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January 31, 2022

**By E-mail:** [Darren.Christle@gov.mb.ca](mailto:Darren.Christle@gov.mb.ca)

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

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

Dear Dr. Christle:

Re: Manitoba Public Insurance ("MPI")  
Application to Review and Vary Order 134/21  
Our Matter No. 0181169 AFH

Pursuant to the Manitoba Public Utilities Board ("PUB") procedural letter dated January 18<sup>th</sup>, 2022, the Taxi Coalition ("TC") makes the following submissions with respect to the review and variance application.

TC acknowledges receipt of the 32 page January 14, 2021 MPI Application to Review and Vary Order 134/21.

The arguments in this new submission could have been made during the hearing and at the end of the hearing. The issues raised in this are not new. MPI is attempting to relitigate the issues which have been properly decided.

TC will limit its submission to areas within its scope of intervention and on issues which affect the TC.

The TC submits that the review and variance application should be dismissed as it relates to Order 134/21 Directives 11.13 (DSR Directive), 11.4 (GLM Directive), 11.11 (VFH Directive), and 3 (Alternative Rate Indication), because there is no basis for the directive to be rescinded, changed, altered or varied.

Details are provided in the sections below.



## **Directive 11.13 – Driver Safety Rating (DSR) Directives**

The TC is aware of the Consumer's Association of Canada (Manitoba) ("CAC") response to MPI's application to review and vary the DSR Directive 11.3. The TC supports this position as it relates to the Directive 11.3 generally, and its specific application to Directive 11.11 part (b), namely the DSR sub-part of the VFH Directive.

TC notes the following sections of the following legislation which are relevant to the jurisdiction and powers of the PUB as it relates to MPI.

Pursuant to s. 32(1) of *The Interpretation Act*:

The power to do a thing or to require or enforce the doing of a thing includes all necessary incidental powers.

Pursuant to *The Manitoba Public Insurance Corporation Act*:

### **PUB approval of plan premiums for universal compulsory automobile insurance**

6.4(1) The corporation's plan premiums for its plans of universal compulsory automobile insurance must not be changed, and no new plan premiums for such insurance may be established by the corporation, except in accordance with this section.

### **Application for review by the PUB**

6.4(2) The corporation must apply to The Public Utilities Board for approval before changing an existing plan premium, or establishing a new plan premium, for its plans of universal compulsory automobile insurance.

### **Board may approve or vary plan premiums**

6.4(3) The Public Utilities Board may either approve or vary the plan premiums applied for by the corporation, and must make its decision in accordance with Part 4 of *The Crown Corporations Governance and Accountability Act*.



### Review by PUB

33(1.1) No regulation changing the amount of an additional driver premium, a base driver premium or a discounted driver premium — together being the premiums charged by the corporation for compulsory driver insurance — may be made under subsection (1) unless the Lieutenant Governor in Council is satisfied that the proposed change has been approved by The Public Utilities Board in accordance with Part 4 of *The Crown Corporations Governance and Accountability Act*.

Pursuant to Part 4 of *The Crown Corporations and Accountability Act*:

#### Hydro and MPIC rates review

25(1) Despite any other Act or law, rates for services provided by Manitoba Hydro and the Manitoba Public Insurance Corporation shall be reviewed by The Public Utilities Board under *The Public Utilities Board Act* and no change in rates for services shall be made and no new rates for services shall be introduced without the approval of The Public Utilities Board.

#### Definition: "rates for services"

25(2) For the purposes of this Part, "rates for services" means

(b) in the case of The Manitoba Public Insurance Corporation, rate bases and premiums charged with respect to compulsory driver and vehicle insurance provided by that corporation.

#### Application of Public Utilities Board Act

25(3) *The Public Utilities Board Act* applies with any necessary changes to a review pursuant to this Part of rates for services.

#### MPIC

25(5) In the case of a review pursuant to this Part of rates for services of the Manitoba Public Insurance Corporation, The Public Utilities Board may take into consideration, in addition to factors described in subsection (4), all elements of insurance coverage affecting insurance rates.





Pursuant to *The Public Utilities Board Act*:

**Power to order partial or other relief**

44(1) Upon any application to it, the board may make an order granting the whole or part only of the application or may grant such further or other relief in addition to or in substitution for that applied for, as fully and in all respects as if the application had been for such partial, further or other relief.

