

**UNLAWFUL TRANSFERS, CONSERVATIVE ASSUMPTIONS  
AND CROSS-SUBSIDIZATION IN THE 2022 GRA**

Closing Submissions of the Consumers' Association of Canada (Manitoba Branch)

Prepared by: The Public Interest Law Centre  
October 27, 2021  
2022/23 Manitoba Public Insurance (MPI)  
General Rate Application (GRA)

**THIS IS A COMPLICATED APPLICATION WITH IMPORTANT  
RAMIFICATIONS FOR RATEPAYERS**

- Why is this application so complicated?<sup>1</sup>
  - Customer bill impact: rate increase disguised as a rate decrease (1.2% decreased combined with the removal of the 5% capital release provision is a 3.8% rate increase);
  - Combined with a significant rebate;
  - A Capital Management Plan that has shown inadequacies, but for which MPI appears to be seeking another trial year;
  - Unlawful and inappropriate transfers to a non-insurance program; and
  - Continued cross-subsidization in the Driver Safety Rating system and a transition plan which does not address the inherent issues with the system.
- Short-term and long-term implications for ratepayers.

---

<sup>1</sup> October 12, 2021 Transcript at 94, lines 20-25 (S. Scarfone).

**A CORPORATION THAT IS “FLUSH WITH CASH” AND  
SUBSIDIZING GOVERNMENT:  
UNLAWFUL AND IN CONTRAVENTION OF THE CMP**

- MPI’s transfers from Extension to the Driver and Vehicle Administration program is:
  - Unlawful under the *MPIC Act*, section 14(2)– this will be addressed further in written legal submissions; and
  - Contravenes the spirit and intent of the Capital Management Plan approved by the Public Utilities Board in 2019.

## JUST AND REASONABLE RATES

- The PUB is an independent, quasi judicial administrative tribunal entrusted with approving just and reasonable rates for MPI.<sup>2</sup>
- In approving just and reasonable rates, “(t)he PUB has two concerns when dealing with a rate application; the interests of the utility’s ratepayers, and the financial health of the utility. Together, and in the broadest interpretation, these interests represent the general public interest.”<sup>3</sup>
  - Ratepayers are both policy premium payers and claimants. To serve a claimant properly is the ultimate purpose of the insurance system.

---

<sup>2</sup> The Public Utilities Board, “About the PUB”, online: <http://www.pubmanitoba.ca/v1/about-pub/index.html>; & *Crown Corporations Governance and Accountability Act*, CCSM c C336, s. 25(1)(3); & *Public Utilities Board Act*, CCSM c P280, s. 77(a).

<sup>3</sup> *Consumers' Association of Canada (Man.) Inc et al v Manitoba Hydro, Electric Board*, 2005 MBCA 55, at para 65.

## **ELEMENTS OF JUST AND REASONABLE RATES**

- Ensuring that MPI's forecasts are reasonably reliable;
- Ensuring that actual and projected costs incurred are necessary and prudent;
- Assessing the reasonable revenue needs of the Corporation in the context of the overall general health of MPI;
- Determining an appropriate allocation of costs between classes; and
- Setting just and reasonable rates in accordance with statutory objectives.<sup>4</sup>

---

<sup>4</sup> PUB Order 98/14, p 28.

## A CHANGING CORPORATION

- MPI has faced significant changes at its Executive level, including the loss of:
  - Its CEO and President, Mr. Benjamin Graham, who, along with other members of the MPI Executive, was a key architect of the Capital Management Plan;
  - Its VP and Chief Actuary, Mr. Luke Johnston, who had been with the company for over 20 years and was a wealth of institutional knowledge, along with a key architect of the Capital Management Plan;
  - Its VP and Chief Operations Officer, Mr. Curtis Wennberg, who played a leadership role in relationship with stakeholders, such as the repair industry and brokers; and
  - Its VP and Chief Information and Technology Officer, Mr. Brad Bunko, who retired in 2021.<sup>5</sup>
- Very different witnesses this year as compared to previous years, illustrating a loss of institutional knowledge.<sup>6</sup>
  - CAC Manitoba thanks the MPI witnesses for their dedication to the regulatory process in the 2022 GRA.

<sup>5</sup> October 12, 2021 Transcript at 91-94 (S. Scarfone); October 12, 2021 at 244-247 (Dilay – Herbelin).

<sup>6</sup> October 12, 2021 Transcript at 91-94 (S. Scarfone)

## **RISKS TO MPI'S AMBITIONS, ONGOING PROJECTS AND DAY TO DAY OPERATIONS: RISKS THAT RATEPAYERS BEAR**

- A changing Executive can influence the culture of the operations of MPI.<sup>7</sup>
- MPI's Executive must gain the trust and support of the almost 2,000 staff members at MPI
  - Because the trust and support of employees can impact the ability of MPI to achieve its objectives within timeline and budget, as well as its day to day operations.<sup>8</sup>
- An MPI that does not have the trust or support of its staff, which may result in hemorrhaging key employees, risks not being able to achieve its objectives within time and budget.<sup>9</sup>
  - This represents a significant risk to ratepayers, who will ultimately pay the cost of these delays and budget increases.

---

<sup>7</sup> October 12, 2021 at 247-248 (Dilay – Herbelin).

<sup>8</sup> October 12, 2021 at 247-248 (Dilay – Herbelin).

<sup>9</sup> October 12, 2021 at 247-248 (Dilay – Herbelin).

**REASONABLENESS OF FORECASTS**



## **OLIVER WYMAN: CREDIBLE, INDEPENDENT**

- Rajesh Sahasrabuddhe (and Paula Elliott) have worked in almost all Canadian provinces on automobile rate applications;<sup>10</sup>
  - One of their specialties in terms of actuarial services in automobile insurance regulation is reviewing actuarial assumptions included in rate filings submitted by automobile insurers in Canada.<sup>11</sup>
- Mr. Sahasrabuddhe is currently working on an educational note for the Canadian Institute of Actuaries regarding the application of trends;<sup>12</sup>
- Retained to provide independent and non-partisan evidence to the PUB.<sup>13</sup>

---

<sup>10</sup> October 25, 2021 at 2299 (Dilay Sahasrabuddhe).

<sup>11</sup> October 25, 2021 at 2299-2300 (Dilay, Sahasrabuddhe).

<sup>12</sup> October 25, 2021 at 2300-2301 (Dilay, Sahasrabuddhe).

<sup>13</sup> October 25, 2021 at 2307-2308; Exhibit CAC-4 (Oliver Wyman report), p 2.

## TREND RATES: WHAT ARE THEY?

- The application of trends for MPI is a two-step process:
  - Past trends reflect observed changes in cost conditions that have taken place;
  - Future trends reflect changes in cost conditions expected to occur between the end of the experience period and the period the new premiums will be in effect.<sup>14</sup>
- *“MS. KATRINE DILAY: Thank you. So in other words, past trend rates reflect the cost level changes that occurred during the experience period, and future trend rates reflect those changes, as well as the likelihood that those patterns may change? MR. TAI PHOA: Yes, I would agree with you. Yeah.”*<sup>15</sup>
- All else being equal, the higher the selected trend rates, the higher the rate level indication.<sup>16</sup>

<sup>14</sup> October 18, 2021 at 1007-1008 (Dilay, Phoa); Exhibit CAC-4 (Oliver Wyman report), p 12; October 26, 2021 at 2488 (Dilay, Sahasrabuddhe).

<sup>15</sup> October 18, 2021 at 1007-1008 (Dilay, Phoa).

<sup>16</sup> October 18, 2021 at 1010 (Dilay, Phoa).

## TREND RATES: WHY ARE THEY IMPORTANT?

- Trend rates are a material assumption in the development of a rate proposal.<sup>17</sup>
  - Single assumption that has a compounding effect.<sup>18</sup>
- MPI's frequency and severity trends are used to calculate the claims forecast, resulting in the overall rate indication.<sup>19</sup>
- MPI's pure premium trends are used to calculate the indicated major class claims costs.<sup>20</sup>
- Pure premium trends are synonymous with loss cost trends, which are frequency multiplied by severity.<sup>21</sup>
- Pure premium trends and frequency/severity trends are based on the same aggregated data.<sup>22</sup>
  - *“Because they’re both – at the end of the day, they’re both based on the same body of claims experience.”<sup>23</sup>*

<sup>17</sup> October 18, 2021 at 1010-1011 (Dilay, Phoa); Exhibit CAC-4 (Oliver Wyman report), p 12.

<sup>18</sup> October 25, 2021 at 2326-2327 (Sahasrabuddhe).

<sup>19</sup> October 18, 2021 at 977-978 (McCandless, Phoa); Exhibit CAC-7, p 5;

<sup>20</sup> October 18, 2021 at 977-978 (McCandless, Phoa); Exhibit CAC-7, p 5;

<sup>21</sup> October 18, 2021 at 1014-1015 (Dilay, Phoa); October 26, 2021 at 2487 (Dilay, Sahasrabuddhe).

<sup>22</sup> October 18, 2021 at 1020 (Dilay, Phoa); October 26, 2021 at 2486-2487 (Dilay, Sahasrabuddhe).

<sup>23</sup> October 25, 2021 at 2324 (Sahasrabuddhe).

## **MPI IS NOT FOLLOWING STANDARD PRACTICE WITH RESPECT TO TRENDS**

- *“Considering statistical significance of the indications of the trend model is established practice.”*<sup>24</sup>
- MPI does not report on  $p$ -values, which are the outputs from the regression model fitting a curve to a set of data points.<sup>25</sup>
  - The review of  $p$ -values is “a standard process in assessing a regression model.”<sup>26</sup>
  - $P$ -values that are less than or equal to 0.05 mean that there is less than a 5 percent change that we would observe the value by chance, so they are statistically significant.<sup>27</sup>
  - $P$ -values exceeding 0.05 mean that the model could not discern a statistically significant trend.
- Residual analysis to determine the appropriateness of trend models is an established practice, but is not reported by MPI.<sup>28</sup>

---

<sup>24</sup> Exhibit CAC-10, p 15.

<sup>25</sup> October 18, 2021 at 1015-1018 (Dilay, Phoa).

<sup>26</sup> October 18, 2021 at 1015-1018 (Dilay, Phoa).

<sup>27</sup> October 18, 2021 at 1018-1019 (Dilay, Phoa, Lang).

<sup>28</sup> Exhibit CAC-10, p 15;

## **MPI IS NOT FOLLOWING STANDARD PRACTICE WITH RESPECT TO TRENDS (CONT.)**

- Considering the flattening out of the experience is a crucial step of the trend exercise:
  - *“And so, our view is, at a minimum, the future trend should have considered this – this flattening out; that, okay, maybe even if you think that over the long-term the trend has been higher, that at least you should be able to acknowledge that potentially it’s starting to flatten out, and – and that should have been considered in the past/future trend two (2) step process.”<sup>29</sup>*

---

<sup>29</sup> October 25, 2021 at 2343 (Sahasrabuddhe).

## MPI IS NOT FOLLOWING STANDARD PRACTICE WITH RESPECT TO TRENDS (CONT.)

- While the elements of MPI’s methodology may be reasonable, a necessary last step that appears to be missing is to assess the reasonableness of the forward-looking estimates recognizing more recent experience:
  - *“MS. KATRINE DILAY: And just regarding your discussion regarding the underlying period, would it be fair to summarize your response as it’s reasonable to look at underlying perils, but they should ultimately be reconciled to what the sum of the data indicates? MR. RAJESH SAHASRABUDDHE (by Teams): Yes, that’s correct.”<sup>30</sup>*
  - *“... the analysis missed the forest for the trees.”<sup>31</sup>*
  - *“And there were all these little details that sort of added up and then you put them together and you get to this number that, you know, in our view just, you know, doesn’t look reasonable and it’s – it’s materially unreasonable.”<sup>32</sup>*
  - *“... the seesaw analogy, the left side should be higher and, you know, when the left side of the seesaw goes up the right side must [come] down.”<sup>33</sup>*

<sup>30</sup> October 26, 2021 at 2487-2488 (Dilay, Sahasrabuddhe).

<sup>31</sup> October 25, 2021 at 2350 (Sahasrabuddhe).

<sup>32</sup> October 25, 2021 at 2350 (Sahasrabuddhe); see also October 25, 2021 at 2348 (Sahasrabuddhe).

<sup>33</sup> October 25, 2021 at 2347 (Sahasrabuddhe).

## CONSERVATIVE TREND ASSUMPTIONS ARE LEADING TO A HIGHER RATE INDICATION

- MPI's selected trends:
  - Do not reflect a best practice approach to statistical significance; and
  - Result in inappropriate conclusions when considering the residual analysis.
- MPI's selected trends are conservative and are leading to a higher rate indication, which will result in over-collection of ratepayer premiums.
- MPI's Undertaking 28 only applied Oliver Wyman's recommended trends to the future trends, not the past trend, leading to an inflated rate indication.<sup>34</sup>
  - This is contrary to the two-step process for the application of trends.
  - It is likely that applying the past trend, in addition to the future trend already applied in Undertaking 28, would serve to reduce the rate indication further.<sup>35</sup>

<sup>34</sup> October 25, 2021 at 2087 (Dilay, Phoa).

<sup>35</sup> October 26, 2021 at 2474-2475; see for example Oliver Wyman's estimate of a -10.2% rate indication in CMMG (MPI) I-1, with the caveat that Oliver Wyman was not able to fully replicate MPI's model and that MPI's rate indication changed in the October 1 rate update.

## RECOMMENDATION ON TRENDS FOR THE 2022 GRA AND GOING FORWARD

- In order to determine the appropriate overall rate indication, MPI should be directed to file a revised Undertaking 28 applying the Oliver Wyman pure premium trends (both past and future) to the combined frequency and severity trends to calculate the overall rate indication.
  - Parties should have an opportunity to provide written comments on the methodology.<sup>36</sup>
  - In order for the Board to be able to include the rate indication in its final order, one option could be to direct MPI to file this revised Undertaking and Intervenor to file comments prior to a Board Order being issued.
- For future GRAs, MPI should be directed to revise its methodology for pure premium trends and frequency and severity trends for claims incurred to better reflect statistical significance and residual analysis.

---

<sup>36</sup> See for example, PUB Order 164/16 in the context of the Manitoba Hydro Cost of Service Study proceeding, where the PUB Ordered “In the interim, and utilizing the methodology approved by the Board in this Order and summarized in Appendix B, the Board directs Manitoba Hydro to make a compliance filing within 60 days of the date of this Order.” Parties were invited to submit comments on Manitoba Hydro’s Compliance Filing by letter dated April 3, 2017.



