

Order No. 123/20

**MOTION BY MANITOBA PUBLIC INSURANCE
SEEKING CONFIDENTIAL TREATMENT OF CERTAIN INFORMATION AND
DOCUMENTS IN THE 2021/2022 GENERAL RATE APPLICATION**

October 9, 2020

**BEFORE: Irene A. Hamilton, Q.C., Panel Chair
Robert Gabor, Q.C., Chair
Carol Hainsworth, Member**

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1. SUMMARY

By this Order, the Public Utilities Board (Board) grants, in part, the motion of Manitoba Public Insurance (MPI or the Corporation), seeking confidential receipt by the Board of certain documents and responses to Information Requests (IRs) filed by MPI in the 2021/2022 General Rate Application (GRA or the Application).

1.0 Overview

MPI filed the GRA on June 17, 2020. In Order 88/20 dated July 6, 2020, the Board approved and outlined the process for the treatment of confidential or commercially sensitive information (CSI) in this GRA (CSI Process).

Pursuant to the CSI Process, MPI was not required to bring a separate motion under Rule 13 of the Board's Rules of Practice and Procedure for confidential status of material, each time it filed material claimed as such with the Board. Instead, MPI publicly filed redacted material claimed as confidential with the Board. MPI also provided non-redacted copies of material claimed as confidential to the Board, and to Board Advisors and Interveners who executed undertakings of confidentiality and confidentiality agreements, in forms approved by the Board.

The Board directed that, once all material claimed as confidential was filed by MPI, MPI was to file a motion pursuant to Rule 13 of the Board's Rules of Practice and Procedure, seeking confidential status of the material.

The First Round IR responses were filed by MPI on August 5, 2020. The Second Round IR responses were filed by MPI on September 15, 2020. The within motion was filed on September 18, 2020.

MPI's motion requested confidential treatment for the following:

Documents Filed as part of the General Rate Application

1. Part IV – VM&IT – VM – VM.1.16
2. Part IV – VM&IT – VM – VM Appendix 3
3. Part IV – VM&IT – VM – VM Appendix 4
4. Part IV – VM&IT – VM – VM Appendix 6
5. Part IV – VM&IT – VM – VM Appendix 7
6. Part IV – VM&IT – IT – IT Appendix 4
7. Part VII – R&RMF – RMF - RMF. 2
8. Part VII – R&RMF – RMF – RMF Appendix 3
9. Part VIII – RF&P – AR – Appendix 1
10. Part VIII – RF&P – AR – Appendix 2
11. Part VIII – RF&P – AR – Appendix 3
12. Part VIII – RF&P – AR – Appendix 5

Responses to Round One Information Requests

13. PUB (MPI) 1-01 – Appendix 1
14. PUB (MPI) 1-73 – Attachment A
15. PUB (MPI) 1-81 – Appendix 1
16. PUB (MPI) 1-81 – Appendix 1(a)

17. CAC (MPI) 1-57 – Attachment A
18. CAC (MPI) 1-57 – Attachment B
19. CAC (MPI) 1-57 – Attachment C
20. CAC (MPI) 1-58 – Attachment A
21. CAC (MPI) 1-58 – Attachment B

Responses to Round One CI Information Requests

22. CI CAC (MPI) 1-01
23. CI CAC (MPI) 1-01 – Appendix 1
24. CI CAC (MPI) 1-02
25. CI CAC (MPI) 1-03
26. CI CAC (MPI) 1-06
27. CI CAC (MPI) 1-08
28. CI PUB (MPI) 1-01
29. CI PUB (MPI) 1-01 – Appendix 1
30. CI PUB (MPI) 1-01 – Appendix 2
31. CI PUB (MPI) 1-03
32. CI PUB (MPI) 1-03 – Appendix 1
33. CI PUB (MPI) 1-03 – Appendix 2

34. CI PUB (MPI) 1-03 – Appendix 3

35. CI PUB (MPI) 1-04

36. CI PUB (MPI) 1-05

Responses to Round One CI Information Requests Cont'd

37. CI PUB (MPI) 1-06

38. CI PUB (MPI) 1-07

39. CI PUB (MPI) 1-09

40. CI PUB (MPI) 1-09 – Appendix 1

41. CI PUB (MPI) 1-10

42. CI PUB (MPI) 1-10 – Appendix 1

43. CI PUB (MPI) 1-10 – Appendix 2

Responses to Round Two Information Requests

44. PUB (MPI) 2-34

Responses to Round Two CI Information Requests

45. CI PUB (MPI) 2-01

46. CI PUB (MPI) 2-01 – Attachment A

47. CI PUB (MPI) 2-01 – Attachment B

48. CI PUB (MPI) 2-02

49. CI PUB (MPI) 2-03
50. CI PUB (MPI) 2-03 – Appendix 1
51. CI PUB (MPI) 2-03 – Appendix 2
52. CI PUB (MPI) 2-04
53. CI PUB (MPI) 2-05
54. CI PUB (MPI) 2-05 – Attachment A
55. CI PUB (MPI) 2-05 – Attachment B
56. CI PUB (MPI) 2-05 – Attachment C
57. CI PUB (MPI) 2-05 – Attachment D
58. CI PUB (MPI) 2-05 – Attachment E
59. CI PUB (MPI) 2-05 – Attachment F
60. CI PUB (MPI) 2-05 – Attachment G
61. CI PUB (MPI) 2-06
62. CI PUB (MPI) 2-07
63. CI PUB (MPI) 2-09

(collectively, the "Documents").