**Orders as to utilities**

77 The board may, by order in writing after notice to, and hearing of, the parties interested,

(a) fix just and reasonable individual rates, joint rates, tolls, charges, or schedules thereof, as well as commutation, mileage, and other special rates that shall be imposed, observed, and followed thereafter, by any owner of a public utility wherever the board determines that any existing individual rate, joint rate, roll, charge or schedule thereof or commutation, mileage, or other special rate is unjust, unreasonable, insufficient, or unjustly discriminatory or preferential;

(b) fix just and reasonable standards, classifications, regulations, practices, measurements, or service to be furnished, imposed, observed, and followed thereafter by any such owner;

**Orders as to owners**

78(1) The board may, by order in writing and notice to, and hearing of, the parties interested, require every owner of a public utility

(a) to comply with the laws of the province and any municipal by-law affecting the public utility or its owner, and to conform to the duties imposed thereby, or by the provisions of its own charter, or by any agreement with any municipality or other owner;



### Discriminatory rates

82(1) No owner of a public utility shall

(a) make, impose, or exact any unjust or unreasonable, unjustly discriminatory, or unduly preferential, individual or joint rate, commutation rate, mileage, or other special rate, toll, fare, charge, or schedule, for any product or service supplied or rendered by it within the province;

(b) without the written authorization of the board and subject to subsection (2), make, impose, exact, or collect, any rate, toll, fare, or charge, or any schedule of rates, either individual or joint, for any product supplied or service rendered by it within the province;

(c) adopt or impose any unjust or unreasonable classification in the making, or as the basis, of any individual or joint rate, toll, fare, charge, or schedule for any product or service rendered by it within the province;

(d) adopt, maintain, or enforce any regulation, practice, or measurement that is unjust, unreasonable, unduly preferential, arbitrarily or unjustly discriminatory, or otherwise in violation of law, or provide or maintain any service that is unsafe, improper, or inadequate, or withhold or refuse any service that can reasonably be demanded and furnished when ordered by the board;

(e) make or give, directly or indirectly, any undue or unreasonable preference or advantage to any person or corporation, or to any locality, or to any particular description of traffic in any respect whatsoever, or subject any particular person or corporation or locality, or any particular description of traffic, to any prejudice or disadvantage in any respect whatsoever;

These legislative sections, including those of *The Public Utilities Board Act* which are incorporated by reference, provide the necessary authority to this Board to address the DSR issue of whether rates charged to various classes of customers are unjust or unreasonable or unjustly discriminatory, or unduly preferential. They also provide the



necessary authority to create classes of customers in order to ensure rates charged to customers are not unjust or unreasonable.

The Board has over the last rate applications and in this last hearing, received sufficient evidence to make the findings of mixed fact and law leading to the subject directive.

Pursuant to s. 44(1) of *The Public Utilities Act* this Board has the jurisdiction grant such further and other relief in exercising its mandate of ensuring MPI customers pay rates which are just and reasonable and not unjustly discriminatory or unduly preferential. It is inconsistent with the regulatory scheme to suggest that MPI can continue charging unjust and unreasonable rates if it continues to avoid applying for approval of a primary driver DSR model.

MPI's interpretation of s. 33(1.1) of *The MPI Act* is contrary to the spirit and intent of the legislation as a whole conferring the primary responsibility on the Board to regulate rates for services.

Subsection 33(1.1) recognizes that the Board should first consider and approve any premiums, including discounted driver premium because of its expertise. The LGC relies on that expertise and is directed not to make any regulatory changes unless the Board has considered the change and approved the change.

By Directive 11.13 which requires the submission of "a five-year plan for the implementation of the Primary Driver rating model." which identifies the "Required regulatory changes and timeline for the initiation of the regulatory changes," the Board is doing precisely what is being asked of it in s. 33(1.1). It is setting out a process where it can consider and approve a proposed change in the amounts of premiums. The LGC will in due course receive and be satisfied that the Board has indeed properly considered and approved the proposed changes to premiums.

We note that s. 33(1.1) specifically contemplates "discounted driver premium(s)". That is exactly what the Board seeks to address by the directive – DSR discounts based on "drivers" as opposed to "registered owners".

Under the interpretation suggested by MPI, there would never be a regulation which could be made by the LGC because of the condition precedent for the regulatory jurisdiction being "the proposed change has been approved by The Public Utilities Board".

Without repeating it, TC also adopts the position proffered by the CAC.





## Directive 11.4 – Generalized Linear Models (GLMs) Directive

MPI's application to review the GLM Directive 11.4 of Order 134/21, should be dismissed because there is no basis for the directive to be rescinded, changed, altered or varied. The TC submits that MPI has interpreted the directive as more involved than is the PUB's intent, and that alternative approaches to completing the analysis can be used.

The PUB ordered MPI to prepare an alternative rate indication using a preliminary set of GLMs based on existing rating factors, and prepare a plan to study additional rating factors and interactions, as stated in Order 134-21, at page 47:

The Board supports the Corporation **moving towards an approach that incorporates the use of GLMs** and directs MPI, in the 2023 GRA, **to provide an alternative indication using a preliminary set of GLMs using existing rating factors**, and a **plan to study additional rating factors and interactions** in order to address the question of territorial subsidies, among others.