## COVID-19 IMPACTS IN THE SHORT-TERM AND THE LONG-TERM

- In the short-term, MPI has assumed reductions to claims costs until March 30, 2022, which was an update in October as compared to the original June filing, because of changed circumstances.<sup>37</sup>
- As of April 1, 2022, MPI has assumed a return to “pre-COVID-19” normal because this is its best estimate.<sup>38</sup>
- This means that in the long-term (after April 1, 2022), MPI has assumed no ongoing impacts of COVID-19 on claims costs because they do not know “*at this point, what that looks like.*”<sup>39</sup> Oliver Wyman agrees with this.<sup>40</sup>
  - BUT MPI has acknowledged that it is possible there will be ongoing impacts of COVID-19 on claims incurred and it is monitoring the situation.<sup>41</sup>
- Manitoba is currently entering its fourth wave of COVID-19 and it is possible this will not be the last wave, which could lead to more excess capital than currently forecasted by MPI.<sup>42</sup>
- In the short-term (over the next year), MPI has not proposed a plan of what it will do should excess capital accumulate at a similar pace as during the past 18 months, since March 2020.
  - As a result, it is within MPI’s discretion whether or not to come to apply to the PUB for a rebate.<sup>43</sup>

<sup>37</sup> Exhibit MPI-41, p 5; October 13, 2021 at 325-327 (Guerra – Dunstone); October 18, 2021 at 888-889 (Dunstone); October 18, 2021 at 1046-1057 (Dilay, Dunstone).

<sup>38</sup> October 13, 2021 at 325-327 (Guerra – Dunstone); October 18, 2021 at 1047 (Dilay, Dunstone).

<sup>39</sup> October 13, 2021 at 361-363 (McCandless – Dunstone); CAC (MPI) 1-65; October 18, 2021 at 1048 (Dilay, Dunstone).

<sup>40</sup> Exhibit CAC-4, p 6 and October 25, 2021 at 2310 (Sahasrabuddhe).

<sup>41</sup> October 13, 2021 at 361-363 (McCandless – Dunstone); CAC (MPI) 1-65; October 18, 2021 at 1001-1002 (McCandless, Dunstone); October 18, 2021 at 1048-1049 (Dilay, Dunstone).

<sup>42</sup> October 18, 2021 at 1049-1050 (Dilay, Dunstone).

<sup>43</sup> October 18, 2021 at 1052-1055 (Dilay, Dunstone).

**RECOMMENDATION: GIVEN UNCERTAINTY, MPI SHOULD MONITOR AND BE READY TO RESPOND**

- The PUB should make a finding that the impacts of COVID-19 are likely to continue for an undetermined period of time. Given the lack of reliable forecasting of the impacts of COVID-19, the PUB should find that MPI's approach for the test year (2022/23) is reasonable.
- In the short-term until the next GRA, given the possibility that claims costs will be significantly lower than forecast if impacts of COVID-19 continue, MPI should be directed to file monthly reports with the PUB identifying the variance in actual claims costs to budget, as well as the impact on capital accumulated.<sup>44</sup>
- In the longer term, MPI should be directed to review what other insurers are doing in terms of potential long-term impacts of COVID-19 and file an analysis in the 2023 GRA, as well as incorporate best practice in its forecasts for claims costs so that prospective rates better reflect the post-COVID-19 reality.

---

<sup>44</sup> As the PUB had ordered in Order 71/20, p 25.

## **CUSTOMER SATISFACTION IS LOWER FOR INJURY CLAIMS**

- Only 71% of customers are satisfied with their experience with injury claims, as compared to 84-96% for other interactions with MPI.<sup>45</sup>
- Customers have indicated that one reason they are not fully satisfied is they would like to see benefits extended or be allowed to receive benefits for longer.<sup>46</sup>
- A review of PIPP has recently been completed, is awaiting government review and will be filed in the 2023 GRA.<sup>47</sup>

---

<sup>45</sup> 2022 GRA, Part II – BMK, p 13; October 14, 2021 at 652-653 (Dilay – Patton).

<sup>46</sup> CAC (MPI) 1-11, p 5; October 14, 2021 at 653-657 (Dilay – Patton).

<sup>47</sup> 2022 GRA, Part II – Basic Autopac Coverage and Benefits, p 5-7 and Part II – Comparison of Basic Policies to Other Jurisdictions, p 7.

## COMPLEX INJURY CLAIMS AND BEST PRACTICE

- Complex claims refer to a family of claims that are increasing in complexity due to evolving medical science, including relating to mental health claims, concussions and brain injuries.<sup>48</sup>
- On the one hand, complex claims have been raised as a risk by MPI for a number of years, because of uncertainty in forecasting these types of claims.<sup>49</sup>
- On the other hand, Manitobans look to their public auto insurance provider to provide them with adequate benefits, should they be injured in a car accident, and to keep up with evolving medical science to ensure the adequacy of benefits.
  - Given how quickly medical science and societal understanding of complex claims are evolving, there is the possibility that current compensation levels will be shown in the future to be inadequate.<sup>50</sup>
- One example of this tension is that in the more recent loss years (2018-2020), less claims remain ongoing beyond the 2-year stage.<sup>51</sup>
  - Good news story in terms of less ongoing claims for the corporation, but for claimants, it means that a larger percentage of claimants are receiving income replacement benefits for a shorter period of time after the 12 month mark.<sup>52</sup>

<sup>48</sup> CAC (MPI) 1-76; October 18, 2021 at 1057-1060 (Dilay, Phoa, Lang).

<sup>49</sup> CAC (MPI) 1-76; October 18, 2021 at 1057-1060 (Dilay, Phoa, Lang).

<sup>50</sup> October 18, 2021 at 1063-1066 (Dilay, Phoa, Lang).

<sup>51</sup> CAC (MPI) 1-76 a); October 18, 2021 at 1061-1063 (Dilay, Phoa, Lang).

<sup>52</sup> CAC (MPI) 2-39; October 18, 2021 at 1061-1063 (Dilay, Phoa, Lang).

## **RECOMMENDATIONS ON PIPP AND COMPLEX CLAIMS**

- MPI should be directed to further engage with customers who are not completely satisfied with injury claims due of a desire to see benefits extended or allowed to keep benefits longer to identify any trends or specific areas of coverage or injuries where there are ongoing challenges, for example but not limited to, complex claims (i.e. mental health, concussions, brain injuries).

**ENSURING COSTS ARE NECESSARY AND PRUDENT**

## PROJECT NOVA: A HIGH-RISK PROJECT FOR WHICH RATEPAYERS ARE BEARING ALL THE RISK

- There are foundational pieces of Project Nova that will need to be addressed, which are likely to lead to delays in delivering Nova and with that, will probably result in currently unquantified implications in terms of overall costs (including separate but related IT projects).<sup>53</sup>
- Project Nova was already inherently a high-risk project due to multiple inter-related factors, and the budget has increased since last year, and could continue to increase, despite mitigation strategies put in place.<sup>54</sup>
  - Risks include schedule slippage, driving costs.<sup>55</sup>
- While MPI is making the decisions relating to Project Nova, Manitoba ratepayers will ultimately pay the cost and so are bearing the high risk of this project (as it relates to Basic).<sup>56</sup>
- Now that Project Nova is well underway, how can the PUB and Manitoba ratepayers be kept apprised of value for money spent, especially in the face of an increasing budget and resourcing issues?

<sup>53</sup> October 12, 2021 Transcript at 216-217 (E. Herbelin); October 12, 2021 Transcript at 235-240 (McCandless, Herbelin); October 12, 2021 Transcript at 270-273 (Gabor – Herbelin); October 14, 2021 Transcript at 756-767 (McCandless – Ramirez).

<sup>54</sup> 2022 GRA, Part IV – NOVA, p 24-25; 2022 GRA, Part VII – RMF, Appendix 3; 2022 GRA Part IV – Value Management, Appendix 11; 2022 GRA Part IV – Nova, Appendix 1, p 10; CAC (MPI) 2-13; CAC (MPI) 1-33; October 14, 2021 Transcript at 722-723 (Scarfone, Ramirez); October 14, 2021 Transcript at 778-780 (Dilay – Ramirez); October 14, 2021 Transcript at 780-782 (Dilay – Ramirez); October 14, 2021 Transcript at 782-783 (Dilay – Ramirez); October 14, 2021 Transcript at 783-784 (Dilay – Ramirez); October 15, 2021 Transcript at 851-855 (Gabor, Mitra).

<sup>55</sup> October 14, 2021 at 725 (Scarfone – Ramirez);

<sup>56</sup> October 14, 2021 at 785-786 (Dilay – Ramirez).

## CUSTOMER ENGAGEMENT IS ESSENTIAL TO PROJECT NOVA BUSINESS CASE

- Online adoption rates forecast by MPI will have a material impact on the Project Nova business case, in the event that they are lower than MPI's forecast or that there is slower uptake.<sup>57</sup>
- MPI has recognized the importance of customer engagement on Project Nova, relating to the business case and to ensure it is meeting the needs and expectations of customers, by continuing to engage with customers on an ongoing basis and by retaining KPMG.<sup>58</sup>
- However, KPMG's work is confidential, its statement of work has not been filed on the public record, and a significant piece of work was not ready for the 2022 GRA hearing.<sup>59</sup>
- MPI's and KPMG's work on customer engagement could contribute to public confidence in the project.

<sup>57</sup> PUB (MPI) 1-69 d); PUB (MPI) 2-34; October 14, 2021 Transcript at 770 (McCandless – Mitra); October 14, 2021 at 784-785 (Dilay – Ramirez); October 15, 2021 Transcript at 858-861 (Scarfone, Mitra);

<sup>58</sup> CAC (MPI) 1-38; CAC (MPI) 2-15 b); October 14, 2021 at 791-793 (Dilay – Mitra);

<sup>59</sup> CAC (MPI) 2-15 b); October 14, 2021 at 795-797 (Dilay – Mitra); Exhibit MPI-109 (Undertaking 19).



## INDEPENDENT PROGRAM GOVERNANCE VENDOR

- PriceWaterhouse Cooper has been engaged to provide program governance services: *“providing advice, oversight of the program as a mitigation strategy to identify risks and issues proactively so that MPI – so that the enterprise can react and – and correct early.”*<sup>60</sup>
- PWC reports are confidential and PWC did not provide approval to file statement of work with the PUB.<sup>61</sup>
- Given the importance of PWC’s program governance services over a high risk project, the PUB’s oversight role over MPI’s reasonable expenses and that ratepayers are bearing the risk of Project Nova, PWC’s reports (or summaries of findings) could contribute to public confidence in the project, especially as delays and increases in budget are anticipated for Project Nova.

<sup>60</sup> 2022 GRA, Part IV – Nova, p 16; October 14, 2021 Transcript at 786-788 (Dilay – Ramirez).

<sup>61</sup> Exhibit MPI-108 (Undertaking 18).

## IT AMBITION – REMINISCENT OF PAST MPI VENTURES

- MPI is already looking past Project Nova (MPI 1.5) to Supernova (MPI 2.0).<sup>62</sup>
- Does MPI need to be leading-edge in IT given that:
  - MPI is an automobile and personal injury insurance company, which also administers a driver licensing and vehicle registration program on behalf of government – customers do not have to engage with MPI every day, or every week or even every month.<sup>63</sup>
  - MPI's Basic customers are captive ratepayers – they cannot shop around.<sup>64</sup>
  - The vast majority of Basic customers also choose Extension coverage and Extension holds the vast majority of the market.<sup>65</sup>
  - MPI customer satisfaction rates are already overall excellent.<sup>66</sup>
- Given the marketplace in which MPI operates and the type of product it provides, and given that ratepayers pay the costs of MPI's operations so bear all the risk, MPI should be strongly cautioned not to go down the same IT ambition road that it has gone down in the past, unsuccessfully. Consideration could be given to accountability mechanisms to be implemented in the future.

<sup>62</sup> CAC (MPI) 1-2, Appendix 1, p 11; CAC (MPI) 2-18, p 1-2; October 14, 2021 Transcript at 819-820 (Dilay – Parti); October 12, 2021 Transcript at 206 (Herbelin); October 12, 2021 Transcript at 254-255 (Dilay – Herbelin); October 14, 2021 Transcript at 805 (Dilay – Parti); October 14, 2021 at 765-767 (McCandless – Parti).

<sup>63</sup> October 14, 2021 at 799-801 (Dilay – Mitra).

<sup>64</sup> October 12, 2021 Transcript at 256-257 (Dilay – Herbelin).

<sup>65</sup> October 12, 2021 Transcript at 256-257 (Dilay – Herbelin).

<sup>66</sup> 2022 GRA, Part III – BMK, p 13, lines 5-6; October 12, 2021 Transcript at 202 (Herbelin);

## **IT AMBITION: AT THE EXPENSE OF OTHER AREAS?**

- MPI has:
  - Antiquated and simplistic rating system (minimum bias versus Generalized Linear Models)
  - Not applied standard practice as it relates to trends
  - Cross-subsidization and inherent challenges within the DSR Registered Owner model
  - Outdated territories
  - Fleet program subsidies
  - No functional Capital Management Plan
- And MPI makes little to no progress on all these areas year after year... but they have an IT ambition!

## **IT BENCHMARKING SHOULD CONTINUE GIVEN SIGNIFICANT CHANGES TO MPI'S IT LANDSCAPE**

- Benchmarking has benefits in general.<sup>67</sup>
- Some confusion around whether MPI will continue third-party benchmarking for IT service delivery.<sup>68</sup>
- But MPI confirmed its intention to continue IT benchmarking, including third-party (external to MPI) where appropriate.<sup>69</sup>
- Continued IT benchmarking is likely to provide value for ratepayers in the context of:
  - Ongoing work on Gartner recommendations;<sup>70</sup> and
  - An IT landscape that is undergoing significant changes at MPI and will look very different in a few years.<sup>71</sup>

<sup>67</sup> 2022 GRA, Part III – BMK, p 6; October 14, 2021 at 806-807 (Dilay, Parti).

<sup>68</sup> 2022 GRA, Part III – BMK, p 7; CAC (MPI) 1-18; October 14, 2021 at 807-813 (Dilay, Parti, Ramirez, Lazarko, Scarfone, Gabor).

<sup>69</sup> October 14, 2021 Transcript at 813 (Dilay, Parti); October 14, 2021 at 814-816 (Dilay – Parti).

