depends on investment income to offset expected annual underwriting losses).

2.0 PREMIUMS

Despite a lengthy period of reported premium stability or reductions, there has been significant growth in Basic premiums from 1987/88. These increases are attributable to increasing numbers of vehicles (particularly passenger vehicles) and the "upgrading" of the overall "insured fleet" – as new models are assigned to higher rate classifications which involve higher premium levels. The average passenger vehicle premium has increased significantly over the years, even since the introduction of no-fault PIPP in 1994. This ongoing "upgrading" (policyholders trading in vehicles for new models, and new drivers buying new models) allows for inflationary operating and claims costs to be met.

3.0 RATE REDUCTION

In the First Order (and in particular on pages 5 and 6 thereof), the Board cited its concerns with respect to a number of factors affecting MPI's operations and results, which gave rise to the Board's decision to curb the level of the rebate to be issued to policyholders to 10% of premiums rather than the 12.9% rebate proposed by MPI.

The Board has additional commentary with respect to those factors, as reflected throughout this Order, in specifically entitled sections.

In addition, it would be helpful for the Board to receive from the Corporation a revised schedule SM.3.1.F, Revenue Adjustments Overall Impacts, by both Major Use and Territory, reflecting the rates ordered by the Board in Order 122/10. This filing would provide the Board with a record of the change in average premium, and the overall percentage change in rates after "DSR drift" (the impact of changes to the DSR scale – which provides for discounts and surcharges based on driving experience).

4.0 REBATE

As provided in Board Order 122/10, the Board has directed that a 10% rebate of 2009/10 vehicle premiums be paid out to policyholders by cheque (conditional upon the Board receiving additional information and providing final clearance to MPI to issue the rebate).

The Board seriously considered the option of issuance of the rebate on renewals, and, in particular, considered the following advantages to doing so:

- more environmentally friendly;
- cost savings due to less mailings and no required follow-up for uncashed cheques; and
- no disruption of the Corporation's investments, as is expected in order to fund a rebate by cheque.

After consideration of all these factors, the Board decided to proceed with rebates by cheque, for the following reasons:

- consistency with previous MPI practices and Board Orders;
- all policyholders would receive their rebate at "roughly" the same time;
- all policyholders would receive their rebates in the same manner. In particular, if the Board had issued rebates by renewal, with the conditions as reflected on page 51 of the First Order, those individuals who would renew their policies between March 1 and April 30, or perhaps May 31, would have renewed in the normal course and would have had to receive a rebate cheque in any event; and
- clarity for motorists from year to year (some policyholders receiving a rebate in the form of a discount of premiums due on renewal may misunderstand that the "net" payment required was reduced as the result of the application of a rebate based on prior

experience, and then be surprised by an apparent rate increase in the following year, if no subsequent rebate occurred that year).

The Board considered the fact that 2011 will be a provincial election year, but (as the evidence reflects) the parties before the Board, representing the interests of policyholders, did not consider this to either be an issue or even a factor with respect to the rebate or the rate reduction. Rebates have been paid in both election years and years in which no election took place; rebates and rates are based on MPI's financial results and prospects.

For any future rebates, the Board would consider approving them only for motorists with merits on the DSR scale. In any future rebate applications, the Board would like to hear from the Corporation with respect to the methodology of doing so, as well as to any issues that the Corporation perceives may arise in connection with such a consideration. For example, what would or should the effect be upon fleet and commercial vehicles?

5.0 OPERATING EXPENSES

MPI reported at this year's GRA proceeding that there is to be an amendment (for 2011/12 and subsequent years) to an arrangement put in place in 1994 between MPI and the Province (when PIPP was enacted), to ensure that the Province's health care costs were not unduly impacted by PIPP.

In particular, the Board understands that the Province wished to ensure that its billings for hospital costs to MPI would remain at more or less the pre-PIPP level, with annual changes according to a formula based on inflationary and vehicle/driver license population increases.

The amendment was reported to involve maintaining the formulaic approach, although with a higher "starting point" (i.e. cost level, with respect to future changes in the cost to MPI's Basic program), with the annual cost for 2011/12 to be increased by approximately \$7 million, or 50%.

The change in the "cost base" was not highlighted by MPI in its application, but was "discovered" through the cross-examination phase, despite the reality that an annual cost increase of \$7 million is representative of a potential rate increase of 1%, a change fully

offsetting the advantage of the Basic commission rate for brokers falling in 2011/12 by 1% (from 5% to 4%).

As is and was the case with the transfer of DVA responsibility from the Province to MPI, MPI advised the Board that this change (the increase to a new higher base for health costs), was not negotiated, but rather was imposed by the Province. While the change may well have been justified, there was no evidence presented to support that perspective. In particular, the change is neither supported by working papers nor was it negotiated, and is described as something other than a binding agreement.

These details are troubling to the Board, as there is no assurance that another sudden change will not occur in the future, and also lack supporting documentation.

The Board is of the view that regardless of the Province's ability to unilaterally increase MPI's hospital related PIPP costs, these changes should be supported by evidence, and that evidence should be reviewed at the GRA proceeding. In the absence of such a review, the Board is unable to discern the prudence of the increased costs. As such, the Board asks that MPI file such evidence in the future, and recommends that MPI seek to negotiate binding contracts with Government, not only with respect to health costs but also with respect to DVA.

Contracts would represent an appropriate separation of responsibility between the Government and its Crown Corporation (MPI).

6.0 DONATIONS

As provided in the First Order, Order 122/10, the Board did not allow the cost of the King Street property donation (\$1.1 million) to be allocated to Basic for rate-setting purposes.

As reflected in the evidence, MPI donated this former Claims Centre to a community association. MPI explained its decision to make the donation on two grounds, one being that the former claims centre was no longer required (with a new service centre being constructed in the area), and two, the donation of the building and land was expected to further the well-being of the community.

PUB accepts MPI's explanations, but shares the concerns of interveners to the GRA with respect to the principle of the matter; namely, that MPI is an entity enacted by statute to serve primarily the interests of motorists. As such, making large donations not driven by either the expectation of improvements in driver road responsibility or other motor vehicle insurance related objectives is outside the Corporation's mandate. A similar situation occurred with MPI's support of the costs of construction of the Canadian Human Rights Museum and, also, with MPI's aborted plan (ten years ago) to provide large donations to Manitoba universities.

Support for community projects not related to road safety should not come from MPI, but rather from Government. MPI's policyholders pay premiums to cover costs related to the operations of a motor vehicle insurer, not to fund donations to community groups. As such, it is the Board's view that donations not related to road safety, in their nature, must be allocated to non-Basic operations and, further, the cost thereof should be recovered from the Province.

7.0 BROKER COMMISSIONS

Following the transfer of DVA responsibilities to MPI from the Government, MPI implemented a reorganization initiative that has (apparently) affected every aspect of its operations. The Board says "apparently" because it cannot attest to the claim, having had to rely on the opinions and statements of MPI and its auditors, and allocation formulae rather than the review of underlying actions, situations and results of DVA.

With respect to the opinion of MPI's auditors, the Board is fully aware as to the limitations of the opinion, as it is not one based on whether the expenditures are prudent or represent cost effective measures, but only that they relate to MPI's broad mandate, have been approved by the Corporation's Board of Directors, and are fairly reflected in the audited accounts.