[Emphasis added]

The PUB did not direct MPI to file for approved rates based on GLMs, or otherwise adopt GLMs for the 2023 GRA. The directive requires MPI deliver two items in the 2023 GRA: i) a preliminary, alternative rate indication using GLMs, and ii) a plan to improve that GLM-based rate indication.

Evidence on the record confirms that a transition to GLMs would require multiple years for development and refinement. Dion Strategic and Palm indicate that a simple GLM model should be developed to start, and should be calibrated over time adding new variables and interactions, and new data.

Dion Strategic proposed the following transition plan in response to CAC(TC)  
1-1:

If Dion Strategic were designing a plan, it would include:

1. For the upcoming year, create a transition plan
2. Run both GLM and MBP models for the coming year as a test
  - i. Decide on the assumptions to be used for the GLM
    1. **Simplified model as a start.**
      - **For example, using only existing rating variables and not adding new ones.**
    2. Formalize the Assumptions used, treatment of groups, etc.



3. Compare the GLM results to MBP
4. **Plan for a transition between MBP and GLM rating in coming years**
  - i. Decide on a capping and dislocation structure
5. **Plan for improvements to GLM models in following years**
  - i. Determine additional data to collect to add to the model

[Emphasis added]

In response to PUB(TC) 1-9, requesting what type of model be used to introduce new rating variables , Palm wrote:

Palm suggests a simple approach to a GLM model, to start, rather than a comprehensive GLM model. For example, one could **begin a GLM model using the existing rating factors** and not considering any interactions yet. **Then the next phase could be a transition phase including the testing for a couple new rating variables** but keeping the rating factors within 1 or 2 degree polynomials. **Over time, perhaps other variables and interactions could be tested and included in the model.** Results would be monitored periodically. Adjustments to the GLM could be made based on the results"

[Emphasis added]

MPI raised concerns about acquiring software and integrating with new or existing IT systems. The TC notes that there is evidence on the record that GLM modelling software *need not* be fully integrated into the corporate IT systems, found at Transcript page 2251-2252:

MR. ANTHONY GUERRA: Okay. And one (1) -- and I think I heard you testify earlier this morning, but if you can just confirm that one (1) of the important variables that would be -- need to be known is whether or not something like a GLM system like 'R' would be compatible with other software solutions that are being implemented through Project Nova, correct?

MR. JASON WONG (by Teams): I -- I think it would actually be distinct because your -- 'R' is just used to model and determine





your differentials, or your rating. Whatever you come up with will still be from your existing systems.

MR. SYLVAIN DION (by Teams): Or improved system.

MR. JASON WONG (by Teams): Yeah. Like, I don't believe you would need to link your 'R' or any other GLM software to your existing system. It can be done separately. This is the analysis. You know, you come up with, hey, these are the rating variables, this is what you want to charge for each type, and then program that in using your current existing way.

MPI's concerns with software procurement and integration in the midst of Project NOVA may be valid if MPI was directed to apply for rates in the 2023 GRA based on a GLM model. MPI has not been directed to do so.

MPI has also indicated that it is pre-occupied with staffing the actuarial department and does not have capacity to conduct the GLM work. Recognizing that MPI has a significant amount of IT work underway, no corporate experience with GLMs, and is preoccupied with staffing its actuarial department, the simplest means of complying with this directive may be to outsource the work to consulting actuaries who have experience with GLMs and already have appropriate modelling software in place. It may even be the case that MPI's appointed actuary could undertake the work efficiently, already having an understanding of MPI's rating system.

The reasons (essentially new evidence) set out by MPI for the requested variation are untested, and the resulting variation unsatisfactory. The suggested variations essentially mean little if anything will be done for the 2023 GRA.

MPI proposes to "submit a plan". Submitting a plan in the 2023 GRA, instead of starting to work on progress leaves MPI using old, outdated methods (as compared to the automobile insurance industry) for longer than necessary.

Second, MPI had agreed that GLM was desirable and an improvement. Now it suggests an inconsistent position that it "submit a plan **for the possible** implementation of GLM" and that it only "study additional rating factors". The TC submits that a pattern is developing that jeopardizes meaningful progress, as with the DSR, where MPI may advise of a plan with an indefinite timeline for "the possible implementation".



### Directive 11.11 – Vehicle for Hire (VFH) Directives

MPI's application to review the VFH Directive 11.11 of Order 134/21, should be dismissed because there is no basis for the directive to be rescinded, changed, altered or varied. The TC submits that MPI is misinterpreting directive 11.11, and conflating partial compliance with full compliance.