<sup>70</sup> 2022 GRA, Part III – BMK, Appendix I; CAC (MPI) 1-19; October 14, 2021 at 817-819 (Dilay – Parti).

<sup>71</sup> October 14, 2021 at 819-820 (Dilay – Parti).

## RECOMMENDATIONS RE INFORMATION TECHNOLOGY

- MPI should be directed to file with the PUB an analysis of the foundational issues relating to Project Nova, including the impact on budget and schedule as soon as possible.
- Given the importance for ratepayers of accountability and transparency on Project Nova as a high-risk project, MPI should be directed to:
  - File a summary of PriceWaterhouse Cooper's work on the public record and present PriceWaterhouse Cooper, the Independent Program Governance Vendor, as a witness in the 2023 GRA; and
  - Present MPI Operations staff as part of the Project Nova panel in the 2023 GRA.
- Given the importance of customer engagement as it relates to Project Nova's business case, MPI should be directed to:
  - Continue to engage customers in a variety of ways and on an ongoing basis relating to Project Nova and file summary results of its engagement, including methodology, in the 2023 GRA;
  - File a public version of KPMG's work (or summary) on the public record and present KPMG, the external firm conducting a detailed and comprehensive customer experience roadmap and implementation plan for use by Project Nova, as a witness in the 2023 GRA.
- MPI should be directed to continue to retain Gartner or another external IT benchmarking consultant as it experiences significant changes in its IT department.

## DEBT FINANCING: MISSED OPPORTUNITY

- MPI currently funds all capital projects with cash from operations – those funds would otherwise be held in a cash account or be transferred to the investment portfolio.<sup>72</sup>
  - To the extent that funds contributed to MPI’s capital adequacy, funds could be released back to customers under a capital management plan.<sup>73</sup>
- MPI is still reviewing the option of debt financing, but it is not a priority for the Corporation.<sup>74</sup>
- However, from the customer perspective, debt financing for MPI may be a priority given that customers would have options in terms of what to do with the money if it was in their pockets (e.g. pay back debt, invest, etc.).<sup>75</sup>
- When interest rates are very low (as they were in 2020), MPI’s investment portfolio returns are on average higher than interest rates.<sup>76</sup>

<sup>72</sup> CAC (MPI) 1-40; October 12, 2021 at 232-233 (McCandless – Herbelin); October 13, 2021 at 453-545 (Dilay – Gandhi).

<sup>73</sup> October 13, 2021 at 455 (Dilay – Gandhi).

<sup>74</sup> CAC (MPI) 1-40.

<sup>75</sup> October 13, 2021 at 455-459 (Dilay – Gandhi).

<sup>76</sup> 2021 GRA, CAC (MPI) 2-20, Attachment A; 2022 GRA, Part IV - VM Appendix 11, footnote 4 on p 3; CAC (MPI) 1-82, Appendix 1, p 2; October 13, 2021 at 460-463(Dilay – Gandhi); October 20, 2021 at 1645 (Dilay, Bunston).

**RECOMMENDATION: DEBT FINANCING**

- MPI should investigate the opportunity to debt finance at least a portion of its capital spending. While it would have been advantageous if MPI had promptly investigated this issue and acted on the historically low interest rates in 2020, this would now appear to be a longer term issue, to be addressed as MPI becomes comfortable with more sophisticated financing operations.

## REINSURANCE: IS THIS LEVEL REALLY NEEDED?

- Reinsurance is insurance that MPI purchases from another insurance company to insulate itself from the risk of a major claims event.<sup>77</sup>
- MPI has increased reinsurance coverage (and associated premium costs) twice in the last two three years resulting in increased costs for reinsurance totalling approximately \$4.2M.<sup>78</sup>
- MPI has only had two occasions where the payout was higher than the deductible.<sup>79</sup>

---

<sup>77</sup> October 13, 2021 at 470-471 (Dilay – Gandhi).

<sup>78</sup> October 13, 2021 at 471-475 (Dilay – Gandhi); October 13, 2021 at 475-479 (Dilay – Gandhi).

<sup>79</sup> PUB (MPI) I-81, Figure I; October 13, 2021 at 479-480 (Dilay – Gandhi).



## REINSURANCE INCREASES: JUSTIFICATIONS DO NOT HOLD UP TO SCRUTINY

- MPI's justifications for expanding its reinsurance coverage do not hold up to scrutiny:
  - Its modeling shows that a 1-100 year catastrophe loss scenario would total less than \$340M in claims costs;<sup>80</sup>
  - The way that MPI has characterized Massive Catastrophic Weather Event has been inconsistent;<sup>81</sup>
  - Manitoba, or Winnipeg in particular, may not be as susceptible to hail storms as an area like Calgary to which it compares itself,<sup>82</sup> and
  - Climate change impacts on Manitoba may be different than other parts of the country.<sup>83</sup>

<sup>80</sup> October 13, 2021 at 480-481 (Dilay – Gandhi).

<sup>81</sup> Exhibit MPI-104 (CAC Pre-ask 1).

<sup>82</sup> October 13, 2021 Transcript at 481-482 (Dilay – Gandhi); see also October 14, 2021 Transcript at 608-611 (Watson – Dunstone).

<sup>83</sup> October 13, 2021 Transcript at 482 (Dilay – Gandhi); October 18, 2021 at 941 (McCandless, Dunstone).

## **REINSURANCE: A CUSHION ON TOP OF A CUSHION?**

- Given the purpose of the RSR and the purpose of reinsurance, are some of the same risks covered, thus creating a cushion on top of a cushion?

## **RECOMMENDATION: REINSURANCE**

- On its face, the additional \$100M in re-insurance coverage at the cost of \$1.7M does not appear to be warranted. The historical data and MPI's rationale for the additional coverage do not support this additional coverage.
  - As a result, MPI should be directed to investigate, support and report in the 2023 GRA the need for the additional \$100M in reinsurance coverage.
- More broadly, the details of the MCT calculation should be examined to understand the extent of overlap between the goals of the RSR and the reinsurance program. Does MPI need both programs at the levels they are currently or are they arguably serving the same purpose, in that they are creating a double layer of protection for rare events, for MPI at a high cost to customers, both in terms of MPI holding 100% MCT worth of capital, and in terms of re-insurance coverage?
  - As a result, for the 2023 GRA, MPI should be directed to provide a detailed analysis of the overlap of coverage among the MCT, RSR and Reinsurance programs in protecting MPI's financial risk exposures.

## **STAFFING AND VACANCY ALLOWANCE: WHY IT MATTERS FOR RATEPAYERS**

- MPI forecasts a certain number of FTEs in its budget, which impacts the overall revenue requirement that MPI needs as these are salaries MPI needs to pay. In turn, the revenue requirement informs the rate request.<sup>84</sup>
- MPI forecasts a vacancy allowance, which deducts from the total FTE forecast for positions that MPI anticipates will be vacant and for which it will not have to pay a salary.<sup>85</sup>
- MPI's financial position is impacted by under budget FTEs to the extent that MPI's vacancy allowance does not fully capture the cost of unfilled positions.<sup>86</sup>

---

<sup>84</sup> October 13, 2021 at 486-487 (Dilay – Gandhi).

<sup>85</sup> October 13, 2021 at 486-487 (Dilay – Gandhi).

<sup>86</sup> October 13, 2021 at 503-504 (Dilay – Gandhi).

## HISTORICAL STAFFING ACTUALS AND VACANCY ALLOWANCE

- MPI has been operating under staffing budgets for years: the business is running as it should and MPI does not appear to have seen a decline in customer satisfaction rates.<sup>87</sup>
  - While MPI has referenced COVID-19 as being a reason for higher vacancies, the trend of increasing under-budget FTEs has been observed since 2016/17.<sup>88</sup>
- Digging into the numbers from the last three years demonstrates that the same areas appear to be operating consistently under FTE forecasts, which could show key areas of productivity gains.<sup>89</sup> Those areas include:
  - Customer Service, Information Technology and Business Transformation, Human Resources and Corporate Services, Technical Professional and Clerical.
- MPI's vacancy allowance, which would reduce the FTE cost forecast and therefore the overall revenue requirement, does not appear to be reliable given that it has been higher than forecast, but is now forecast to decrease.<sup>90</sup>

<sup>87</sup> 2022 GRA, Part V – Expenses, p 20, Figure EXP-11; 2022 GRA, Part III – BMK, p 13; CAC (MPI) I-11; October 13, 2021 at 487-488 (Dilay – Gandhi); October 13, 2021 at 496-499 (Dilay – Gandhi).

<sup>88</sup> 2022 GRA, Part V – Expenses, p 20, Figure EXP-11; October 13, 2021 at 422-423 (McCandless – Gandhi); October 13, 2021 at 487-488 (Dilay – Gandhi).

<sup>89</sup> October 13, 2021 at 488-493 (Dilay – Gandhi).

<sup>90</sup> 2022 GRA, Part V – Expenses, p 21, Figure EXP-12; October 13, 2021 at 419-420 (McCandless – Gandhi); October 13, 2021 at 499-504 (Dilay – Gandhi).

## **MPI MAY BE TOO FTE HEAVY, ACCORDING TO ITS CROWN BENCHMARKING EXERCISE**

- According to MPI's Crown Benchmarking exercise, MPI's is:
  - Higher than SGI and ICBC for FTEs per \$100M of Gross Premiums Written;
  - Lower than SGI and ICBC for Gross Premiums written per FTE; and
  - Lower than SGI and ICBC for adjusted policies in force per FTE.<sup>91</sup>
- Notwithstanding some differences between MPI, SGI and ICBC which could in part explain these ratios, MPI appears to be too FTE heavy as compared to its Crown counterparts.<sup>92</sup>
  - It is important to keep in mind that MPI may be able to achieve efficiencies as compared to its counterpart by offering multiple products and services within one entity.<sup>93</sup>
- MPI does not currently have a target for FTEs per \$100M of Gross Premiums Written.<sup>94</sup>

<sup>91</sup> Part II – Benchmarking, p 25: Figure BMK-17.

<sup>92</sup> October 14, 2021 at 633-635 (McCandless – Gandhi); October 14, 2021 at 643-648 (McCandless – Gandhi);

<sup>93</sup> October 14, 2021 at 648-651 (Dilay – Gandhi).

<sup>94</sup> PUB (MPI) 1-59.

## **RECOMMENDATIONS: STAFFING AND VACANCY ALLOWANCE:**

- The PUB should find that MPIs forecasted vacancy allowance for 2022/23 may not be high enough given historical under budget staffing and given the trend in FTE vacancy over the past three years. MPI should be directed to provide a clear plan to achieve the vacant FTEs implied by their vacancy allowance, otherwise they should adjust the vacancy allowance upwards, so that MPI does not over-collect from ratepayers.
- Given the persistent underbudgeting of FTEs which have not resulted in deterioration of the business operations, MPI should be directed to conduct an analysis of productivity gains in the areas which have been operating under staffing budget in order to inform whether it should be reducing its budget FTEs in those areas. In addition and related, MPI should target FTE metrics that are comparable with Crown peers.

## BROKER AGREEMENT AND EXPENSES FOR ONLINE TRANSACTIONS

- CAC Manitoba is aware that many consumers choose to use brokers for their auto insurance purchases and transactions. Many other consumers, however, renew through MPI service centres, or online (as much as is currently possible).
- During the 2020/21 fiscal year, MPI and the Insurance Brokers Association of Manitoba (IBAM) negotiated a future commission fee agreement for the period of April 1, 2021 through to March 31, 2026.<sup>95</sup>
- Commission rates for both Basic and Extension include commissions for brokers for online transactions in every year until 2025/26.<sup>96</sup>
- MPI has assumed that online adoption rates are forecast to grow to 35% in 2025/26 and MPI is confident in these assumptions.<sup>97</sup>
- As a result, MPI appears to believe there is value in paying brokers for transactions where customers are transacting online directly with MPI, in which brokers play no role.
  - While this agreement **may** reflect a transition period, paying commissions when there is no work being done should not be a regular practice.

<sup>95</sup> Part V, Expenses, p 62; CAC (MPI) I-27 Attachment A, p 8; October 13, 2021 at 505 (Dilay – Gandhi).

<sup>96</sup> CAC (MPI) I-27 Attachment A, p 8; October 13, 2021 at 505-507 (Dilay – Gandhi).

<sup>97</sup> PUB (MPI) I-69d); CAC (MPI) I-34c); October 13, 2021 at 507-510 (Dilay – Gandhi).



## IFRS 17

- MPI's review of impacts of IFRS 17 on the corporation is ongoing and it does not appear that significant issues have been identified to date.<sup>98</sup>
- *“The state of MPI's readiness and its general evaluation of the effect of IFRS 17 is consistent with our experience with other automobile insurers.”*<sup>99</sup>
- With respect to the Financial Condition Test, “[a]s of August 2021, MPI is working with its External Appointed Actuary, JS Cheng and Partners, on a mock IFRS 17 policy liability valuation.”<sup>100</sup>

<sup>98</sup> See for example: CAC (MPI) 1-69; PUB (MPI) 1-7; CAC (MPI) 2-19.

<sup>99</sup> Exhibit CAC-4 (Oliver Wyman report), p 7; October 25, 2021 at 2310 (Sahasrabudhe).

<sup>100</sup> Exhibit MPI-51, Financial Condition Test, p 27.

## **RECOMMENDATIONS: IFRS 17**

- Once MPI completes its IFRS 17 position papers, the corporation should be directed to provide a summary of the impact on MPI's financial statements, capital management, claims forecasting and composition of the investment portfolio for a full understanding of the impact of these accounting standard changes (including the changes from IFRS 9).
- As soon as the mock IFRS 17 policy liability valuation is completed and a mock set of Financial Statements is completed, MPI should be directed to file these documents with the Board and the interveners so they can familiarize themselves with how financials will look like in the future, which may assist with efficiency during the hearing process.

## **RATE UPDATE: INCREASED OPERATING COSTS AND TREND UPDATE**

- CAC Manitoba's understanding was that the rate update that MPI files in October relates to an update in interest rates.<sup>101</sup>
  - Interest rates are outside of MPI's control.
- This year, given the significant forecasting challenges relating to COVID-19, it may have been appropriate to include an update to claims forecasts to reflect the changing public health circumstances.<sup>102</sup>
- However, there are doubts as to the appropriateness of presenting higher than expected operating expenses, resulting in a 1.2% difference in rates, after the discovery period of the process is completed.<sup>103</sup>
  - MPI's budgeting and planning process is different than interest rates and these types of costs would be more appropriately included in the next year rate filing.