One element of the integration and reorganization was the development of streamlined renewals, an approach that is partly based on online communications between MPI and its brokers, and a new five-year licensing and vehicle registration system (as previously indicated, a motorist will only need to visit a broker or an MPI Service Centre once every five years,

attending more frequently only in the case of the purchase of a new vehicle or a desired change in Extension coverage).

As part of the implementation of this new approach, MPI reported having negotiated with the Insurance Brokers Association of Manitoba, and agreeing to a new commission and transaction fee schedule for Basic, DVA and Extension business (which was then recommended to Government, apparently on the basis that the new schedule was jointly recommended by brokers and MPI). The Government then incorporated the schedule into a regulation. The regulation has no “sunset” clause, so changes to it can occur only by a change to the regulation, and that can be made only by the unilateral action of Government.

The new commission schedule has Basic commissions falling from 5% to 2.5%, through a transition involving a few years; for 2011/12, the commission rate for basic will be 4%. The new commission schedule also provides the brokers with a commission rate of 18.5% for Extension policy transactions.

CAC/MSOS suggested that, with motorists only required to attend either a broker or an MPI Service Centre once every five years, the Basic commission rate (to be 2.5% from 2013/14 and paid for every year of the policy), may be “too high”. And, with MPI holding 95% of the Extension market and given the “one stop shopping” nature of online renewals (MPI pays the fees charged by credit card companies, when the policyholder makes his/her payment by way of a credit card), MPI was challenged in the GRA as to the prudence and need for an 18.5% commission rate for Extension transactions.

Both Basic and Extension commissions are to be paid to the broker “of record”, i.e. the broker that a motorist attends at the start of the five year renewal period. This is the case regardless of the fact that renewal notices will be produced and mailed out by MPI, and that a motorist need not return to the broker “of record” to renew, being able to simply visit either the original broker, another broker or an MPI Service Centre, or simply return the renewal form with payment directly to MPI by mail. The commissions are to be paid to the broker “of record” for the full five year period, regardless of the frequency and number of visits to that particular broker.

No cost-benefit analysis of this arrangement was provided by MPI; it was provided as a *fait accompli* on the basis that the commission schedule was a regulation of Government.

The Board recommends, therefore, that MPI review the costs and benefits of the current arrangement with brokers on an annual basis, both with respect to Basic and other lines of business, and file the analysis with the Board within the annual GRA. An external consultant would best be engaged, pursuant to terms of reference to be reviewed by the Board.

8.0 ROAD SAFETY/DSR

Pursuant to Order 122/10, the Board recommended that MPI establish a road safety fund drawn from the Rate Stabilization Reserve, to deal with new road safety initiatives in the future.

The saying that “an ounce of prevention is worth a pound of cure” seems more than apt where road safety is concerned. At the GRA hearing, MPI provided evidence that the toll of carnage, deaths and serious injuries continues unabated on Manitoba’s roadways. And, while road deaths are particularly tragic, accidents that result in conditions such as paraplegia, quadriplegia and brain injuries not only represent tragedy but also significant costs to MPI’s policyholders.

MPI presented evidence at the GRA, namely in its *Traffic Collision Statistics Report, 2009*, Tables 1-1 *Fatal, Injury and Property Damage Collision by Total Licensed Drivers: 1999 to 2009* and Table 5-1 *Historical Summary of Victims in Traffic Collisions: 1999 to 2009* that over the eleven years between 1999 through to and including 2009, 1,147 people were killed in Manitoba motor vehicle accidents and a further 89,898 injured.

Over the six year period from 2004 through to and including 2009, approximately 6% of those injured were either seriously injured (i.e. admitted to a hospital) or killed. Given that the average number of licensed drivers during the 1999 to 2009 period was approximately 733,000, over that same eleven-year period the Board estimates that the probability of a driver being either killed or injured was 1 in 12, a horrific and chilling statistic.

While the local media appears focused on tales of crime and homicide, the reality is that the risk of being injured or killed in a motor vehicle accident dwarfs the probability of being murdered or

assaulted. The implications arising out of road collisions (which averaged 31,298 a year for the period from 2004 to 2008 resulting in fatalities and injuries and also property damage) are significant and extend "well beyond" the financial aspects.

With respect to the financial costs, there are not only the overall costs met by MPI but those incurred by individuals, families, corporations and institutions and other government agencies. And as to the non-financial implications (particularly when death or injury are involved), lives are disrupted, pain experienced and long-term consequences often arise.

MPI has attributed several factors as major contributors to road vehicle accidents, including: alcohol; speed; lack of use of seatbelts; auto theft; inattentiveness; inexperience; road conditions; the actions of wildlife, livestock, pedestrians and cyclists; and the weather conditions.

For some of these contributing causes, MPI has placed a "price tag" on them, for others, not yet to this point. In this hearing, MPI advised that it had established a road safety budget for 2011/12 of some \$728,000, representing approximately 1/10th of 1% of MPI's overall projected Basic expenditures.

CAC/MSOS and CMMG argued that MPI was not spending enough on road safety, and the Board agrees. MPI has enjoyed great success as a result of its anti-theft initiatives, and while those initiatives carried a significant financial cost (over \$60 million), the benefits to the public (and to MPI) have been innumerable.

MPI is in a unique position to address road safety issues, and indicated at the hearing that it intends to develop a Road Safety vision, which is, in the view of the Board, long overdue and very much needed. With its insurance monopoly (and now the responsibilities of DVA), and given the Corporation's involvement with parties interested in road safety (the Province, the police, healthcare providers and safety-oriented associations), MPI should move quickly to develop a "vision".

In establishing that vision, MPI would be well advised not to focus so intently on "who pays", but to pay more attention to what can be done, and what would be the expected result if action was taken.

Over the years, traffic enforcement in Manitoba has diminished; within the City of Winnipeg, more reliance is placed on technology rather than direct police interaction with drivers. While red light and photo radar cameras may slow down drivers -- at least in locations where they are installed, technological approaches should not replace police-based traffic law enforcement. At the hearing, MPI reported an increase in the last few years in the number of traffic violation citations issued by the Winnipeg Police Service, and of ongoing discussions with the RCMP and municipal police forces towards improved and/or enhanced traffic enforcement.

In addition, at the hearing much was said about the damages caused by vehicle-wildlife/livestock collisions, including when motorcycles are involved, and suggestions (to reduce the number of these collisions) were raised and discussed briefly. Possible approaches discussed ranged from mobile vehicle speed monitors, lower speed limits, better lighting and fencing, and improvements in road design and construction.

As has occurred in previous hearings, there was discussion about the potential for incorporating red light and photo radar infractions into the DSR system, to encourage improved driving behaviour. MPI reported that such an approach was "sensitive", and that the Corporation has not undertaken any research to date as to the wisdom and appropriateness of considering such a change.

While the Board understands that infractions resulting in demerits are defined by Government through regulation, MPI clearly has the ability to research the potential value of such a measure. The same situation applies to tickets issued for the use of hand-held communication devices while driving. As to whether the issue is "sensitive", the toll of human misery alone should be sufficient to take a "harder" look at all measures that could reduce the frequency and severity of accidents.

In the First Order, the Board directed that the loss attribution rules in Board Order 97/05 (for single-vehicle accidents involving pedestrians and cyclists) are amended to include wildlife/livestock related accidents. The evidence before the Board reflected that the annual cost of these types of claims is approximately \$30 million to Basic (with 3 fatalities, 300 serious injuries and some 6,600 deer killed). Although the Corporation has identified some means to reduce the costs and reduce the number of vehicle-wildlife collisions, with speed a major factor,

significant action has not yet been taken. Possible actions could include lighting, traffic enforcement, photo radar, mobile speed signs and reduced speed limits for certain periods of the year.