The PUB order 134/21 states at page 81:

The Board accepts the Taxi Coalition's recommendations with respect to MPI's VFH framework review. The Board notes that MPI has not complied with Directive 8 of Order 1/21.

The PUB's reference to Directive 8 of Order 1/21, was in reference to its entirety, not certain parts. The TC closing submission (Issue Topic #6 MPI's Compliance with PUB Directives) provided the following recommendation:

The PUB should find that notwithstanding the ongoing redevelopment of the VFH Framework, that MPI has not adequately responded to directives contained in Order 1/21, related to the VFH insurance uses.

As part of its Order, the PUB should re-issue each of its sub-directives in Directive 8 in Order 1/21, thereby confirming the continued relevance of the directives and the PUB's expectation of compliance.

The PUB should order MPI to file its proposed VFH framework in the 2023 GRA.

The PUB should require MPI to file quarterly status of compliance reports.

The TC submits that the direction in Directive 11.11 of the Order 134/21 is clear. MPI must comply with Directive 8 of Order 1/21, in its entirety, for the 2023 GRA.

In its closing submission (Issue Topic #6 MPI's Compliance with PUB Directives), the TC stated the following:

Directive 8 contained ten separate sub-directives related to the research and analysis that would be reasonably required to complete a comprehensive VFH framework review. Few of these directives were completed, and fewer in a timely fashion.



In the 2022 GRA VFH Chapter, section VFH.5, MPI presented its compliance with directive 8, wherein each of the sub-directives contained a response that was one paragraph or less. Analysis and discussion was absent, and where a response was offered, it was typically limited to a declaration consistent with MPI's position prior to being directed by the PUB to further examine the issue.

The particulars of Directives 8(f) and 8(i) with respect to collection and analysis of data related to VFH insurance uses, is discussed at length in Issue Brief 5.

With respect to two of the directives, 8(g) and 8(h), MPI committed at the time of filing the GRA to prepare the analysis requested<sup>1</sup> during the summer of 2021.

Directive 8(g) required MPI to: "Analyze and report on whether it continues to be appropriate to have Passenger VFH and Private Delivery services in different major classes."

But in response to TC(MPI) 2-7, which required a motion to compel further, and better responses be filed with the PUB, MPI only produced what we view as an incomplete analysis for 8(g), and did so after the deadline for filing second round IR responses, leaving little ability to review and test the material, except through hearing "pre-asks", and leaving no opportunity for TC to file evidence on the issue. The Taxi Coalition does not consider that it has adequately tested the material in response to directive 8(g), and will need to examine the issue of a VFH major class more fully in the next GRA.

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<sup>1</sup> 2022 GRA VFH.5, PDF page 91.





Under Cross examination by TC counsel,<sup>2</sup> Messrs Prystupa and Phoa confirmed the status of the various sub-directives contained within Directive 8. Through this cross examination it became clear that MPI has made limited progress on these directives, could only provide answers in a general way, and could only provide high level timelines to completion without any commitment on compliance.

[emphasis added]

The TC expressed concern as early as first round information requests, that only sub parts d, and f, and j might be considered as having been completed, and only superficially. TC first-round information requests 1-14, 1-15, and 1-16 attempted to gain deeper insight into MPI's brief response (1-14 and 1-16), and to correct what in the TC's view was a misunderstanding of the directive (1-15).

The TC also notes that transcript pages 1940 to 1981 contain a line of questioning from TC counsel to MPI witnesses on the compliance with each specific sub part of PUB Order 1/21 Directive 8. This line of questioning highlights that much work was left to be done at the time of the 2022 GRA hearing on the Order 1/21 Directive 8.

The TC appreciates that there is a significant amount of work required to fully comply with this directive, and again suggests that consulting actuaries may be able to assist MPI's actuarial and product departments in providing a thorough and timely response to this important directive.

### **Directive 3 – Alternate Rate Indication Directive**

On review of the grounds, it appears that the most efficient way to deal with this request would be for Dion Strategic, Board advisors and actuarial staff from MPI to discuss this issue and propose to the Board clarifications or variations, if necessary.

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<sup>2</sup> TX 1941 to 1980.



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It would be desirable to ensure that misunderstandings be avoided so that MPI does not produce an alternative rate indication which is inconsistent with what the Board was seeking.

Yours truly,

THOMPSON DORFMAN SWEATMAN LLP

Per: *Antoine F. Hacault*

Antoine F. Hacault\*

AFH/av

cc: K. McCandless and PUB Advisors  
MPI  
2022 Interveners

\*Services provided through A. F. Hacault Law Corporation