<sup>101</sup> See for example PUB Order 176/19, p 7: "On October 4, 2019, the Corporation filed its update to reflect market interest rates as at September 30, 2019, along with a request to amend its Application, a request which the Board approved.", and PUB Order 1/21, p 7: "In the 2020 GRA, the Board accepted a new approach proposed by the Corporation. The Application and the public notice were based on a provisional rate request derived in the usual manner by the Corporation, but stated that the Corporation would be updating its rate indication following September 30, 2019, based on market interest rates as at that date."

<sup>102</sup> Exhibit MPI-41, p 5.

<sup>103</sup> Exhibit MPI-105 (PUB Pre-ask 1); Exhibit MPI-37, p 22; see also October 18, 2021 at 949-951 (McCandless, Dunstone).

**ASSESSING THE REASONABLE REVENUE NEEDS OF THE  
CORPORATION IN THE CONTEXT OF THE OVERALL  
GENERAL HEALTH OF MPI**

## **ISSUES TO BE ADDRESSED IN THIS SECTION**

- Capital Management Plan
- Transfers to Driver and Vehicle Administration
  - Unlawful under the MPIC Act
  - Contravene the spirit and intent of the Capital Management Plan
- Special Rebate Application

## THE ORIGINAL INTENT OF THE CAPITAL MANAGEMENT PLAN

- The original intent of the CMP, as presented by MPI in the 2020 GRA and approved by the PUB was to:
  - Regularly review the capital levels of both Extension and Basic;
  - Be transparent regarding where excess capital from Extension goes;
  - Have a way of automatically transferring excess capital from Extension to Basic;
  - Have a way of consistently releasing and re-building capital regardless of the circumstances; and
  - Recognize that Extension and Basic have for the most part the same customers.<sup>104</sup>
- Mr. Herbelin, MPI's new CEO and President, has confirmed his familiarity with the CMP presented by MPI and approved by the PUB two years ago.<sup>105</sup>

<sup>104</sup> October 19, 2021 at 1363-1376 (Dilay, Giesbrecht);

<sup>105</sup> October 12, 2021 at 248-250 (Dilay – Herbelin).

## **CAC MANITOBA DID NOT ENDORSE THE CAPITAL MANAGEMENT PLAN TWO YEARS AGO**

- In the hearing leading to PUB Order 176/19, CAC Manitoba took the position that (as summarized by the PUB):
  - the 100% MCT target is inappropriate for the Basic RSR as it represents a significant cost to ratepayers without being linked to Basic's risk or experience;
  - the collaborative process over past years as it relates to a risk and experience-driven level for the Basic RSR, including use of 1-in-40-year DCAT scenarios;
  - the benefits of a range with a minimum and a maximum threshold, which is more likely to encourage rate stability, versus a target, which is more likely to encourage rate volatility;
  - the social wastefulness of excessive reserves; and
  - excess reserves should be reflected as rebates to consumers (as opposed to reducing the rate indication) and that reserve deficiencies should be reflected as surcharges to consumers (as opposed to increasing the rate indication).<sup>106</sup>

---

<sup>106</sup> See PUB Order 176/19, p 60-61.

**HOWEVER, THREE ITEMS THAT CAC MANITOBA BELIEVES ARE BENEFICIAL IN THE CAPITAL MANAGEMENT PLAN**

- Regular review of capital:<sup>107</sup>
  - *“MR. RAJESH SAHASRABUDDHE (by Teams): Yes, our – our view was that maintaining the Capital Management Plan sort of – or would force the review of the adequacy of the capital of MPI on an annual basis, which we think is a – a part of proper governance of the – of – of MPI.”<sup>108</sup>*
- A recognition of the significant advantages that Extension receives from Basic’s monopoly.
- Predictable and automatic releasing/rebating or rebuilding of capital.

<sup>107</sup> See also Exhibit CAC-4 (Oliver Wyman report), p 18 regarding maintaining regular review of capital.

<sup>108</sup> October 26, 2021 transcript at 2391-2392 (Scarfone, Sahasrabuddhe).



## THE LAST YEAR HAS SHOWN INADEQUACIES WITH THE CAPITAL MANAGEMENT PLAN

- Confusion for ratepayers including due to:
  - This year, the effect of having both an indicated rate decrease and the removal of the 5% capital release provision means that rates are going up on average;<sup>109</sup>
  - The rate requests last year and this year as portrayed by MPI to the public has been unclear and inconsistent;<sup>110</sup> and
  - MPI sometimes also expressing the effect of the rebate (a one-time return of excess capital) in a percentage amount.<sup>111</sup>
- Mixing prospective rate setting and capital release provisions can result in premium deficiency.<sup>112</sup>
- The CMP is an inadequate system to promptly return excess capital to ratepayers, and a situation where excess capital accumulates over a short period of time could happen again in the future.<sup>113</sup>

<sup>109</sup> October 13, 2021 at 337-338 (McCandless – Dunstone); October 18, 2021 at 914-916 (Guerra, Phoa);

<sup>110</sup> October 19, 2021 at 1223-1228 (Gabor, Dunstone); October 19, 2021 at 1263-1264 (Giesbrecht); October 19, 2021 at 1376-1382 (Dilay, Giesbrecht); Exhibit CAC-8, Tabs 9, 10;

<sup>111</sup> October 13, 2021 at 336 (McCandless – Dunstone).

<sup>112</sup> 2022 GRA, Part I, Overview, p 7; October 19, 2021 at 1383-1389 (Dilay, Giesbrecht);

<sup>113</sup> 2022 GRA, Part I, Overview, p 3; October 12, 2021 at 222-225 (McCandless – Herbelin); October 19, 2021 at 1262 (Phoa); October 19, 2021 at 1387-1390 (Dilay, Giesbrecht).

**DESPITE THE ACKNOWLEDGED INADEQUACIES WITH THE  
CMP, MPI IS NOT REALLY PROPOSING A SOLUTION**

- MPI has said they are no longer going to rely on the capital release provision anymore and instead will be proposing a capital rebate methodology – but no details provided in 2022 GRA.<sup>114</sup>
- However, it appears that the MPI Board of Directors has already approved a threshold of 120% MCT to trigger rebates, “creating a range of sorts”, over and beyond the 100% MCT target.<sup>115</sup>
  - From CAC Manitoba’s perspective, this would effectively be a new de factor target: MPI holds capital until 120% then takes action.

<sup>114</sup> Part V – Revenues, p 18; CAC (MPI) 2-37; October 20, 2021 at 1399 (Dilay, Giesbrecht).

<sup>115</sup> PUB (MPI) 1-29; PUB (MPI) 1-3, p 17; PUB (MPI) 2-2, p 4; October 20, 2021 at 1399-1402 (Dilay, Giesbrecht).

**MPI IS PROPOSING ANOTHER YEAR OF THE CMP... BUT  
NOT REALLY THE CMP**

- MPI has proposed another trial year of the CMP but without the tool which returns capital to ratepayers – the capital release provision.<sup>116</sup>
  - In addition, MPI has broken its promise of transferring excess Extension capital to Basic, by transferring those funds to DVA instead.
- Is it really another trial year of the CMP given the changes?
- Or is this an opportunity to modify MPI’s approach to management of capital given learnings from the past two years, while recognizing the elements that did work?

---

<sup>116</sup> 2022 GRA, Part I, Legal Application, p 3; October 20, 2021 at 1405-1406 (Dilay, Giesbrecht).

**IT IS IMPORTANT TO NOTE THAT THE CMP HAS NOT OPERATED IN A “NORMAL ENVIRONMENT”**

- Capital Management Plan was approved by the PUB in December 2019.<sup>117</sup>
- COVID-19 hit Manitoba in March 2020, significantly reducing the number of collisions and therefore significantly improving MPI’s capital position in a short period of time.<sup>118</sup>
- Oliver Wyman has recommended keeping the 5% release provision for 2022/23, in addition to rebating additional excess capital, given that the COVID-19 is a non-recurring event.
  - However, Oliver Wyman has also recognized the inherent challenges with the release provision: *“Ratemaking is a prospective exercise whereas the return of capital results from the underwriting and investment results of prior program years. Mixing the capital return and the prospective rate has the potential to create consumer confusion. In addition, the capital build/release provision has a potential fairness issue in that the build/release does not apply to the exact population of insureds responsible for the capital situation.”*<sup>119</sup>

<sup>117</sup> See PUB Order 176/19, p 61-63.

<sup>118</sup> October 12, 2021 Transcript at 99-100 (S. Scarfone); October 20, 2021 at 1406 (Dilay, Giesbrecht).

<sup>119</sup> Exhibit CAC-4 (Oliver Wyman report), p 17.

**MPI HAS NOT FILED THE INFORMATION REQUESTED BY  
THE PUB REGARDING THE CMP**

- MPI was asked to file the following material in the 2022 GRA:
  - Analysis of a single capital target versus a range.<sup>120</sup>
  - Materials to assist PUB in its review of the Capital Management Plan.<sup>121</sup>
- MPI did not file this material.<sup>122</sup>

---

<sup>120</sup> PUB Order 1/21, p 10.

<sup>121</sup> PUB Order 1/21, p 10.

<sup>122</sup> October 19, 2021 at 1316-1318 (McCandless, Dunstone); October 20, 2021 at 1406-1408 (Dilay, Giesbrecht).

**MPI'S APPROACH TO MANAGING CAPITAL SHOULD BE  
SIMPLE AND FLEXIBLE**

- Regardless of whether another trial year is approved or changes are made to the existing CMP this year or in the future, the CMP should:
  - Be simple:
    - For customers to understand
    - For MPI to administer
  - Be flexible
    - In order to respond to a variety of different circumstances in a timely manner.<sup>123</sup>

---

<sup>123</sup> October 20, 2021 at 1408-1409 (Dilay, Giesbrecht).

## **RECOMMENDATION : CAPITAL MANAGEMENT PLAN**

- The PUB should make a finding that MPI has not adhered to the Capital Management Plan by issuing special rebate application, but that the flexibility it showed during a time of hardship for Manitobans was appropriate.
- The PUB should deny the additional trial year of the Capital Management Plan, given that there are no release or build provisions being sought. The PUB should maintain 100% MCT as a provisional capital target, to serve as an anchor point against which to measure any additional capital accumulation during the next year.
  - In the short-term until the next GRA, the PUB should find that when MPI's capital reaches \$67M over 100% MCT, MPI should be directed to automatically apply to the PUB for a rebate. CAC Manitoba recommends \$67M so that the average rebate would be approximately \$100 (see Exhibit MPI-6, p 23: 675,000 recipients divided by \$67M equals approximately \$100).
- Given the challenges to the CMP identified in the 2022 GRA, MPI should be directed to bring a new capital management plan for review in the 2023 GRA, including the analyses requested by the PUB in Order 1/21, p 10. The new capital management plan should include a regular review of capital and recognize the benefits that Extension receives from Basic. Should MPI fail to comply with these orders, the target capital range should revert back to the previously approved methodology applied in Order 159/18.

## AS A CROWN MONOPOLY, MPI HAS A SPECIAL RELATIONSHIP OF TRUST WITH ITS CUSTOMERS

- *“I am aware of the trust and the responsibility that has been put in and bestowed upon our company to continually serve the people of this province, serve them with integrity, and something I can assure you that I'm not taking lightly.”<sup>124</sup>*
- *“MS. KATRINE DILAY: Thank you. And you'll agree, Mr. Herbelin, as a Crown monopoly tasked with an important public service, MPI aims to have a relationship with its customers based on trust, accountability, integrity, and transparency? MR. ERIC HERBELIN: I agree.”<sup>125</sup>*
- As part of this relationship, it is incumbent on MPI to be transparent and clear in all interactions with ratepayers.<sup>126</sup>
- MPI's Chief Financial Officer is familiar with the statutory scheme governing MPIC, including the legal mandates and the limits of the mandate assigned to it by the Manitoba legislature.<sup>127</sup>

<sup>124</sup> October 12, 2021 at 198 (Herbelin).

<sup>125</sup> October 12, 2021 at 251 (Dilay – Herbelin).

<sup>126</sup> October 12, 2021 at 248 (Dilay, Herbelin).

<sup>127</sup> October 19, 2021 at 1359-1360 (Dilay, Giesbrecht).



**MPI HAS TRANSFERRED FUNDS FROM EXTENSION TO DVA,  
DESPITE DVA BEING HISTORICALLY FUNDED BY THE  
PROVINCIAL GOVERNMENT**

- MPI has transferred all of the excess capital from Extension to DVA in 2020/21 (\$60M) and is forecasting to transfer all the excess capital from Extension to DVA in 2021/22 (\$53M) so there is nothing left to transfer to Basic under the Capital Management Plan.
- MPI administers DVA on behalf of the provincial government and has done so since 2004. The transfer of DVA to MPI was meant to result in cost efficiencies.<sup>128</sup>
- MPI remits all DVA fees to the government and receives payment from the provincial government to administer this program.<sup>129</sup>

---

<sup>128</sup> PUB (MPI) 1-18; October 20, 2021 at 1409-1414 (Dilay, Giesbrecht)

<sup>129</sup> PUB (MPI) 1-18, Appendix; <sup>129</sup> October 20, 2021 at 1414-1416 (Dilay, Giesbrecht)

## WHY HAS MPI TRANSFERRED SO MUCH MONEY TO DVA?

- MPI appears to be pre-funding almost half of Project Nova through transfers from Extension, to cover costs forecast for 5 years.<sup>130</sup>
- It is unclear why MPI had not adequately forecast the funding shortfalls for DVA relating to Project Nova and brought it to the PUB's attention or reached an agreement with the government for the capital costs:
  - *“MR. ERIC HERBELIN: Yeah. It – it's relatively simple. There was always that understanding that government and the agreement between Government of Manitoba and MPI would eventually cover for those funding requirements. And, only after I arrived, we realized that, well, we have to - - a – capital expenditures over the next couple of years that is an amount that is significant and I also, with my team engaged pro-actively, with the Government of Manitoba to address that very problem. We hadn't received any positive answer to our proposed solutions and we had to make a decision. So, that is basically how events unfolded.” [emphasis added]*<sup>131</sup>
- As part of the relationship of trust with MPI, ratepayers look to MPI to represent their interests. The answer to government not paying its part cannot be for MPI to breach this trust and the statutory scheme by using insurance funds pay for a government program.