The Board would consider holding a special hearing to allow all interested and involved groups *vis a vis* road safety to raise and discuss approaches to reducing the toll of death and injury on Manitoba roads. The Board directs that MPI provide a report to the Board (with copies to the interveners, in advance of next year's filing of the MPI GRA), as to the development of the Corporation's "vision" with respect to road safety, and that the report should be filed no later than May 31, 2011.

The Board recommends that MPI work with the Winnipeg Police Service, the RCMP, the Manitoba Department of Justice, the Manitoba Department of Transportation, the Manitoba Safety Counsel, and Mothers Against Drunk Drivers (MADD), as well as the interveners in this hearing (CAC/MSOS, CMMG and CAA), to address and move toward improvement in road safety matters. The Board welcomes a technical conference at which road safety matters can be discussed.

The Board also recommends that MPI provide an analysis of options involving red light camera and photo radar infractions being assigned DSR demerits upon conviction. An example would be a cumulative system under which a registered vehicle that has a particular number of infractions would lead to the owner of that vehicle receiving a certain number of demerits on the DSR scale. An owner of a vehicle should not be able to ignore the effects of the poor driving behaviour of the vehicle's driver when it is not the owner.

The Board further recommends that research be done into the relationship between red light camera and photo radar infractions and at-fault accidents. Of course, the Board recognizes that only the Province can take steps to codify the inclusion of these types of convictions for DSR purposes. Again, road safety objectives should "trump" sensitivity.

In addition, the Board recommends that MPI develop an option (for review by the Province) wherein handheld communication device infractions would lead to a demerit assignment for

DSR purposes, supported by research into the relationship between such infractions and at fault accidents.

The Board also recommends that MPI recommend to the Province that speed limits (in areas known to involve high incidents of wildlife-vehicle collisions) be reduced for those time periods during which such incidents are at their highest levels, that MPI invest in additional electronic speed indicator signs, and, also review what other measures could be taken to reduce those types of accidents during their peak season.

In addition, with respect to new motorcycle riders, the Board recommends a graduated licensing system similar to that which is currently in place for new drivers and, as well, there be a prohibition with respect to the ownership of sport bikes within the first five years of riding.

The Board is hopeful (as its mandate does not allow the Board to direct the action) that the setting aside of 2.9% of the sought-after 12.9% rebate be applied to future road safety initiatives, which may prove to be much more valuable to society than paying it out to vehicle owners in 2011. Successful road safety initiatives (such as the auto theft initiative) can pay "dividends" well in excess of the cost of the initiative to policyholders.

9.0 COST ALLOCATION METHODOLOGY

Dating back to the late 1980s, the allocation of revenues and costs (from related assets and liabilities) has been an important issue for MPI, flagged then by its external auditors as requiring review on a regular basis, or at least once every five years.

Notwithstanding the passage of time and many significant changes in the Corporation's operations (including the introduction of the PIPP "total no fault" program in 1994, the transfer of DVA responsibilities to MPI in 2005 and the changes mandated by the Board for loss transfer in 2007), changes to the allocation formulae were not proposed until the 2010/11 rate application, with a subsequent proposal for further changes for the 2011/12 rate application.

The proposed changes reflected in the 2011/12 GRA resulted in an approximately \$6 million transfer of otherwise allocated costs from Basic to Extension and SRE, reflective of approximately a 1% reduction in Basic rates.

Despite the indicated need to review the formulae for possible required changes and the fact that MPI neither reviewed nor amended the formulae until recently, the external auditors throughout the intervening years provided “clean” opinions on the Basic financial statements presented annually at the GRA proceedings. So, while the new formulae have been endorsed by the Board, though not yet implemented, any changes that may be implemented in the future will apply only on a prospective basis meaning, in essence, the strong likelihood that Basic costs were overstated, along with Basic rates, in previous years.

Once again, the Board reminds MPI to follow the advice provided by its external auditor of the late 1980s, and regularly review allocation formulae; not to do so is to ignore prudence, particularly in a situation in which MPI suggests that the Board, in exercising its legislated mandate to establish Basic rates, should rely on those formulae.

Questions arise as to the “wisdom” of allocating costs on a basis that ignores the centrality of Basic and the value that Basic brings to Extension, SRE and DVA operations. In other words, the costs of Extension, SRE and DVA operations would be much higher if each of those operations were allocated costs on the basis of each of those operations being “stand-alone” operations. When excess retained earnings of Extension and SRE were transferred to the Basic RSR, there was some protection for Basic policyholders that they would not be taken advantage of by higher than necessary Extension premiums; but now, with Extension and SRE net earnings subject to use for purposes other than “insurance”, there is a reasonable apprehended need for Extension, SRE and DVA operations to be the subject of the Board’s oversight.

10.0 BOARD’S JURISDICTION/EXTENSION ISSUES

As the Board has stated in past Orders, it acts as a proxy for competition, given that the Basic insurance program is a monopoly run by a Crown Corporation. As reflected in the Board’s name, the Public Utilities Board, its purpose is to serve the interests of the public.

When the Board's mandate over Basic rates was established (now over 20 years ago), MPI was a much different corporation than it is today. The history of MPI's business is reflected above.

It is the Board's view that the present regulatory model is flawed, and while the Board's approval of Basic premiums and rates should continue, oversight responsibility with respect to the annual revenue requirements and expenses incurred, and net income realized and projected for MPI's other lines of business and operation should also be provided to the Board.

The Premier of Manitoba recently called for openness and transparency with respect to "government" operations, which isn't (but should be) reflected in MPI's approach and actions within this Board's proceedings. Rather, the approach that has been pursued by MPI has created an atmosphere of suspicion amongst the parties to the annual proceedings (what is MPI doing or not doing that motivates them to be so secretive), and, as well, a loss of confidence in MPI's forecasts and applications (resulting in increased hearing costs, longer hearings, more IRs and cross-examination questions).

None of this is useful for the overall public interest or for support, specifically, for public automobile insurance. The disconnect between the Premier's call for government to be more transparent and open, and MPI's continued refusal to share information (including forecasts) related to the operations of its non-Basic lines of business and operation, is significant, and is a source of disaffection of those parties participating in the annual GRA proceedings.

The Board has regularly (in its annual rate Orders), commented on the difficulty it has in reaching Basic rate decisions without full disclosure by MPI of matters of interest to the Board. The Board has listed (in a series of Orders) the various factors that it takes into account in setting Basic rates and (not surprising given the integration of MPI's various operational responsibilities and programs) has indicated that it considers the overall situation and prospects of MPI in determining Basic rates, the Basic program being the *raison d'être* of MPI, and the underlying structure for all of MPI's operations.

It is accepted by all parties to the GRA that changes to the Basic Autopac parameters affect MPI's other operations. For example, if the Basic deductible was increased it would affect the

sale and pricing of Extension products and, also as an example, if third party liability requirements were increased, Extension sales and revenues would likely be negatively affected.

MPI carefully guards any reference to discussions that the Corporation holds with Government, and it accepts Government directions directly affecting revenue and expense (medical billings, payments with respect to DVA related actions, the approach to long-haul trucks and truckers, etc.) seemingly without question, thus leaving the Board with numerous risks in its rate-setting approach.

