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December 3, 2020

The Public Utilities Board
400 – 330 Portage Avenue
Winnipeg, MB R3C 0C4

Attention: Dr. Darren Christle, Board Secretary and Executive Director

sent via email: darren.christle@gov.mb.ca

Dear Dr. Christle,

**Re: MPI 2021-22 General Rate Application and MPI November 30, 2020
Supplemental Application**

Overview

CAC Manitoba is writing to respond to issues raised by the MPI filing of: 1) an application seeking a \$69 million RSR rebate related to the 20-21 year based on an updated financial forecast (the “material change in its financial circumstances”); and, 2) details of its agreement with brokers (the “broker agreement”).

In particular, CAC Manitoba is responding to process issues relating to the consideration of the effects of the material change in financial circumstances on MPI claims incurred and ultimately consumers’ rates and rebates.

The material effect of COVID-19 on MPI claims incurred has been a central part of PUB deliberations since the rate rebate hearing in April 2020. In Orders 67/20, the PUB ordered a significant rate rebate and directed MPI to continue to monitor COVID-19 impacts on claims incurred over the summer of 2020.¹

During the recent MPI 21-22 General Rate Application (GRA), two central issues before the PUB were whether: a) the PUB should exercise its statutory authority to recognize a material change in circumstances² by issuing a \$70 M rate rebate (the “second rebate”) related to excess reserves in the 20-21 year; and, b) the impact of COVID-19 on 21-22 claims incurred and on the proposed rate decrease for the test year.

¹ PUB Order 67/20, p. 5. See also Order 71/20, p 3-4.

² Section 26(3) of the Crown Corporations Governance Act (CCGA) provides that: where The Public Utilities Board is satisfied that the circumstances of a corporation have changed substantially, The Public Utilities Board may, of its own motion or on the application of the corporation or an interested person, review an order made pursuant to this section and modify the order in any manner that The Public Utilities Board considers reasonable and justified in the circumstances.

Subsequent to the close of the evidentiary portion of the 21-22 GRA but prior to the issuance of the PUB Order, MPI has filed information suggesting that the estimates it relied upon for the purposes of the GRA proceeding are no longer its best estimates for the 20-21 and 21-22 year.

From the perspective of CAC Manitoba, the key issues raised include:

- whether the material change in financial circumstances and the broker agreement are relevant and material to the issues before the PUB in the 21-22 General Rate proceeding;
- whether the material change in financial circumstances should be dealt with through the PUB GRA Order or in a new summary application; and,
- the recommended process to address the material change in financial circumstances.

Based on its review of the materials, CAC Manitoba will recommend the PUB make the following determinations:

- the MPI admission of a material change in financial circumstances is relevant and material to the issues before the PUB in the 21-22 GRA;
- the update on the broker agreement is relevant to the issues before the PUB in the 21-22 GRA but is unlikely to materially affect the submissions of parties or the PUB deliberations;
- it is open to the PUB to consider the material change in financial circumstances of MPI either in the order related to the recent 21-22 GRA or in a new special rebate proposal;
- there should be a public evidentiary process to determine an appropriate rate response to the material change in financial circumstances of MPI with an opportunity for input by the parties to the GRA;
- any public process should be expedited and consist of either: a) a one day oral hearing with no written discovery on or about December 10, 2020 consisting of questions in the morning and submissions in the afternoon; or, b) a written process consisting of information requests submitted on December 7, 2020, responses on December 9, 2020 and written submission on December 10, 2020.

MPI Admits that the October 9, Financial Update is not the Best Estimate

On November 30, 2020, MPI released materials that:

- admitted that it was departing “from the position it advanced during the course of the 2021 GRA, namely, that allowing the CMP to work as intended was preferred over issuing another rebate”;³

³ MPI November 30, 2020 filing, p. 6/24.

- forecast a \$69 million improvement in claims incurred for fiscal year 2020/21⁴ which included an estimated savings of \$40.1 million in respect of Basic ultimate collision costs, in addition to PD savings of \$4.3 million and PIPP savings of \$14.1 million;⁵
- increased its estimate of 2020/21 net income forecast to \$186.8 million compared to the \$105.4 million forecasted in the 21-22 GRA Rate Update;
- projected an increase of net income in 2021/22 of over \$8 million;⁶ and,
- appeared to implicitly suggest that COVID-19 impacts on claims incurred would linger into March of 2022.⁷

MPI also has filed an update of its relationship with insurance brokers. MPI suggests the new broker agreement provides modestly improved benefits to ratepayers of roughly \$2 million in broker commission savings as compared to the forecasts relied upon by MPI for the 21-22 year.⁸

CAC Manitoba commends MPI for sharing this information prior to the issuance of the 21-22 GRA Order.