<sup>130</sup> CAC (MPI) 1-91; October 12, 2021 at 279-282 (Watson – Herbelin); October 14, 2021 at 589-590 (Gabor – Gandhi); October 12, 2021 at 283-284 (Watson – Herbelin); October 19, 2021 at 1281-1282 (Giesbrecht); October 19, 2021 at 1307-1308 (McCandless, Giesbrecht); October 20, 2021 at 1425-1427 (Dilay, Giesbrecht).

<sup>131</sup> October 12, 2021 at 228-229 (McCandless – Herbelin)

## ONE OF THE REASONS FOR THE TRANSFER TO DVA IS THAT MPI IS “FLUSH WITH CASH”

- Due to COVID-19 impacts, resulting in lower claims costs, MPI is “flush with cash” – so Basic does not need the additional revenues from Extension, contemplated under the CMP.<sup>132</sup>
  - *“MS. KATRINE DILAY: And it would be - and, essentially, I think, what you're saying is that Basic has more than enough capital at this point in time? MR. MARK GIESBRECHT (by Teams): Yes. Yeah. Basic is over capitalized based on the – the current target of 100 percent MCT.”<sup>133</sup>*
  - *“We know that there are capital costs and – and costs to – to modernize the systems. So we know those costs are coming and we also recognize that at the current time, we have excess profits available in Extension. We have rebates, that we've given two (2) rebates and we're looking at, you know, applying for a third rebate that we're deliberating right now. And so there is the – the availability of excess funds that it just makes sense given the financial state of DVA.”<sup>134</sup>*
- BUT this does not matter – the financial position of Basic was specifically cited as a reason that would not be contemplated when deciding whether or not to transfer excess capital from Extension.<sup>135</sup>

<sup>132</sup> CAC (MPI) 1-91.

<sup>133</sup> October 20, 2021 at 1425 (Dilay, Giesbrecht).

<sup>134</sup> October 19, 2021 at 1308 (McCandless, Giesbrecht).

<sup>135</sup> Exhibit CAC-8, Tab 6 (PUB Order 176/19, p 56).

## **MPI HAS BREACHED CUSTOMERS' TRUST**

- MPI has accumulated capital significantly in excess of its forecast since the start of the COVID-19 pandemic, including in its Extension line of business.
- Rather than transferring that excess capital from Extension to Basic, then rebated to ratepayers as contemplated in the Capital Management Plan, MPI has:
  - Unlawfully transferred capital from Extension to the Driver and Vehicle Administration program; and
  - Broken its promise and contravened the spirit and intent of the Capital Management Plan approved in PUB Order 176/19, which confirmed that funds in excess of 200% MCT in Extension would automatically be transferred to Basic.

**TRANSFERS TO DVA FROM EXTENSION ARE UNLAWFUL  
UNDER THE *MPIC ACT***

## A SPECIAL RELATIONSHIP OF PUBLIC TRUST

- MPI must carefully steward the public's trust.
  - MPI is a Crown-owned insurer operating in a regulated monopoly.
  
- Public trust demands meaningful measures for accountability. These include:
  - The rate-setting authority of the PUB; and
  - Section 14(2) of the *MPIC Act*.

## **FUNDS IN MPI'S POSSESSION ARE PROTECTED FROM GOVERNMENT**

- Section 14(2) of *The Manitoba Public Insurance Corporation Act* reads as follows:
  - 14(2) No moneys, funds, reserves, investments and property, whether real or personal, acquired, administered, possessed or held by the corporation, nor any profits earned by the corporation in the activity of automobile insurance, may be taken, used or appropriated by the Government of Manitoba for any purpose whatever, except as provided under section 12 or in repayment of advances by or moneys borrowed from, the Government of Manitoba and interest thereon.<sup>136</sup>

---

<sup>136</sup> *The Manitoba Public Insurance Corporation Act*, CCSM c P215 at s 14(2).

**SECTION 14(2) APPLIES BROADLY TO FUNDS IN MPI'S  
POSSESSION**

- Moneys, funds, reserves, investments and property, whether real or personal, acquired, administered, possessed and held by the corporation are all protected by section 14(2).
- “Profits earned by the corporation in the activity of automobile insurance” are explicitly included.



**THE STATUTORY SCHEME ESTABLISHES MPI AS MERE  
“ADMINISTRATOR”**

- Section 2(1) of *The Drivers and Vehicles Act*

Designation of administrator

2(1) The Manitoba Public Insurance Corporation is the administrator for the purposes of this Act and the regulations under this Act and for the purposes of any other Act or regulation that imposes a duty or confers a power on the administrator.<sup>137</sup>

- “MPI **administers** the [Driver and Vehicle Administration Line of Business] on behalf of the Government of Manitoba and has done so since 2004. Its administration requires MPI to collect various fees and to transfer them to the Government, an agency relationship.”<sup>138</sup>

---

<sup>137</sup> *The Drivers and Vehicles Act*, CCSM c D104 at s 2(1).

<sup>138</sup> MPI 2022 General Rate Application Part I – Overview at 9 (emphasis added).

## **MPI DESCRIBES ITSELF AS GOVERNMENT'S "AGENT"**

- With respect to DVA, “MPI acts -- operates in relationship of an agency towards the government of Manitoba...”<sup>139</sup>
- In a legal agency relationship, “...an agent acts on behalf of, and subject to the control of, the principal.”<sup>140</sup>

---

<sup>139</sup> October 12, 2021 transcript at 286-287 (Scarfone, Herbelin).

<sup>140</sup> Eileen E. Gillese, *The Law of Trusts* (Toronto: Irwin Law, 2014) at 12.

## THE HISTORY OF DVA CONFIRMS ITS GOVERNMENT PURPOSE

- MPI's 2004 agreement with government confirms that:
  - MPI was assigned limited and specific tasks while government retained oversight and "...responsibility for all other driver licensing and vehicle registration matters...**without limitation.**"<sup>141</sup>
  - MPI agreed that it could not "discontinue or substantially change" any services without prior written consent of the government.<sup>142</sup>
  - Government committed to funding DVA "in perpetuity."<sup>143</sup>

---

<sup>141</sup> PUB(MPI) 1-18(d) Appendix 1 at cl 2.04.

<sup>142</sup> PUB(MPI) 1-18(d) Appendix 1 at cl 2.06

<sup>143</sup> PUB(MPI) 1-18(d) Appendix 1 at cl 2.01.

## **GOVERNMENT HAS COMMITTED TO FUNDING DVA**

- Government has committed to funding DVA “in perpetuity.”<sup>144</sup>
- The 2004 funding amount was based on government’s costs in providing the same services.<sup>145</sup>
- The transfer of DVA to MPI was expected to achieve “efficiencies”, which the Agreement confirms were to accrue to the sole benefit of MPI.<sup>146</sup>

---

<sup>144</sup> PUB(MPI) 1-18(d) Appendix I at cl 2.01.

<sup>145</sup> Exhibit CAC-8 at Tab 11.

<sup>146</sup> Exhibit CAC-8 at Tab 11; PUB(MPI) 1-18(d) Appendix I at cl 4.04.

## **TRANSFERS TO DVA CONTRAVENE SECTION 14(2) OF THE MPIC ACT**

- Section 14(2) applies to the funds in the Extension reserve
- Driver licensing and vehicle registration services provided through DVA are a “government purpose” within the meaning of section 14(2).
- Transfers from MPI’s Extension reserve to DVA are unlawful.

**THE CAPITAL MANAGEMENT PLAN WAS MEANT TO  
RECOGNIZE THE ADVANTAGES THAT EXTENSION  
RECEIVES FROM BASIC'S MONOPOLY**

- Underlying the Capital Management Plan is recognition of:
  - the significant advantages that Extension receives from Basic being a monopoly,
  - the vast majority of Basic customers choosing Basic,
  - the efficiencies created by the two lines of business being so intertwined, and
  - the resulting *de facto* monopoly for Extension.<sup>147</sup>
- This was recognized by the PUB in Order 176/19:
  - *“While the Board recognizes that it does not have jurisdiction over Extension, given the anticipated transfers from Extension to Basic contemplated by the Capital Management Plan, the magnitude of Extension's reserves is of concern to the Board. The evidence is that MPI holds approximately 95% of the market share for non-compulsory insurance products. The transfers from Extension to Basic will be automatic under the Capital Management Plan for any amounts over 200% MCT held by Extension in its reserves.”*<sup>148</sup>

<sup>147</sup> PUB Order 176/19. See also October 12, 2021 at 248-251 (Dilay – Herbelin), for recognition of the vast majority of the market being held by Extension; October 19, 2021 at 1360-1363 (Dilay, Giesbrecht).

<sup>148</sup> PUB Order 176/19, p 62.

**BROKEN PROMISE: TRANSFERS TO DVA FROM EXTENSION CONTRAVENE THE SPIRIT AND INTENT OF THE CAPITAL MANAGEMENT PLAN APPROVED BY THE PUB IN 176/19**

- While MPI is now hiding behind the “end of year” requirement for transfers from Extension to Basic, the transfers to DVA are in contravention of the spirit and intent of the CMP:
  - MPI promised transparent and automatic transfers from Extension to Basic to recognize the benefit that Extension receives from Basic.
  - MPI has broken this promise.

**BROKEN PROMISE: TRANSFERS TO DVA FROM EXTENSION  
CONTRAVENE THE SPIRIT AND INTENT OF THE CAPITAL  
MANAGEMENT PLAN APPROVED BY THE PUB IN 176/19  
(CONT.)**

- Based on a reading of the Board findings in PUB Order 176/19 regarding the CMP, the PUB shared CAC Manitoba's understanding that the requirement for transfers to Extension to Basic be calculated at the end of the year was not so that MPI could do what they please with excess Extension capital before that date, but rather to have a consistent point in time for the calculation of excess capital in Extension to take place.<sup>149</sup>
- MPI's "unequivocal evidence" that is "had the discretion to use Extension profits for purposes other than a transfer to Basic, provided that the transfer occurred before fiscal year end"<sup>150</sup> came after the approval of MPI's proposed CMP by the PUB and represents the start of the broken promise.

<sup>149</sup> PUB Order 176/19, p 61-63. See also the PUB's summary of MPI's proposed CMP at p 53-57.

<sup>150</sup> October 12, 2021 at 104 (Scarfone).



**WHILE MPI APPEARS TO BE EXPLORING OTHER OPTIONS,  
TRANSFERS FROM EXTENSION WERE STILL  
INAPPROPRIATELY AND UNLAWFULLY MADE**

- MPI has indicated it is in ongoing talks with the government to explore options to remedy the funding shortfall of the DVA program.<sup>151</sup>
  - *“We do continue to have ongoing dialogue with government as we are looking for solutions to ensure that the DVA-line can be self-sufficient. But as of yet, we do not have an agreed upon plan to make that happen. So there are a number of solutions that are on the table and being discussed but, as of yet, we do not have a conclusion to those discussions.”*<sup>152</sup>
- The solution to a government funding shortfall cannot be to use MPI funds, paid by ratepayers for insurance products, which have exceeded forecasted capital because of an extraordinary event (i.e. COVID-19).

<sup>151</sup> October 12, 2021 at 217-219 (Herbelin); October 12, 2021 at 290-291 (Scarfone – Herbelin); October 12, 2021 at 260-264 (Hacault, Herbelin);

<sup>152</sup> October 19, 2021 at 1257 (Giesbrecht);

## **MPI'S RATIONALE THAT GOVERNMENT WOULD HAVE TO RAISE DVA FEES CANNOT STAND**

- MPI has stated that in the event the transfers to DVA did not occur, the provincial government would likely have to raise DVA fees.<sup>153</sup>
- This rationale stands in stark contrast with:
  - The reality that the provincial government has reduced vehicle registration fees twice in the last two years, thereby reducing its revenues from vehicle registration in perpetuity (i.e. until fees are changed);<sup>154</sup> and
  - The amount that government collects from driver licensing and vehicle registration, which is over \$200M per year and significantly higher than the amount paid to MPI to administer the program.<sup>155</sup>

---

<sup>153</sup> October 12, 2021 at 263-264 (Hacault, Herbelin); CAC (MPI) 1-97.

<sup>154</sup> Exhibit CAC-8, Tabs 12, 13; October 20, 2021 at 1417-1421 (Dilay, Giesbrecht).

<sup>155</sup> October 14, 2021 at 592 (Gabor – Gandhi); Exhibit CAC-8, Tab 15; October 20, 2021 at 1421-1423 (Dilay, Giesbrecht).

## THE INAPPROPRIATE AND UNLAWFUL TRANSFERS TO DVA HAVE DIRECTLY REDUCED THE SPECIAL REBATE TO RATEPAYERS

- *“So, if the Extension transfers to DVA had instead been transfers to Basic, so the amount of capital available to rebate would be greater by roughly \$113 million. Yes? MR. MARK GIESBRECHT (by Teams): Yeah, roughly speaking. There would be additional capital requirements for assets, that would be in Basic, but generally speaking, that – that's fair.”<sup>156</sup>*
- *“In all, the actual and forecasted Extension transfers to the DVA line of business reduced the potential rebate available to Basic ratepayers by an estimated \$113 million.”<sup>157</sup>*
- *“MS. KATRINE DILAY: So in a scenario where the funds from Extension were transferred to Basic, rather than DVA, if we were to add the funds, that have been and are forecasted to be transferred to DVA, the rebate application would be closer to \$448 million? MR. MARK GIESBRECHT (by Teams): Yes. Yeah. There – there may be some adjustments for the capital acquired, – so it is a – actually held within Basic, but generally speaking that – that's a fair statement, or a fair range.”<sup>158</sup>*

<sup>156</sup> October 19, 2021 at 1313 (McCandless, Giesbrecht).

<sup>157</sup> CMMG (MPI) 1-6.

<sup>158</sup> October 10, 2021 at 1441 (Dilay, Giesbrecht).

**WHAT ARE THE OPTIONS FOR THE PUB IF IT FINDS THAT  
THE TRANSFERS TO DVA ARE ILLEGAL AND/OR  
CONTRAVENE THE CMP?**

- Even the Premier of Manitoba has recognized that the transfers to DVA are before the PUB for a determination.<sup>159</sup>
- The PUB should make a finding that the rebate should reflect the total funds unlawfully and inappropriately transferred and forecast to be transferred from Extension to DVA.

---

<sup>159</sup> Exhibit CAC-8, Tab 16, p 135; Exhibit CAC-8, Tab 17, p 142.

**THE PUB FOUND THE *RESERVES REGULATION* TO BE  
INVALID – THE RSR CAN DROP BELOW 100% MCT**

- To the extent that the PUB orders the special rebate to reflect the funds transferred to DVA, if the RSR goes below 100% MCT, the fact that MPI would not be adhering to the Reserves Regulation is not a justification because the PUB has found the *Reserves Regulation* to be invalid.