Past experience with this practice has included two of the major changes to the Basic program parameters, wherein changes were applied, in part, on a retroactive basis, providing benefits for which no premiums were collected. Such a situation is not found in the private insurance context, substantiating the suggestion that MPI is not (in the strictest interpretation) an insurer, but rather a government directed program providing benefits and services pursuant to government direction.

Insurance companies in the private sector generally rely on investment income to ensure, at minimum, break-even operations, and also to meet the goal of achieving profitable operations for its shareholders. One could say that this is the situation with MPI, although an argument can be made that the shareholders are not the Province but the policyholders, as government is restricted from "taking money" from MPI. So, with respect to investments, the portfolio is managed under the direction of the government, apparently to ensure that funds are available to make investments desired by the Province (including in its own securities), and, with respect to other investments, to reduce volatility (MPI's results are included in the Province's overall annual report on financial results).

MPI prefers that the Board rely on aggregate allocations of revenue and cost, rather than examining the underlying transactions and situations that are subject to allocation. With an integrated operation, allocations are very important. However, fair and reasonable rates imply a knowledge and awareness of the prudence of actions taken leading to the established rates, without being able to "plumb" the details of underlying transactions, the Board cannot reach an informed conclusion on the prudence of MPI's actions, and thus cannot reasonably determine the rates proposed by MPI are fair and reasonable.

Basic, Extension and DVA operations deal with essentially the same population, with Basic and DVA operations being mandatory monopolies and Extension being a near-monopoly. In Basic, MPI has pledged to return and has delivered \$0.85 of every premium dollar back to policyholders through claims and claims expenses. The return ratio within the Extension line of business has declined significantly, with the latest year being well below 60%.

The fact is that the acquisition of MPI's Basic and Extension insurance generally occurs in one comprehensive transaction involving a policy holder and his or her broker (whereby the insured pays for all coverage on one bill). While policyholders are protected from unfair or unreasonable rates in the Basic monopoly, they are not similarly protected in the near-monopoly on the Extension side, and the return of premium dollars to policyholders is evidence of that.

The return to policyholders ratio of Extension premiums (recently being less than 60%) further suggests that Extension is over-priced, perhaps, if not likely, to cover some of MPI's Business Process Review (BPR) expenses. In addition, questions arise as to the value to the public of MPI arranging operations such as to discourage private competition (denying access of private insurers to driver records, and increasing commissions to brokers for Extension, despite having a 95% market share and online communications).

The Board recommends that MPI support amendments to the current legislation to make MPI's non-Basic operations subject to the Board's annual rate proceedings (in the non-Basic operations, only with respect to per-line revenue requirements and general expense prudence).

11.0 FORECASTING

In Order 122/10, commencing at page 14, the Board summarized the evidence from the GRA with respect to claims incurred forecasting, including an historical summary of PIPP Accident Benefit claims from 1995. As reflected in the summary, the forecasts from 2005 through 2010 have been consistently and significantly higher than the actual claims incurred in each year.

The Board is concerned about the accuracy of the forecasting methodology utilized by MPI, and concerned that actual claims incurred will continue to be significantly different than forecasted. As well, the Board is concerned that at some point (given that MPI has advised of making

adjustments to its claims reserving) actual claims incurred costs will be higher than forecasted, creating a negative result for MPI.

The Board has directed MPI to utilize stochastic modelling of claims incurred for rate-setting purposes. The evidence of MPI's auditor (regarding continuous "close to the margins of acceptability" conservatism of the external actuary) has explained the reasons for the year after year of actual claims incurred being materially below the forecasts, though, those forecasts have been relied upon to set Basic rates (including an over-estimation of the actuarial cost of enhanced Basic benefits for those catastrophically injured). Rates are to be just and reasonable, and that requires reasonable estimates in all forecasts.

12.0 BENEFITS

The Board recommended (in Order 161/09) that MPI list and consider potential improvements to Basic coverage, with comparisons to coverage in other jurisdictions, and develop analyses providing the premium and cost implications of options, and the potential impact on Extension and SRE, for discussion at the 2011 GRA.

The Board stated that the Basic segment of MPI is intended to provide what is deemed to be necessary "basic" coverage, and that MPI should regularly compare Basic coverage with the expressed general needs of Basic policyholders, as demonstrated by their purchases of Extension coverage. The Board suggested that this review be done on a strictly prospective basis. The Board re-iterates this recommendation.

The Board also suggests that MPI conduct an analysis of PIPP benefits on a regular basis, to seek to avoid "benefit shock changes" every few years. In the Board's view, MPI is too "government centric"; subject to decisions made by Government that affect MPI without (it would appear) either MPI's involvement and/or agreement. The Board recommends that MPI be responsible for reviewing coverage and benefit parameters on an ongoing basis, with options and implications reviewed at annual PUB hearings – the transparency needs to be increased, as called for in a recent memorandum issued by the Premier and entered as an exhibit at the GRA.

It is the Board's view that "sudden and unexpected" changes to MPI policy coverage and benefits are not in the public interest, particularly in the absence of a dispassionate review of options through the Board's process (coverage and benefits of Basic "control" the results and prospects of Extension, and thus options should be reviewed on an ongoing basis with implications for Basic, Extension and overall operations considered).

13.0 PUBLIC ACCEPTABILITY

MPI was incorporated as a Crown Corporation and was provided a mandatory monopoly over the Basic program and, by separate legislative provisions, was provided with the responsibility to offer and operate other lines of insurance activity, on the premise that public automobile insurance was in the public interest and was supported by the public.

The exemption of extra-provincial commercial and P.S.V. trucks and buses from the Basic program is clearly supported by the trucking and bus industries, as evidenced by the lack of criticism of the exemption by industry; it is not clear that the exemption is acceptable to the rest of the motorists in Manitoba.

The details (including the implications arising out of the exemptions) have never been the subject of public discourse (although the topic became particularly important upon the advent of PIPP), nor have they been reviewed at the annual MPI GRA proceedings. The costs arising out of the exemption should be allocated to non-insurance operations and, in the view of the Board, should be recovered from the Province.

Since MPI's inception and, more recently, from the time of the Board's involvement (beginning in 1988), the year of the exemption of interprovincial trucking from the Basic insurance program, there have been a number of "shocks" (i.e. major changes to MPI's product design and operations), and very few (if any) of these changes were the subject of detailed public discussion prior to being introduced through legislative amendments and regulation.

For a program intended to benefit Manitobans, it seems illogical, and less than effective or prudent to operate in this manner.

Manitobans (including interveners to MPI's annual GRA) would benefit from a thorough understanding of options to all aspects of MPI's operations and possible operations. If these options were known, it is more likely that the program would progress in its value to Manitobans in a timely and prudent fashion.

It is unlikely that it would have taken fifteen years from the inception of PIPP until the enhancement of benefits for those catastrophically injured in motor vehicle accidents, if benefit options had been "on the table" for discussion at the annual GRA proceedings. Knowledge and discussion about "options" would not have bound government to act; more likely, it would have allowed government to be aware of and assess the value of potential changes in a more timely fashion.

In addition, it is clear that motorcyclists are not supportive of the premium levels charged to them. They hold the current claims incurred allocation approach as being one of the causes of the high premiums. MPI has advised that approximately 90% of motorcycle owners also own a passenger car or light truck, thus the premium-setting approach for motorcycles is not acceptable to a material number of owners of other classes of insured vehicles.

Neither the inception of MPI, nor the change to "no-fault" in 2004, involved the notion that only "some" motorists would benefit from the changes; rather, it involved a perspective (or at least left the perception) that all motorists would benefit.