The MPI Admission are Relevant to the 21-22 GRA Order

Three important issues during the 21-22 GRA were:

- was an estimate for the 21-22 year that assumed no COVID-19 impacts on claims incurred a best estimate?
- did MPI err by assuming no COVID-19 impacts on claims incurred beyond the end of August 2020 such that its estimate for 20-21 was no longer the best estimate and the alternative COVID-19 Q4 scenario should be preferred?
- if the COVID-19 Q4 estimate was preferred, would it be appropriate to recognize this material change in circumstances and order a second COVID-19 related rate rebate in the 20-21 year?

For example, CAC Manitoba argued that:

- the COVID-19 Q4 estimate should be accepted as the best estimate for 20-21;⁹
- the CMP inflexibly applied is ill suited to these times;¹⁰ and,

4 MPI November 30, 2020 filing, p. 10/24.

5 MPI November 30, 2020 filing, p. 10-11/24. Contrary to the position it adopted during the 21-22 GRA, MPI argued that the correlation between “a direct 2 one-to-one correlation between collision, PD and PIPP claims (in terms of costs)”. MPI November 30, 2020 filing, p. 12/24.

6 MPI November 30, 2020 filing, p. 16/24.

7 MPI November 30, 2020 filing, p. 17/24. “MPI experienced a decrease in claims costs, which it expects will last, to some degree, until March 2022.”

8 MPI letter to the PUB, December 2, 2020, p. 3.

9 Closing submissions of CAC Manitoba dated November 5, 2020, slide 28.

10 Closing submissions of CAC Manitoba dated November 5, 2020, slide 50.

- there should be a 2nd COVID-19 rebate of \$70 M.¹¹

If it is deemed credible by the PUB, the information filed by MPI on November 30, 2020 is relevant to the issues in the 2020 GRA because it:

- demonstrates the best estimate for the 20-21 year is materially improved over even the COVID-19 Q4 estimate recommended by CAC Manitoba. This suggests a material financial change in circumstances and justifies an immediate rate rebate approximating or above the \$70 million figure recommended by CAC Manitoba in its closing submissions; and,
- suggests that the improved financial circumstances related to the 21-22 test year may indicate a further rate decrease in the range of 1% over and above the MPI request.

In terms of materiality, there is no doubt that information suggesting a major rebate for the 20-21 year is material to the PUB deliberations and more than sufficient to re-open the evidentiary portion of the 21-22 General Rate Application. Given that a \$70 million rebate was a core issue in the hearing and recognizing MPI has now reversed its position on its advisability of such a rebate, there are clear and defensible grounds to re-open the hearing.

A 1% decrease for the 21-22 year would be considered material by many consumers and by CAC Manitoba. However, recognizing the importance of regulatory certainty, CAC Manitoba would not recommend re-opening the evidentiary portion of the 21-22 GRA for this purpose alone.

While CAC Manitoba believes the broker commission update is relevant to the 21-22 test year, it agrees with MPI that the \$2 million in reduced costs is unlikely to materially affect submissions or deliberations.

The PUB has Two Options to Address the Material Change in Circumstances

There is no doubt that the new financial information provided by MPI on November 30, 2020 is relevant and material to its 21-22 GRA deliberations. It is open to the PUB to exercise its authority under s. 26(3) of the CCGA to amend the process for the 21-22 GRA and consider this information in its deliberations. Such an approach would enable the PUB to address the closely interrelated issues raised by both the 21-22 GRA and the November 30, 2020 filing by MPI in one integrated package without the attendant confusion and additional effort that may result from two different orders on such closely related issues.

Alternatively, CAC Manitoba agrees that it is open to the PUB to consider the evidentiary portion of the 21-22 GRA closed and address the material change in circumstances through a special rebate application separate and apart from the GRA Order.

¹¹ Closing submissions of CAC Manitoba dated November 5, 2020, slide 48.

Recommended Process to Consider the Material Change in Circumstances

Regardless of whether the PUB reopens the GRA evidentiary portion or initiates a new hearing, CAC Manitoba would recommend that there be a public process allowing for the participation of parties and that the process be conducted on an expedited basis.

The need for a public process is evident. The PUB needs to be assured that there is sufficient evidence to support a material rebate including whether the MPI assumption of 1-1 correlation between collision and PIPP claims is justified. There also are important questions raised about the level of the rebate and whether it should be restricted to \$69 million or whether it should be significantly higher.

CAC Manitoba supports MPI in its request for an expeditious process especially given the acute suffering of many Manitoban families during the pandemic and the reality that the GRA Order is expected to be issued on or about December 14, 2020. Accordingly CAC Manitoba recommends that:

- there should be a public process to determine an appropriate regulatory response to the material change in financial circumstances with an opportunity for input by the parties to the GRA; and,
- any public process should be expedited and consist of either: a) a one day oral hearing with no written discovery on or about December 10, 2020 consisting of questions in the morning and submissions in the afternoon; or, b) a written process consisting of information requests submitted on December 7, 2020, responses on December 9, 2020 and written submission on December 10, 2020.

Conclusion

CAC Manitoba appreciates the opportunity to participate in this process. Thank you for your consideration of these comments.

Yours truly,



BYRON WILLIAMS
DIRECTOR
PUBLIC INTEREST LAW CENTRE

BW/ck