**ORDER 176/19: SECTIONS 2(A) AND 3 OF THE RESERVES  
REGULATION ARE ULTRA VIRES**

- This Board has found sections 2(a) and 3 of the *Reserves Regulation* to be “*ultra vires* the regulation-making authority of the Lieutenant Governor-in-Council...”<sup>160</sup>

---

<sup>160</sup> PUB Order 176/19 at 131.

## THE REMEDIAL AUTHORITY OF THE PUBLIC UTILITIES BOARD

*“[A] decision by a tribunal that a law is unconstitutional is no more than a decision that the law is inapplicable in the particular case. It is not a binding precedent. According to the [Supreme] Court, only “superior courts” have the power to issue binding declarations of invalidity that will invalidate a law with general effect.”<sup>161</sup>*

- As a statutory decision-maker, the PUB cannot issue broad or binding declarations of invalidity.
- The PUB *can* make determinations of validity for the purpose of matters immediately before it.

---

<sup>161</sup> *Starz (Re)*, 2015 ONCA 318 at para 107, citing Peter W. Hogg, “Constitutional Law of Canada” (loose-leaf) 5th ed. (Supp.) (Toronto: Carswell, 2007) at pp. 40-52 to 40-53.

## **THE REMEDIAL AUTHORITY OF THE PUBLIC UTILITIES BOARD**

- It is open to the PUB to rely on its own finding in Order 176/19 to again find sections 2(a) and 3 of the *Reserves Regulation* invalid.
- The PUB can again decline to be bound by the 100% MCT target imposed by the *Reserves Regulation* on the Basic Rate Stabilization Reserve.



## **MPI'S READING OF ORDER I76/I9 IS NOT DEFENSIBLE**

- MPI notes that the PUB “did not strike down the Regulation or find it to be of no force and effect generally.”<sup>162</sup>
- “Accordingly, MPI must presume that the Regulation is otherwise valid and applicable and must adhere to its requirements.”<sup>163</sup>

---

<sup>162</sup> MPI Response to CAC(MPI)I-96.

<sup>163</sup> MPI Response to CAC(MPI)I-96.

## THE BASIS FOR THE BOARD'S FINDING OF ULTRA VIRES

- *The Reserves Regulation* interferes with core elements of the PUB's statutory rate-setting authority.

*Taking all of the foregoing into consideration, the Board finds that the Regulation is inconsistent and in conflict with the Board's rate approval mandate in section 6.4 of the MPIC Act and the Board's powers under the PUB Act and CCGA Act. As set out above, **the determination of the methodology and setting of capital target levels for the RSR is integral to the determination of just and reasonable rates. As such, any regulation which predetermines the methodology or level of the Basic RSR is inconsistent and in conflict with the Board's mandate.***<sup>164</sup>

---

<sup>164</sup> PUB Order 176/19 at 52 (emphasis added).

## **THE RESERVES REGULATION IS SUBORDINATE LEGISLATION**

- As subordinate legislation, regulations cannot conflict with either the statute that authorized its creation or other statutes of the Legislature.”<sup>165</sup>
- MPI’s reading of Order 179/16 places the *Reserves Regulation* in conflict with the PUB’s statutory authority.

---

<sup>165</sup> *Katz Group Canada Inc v Ontario (Health and Long Term Care)*, 2013 SCC 64 at para 24.

**THE PUB CAN ORDER A REBATE THAT DRAWS THE BASIC  
RSR BELOW 100% MCT**

- The PUB can rely on its own reasons in Order 176/19 to again find sections 2(a) and 3 of the *Reserves Regulation ultra vires* the regulation-making authority of the Lieutenant Governor in Council.
- The PUB may then decline to be bound by the MCT target for the Basic RSR imposed by the *Reserves Regulation* for the purpose of issuing a rebate to customers equivalent to the total amount of excess premiums accumulated during the Covid-19 pandemic.

## RECOMMENDATIONS: TRANSFERS TO DVA

- The PUB should find that transfers to DVA from Extension are unlawful, in that they contravene section 14(2) of the *MPIC Act*.
- The PUB should find that MPI has contravened the Capital Management Plan and Order 176/19 by transferring excess funds from Extension to DVA.
- MPI should be directed to approach the Government of Manitoba to finalize a new agreement for the funding of DVA, which recognizes the Government of Manitoba's responsibility towards DVA, as well as the necessary Information Technology upgrade costs, both in the short-term and the longer term. MPI should file this agreement with the PUB in the 2023 GRA. As per section 14(2) of the *MPIC Act*, all funds required for DVA, including capital requirements relating to IT upgrades, must come from government revenues, not insurance premiums charged by MPI.

**SPECIAL REBATE COSTS ARE VERY HIGH AND CHEQUES  
MAY CONTRIBUTE TO RATEPAYERS NOT GETTING THE  
BENEFIT OF THE REBATES**

- The cost to MPI of issuing a rebate is almost \$1M each time.<sup>166</sup>
- Parties, including the PUB, have questioned MPI on other less costly options to issue rebates.<sup>167</sup>
- While MPI appears to have made reference to credits to ratepayers in the past, it is now indicating that currently it does not have the infrastructure in place to provide a customer credit on account or any other option to rebate.<sup>168</sup>
- There are thousands of uncashed cheques from the last two rebate applications, meaning that those customers have not gotten the benefit of the rebate.<sup>169</sup>
- By way of comparison, ICBC issues its rebates in the way that the customer paid for their insurance policy.<sup>170</sup>

<sup>166</sup> Exhibit MPI-6, Special Rebate Application, p 23; October 20, 2021 at 1441-1443 (Dilay, Giesbrecht).

<sup>167</sup> October 20, 2021 at 1445 (Dilay, Giesbrecht),

<sup>168</sup> October 13, 2021 at 329-331 (Gandhi); October 14, 2021 at 595-561 (Gabor – Gandhi – Guerra).

<sup>169</sup> CAC (MPI) 1-95d); October 20, 2021 at 1443-1445 (Dilay, Giesbrecht);

<sup>170</sup> Exhibit CAC-8, Tab 18; October 20, 2021 at 1450-1451 (Dilay, Giesbrecht),

## **RECOMMENDATION: SPECIAL REBATE APPLICATION**

- The PUB should order that MPI's Special Rebate include the total amount transferred and forecast to be transferred from Extension to DVA by March 30, 2022, totalling \$113M (\$60M in 2020/21 and \$53M in 2021/22).
- MPI should be directed to implement alternatives to issuing rebate cheques as soon as possible, including **offering customers a choice** to receive the rebate in the way they choose, such as a cheque, a credit on their account, a refund on credit card, an e-transfer or direct deposit.

## **FINANCIAL CONDITION TEST DOES NOT REFLECT THE RATE UPDATE**

- The Financial Condition Test chapter of the GRA was only filed in October 2021.<sup>171</sup>
- As a result the Financial Condition Test does not reflect the rate update, including the updated rate indication and the updated financial results.<sup>172</sup>
- Going forward, MPI should consider updating its Financial Condition Test to reflect the rate update so that it is current.

---

<sup>171</sup> Exhibit MPI-51.

<sup>172</sup> October 19, 2021 at 1323 (McCandless, Dunstone).



## INVESTMENTS MATTER FOR RATEPAYERS

- MPI’s investment income directly impacts MPI’s revenue requirement and the rate request by MPI, and as a result the rate paid by MPI customers for products and services.<sup>173</sup>
- Ratepayers to look to MPI to do the best it can with respect to its investment portfolio, including having a balance between maximizing returns and minimizing risk, consistent with appropriate risk tolerances for a Crown monopoly operating a compulsory insurance program with significant long tailed claims related to its personal injury protection plan,<sup>174</sup> as well as a pension plan for its employees.
- For MPI, surplus volatility is an important measure of risk – refers to the difference in the value of the assets and liabilities.<sup>175</sup>
  - Inflation is a risk to MPI’s “surplus”: if the assets backing liabilities do not provide sufficient inflation protection, then liabilities may rise faster than asset values when inflation exceeds expectations, resulting in less surplus and resulting in higher premiums in the future.<sup>176</sup>
- MPI’s portfolio “contains nominal bonds that are exposed to inflation risk.”<sup>177</sup>

<sup>173</sup> October 20, 2021 at 1590-1592 (Dilay, Bunston).

<sup>174</sup> October 20, 2021 at 1590-1592 (Dilay, Bunston).

<sup>175</sup> October 20, 2021 at 1592-1593 (Dilay, Bunston).

<sup>176</sup> October 20, 2021 at 1593-1594 (Dilay, Bunston).

<sup>177</sup> October 20, 2021 at 1595 (Dilay, Bunston).

## **MPI'S INVESTMENT PORTFOLIOS HAVE COME A LONG WAY IN THE PAST 5 YEARS**

- Mr. Valter Viola, on behalf of CAC Manitoba, made 18 recommendations in the 2017 GRA. The Board directed MPI to address the 18 recommendations in its next ALM Study.<sup>178</sup>
  - Many changes were made to MPI's investment portfolio since that time:
    - less Canadian equity concentration;
    - more international diversification;
    - framework or basis for optimizing the portfolio during the course of the ALM Study changed from being optimized based on accounting metrics to being optimized based on market value metrics by adopting a liability benchmark portfolio.<sup>179</sup>
- Mr. Viola's evidence has provided value to the process.

<sup>178</sup> October 20, 2021 at 1595-1596 (Dilay, Bunston); PUB Order 162/16, p 52.

<sup>179</sup> October 20, 2021 at 1596-1597 (Dilay, Bunston).

## THE ASSET LIABILITY MANAGEMENT STUDY ARE IMPORTANT

- The Asset Liability Management study informs the asset allocation decision, such as the equity bond split, which is a key driver of return and risk.<sup>180</sup>
- The purpose of an asset liability management study is to look at the mix of assets with the output being a long-term policy mix that “*maximizes the return at the risk level selected.*”<sup>181</sup>
- MPI’s most recent ALM study was based on a nominal liability benchmark: this means that it assumed zero inflation volatility, or in other words assumed inflation was always going to be 2%.<sup>182</sup>
- MPI acknowledged that “*a real liability benchmark would better reflect the inflation risk associated with – with liabilities.*”<sup>183</sup>

---

<sup>180</sup> October 20, 2021 at 1597-1598 (Dilay, Bunston)

<sup>181</sup> October 20, 2021 at 1598 (Dilay, Bunston).

<sup>182</sup> October 20, 2021 at 1599 (Dilay, Bunston).

<sup>183</sup> October 20, 2021 at 1605 (Dilay, Bunston).

## INFLATION RISK REMAINS

- Higher inflation levels since the onset of the pandemic.<sup>184</sup>
- Mercer’s, the firm who assisted MPI with their most recent ALM study has recognized inflation risk, including “inflation surprises” over the next decade:
  - *“We have been recommending since last year that investors should prepare for a wider range of inflation ... for the decade to come, including ... inflation surprises.”*<sup>185</sup>
  - *“a review of an inflation-sensitive sleeve is prudent to ensure that portfolios can withstand sustained higher inflation, as well as ***inflation surprises, over the next decade.***” [emphasis added]*<sup>186</sup>
  - *“Last year, in addition to the allocation to real assets in our strategic reference model portfolios, we introduced an inflation-sensitive sleeve ... consisting of inflation-linked bonds. ... Building a robust inflation-sensitive sleeve ... is a prudent step to face the policy uncertainty of the next decade.”*<sup>187</sup>
- Inflation surprises can be understood as inflation volatility.<sup>188</sup>
- It is possible that other firms are also making recommendations to their clients to ensure that their portfolios can withstand higher inflation and inflation volatility in the next decade.<sup>189</sup>

<sup>184</sup> 2022 GRA, Part VII – INV – p 7; October 20, 2021 at 1599 (Dilay, Bunston).

<sup>185</sup> CAC (MPI) 1-83, p 2.

<sup>186</sup> CAC (MPI) 1-83, p 2.

<sup>187</sup> CAC (MPI) 1-83, p 2.

<sup>188</sup> October 20, 2021 at 1601 (Dilay, Bunston).

<sup>189</sup> October 20, 2021 at 1602-1603 (Dilay, Bunston).

## INFLATION RISK REMAINS (CONT.)

- The Bank of Canada has also signaled that higher inflation rates for the next few years are to be expected:
  - *“As the economy emerges from the ... pandemic, the Bank of Canada is signalling that it will not only tolerate inflation above its ... 2-per-cent target into 2024, it fully expects it. For the next few years, you might want to forget what you thought you knew about the Bank of Canada’s inflation target. Think of 3 per cent as the new 2 per cent.”<sup>190</sup>*

---

<sup>190</sup> CAC (MPI) I-83, p 3.

## MARKETS ARE RAPIDLY CHANGING

- Capital market assumptions are one of the key inputs to the ALM study.<sup>191</sup>
  - Examples of capital market assumptions would be expected returns, volatilities, and correlations for different asset classes, as well as inflation levels and volatilities.<sup>192</sup>
- There is high economic and market uncertainty relating to COVID-19.<sup>193</sup>
  - As a result, capital market assumptions used in the last ALM study 4 years ago might need “refreshing”.<sup>194</sup>

---

<sup>191</sup> October 21, 2021 at 1607 (Dilay Bunston).

<sup>192</sup> October 21, 2021 at 1607 (Dilay Bunston).

<sup>193</sup> October 21, 2021 at 1607-1608 (Dilay Bunston).

<sup>194</sup> October 21, 2021 at 1608 (Dilay Bunston).

## THE NEXT ALM STUDY IS AN IMPORTANT OPPORTUNITY TO ADDRESS OUTSTANDING RISKS

- In its most recent ALM study, MPI selected a nominal liability benchmark, as opposed to a real liability benchmark.<sup>195</sup>
  - A nominal liability benchmark does not reflect the impact of inflation on interest rates.<sup>196</sup>
- A real liability benchmark would better reflect inflation volatility and real interest rate risk, because it would reflect real interest rate risk, net of inflation.<sup>197</sup>
  - *MR. STEVE SCARFONE: And currently, the Basic claims portfolio, is it hedged against rising inflation? MR. GLENN BUNSTON: It is not. All the bonds in the Basic claims portfolio are nominal bonds, so they don't provide inflation protection.*<sup>198</sup>
  - *For example, Real Return Bonds are bonds that provide inflation protection – MPI currently does not have any Real Return Bonds in its portfolio.*<sup>199</sup>
- MPI will evaluate inflation risk in relation to the various asset portfolios, liabilities and surplus in the upcoming ALM study.<sup>200</sup>
  - *“...the study will carefully consider the impact of inflation on MPI's assets and liabilities.”*<sup>201</sup>

<sup>195</sup> October 20, 2021 at 1606 (Dilay, Bunston).