From the inception of MPI, through to the 2004 move to "total no-fault", motorcyclists benefited along with other vehicle classes, by the operation of the mandatory Basic monopoly. However, with the change to "total no-fault", and the claims attribution rules that first developed, motorcycle premiums began a long "journey" to much higher rates, despite:

- a) With the exception of single vehicle accidents, the accepted understanding is that motorcyclists are "at fault" in only about 35% of multi-vehicle collisions;
- b) The long-held perception (of at least motorcyclists) that, with respect to single vehicle accidents, the main cause of many motorcycle accidents is an "unidentified" other vehicle that has "cut-off" a motorcycle, or otherwise acted in a way that led to a single vehicle motorcycle accident; and

- c) “Not much” attention being paid by MPI and the Province overall to reducing wildlife claims which, particularly when involving a motorcycle, can lead to horrific injuries or deaths, and high motorcycle claim costs.

As 90% of motorcyclists also own another passenger vehicle (that is not a motorcycle), a material number and percentage of MPI’s basic policyholders have remained “estranged” from MPI as motorcycle premiums continued to rise.

Order 97/05 changed claims attribution rules, and the changes assisted the motorcycle class. However, that change did not address the single vehicle/wildlife-claim problem, and for such claims the rules invoked for collisions with bicyclists and pedestrians were not put in place.

Changes (to make the approach consistent) will assist in addressing the disaffection of motorcyclists, particularly if MPI, the Province and the police were to take action to make roadways safer for motorcyclists, particularly with respect to the risk of a collision with wildlife.

14.0 INTER-PROVINCIAL TRUCKERS

The Board ordered (in the First Order of December 2010) that MPI shall allocate PIPP costs associated with claims by inter-provincial truckers to a non-Basic line of business. The Board stated that the current practice is neither fair, reasonable, nor actuarially sound, as the costs presently borne by Basic are not related to passenger vehicles or insurance, but rather represent an economic development policy adopted by Government. In addition, MPI's current practice does not provide for a matching of expenditures to the premium base to which those expenditures relate, and as such the practice is not actuarially sound.

The current arrangement was put in place in 1988, supported by legislation and regulation, and it has meant that despite the commonly-held view that Basic is a universal and mandatory program of motor vehicle insurance, operated by a monopoly (MPI), it is not.

The fact is that extra-provincial commercial and P.S.V. trucks and buses are not required to be insured through the Basic program. Yet, such vehicles may and often do “plate” their vehicles in Manitoba, and inter-provincial drivers, regardless of where the vehicle they operate is “plated”

are eligible for PIPP benefits (if injured in a motor vehicle accident in North America), as are third parties injured in an accident when the Manitoba driver is at-fault.

In addition to the loss of premium revenue to MPI as a result of this arrangement, the PIPP claims costs (inter-provincial truckers have the option of claiming either MPI-PIPP benefits or WCB benefits), leaving aside the operating costs associated with the arrangement and the accumulated interest on the series of annual deficiencies, have been approximately \$2 million a year (at least since 1994 when PIPP was enacted), and these costs have been recovered from other motorists, resulting in the subsidy of these vehicles by other motorists.

When PIPP was enacted (although nothing changed with respect to the exemption from mandatory Basic coverage for inter-provincial trucks, PSV and buses), the impact on MPI was altered. PIPP provides for the provision of benefits to any Manitoban, wherever the accident occurs in North America and whoever is involved (the claimant may be a driver, passenger, cyclist or a pedestrian).

Thus, where before PIPP the driver or passenger of or in a interprovincial truck could claim (under the tort system) against insurers of vehicles not insured in Manitoba, if not at fault, now, following the introduction of PIPP, claims (whether at-fault or not) can be made against MPI and, in addition, the claimant has another option, to claim either against MPI or against the Workers Compensation Board.

Neither this rather remarkable situation (nor related change) were reviewed at a GRA proceeding (other than the reference to third party PIPP claims with respect to claimants injured as a result of accidents caused by Manitoba licensed truck drivers in jurisdictions outside Manitoba). Until recently, neither the present Board panel, nor any intervener to the process were (apparently) aware of either the exemption or the effect of the introduction of PIPP on the future costs for Basic and/or vehicle owners other than interprovincial truck owners.

The Board is of the opinion that this ongoing subsidy is in place to meet a policy-driven perspective of Government (one related to economic development), not from an insurance perspective, and that, it believes there is a strong argument that the "just and reasonable" rate

principle has been and is breached by this ongoing subsidy, which, if it is to be carried on, would best be met by the Province, not by MPI's policyholders.

There may be a reasonable "public policy" rationale for this situation, but it is not related solely to insurance, and the costs of it carrying on should not be met by vehicle owners not involved in interprovincial trucking. Accordingly, the "cost" should be allocated to non-insurance lines and recovered from the Province.

The Board asks that MPI provide, in its next GRA filing, the following evidence with respect to inter-provincial truckers:

- (a) the current parameters, details and implications of the Basic program with respect to extra-provincial commercial and P.S.V. trucks and buses;
- (b) how many of these vehicles are plated in Manitoba but not insured under the Basic program;
- (c) how many inter-provincial truck drivers have been provided with actual PIPP benefits since PIPP came into place;
- (d) how many of those drivers are (or were) associated with interprovincial trucks plated in Manitoba;
- (e) what have been the costs of PIPP claims filed with respect to non-Manitobans injured in collisions involving "exempt" Basic vehicles;
- (f) whether, when PIPP was enacted, the cost implications for Basic were contemplated and/or forecast; and
- (g) how, if at all, this information is reflected in MPI's publications as provided to policyholders.

The Board recommends that MPI join the Board in recommending that all PIPP costs being incurred with respect to the exempted extra-provincial trucks and P.S.V. trucks and buses be recovered from the Province.

In addition, the Board recommends that MPI consider its position with respect to whether all truckers should be permitted to elect benefits from MPI or WCB. There is an argument that this approach is discriminatory against those who do not have such an option. Moreover, there is

the potential for employers to encourage employees to elect MPI benefits, since lesser WCB claims result in lower WCB assessment premiums to employers. In the context of this analysis, the Board also recommends that MPI conduct a comparison between PIPP benefits and WCB benefits.

15.0 INVESTMENTS

Unlike private insurers, MPI's investment portfolio, its asset mix and specific investment decisions are directed not by MPI's Board of Directors, but pursuant to statute, by the Department of Finance.

While MPI has a Board of Directors' committee that reviews MPI's investments, and establishes policies, the policies are subject to the agreement if not the direction of the Department of Finance, and while both MPI and the Department of Finance are represented on an Investment Working Group which reviews, recommends and acts with respect to the MPI investment portfolio, it is clear that MPI's portfolio is not under the control of MPI.

If not the existence of a real conflict of interest, this situation is reflective of a perceived conflict of interest on the part of the Department of Finance, and gives rise to a perceived lack of accountability by MPI at GRA proceedings. MPI indicated that not only was the Corporation desirous of minimizing volatility in its annual investment returns, so was the Province. The Board appreciates that the Province is interested in restraining annual volatility of MPI's investment returns (MPI's overall net income is materially affected by its investment return experience), and that MPI's annual net income forms a component of the Province's overall fiscal results.

MPI's investment portfolio has grown substantially since the adoption of PIPP in 1994 and, as expected at that time, the average duration of a claim has increased substantially with the PIPP program, with some claimants remaining claimants and receiving payments from MPI for the remainder of their lives (under the tort system, accident benefits, including weekly indemnity payments, were "modest", with the major bodily injury costs coming through tort-based settlements, resulting in lower Unpaid Claim balances at the end of each fiscal year than is now the case with PIPP).

Unpaid Claims balances are expected to continue to increase in future years, meaning that MPI's investment portfolio is forecast to continue to grow over time.

It is also important to take into account that, unlike private insurers, MPI "counts on" investment returns to bring about break-even results for the Basic program; private insurers seek break-even underwriting results, with investment income generally used to offset inflation in claims development costs and produce a net return for their shareholders.

With the stated goal of reducing volatility, MPI's asset mix is heavily weighted toward fixed income securities and bonds (primarily government bonds) and MPI's securities include purchases of Province of Manitoba securities as well as the debentures of municipal governments (one of the initial and continued objectives of MPI is to serve as a lender to Manitoba government and public agency borrowers).

The Department of Finance is the manager of MPI's bond portfolio, and it appoints the external managers that oversee the Corporation's equity holdings. So, for a variety of reasons, it is important for the Province and MPI to display that investment decisions are made in the interest of policyholders, and not solely in the best interests of the Province (subject to the stated objective at the incorporation of MPI, to purchase municipal (MUSH) bonds).

The Board would consider establishing rates based on five-year averaging of investment returns, an approach that would reduce the volatility of both investment returns and net income for rate-setting purposes (as MPI follows GAAP, its published accounts would follow GAAP, which does not provide for the averaging of investment returns). However, MPI has shown no interest in the "averaging" approach, and the Board is concerned that a reason may be that the Province's own books also follow GAAP (GAAP for the public sector), so even if five year averaging took place for MPI rate setting purposes, it would not reduce the volatility of the Province's own "books" as far as that volatility was driven by fluctuating MPI investment returns.

While MPI has "immunized" its Unpaid Claims balance by having 80% of its investments in fixed term securities, that immunization may not prove beneficial for policyholders over the long-term, and perhaps not even the short and mid-term. MPI has reflected (in the Inflation Adverse Scenario in its DCAT) that an increase in interest rates of 2%, concurrent with an increase in the

rate of price inflation to 3%, could decrease its forecast future annual net income results by \$50 million to \$60 million a year, given its current investment mix.

It is the Board's view that such a scenario is well within the realm of possibility, given:

- current year-over-year Canadian inflation rate of approximately 2.0%;
- current federal and provincial deficit and debt levels, which are unlikely to be brought to zero for many years, and are likely to first increase substantially; and
- global economic issues including European bond yields and an expanding U.S. public debt; and
- the resultant uncertainty in fixed income markets.

In reality, all securities, whether bonds or equities, bear risks, and the value of MPI's bond portfolio, with very low coupon rates, are at risk of rising interest rates, particularly given a time when Government bond rates are being held down by Central Bank actions aimed at stimulating the economy – actions that, eventually, are expected by many observers to result in both interest rates and inflation increasing.

The accepted defence against inflation is an investment portfolio containing a higher equity component than MPI's target (20%) for equities. MPI's investment portfolio not only funds Unpaid Claims and hold unearned premiums, it is also comprised of MPI's pension obligations to its employees. Generally, pension plans have much higher equity components than MPI's allocation of 20%, CSSB's is over 50%, as is TRAF's, CPP's and many other private and public pension plans. With an expected infinite life for MPI, the current allocation to equities seem to represent what may be considered a "yield" risk, to the detriment of its policyholders.

CAC/MSOS suggested that MPI might well be best served by being "a bit more aggressive" in its investment approach, perhaps increasing the equity component of its investment portfolio to 40% (from 20%), and the Board agrees. The protection against rising interest rates and inflation in an investment portfolio lies with an increased weighting to equities, not bonds.

As was discussed at this year's GRA, ongoing rebalancing of an investment portfolio is essential. As MPI has advised the Board, it has formally adopted an investment rebalancing

policy, which now forms part of its Investment Policy Statement (IPS). While the rebalancing policy has been in effect at MPI for a number of years, it was not previously included in the IPS. Further, it does not appear to the Board that MPI's past rebalancing efforts have been adequate.

In particular, the Board notes that as at the end of MPI's 2008/09 fiscal year, equities within its portfolio were at their lowest point as to value and percentage invested, while bonds were at their highest value. This was an optimal time to rebalance the portfolio, and the fact that no rebalancing occurred meant that a large opportunity cost was realized by the Corporation.

With respect to the content of the portfolio, it is the Board's view (as set out above) that the equities component should be increased to 40%, and the Board recommends that MPI research and provide an opinion on increasing the equities component of its investment portfolio to a full 40% allocation, intended to increase long-term investment income within a regulatory accounting environment that derives annual investment income for rate setting purposes on a five-year moving average.

MPI should develop a cost-benefit analysis of its current approach to investing policyholder-derived funds, preferably through the engagement of an external consultant with the terms of reference vetted by the Board.

Further, the Board recommends that MPI consider the use of 5-year averaging for rate-setting purposes, to reduce the annual premium rate and net income risks that come with increased volatility within the investment market, and report to the Board on this suggestion at the next GRA.

With respect to real estate and infrastructure investments, the Board recommends that MPI engage only in those projects that involve commercial terms, meaning commercially reasonable and arms length investments.

The governing statute provides that the Department of Finance has control over MPI's investment portfolio. The Board recommends that the Government consider whether that control should, in the interest of MPI's policyholders, be provided to MPI's Board of Directors, in order to eliminate what appears to be an inherent conflict of interest.

16.0 FAMILY TRANSFERS

The Board accepts that there can be legitimate reasons for motorists to transfer the ownership of vehicles among family members; however, the current system allows for manipulation in situations where a motorist with a poor DSR rating, relative to that of their spouse or other family member seeks to save some insurance premium by transferring ownership to a "lower-risk" driver.

Manipulation in this way is neither actuarially sound nor statistically driven, and it constitutes an abuse of the classification system. As the evidence reflects, the Corporation sees approximately 5,000 of these types of claims (where ownership has been transferred as described) per year, with up to \$5 million of lost premium revenue over five years for each year of such a level of transfers.

The Board recommends that MPI research and provide an opinion on an approach whereby the principal driver of each vehicle is identified, and the at-fault accident experience of that individual is compared to that of the named owner of the vehicle.

The Board further recommends that MPI develop and implement an approach to counter the risk and opportunity for an undue financial benefit to accrue to owners experiencing an at-fault accident and who then transfer the ownership of the involved vehicle to a family member (within the same residence) with a better DSR rating, to command a better vehicle premium discount.

17.0 BUY BACKS

The Board reiterates its recommendation (from Order 161/09) that MPI should permit no further "buy backs" of accident costs with respect to private passenger vehicles (from the date of implementation of the DSR) except for situations where the buy back is for an accident for which no injuries or fatalities occurred, and for which the total claims cost did not exceed \$1000; with respect to commercial fleets, no buy backs should be permitted, excepting in cases that involve neither an injury nor a fatality.

18.0 ANTI-THEFT INITIATIVES

As the record reflects, theft and attempted theft claims (and consequential costs) have decreased significantly since 2004. MPI's efforts, assisted significantly by the Province, the police and the Federal Government (the latter with respect to the requirement that all vehicles starting with the 2008 model year have installed immobilizers) have led to great success.