<sup>196</sup> October 20, 2021 at 1606 (Dilay, Bunston).

<sup>197</sup> CAC (MPI) 1-84 a); October 20, 2021 at 1605 (Dilay, Bunston).

<sup>198</sup> October 21, 2021 at 1522 (Scarfone, Bunston).

<sup>199</sup> October 20, 2021 at 1606-1607 (Dilay, Bunston).

<sup>200</sup> CAC (MPI) 1-83, a) and b), p 7; October 20, 2021 at 1507 (Bunston); October 21, 2021 at 1624 (Dilay, Bunston).

<sup>201</sup> October 20, 2021 at 1518 (Bunston).

## SHADOW PORTFOLIOS SHOW THE COST OF MPI'S SELF-IMPOSED CONSTRAINTS AND IGNORING INFLATION RISK

- Creation of Shadow Portfolios was to assist the Public Utilities Board in testing the reasonableness of the Corporation's portfolio in terms of providing optimal returns, specifically whether the Corporation has foregone an opportunity to hedge against long-term risks by rejecting RRBs and reducing real assets.<sup>202</sup>
- MPI has excluded RRBs from all portfolios, and equities from the Basic portfolio, by viewing their return and volatility in isolation and not giving enough weight to their contribution to the total portfolio.
  - While RRBs may have low returns compared to other assets, RRBs reduce surplus volatility more than other assets.
  - While equities may have higher **asset** volatility than other assets, it is the marginal contribution to **surplus** volatility that matters and this considers both volatilities and correlations.

---

<sup>202</sup> PUB Order 159/18, p 89.



## SHADOW PORTFOLIOS SHOW THE COST OF MPI'S SELF-IMPOSED CONSTRAINTS AND IGNORING INFLATION RISK (CONT.)

- The performance of the Shadow Portfolios demonstrates there was a cost from MPI's self-imposed constraints (e.g., excluding RRBs, etc.) and ignoring inflation risk:
  - **Expectations (from ALM Study):** Shadow Portfolio I, which includes RRBs, had the same expected return as the chosen Basic portfolio, but lower surplus volatility (risk).<sup>203</sup>
  - **Realizations:** For passive return, Shadow Portfolio I has higher returns than the chosen Basic portfolio.<sup>204</sup>
  - BUT surplus volatility (risk) was not calculated, so only half the story was presented in CMMG (MPI) 2-14 a).<sup>205</sup>
  - Risk-adjusted return was not before the PUB during the evidentiary portion of the hearing.<sup>206</sup>
  - Surplus volatility calculations were provided October 26, 2021 in Exhibit MPI-121.

<sup>203</sup> 2020 GRA, Part VI – INV, Attachment A, p 8; October 21, 2021 at 1610-1615 (Dilay, Bunston).

<sup>204</sup> CMMG (MPI) 2-14 a), Appendix, p 7; October 21, 2021 at 1615-1617 (Dilay, Bunston).

<sup>205</sup> October 21, 2021 at 1618 (Dilay, Bunston).

<sup>206</sup> October 21, 2021 at 1620 (Dilay, Bunston).

**SHADOW PORTFOLIOS SHOW THE COST OF MPI'S SELF-IMPOSED CONSTRAINTS AND IGNORING INFLATION RISK (CONT.)**

- As expected, the calculations in Exhibit MPI-121 revealed that the surplus volatility was lower for Shadow Portfolio I as compared to the chosen Basic portfolio:
  - Real Surplus Volatility was 3.23% for the chosen Basic portfolio and 2.46% for Shadow Portfolio I.<sup>207</sup>
  - As a result, Shadow Portfolio I has higher realized risk-adjusted returns, because of higher returns and less surplus volatility.<sup>208</sup>

---

<sup>207</sup> Exhibit MPI-121.

<sup>208</sup> October 21, 2021 at 1679 (Meek, Bunston); October 21, 2021 at 1620-1621 (Dilay, Bunston); Exhibit MPI-121.

## MPI HAS EXPEDITED ITS PREVIOUS ALM STUDY AND COULD DO SO AGAIN

- MPI's next ALM study will be conducted in early 2022 and MPI is aiming to file it with the 2023 GRA next year.<sup>209</sup>
  - If the study is not ready to file with the GRA, but only closer to the hearing, this would mean that the PUB and intervenors may not have an opportunity to ask information requests on the ALM study.
- In the past, MPI has expedited its ALM study when it was convenient for it to do so:<sup>210</sup>
  - *The Board was dismayed ... that the Corporation did not follow the directive in Order 162/16 ... to have an ALM study completed for the filing of this Application. The Corporation advised that six months was insufficient time to proceed through the Request for Proposal and the ensuing process before the Application was filed. The Corporation chose to delay the process for initiating the ALM study to September 2017, and required that the study be delivered on a compressed schedule. The Board is concerned that the ... study may be of limited utility in that it will be issued after this hearing ... The Board has directed that the Corporation file the ... study concurrently with its delivery to the MPI Board*
  - *Considering that MPI is now of the view that it will be able to have the process completed in under three months, the Board rejects the Corporation's response that it would not have been logistically possible to comply with the Board's directive. [emphasis added]*<sup>211</sup>

<sup>209</sup> 2022 GRA, Part VII – INV, p 8 and 25; October 21, 2021 at 1624-1626 (Dilay, Bunston); October 21, 2021 at 1687-1688 (Gabor, Bunston).

<sup>210</sup> October 21, 2021 at p 1628 (Dilay, Bunston).

<sup>211</sup> CAC (MPI) 1-84 (preamble); PUB Order 130/17, p 7, 68.

## **INVESTMENT INCOME FORECASTING: IMPACTS OF REVENUE REQUIREMENT AND EVALUATING THE PREDICTIVE ABILITY**

- MPI uses its investment income forecast as part of the determination of the revenue requirement for the test year.<sup>212</sup>
  - When MPI under-forecasts investment returns, ratepayers must pay more of the revenue requirement, all else equal, and vice versa.<sup>213</sup>
- Evaluating the predictive ability of a forecast is important, as well as assessing the nature of the errors after the fact.<sup>214</sup>
  - This would involve looking back at actual observed history and comparing the predicted values with actuals.<sup>215</sup>
  - Analysis of the errors can then be used to gain insight on the forecast's performance.<sup>216</sup>
- MPI has indicated it does not frequently test its investment return assumptions to support their validity.<sup>217</sup>

---

<sup>212</sup> October 20, 2021 at 1629-1630 (Dilay, Bunston).

<sup>213</sup> October 20, 2021 at 1630 (Dilay, Bunston).

<sup>214</sup> October 20, 2021 at 1629 (Dilay, Bunston).

<sup>215</sup> October 20, 2021 at 1629 (Dilay, Bunston).

<sup>216</sup> October 20, 2021 at 1629 (Dilay, Bunston).

<sup>217</sup> 2021 GRA, CAC (MPI) 1-50; October 20, 2021 at 1631-1632 (Dilay, Bunston).

## ARE THERE BETTER OPTIONS FOR MPI'S INVESTMENT INCOME FORECAST?

- MPI provided an analysis of the validity of return assumptions for each asset class in response to IR in the 2022 GRA.<sup>218</sup>
  - While MPI concludes that overall, the results show low variance between the actual returns and the forecasted return, there is variability in the accuracy of MPI's investment income forecast, when looking at the forecast error, depending on the asset class.<sup>219</sup>
- There may be value in exploring alternatives<sup>220</sup> to MPI's forecasting techniques in order to improve the forecasting accuracy.

---

<sup>218</sup> CAC (MPI) 1-82, Appendix I.

<sup>219</sup> October 20, 2021 at 1638-1641 (Dilay, Bunston).

<sup>220</sup> October 20, 2021 at 1641-1645 (Dilay, Bunston).

## RECOMMENDATIONS: INVESTMENTS

- Given the importance of the ALM and significant market uncertainty due to COVID-19, MPI should expedite the completion of its ALM study so that it is ready to be filed with the 2023 GRA in June 2022, to allow for a meaningful review by the PUB and Intervenors prior to implementation.
- MPI should be directed to base its next Asset Liability Management Study on a real liability benchmark, as opposed to a nominal liability benchmark to better reflect the long-term risk of inflation on assets and liabilities.
- MPI should be directed to remove costly constraints that MPI “self-imposes” (i.e., prohibiting RRBs and Equities from the investable universe) in ALM Studies.
  - Reasonable capital market assumptions, and optimizations of total portfolio return/risk, show these constraints have a significant cost (lower returns and/or higher risks); and
  - Removing such constraints would give the ALM model (and modern portfolio theory) a chance to work.
- MPI should file an analysis of alternative investment income forecasting approaches in the 2023 GRA.

**APPROPRIATE ALLOCATION OF COSTS BETWEEN CLASSES  
AND LINES OF BUSINESS**

**THE PUB HAS JURISDICTION OVER THE APPROPRIATE ALLOCATION OF COSTS BETWEEN CLASSES, INCLUDING THE DRIVER SAFETY RATING MODEL**

- Order PUB 98/14:
  - “Determining an appropriate allocation of costs between classes”
- Section 82(1)(c) of the *Public Utilities Board Act* gives the PUB authority to address “any unjust or unreasonable classification in the making, or as the basis, of any individual or joint rate”.



## **DRIVER SAFETY RATING GOALS**

- Strengthen the ability to reward the safest drivers
- Encourage poor drivers to improve their driving behaviour
- Enhance the overall understanding by drivers of how their driving behaviour can affect how much they pay for auto insurance.<sup>221</sup>

---

<sup>221</sup> 2022 GRA, Part VI – Driver Classification System, p 4; see also Exhibit CAC-4 (Oliver Wyman evidence), p 8.

**THE CURRENT DRIVER SAFETY RATING MODEL HAS  
INHERENT CHALLENGES, HINDERING ITS ABILITY TO  
ACHIEVE THE STATED GOALS**

- There are inherent challenges with the registered owner model in that “at the individual vehicle level, the registered owner model does not consider the relative risk of the vehicle based on the actual driver(s) of the vehicle.”<sup>222</sup>
  - *“Instead, the model determines the relative risk (and the vehicle discount) simply based on who owns the vehicle.”*<sup>223</sup>
- Under the current model, policy holders can save money if they register all household vehicles in the same name of the household driver with the best DSR rating.
  - *“So it doesn’t – again, getting at the - - the actual goal about improving driving behaviour, I think really what you’ve done is – I guess you’ve improved owning behaviour, if nothing else.”*<sup>224</sup>

<sup>222</sup> 2022 GRA, Part VI – DSR, Appendix 1, p 2 (lines 7-8).

<sup>223</sup> 2022 GRA, Part VI – DSR, Appendix 1, p 2 (lines 8-10).

<sup>224</sup> October 25, 2021 at 2314 (Sahasrabuddhe).

**THE CURRENT DRIVER SAFETY RATING MODEL HAS  
INHERENT CHALLENGES, HINDERING ITS ABILITY TO  
ACHIEVE THE STATED GOALS (CONT.)**

- We see evidence that this is likely happening:
  - “24% of registered owners have more than one registered vehicle...”<sup>225</sup>
  - 33% of collisions occur when someone other than the registered owner is driving<sup>226</sup> and 41% of collisions for vehicles registered by a DSR I 5 driver involve a driver other than the registered owner;<sup>227</sup>
  - “MPI is aware that some drivers register vehicles in the names of those with higher DSR ratings in order to obtain the more favorable discount.”<sup>228</sup>
- There is nothing stopping this practice and if people are saving money, they are likely to continue.

<sup>225</sup> 2022 GRA, Part VI – DSR, Appendix I, p 15, lines 5-6.

<sup>226</sup> 2022 GRA, Part VI – DSR, Appendix I, p 15, lines 8-10; corrected in CMMG (MPI) I-2.

<sup>227</sup> October 21, 2021 at 1844 (Watchman, Phoa).

<sup>228</sup> CMMG (MPI) I-3.

## **THE CURRENT DRIVER SAFETY RATING MODEL HAS SIGNIFICANT ONGOING CROSS-SUBSIDIZATION**

- The DSR pricing examination has confirmed that the current vehicle premium discounts and surcharges do not reflect the relative risks of registered owners at different DSR levels.<sup>229</sup>
- Specifically, and as an example, drivers at level +15 on the DSR scale currently receive a 33% discount on their insurance premiums while their actuarial indicated discount should be 56.7%.<sup>230</sup>

---

<sup>229</sup> 2022 GRA, Part VI – Driver Safety Rating, p 7.

<sup>230</sup> 2022 GRA, Part VI – Driver Safety Rating, p 7.

## **MPI HAS BEEN DRAGGING ITS HEELS TO ADDRESS THE DSR CHALLENGES**

- In every Order since 2017, the issue of cross-subsidization within the DSR model (higher DSR levels paying too much and lower DSR level paying too little) has been before the PUB.<sup>231</sup>
- The PUB has expressed its interest for MPI to present a pricing study relating to the primary driver model, but MPI has not done so.<sup>232</sup>
  - In fact, MPI has not even collected data and has said it does not intend to do so.<sup>233</sup>

---

<sup>231</sup> Exhibit CAC-9, Tab 2 (PUB Order 130/17, p 32); Exhibit CAC-9, Tab 3 (PUB Order 159/18, p 43, 45); Exhibit CAC-9, Tab 4 (PUB Order 176/19, p 67-68); Exhibit CAC-9, Tab 5 (PUB Order 6/20, p 9-10); Exhibit CAC-9, Tab 6 (PUB Order 1/21, p 64, 67; see also generally October 21, 2021 Transcript starting at p 1770 for a review of past PUB Orders relating to DSR.

<sup>232</sup> PUB Order 176/19, p 67-68.

<sup>233</sup> Part VI – DSR, Appendix 1, p 15, lines 1-3; CMMG (MPI) 1-2a).

## A PRIMARY DRIVER MODEL MAY BETTER REFLECT RISK

- The PUB has found that the Primary Driver model may better reflect the risk that drivers bring to the system.<sup>234</sup>
- MPI has acknowledged that the primary driver model would better reflect driver risk and be more actuarially sound (with a caveat).<sup>235</sup>
- MPI has also previously found that in principle, a primary driver model would encourage better driving behaviour.<sup>236</sup>
- *“A primary driver model would better support the goals of the DSR program, and the collection of information does not appear to be onerous.”*<sup>237</sup>

---

<sup>234</sup> Exhibit CAC-9, Tab 6 (PUB Order 1/21, p 67).