The Board notes a number of contributing factors with respect to this trend, including:

- The immobilizer initiative, under which 98% of most-at-risk vehicles in Winnipeg or the commuter territory have been immobilized (over 110,000 vehicles under the program);
- The Winnipeg Auto Theft Suppression Strategy ("WATSS");
- Legislation of the provincial government that made mandatory immobilizer installations on vehicles under certain circumstances; and
- As indicated above, the requirement imposed by the Federal Government that all vehicles manufactured within and after the 2008 model year include a factory installed immobilizer.

Despite the foregoing, the Board notes that Winnipeg remains high on the list of Canadian cities in terms of auto theft statistics, and unfortunately, in the Board's view, Winnipeg remains too high on the list. In particular, according to a recent MacLean's study filed in evidence at the hearing, Winnipeg's theft levels remain at 158% of the Canadian city average, with cost and other implications.

The Board notes recent legislative changes by the Federal Government, pursuant to Bill S-9, the *Tackling Auto Theft and Property Crime Act*, under which auto theft is made a stand-alone indictable offence that carries a mandatory prison sentence of six months for a third or subsequent conviction.

As well, the Province has taken steps to reduce, as of December 1, 2010, the 90 day grace period for most-at-risk vehicles to have an immobilizer installed (to 60 days). This grace period

applies to vehicles being registered in Manitoba for the first time (or in the commuter territory for the first time) and will be reduced to 30 days on June 1, 2011.

19.0 TERRITORIES

It is the Board's view that that the insurance territories should be reviewed as to their appropriateness and soundness on a regular basis.

The Board directs that MPI file (in next year's GRA) an analysis of the effects and implications of employing one single territory, together with the pros and cons of that approach.

20.0 CONCLUDING REMARKS

The Board remains concerned as to the prudence and cost-effectiveness of major actions taken by MPI.

For example: the four-year 2.9% per annum increase in MPI staff salary scales (leaving aside consideration of step increments provided to staff not at the maximum of their salary range) in an era of low inflation and, most recently, significant wage restraint in the private and government sector; the selection of external solicitors without tendering; the continued lack of benchmarking of MPI's personnel complement and operating and claims costs against other public automobile insurance plans (ICBC, SGI); the lack of statistical analyses and benchmarking of PIPP experience although the program was implemented in 1994 (the PIPP infrastructure initiative will, hopefully, address this longstanding deficiency); the lack of a filed "business case" for MPI's arrangement with its brokers, the Province's healthcare institutions, health professionals and auto body shops; and the compensation arrangement with the Province with respect to MPI's non-insurance lines of "business".

MPI operates a mandatory monopoly, and, as such, can pass on its costs to its policyholders without any risk that "business will go elsewhere". As well, through the ongoing annual benefit of new vehicles being registered and receiving new premium levels, with older vehicles eventually being scrapped (some after being written off after an accident) or leaving the Province, MPI, despite implementing and highlighting overall premium decreases or stability

since the advent of PIPP, enjoys revenue growth even when premium reductions are announced and implemented. In short, the average annual premium for passenger vehicles continues to increase (year over year), providing the impression of cost control, an impression that may or may not be justified in the absence of detailed analyses being placed before the Board.

At the next GRA, the Board expects that MPI will file charts comparing its increases in operational and claims costs since 1988 with vehicle and driver population growth and general price inflation. As well, the Board expects MPI to file a chart comparing the average premium for passenger vehicles and overall annual net earned Basic premium, since 1988 (average annual passenger vehicle premium compared to general inflation), and a chart comparing overall annual Basic net earned premiums with inflation and vehicle population growth. Cost prudence and operational efficiency is required for the public interest, and, without information, the Board is not in a position to determine, for the public interest, whether either has been accomplished by MPI.

MPI has regularly held that its proposals for Basic premiums are actuarially sound and statistically based, a claim that the Board has agreed with in several past Orders. However, revelations at this latest GRA proceeding, followed by considerable Board reflection, has demonstrated to the Board that the claim is not as “solid” as first thought.

Firstly, there is the matter of PIPP claims incurred for extra-provincial trucking, P.S.V. trucks and buses which are not reflected in the premiums of these vehicles (as those vehicles are exempt by way of a regulation). Secondly, there is the “family transfer” matter, where vehicles can be transferred between family members towards retaining vehicle premium discounts under the DSR program. Only in this last GRA did the Board come to fully appreciate the implications arising from both of these issues, and come to the conclusion that neither situation is consistent with premium setting that is actuarially sound.

As in past Orders, the Board continues to remain interested in the potential for the Corporation’s rate setting methodology, at least with respect to passenger vehicles, to further the overall societal objective of reducing Green House Gas (GHG) emissions. MPI appears to be more than “just an insurer”, having taken on what previously had been government operations

(administration of driver and vehicle registration tasks). MPI has both engaged in premium action to bring about desired outcomes (in the form of the immobilizer discounts), and met costs of other governmental bodies (in the WATSS program, towards reducing auto theft).

The government is clearly interested in reducing GHG emissions - the Board notes the government's recent action to prevent the registration in Manitoba of vehicles with a model year of 1995 or older, older cars produce significantly higher emissions than do newer model years, and the enactment of *The Climate Change Act* and *The Sustainable Development Act*. There are options that deserve discussion and consideration, such as special levies on higher emission passenger vehicles and the concept of Pay-As-You-Drive (PAYD).

As well, the Board seeks to set "just and reasonable" rates. Not only are there the two matters referenced above as being not actuarially based, but the reality of the Board's inability to review all of the Corporation's expenses that underlie cost allocations, and the lack of benchmarking of expenses (to allow for the testing for prudence and cost effectiveness). These are impediments to the Board being able to confirm that rates are "just and reasonable".

And, with respect to the allocation of expenses, the Board notes that through a series of significant program changes through the years, the allocation formulae remained unchanged, despite the Corporation's auditor's recommendation that the allocation formulae be reviewed no less frequently than every four or five years (in fact, MPI's external auditors have provided a 'clean' audit opinion on the Corporation's Basic financial statements for every year, even though the formulae had not been reviewed or amended).

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.pub.gov.mb.ca.

21.0 IT IS DIRECTED THAT:

- (a) MPI provide a report to PUB, with copies to the interveners, ahead of next year's filing of its GRA, as to the development of the Corporation's "vision" with respect to road safety, and that the report should be filed no later than May 31, 2011;
- (b) MPI provide, in its next GRA filing, the following evidence with respect to inter-provincial truckers:
 - (i) the current parameters, details and implications of the Basic program with respect to extra-provincial commercial and public trucks and buses;
 - (ii) how many of these vehicles are plated in Manitoba but not insured under the Basic program;
 - (iii) how many inter-provincial truck drivers have been provided with actual PIPP benefits since PIPP came into place;
 - (iv) how many of those drivers are or were associated with interprovincial trucks plated in Manitoba;
 - (v) what have been the costs of PIPP claims filed with respect to non-Manitobans injured in collisions involving "exempt" Basic vehicles;
 - (vi) whether, when PIPP was enacted the costs implications for Basic were contemplated and/or forecast; and
 - (vii) how, if at all, this information is reflected in MPI's publications as provided to policyholders.
- (c) MPI file (in next year's GRA) an analysis of the effects and implications of employing one territory, together with the pros and cons of that approach.
- (d) MPI file (in next year's GRA) charts comparing its increases in operational and claims costs since 1988 with vehicle and driver population growth and general price inflation.
- (e) MPI file (in next year's GRA) a chart comparing the average premium for passenger vehicles and overall annual net earned Basic premium, since 1988 (average annual passenger vehicle premium compared to general inflation), and a chart comparing

overall annual Basic net earned premiums with inflation and vehicle population growth.