<sup>235</sup> CMMG (MPI) 2-13 c); October 22, 2021 at 1769770 (Watchman, Phoa, Prystupa); October 21, 2021 at 1922-1923 (Dilay, Jatana, Prystupa).

<sup>236</sup> Exhibit CAC-9, Tab 7 (Transcript October 27, 2020, p 1638 line 24 – p 1639 line 18).

<sup>237</sup> Exhibit CAC-4 (Oliver Wyman report), p 8; see also October 25, 2021 at 2315 (Sahasrabudhe).

## CUSTOMERS ARE NOT CURRENTLY “GAMING THE SYSTEM”

- MPI has acknowledged that the primary driver model would better reflect driver risk, with the caveat that this assumes accurate reporting by customers of the primary driver for each vehicle they insure.
  - But MPI also acknowledged that there is current absolutely no requirement for customers to report who drives the vehicle.
    - *MS. KATRINE DILAY: So there is no requirement to declare a primary driver for the vehicle. Correct? MS. SATVIR JATANA: That would be correct.*<sup>238</sup>
- MPI’s description of customers currently “gaming the system” is inaccurate – there is nothing preventing customers from registering a vehicle to someone who is not the primary driver.<sup>239</sup>
- MPI appears to assume a portion of customer significant enough to skew the actuarial soundness of a primary driver model would misrepresent who is the primary driver of the vehicle, when asked directly by their automobile insurer and asked to declare that their statement is true.
  - Customers have an incentive not to misrepresent because their claim may be denied.<sup>240</sup>

<sup>238</sup> October 21, 2021 at 1922-1924 (Dilay, Jatana, Prystupa).

<sup>239</sup> October 21, 2021 at 1915 (Meek, Prystupa).

<sup>240</sup> October 26, 2021 at 2485-2486 (Dilay, Sahasrabuddhe).

**MPI HAS EXPLICITLY SAID IT IS NOT MOVING TO A  
PRIMARY DRIVER MODEL AND HAS NOT DONE A PRICING  
STUDY**

- MPI has no plans to move to a primary driver model, for at least 5 years.<sup>241</sup>
- MPI has not done a pricing study because it does not have the data.<sup>242</sup>
- MPI does not plan to collect the information they would need to conduct a pricing study because it does not plan to move to a primary driver model.<sup>243</sup>
- MPI already collects driver information for off-road vehicles, so there appears to be a precedent for collecting this type of information.<sup>244</sup>
- While MPI refers to the public consultation undertaken in 2017 as evidence that Manitobans prefer the registered owner model, it is not clear that respondents were fully informed about the inherent challenges with the registered owner model.<sup>245</sup>

---

<sup>241</sup> CAC (MPI) 1-54; October 21, 2021 at 1761-1762 (Watchman, Jatana).

<sup>242</sup> 2022 GRA, Part VI – DSR, Appendix 1, p 15, lines 1-3.

<sup>243</sup> CMMG (MPI) 1-2a); CMMG (MPI) 2-10.

<sup>244</sup> October 19, 2021 at 1228-1230 (Gabor – Phoa).

<sup>245</sup> October 22, 2021 at 2015-2016 (Gabor, Jatana); October 22, 2021 at 2016-2017 (Guerra, Prystupa).



## DATA COLLECTION AND ENGAGEMENT

- *“So one of the things we've considered and we need to – you know, this is not something I perhaps I would say we can commit to today, but something that we can take back, is: Is there a way for MPI to collect data in terms of, let's say, in – in – under the current model, I'm a primary driver or, sorry, the registered owner. Who else is using my vehicle?”*
  - *And start collecting that data; have that data for at last twelve (12) months to do some analysis and then determine philosophically in – in a MPI or in a public model how accurate – is it accuracy and fairness, and – and where do we go, you know, and what is the appetite overall of all the stakeholders involved.”<sup>246</sup>*

---

<sup>246</sup> October 26, 2021 transcript at 2370-2371 (Jatana).

## MPI IS PROPOSING SOME CHANGES TO DSR IN THE 2022 GRA...

- In order to address the cross-subsidization, MPI has proposed:
  - To add a level 16 on the DSR scale with the same discount as the level 15;<sup>247</sup>
  - To allocate the indicated rate decrease to the higher DSR levels through higher discounts;<sup>248</sup> and
  - In the longer term (over five years) to move the discounts/premiums closer to their actuarial targets by adding levels up to 20 with various discounts.<sup>249</sup>

---

<sup>247</sup> 2022 GRA, Part VI – DSR, p 10; October 21, 2021 at 1718 (Phoa).

<sup>248</sup> 2022 GRA, Part VI – DSR, p 10;

<sup>249</sup> 2022 GRA, Part I, Overview, p 10; October 21, 2021 at 1718 (Phoa).

## BUT ONGOING CROSS-SUBSIDIZATION WILL REMAIN IN THE SHORT-TERM

- MPI is not proposing to move to actuarially indicated discounts in one year, citing concerns of public acceptability because the base rate would have to increase by 22 percent.<sup>250</sup>
  - MPI has indicated a willingness to consult stakeholders on the proposal and public acceptability.<sup>251</sup>
- As a result, cross-subsidization will continue even after the proposed changes this year, adding to the cumulative amount the higher DSR levels are paying that is higher than their indicated rates.<sup>252</sup>
- MPI appears to be choosing ongoing cross-subsidization as being more publicly acceptable than a change to the base rate of 22%.
  - *“It feels as if the non-adoption is – that the non-adoption of the actuarially indicated rates would point us to a view that – that – that it’s more important not to upset the poorer drivers than to – than to pass on the – benefits of better driving experience to the better drivers.”*<sup>253</sup>

<sup>250</sup> 2022 GRA, Part VI – DSR, p 9; CAC (MPI) 2-33; October 21, 2021 at 1722-1723 (Phoa).

<sup>251</sup> October 21, 2021 at 1928-1929 (Dilay, Phoa).

<sup>252</sup> CAC (MPI) 2-32, p 2, Figure 1; October 21, 2021 at 1723 (Phoa); October 21, 2021 at 1730 (Phoa); October 21, 2021 at 1925-1928 (Dilay, Phoa); Exhibit CAC-10, p 11, Exhibit CAC-4 (Oliver Wyman report), p 9; October 25, 2021 at 2316-2318 (Sahasrabuddhe).

<sup>253</sup> October 25, 2021 at 2322 (Sahasrabuddhe).

**AND THE INHERENT CHALLENGES WITH THE REGISTERED OWNER MODEL WILL REMAIN**

- Because MPI is not suggesting a move away from the Registered Owner model:
  - drivers will continue to be able to register vehicles under the name of the person in the household with the highest DSR rating; and
  - vehicle premiums will continue to not reflect the risk that drivers bring to the system.

**MPI, THE PUB AND RATEPAYERS MAY BE MISSING A  
SIGNIFICANT OPPORTUNITY GIVEN PLANNED CHANGES  
TO LEGACY SYSTEMS**

- In the 2021 GRA, the PUB found, based on MPI’s evidence that “the requirements of the future state of the DSR system must be developed within the next 12 months to ensure that it can be coordinated with any planned changes to legacy systems.”<sup>254</sup>
- In the 2022 GRA, MPI’s evidence is that it would be difficult to implement a new model during Project Nova:
  - *“Lastly, the point I want to make is – the reality is – that we’re faced with is that implementing the Primary Driver Model during Nova would be incredibly resource intensive and – and, in reality, MPI submits that it’s not feasible.”*<sup>255</sup>

---

<sup>254</sup> Exhibit CAC-9, Tab 6 (PUB Order 1/21, p 65).

<sup>255</sup> October 21, 2021 at 1714 (Prystupa).

## RECOMMENDATIONS: DRIVER SAFETY RATING

- MPI should be directed to immediately begin collecting data on primary drivers in order to produce a pricing study for the primary driver model as soon as possible.
- MPI should be directed do follow-up engagement with both customers and stakeholders on potential alternative DSR models, including providing information regarding the models' ability to price based on the risk that drivers bring to the system.
- MPI should be directed to move towards actuarially indicated DSR discounts over three years (rather than MPI's proposed five years).

## FLEET PROGRAM COSTS DO NOT REFLECT THE PRINCIPLE OF COST CAUSALITY

- The fleet program operates by providing rebates or surcharges on an after the fact basis, with rebates being higher than surcharges.<sup>256</sup>
- The costs of the rebates are spread amongst the three major classes who have access to the fleet program.<sup>257</sup>
- The principle of cost causality in utility regulation means that the expenses of a utility are to be allocated to those customers who most directly cause the expense.<sup>258</sup>
  - The fleet program would appear to not reflect cost causality as the vast majority of the private passenger class is not part of a fleet, and almost half of the public class is not part of a fleet, but these customers still pay for the fleet program benefits.<sup>259</sup>
- Even in the event that the PUB accepts that the fleet program provides benefits to **all road users**, the costs should then be spread amongst all classes (not just the three major classes).<sup>260</sup>

<sup>256</sup> October 13, 2021 at 464 (Dilay – Gandhi); October 18, 2021 at 1066-1067 (Dilay, Phoa).

<sup>257</sup> October 13, 2021 at 467 (Dilay – Gandhi); October 18, 2021 at 1067 (Dilay, Phoa).

<sup>258</sup> October 13, 2021 at 466 (Dilay – Gandhi).

<sup>259</sup> October 13, 2021 at 467-470 (Dilay – Gandhi); 2022 GRA, Part VI – Ratemaking, p 44; CAC (MPI) 1-47; CAC (MPI) 2-26, p 2; October 18, 2021 at 1067-1074 (Dilay, Phoa).

<sup>260</sup> CAC (MPI) 2-26, p 4; October 18, 2021 at 1074-1076 (Dilay, Phoa).

**RECOMMENDATION: FLEET PROGRAM COSTS**

- Aside from a redesign, the fleet program should be transitioned from cost recovery from the general population of private passenger, commercial and public classes, towards a model that recovers more of the costs from fleet program participants. Increasing surcharges, or decreasing the rebates, under the fleet program would generate more revenue, and reduce the net rebates that are payable by the general population. MPI should be directed to file an analysis and proposal for modifications to the fleet program to better reflect cost causation.



## VEHICLES FOR HIRE

- Private Passenger Vehicles for Hire (VFH) rates implemented in 2018 were too low, resulting in subsidization of this class by other customer classes.<sup>261</sup>
- PUB has previously ordered rates for Private Passenger VFH to increase by 20% in 2021/22, as well as in 2022/23 and 2023/24, “subject to the Board's ability to vary such increases based upon the experience filed within those GRAs and as the Passenger VFH rates approach actuarially indicated break-even rates.”<sup>262</sup>
- MPI has indicated in this year’s GRA is that Private Passenger VFH rates are now at target, following the application of the first 20% rate increase.<sup>263</sup>
- Dion Strategic has recommended that rates for Private Passenger VFH need to go up and should not be capped, or should be capped at a higher percentage.<sup>264</sup>

<sup>261</sup> PUB Order 1/21, p 57-58; October 21, 2021 at 1929-1933 (Dilay, Jatana, Phoa, Prystupa).

<sup>262</sup> PUB Order 146/20 and PUB Order 1/21, p 57.

<sup>263</sup> October 12, 2021 at 117-118 (Scarfone); October 19, 2021 at 1244-1245 (Gabor, Phoa).

<sup>264</sup> Exhibit TC-4, p 7.

## **RECOMMENDATION: VEHICLES FOR HIRE**

- Given the limited experience of the Private Passenger Vehicles for Hire class, there should be ongoing monitoring of the adequacy of rates for this class by the PUB.
- To the extent that a rate increase is imposed for 2022/23, it should be capped at 20% to avoid rate shock to this class of customers.

## REVIEW OF TERRITORIES

- A review has not been completed since the introduction of territories.<sup>265</sup>
- Some issues relating to territories and uses were raised in the 2021 GRA.<sup>266</sup>
- MPI has indicated that the review is ongoing and that it is anticipated to be filed in the next GRA.<sup>267</sup>

---

<sup>265</sup> October 18, 2021 at 1043-1046 (Dilay, Phoa, Lang).

<sup>266</sup> October 18, 2021 at 1020-1029 (Dilay, Phoa); October 18, 2021 at 1029-1036 (Dilay, Phoa).

<sup>267</sup> CAC (MPI) 1-58; October 18, 2021 at 1043-1046 (Dilay, Phoa, Lang).

## **RECOMMENDATION: TERRITORIES**

- MPI should be directed to file its review of territories in the 2023 GRA.

**SETTING JUST AND REASONABLE RATES**

## GENERALIZED LINEAR MODELLING

- In the 2022 GRA, Dion Strategic has recommended the use of Generalized Linear Models (GLMs) for ratemaking, rather than the minimum bias procedures. GLMs are recognized “*as the industry standard method*”.<sup>268</sup>
  - Dion Strategic has recommended a step by step plan that could be followed by MPI.<sup>269</sup>
- In the past, CAC Manitoba has asked Information Requests on the use of Generalized Linear Models. While MPI had acknowledged that it would be worth exploring this option, it has cited limitations with respect to resources.<sup>270</sup>
- Once again, in the 2022 GRA, MPI has expressed its commitment to exploring the use of Generalized Linear Models but has not committed to a timeline.<sup>271</sup>

---

<sup>268</sup> Exhibit TC-4, p 13.

<sup>269</sup> CAC (TC) 1-1 a).

<sup>270</sup> See 2021 GRA, CAC(MPI) 1-16, CAC(MPI) 2-7; 2020 GRA CAC(MPI) 1-42, CAC(MPI) 2-19.

<sup>271</sup> October 18, 2021 at 913 (Phoa); October 18, 2021 at 982-984 (McCandless, Lang).

**RECOMMENDATION: GENERALIZED LINEAR MODELS**

- Given its acknowledgement in the last three GRAs that exploring the use of Generalized Linear Models would be worthwhile and that it appears to be standard practice amongst automobile insurers, MPI should be directed to immediately explore this option, following the implementation plan proposed by Dion Strategic, and report back with its analysis and findings in the 2023 GRA.

**RECOMMENDATION: JUST AND REASONABLE RATE**

- The rate indication for 2022/23 should be filed by MPI in a revised Undertaking 28, reflecting the Oliver Wyman past and future trends.



**THANK YOU**