22.0 IT IS RECOMMENDED THAT:

- (a) MPI file evidence to support increases to MPI's hospital related PIPP costs and seek to negotiate binding contracts with Government, not only with respect to health costs but also with respect to DVA;
- (b) MPI seek recovery from the Province for the King Street property donation;
- (c) MPI review the costs and benefits of the current arrangement with brokers on an annual basis, both with respect to Basic and other lines of business, and file the analysis with the Board within the annual GRA;
- (d) MPI work with the Winnipeg Police Service, the RCMP, the Manitoba Department of Justice, the Manitoba Department of Transportation, the Manitoba Safety Counsel, Mothers Against Drunk Drivers as well as the interveners in this hearing, to address and move toward improvement in road safety matters. The Board would welcome a technical conference at which road safety matters can be discussed;
- (e) MPI provide an analysis of options involving red light camera and photo radar infractions being assigned DSR demerits upon conviction;
- (f) MPI conduct research into the relationship between red camera and photo radar infractions and at-fault accidents;
- (g) MPI develop an option for the review of the Province wherein handheld communication device infractions would lead to a demerit assignment for DSR purposes, supported by research into the relationship between such infractions and at fault accidents;
- (h) MPI recommend to the Province that speed limits in areas known to involve high incidents of wildlife-vehicle collisions be reduced for those time periods during which such incidents

are at their highest levels, and that MPI invest in additional electronic speed indicator signs and review what other measures could be taken to reduce those types of accidents during their peak season;

- (i) a graduated licensing system be implemented with respect to new motorcycle riders, and as well a prohibition with respect to the ownership of sport bikes within the first five years of riding;
- (j) MPI list and consider potential improvements to Basic coverage, with comparisons to coverage in other jurisdictions, and develop analyses providing the premium and cost implications of options, and the potential impact on Extension and SRE, for discussion at the 2012 GRA;
- (k) MPI join the Board in recommending that PIPP costs being incurred with respect to the exempted extra-provincial trucks and P.S.V. trucks and buses be recovered from the Province;
- (l) MPI consider its position with respect to whether truckers should be permitted to elect benefits from MPI or WCB, and report to the Board;
- (m) MPI conduct a comparison between PIPP benefits and WCB coverage;
- (n) MPI research and provide an opinion on increasing the equities component of its investment portfolio to a 40% allocation, including a cost-benefit analysis of its current approach to investing policyholder derived funds;
- (o) MPI consider the use of 5 year averaging, to reduce the annual rate and net income risks that come with increased volatility within the investment market, and report to the Board on this suggestion at the next GRA;
- (p) that MPI engage only in those real estate and infrastructure investments that involve commercial terms, meaning commercially reasonable and arms-length investments;

- (q) Government consider whether control over MPI's investments should, in the interest of MPI's policyholders, be provided to MPI's Board of Directors, in order to eliminating what appears to be an inherent conflict of interest;
- (r) MPI permit no further "buy backs" of accident costs with respect to private passenger vehicles, from the date of implementation of the DSR, except for situations where the buy back is for an accident for which no injuries or fatalities occurred, and for which the total claims costs did not exceed \$1000; with respect to commercial fleets no buy backs should be permitted, excepting in cases that involve neither an injury nor a fatality;
- (s) The Board notes its recommendation (in Order 161/09) that MPI seek direction from Government concerning the potential use of the rate-setting model to further the government's environmental objectives. With respect, it does not appear that the Corporation has spent much, if any effort considering environmental issues, and as such the Board is concerned over what may be "short shrift" given by the Corporation to this area, including the recommendations and suggestions of interveners and presenters. The Board therefore repeats its recommendation from last year;
- (t) that MPI engage its external auditors to review its unaudited quarterly results prior to the statements being released; and
- (u) that MPI consider options to further the government's objective of reducing GHG emissions.

THE PUBLIC UTILITIES BOARD

"GRAHAM LANE, CA"
Chairman

"HOLLIS SINGH"
Acting Secretary

Certified a true copy of Order No. 145/10 issued by
The Public Utilities Board

Acting Secretary

Appendix A

Glossary of Acronyms and Terms

Application	2010/11 General Rate Application
Basic	Compulsory motor vehicle insurance
Board	Public Utilities Board
Bonus/Malus	Incentives/penalties to encourage good driving
BPR	Business Process Review
CAA	Canadian Automobile Association
CAC/MSOS	Consumers' Association of Canada (Manitoba) Inc./Manitoba Society of Seniors
CLEAR	Canadian Loss Experience Automobile Rating
CMMG	Coalition of Manitoba Motorcycle Groups
Corporation	Manitoba Public Insurance Corporation
DCAT	Dynamic Capital Adequacy Test
DSR	Driver Safety Rating (intended replacement for the Bonus/malus program)
DVL	Driver and Vehicle Licensing
Extension	Optional motor vehicle insurance
GAAP	Generally accepted accounting principles
Government	Government of Manitoba
GRA	General Rate Application
ICWG	Investment Committee Working Group (MPI)
MBA	Manitoba Bar Association
Monopoly	Policies that can only be sold by one corporation (MPI)
MPI	Manitoba Public Insurance Corporation
MUCDA	Manitoba Used Car Dealers Association
Near monopoly	Description of market domination in a competitive market due to distribution and other advantages by an insurer (MPI)
No-fault	Accident benefits not related to the fault of the driver
PIPP	Personal Injury Protection Plan
Province	Government of Manitoba
RIB	Retirement Income Benefit

RSR	Rate Stabilization Reserve
SRE	Optional Special Risk Extension motor vehicle insurance
SRP	Streamlined Renewal Process
Tort system	Benefits paid take into account the allocation of fault
Total no-fault	Benefit approach that does not account for the fault of the driver
WATSS	Winnipeg Auto Theft Suppression Strategy
WPS	Winnipeg Police Service

Appendix B
Appearances

Candace Everard Nicole Hamilton	Counsel for The Manitoba Public Utilities Board
Kathy Kalinowsky	Counsel for Manitoba Public Insurance Corporation
Liz Peters Gerry Kruk	Representing the Canadian Automobile Association (Manitoba Division)
Raymond Oakes	Counsel for the Coalition of Manitoba Motorcycle Groups
Nick Roberts	Representing the Manitoba Used Car Dealers Association
Byron Williams	Counsel for the Consumers' Association of Canada (Manitoba) Inc./ Manitoba Society of Seniors
Robert Dawson	Counsel for the Manitoba Bar Association

Appendix C

Witnesses

For MPI

Marilyn McLaren President and Chief Executive Officer

Don Palmer Vice-President Finance and Chief Financial Officer

Ottmar Kramer Director of Finance & Controller

Richard Olfert Deloitte LLP

Neil Parkinson KPMG LLP

Robert Kowalchuk KPMG LLP

For CMMG

Nicholas Beaudoin Dion Durrell & Associates Inc.

Appendix D

Interveners

Canadian Automobile Association - Manitoba Division

Coalition of Manitoba Motorcycle Groups

Consumers' Association of Canada (Manitoba) Inc./Manitoba Society of Seniors

Manitoba Bar Association

Manitoba Used Car Dealers Association

Presenters

Gordon Forman

Jill Ruth

Craig Steiben

Grant Parsons