On September 22, 2020, the Board received written responses from Consumers Association of Canada (Manitoba) Inc. (CAC), Coalition of Manitoba Motorcycle Groups (CMMG), and the Taxi Coalition, each advising that they took no position with respect to the motion.

By letters dated October 2 and 7, 2020 to the Board, MPI requested that certain Annual Reports Appendices, initially filed in confidence, be placed on the public record. Accordingly, the request in the motion for confidential treatment of the following the following sections of the Application was rendered moot:

- Part VIII – RF&P – AR Appendix 1
- Part VIII – RF&P – AR Appendix 2
- Part VIII – RF&P – AR Appendix 3
- Part VIII – RF&P – AR Appendix 5

The Board did not require an oral hearing on the motion.

2. PARTIES' POSITIONS AND BOARD FINDINGS

2.0 MPI

The grounds for the MPI's motion were, among other things:

- That MPI is contractually required to treat some of the information in the Documents as confidential, and is prohibited by their respective owners from making it available to the public;
- That the disclosure of the Documents could reasonably be expected to result in undue financial loss or gain to, or significantly harm, the competitive position of a person directly or indirectly affected by the proceeding; and
- That the Documents are personal, financial, commercial, scientific or technical in nature, have been consistently treated as confidential by persons directly affected by the proceeding, and the interest in maintaining confidentiality over the Documents outweighs the public interest in their disclosure.

The motion was supported by the affidavit of Tadeu Meira, Regulatory Analyst, Regulatory Affairs, for MPI (Meira Affidavit), which was filed on a confidential basis. The

Meira Affidavit supported MPI's claim for confidentiality for each of the documents listed in the motion.

2.2 Board Findings

Proceedings before the Board are public, and documents filed with the Board by a party to a proceeding are placed on the public record. However, the Board may receive information in confidence on any terms it considers appropriate in the public interest, when the test under Rule 13(2) is met:

- (a) If the Board is of the opinion that disclosure of the information could reasonably be expected
 - i. to result in undue financial loss or gain to a person directly or indirectly affected by the proceeding; or
 - ii. to harm significantly that person's competitive position

or

- (b) If
 - i. the information is personal, financial, commercial, scientific or technical in nature; or
 - ii. the information has been consistently treated as confidential by a person directly affected by the proceeding; and
 - iii. the Board considers that the person's interest in confidentiality outweighs the public interest in the disclosure of the information.

On hearing a motion under Rule 13, the Board may order the information in question be placed on the public record, order the document not be placed on the public record with

such conditions on access imposed as the Board considers appropriate, order an abridged version of the document be placed on the public record, or make any other order the Board finds to be in the public interest. Rule 13(5) allows the filing party to request that the document be withdrawn prior to being placed on the public record where the Board has determined to place any part of the document on the public record.

The Board has reviewed and considered all of the information filed by MPI. The Board has taken into account the evidence filed confidentially by MPI in support of its motion, and is satisfied that, for the most part, the Documents should be received in confidence, as they meet the test under Rule 13(2). The restrictions requested on the distribution of the Documents are necessary in order to protect third party proprietary information, confidential, proprietary or commercially sensitive information.

Certain portions of Part IV - VM Appendix 3, however, do not contain information falling within Rule 13(2). In particular, pages 4, 6, 7, 8 and 9 of VM Appendix 3 may be placed on the public record and the Board hereby directs MPI to do so.

Lastly, the request for confidential treatment of AR Appendices 1, 2, 3, and 5 has been rendered moot. Accordingly, those sections of the Application have been filed on the public record.

The Board therefore grants MPI's motion with respect to the confidential status of the Documents, subject to the exceptions as set out above.

3.0 IT IS THEREFORE ORDERED THAT:

3.1 The Board hereby grants leave to MPI to file the following documents in confidence with the Board:

Documents Filed as part of the General Rate Application

Part IV – VM&IT – VM – VM.1.16

Part IV – VM&IT – VM – VM Appendix 3 pages 1-3, 5, 10 - 97

Part IV – VM&IT – VM – VM Appendix 4

Part IV – VM&IT – VM – VM Appendix 6

Part IV – VM&IT – VM – VM Appendix 7

Part IV – VM&IT – IT – IT Appendix 4

Part VII – R&RMF – RMF - RMF. 2

Part VII – R&RMF – RMF – RMF Appendix 3

Responses to Round One Information Requests

PUB (MPI) 1-01 – Appendix 1

PUB (MPI) 1-73 – Attachment A

PUB (MPI) 1-81 – Appendix 1

PUB (MPI) 1-81 – Appendix 1(a)

CAC (MPI) 1-57 – Attachment A

CAC (MPI) 1-57 – Attachment B

CAC (MPI) 1-57 – Attachment C

CAC (MPI) 1-58 – Attachment A

CAC (MPI) 1-58 – Attachment B

Responses to Round One CI Information Requests

CI CAC (MPI) 1-01

CI CAC (MPI) 1-01 – Appendix 1

CI CAC (MPI) 1-02

CI CAC (MPI) 1-03

CI CAC (MPI) 1-06

CI CAC (MPI) 1-08

CI PUB (MPI) 1-01

CI PUB (MPI) 1-01 – Appendix 1

CI PUB (MPI) 1-01 – Appendix 2

CI PUB (MPI) 1-03

CI PUB (MPI) 1-03 – Appendix 1

CI PUB (MPI) 1-03 – Appendix 2

CI PUB (MPI) 1-03 – Appendix 3

CI PUB (MPI) 1-04

CI PUB (MPI) 1-05

CI PUB (MPI) 1-06

CI PUB (MPI) 1-07

CI PUB (MPI) 1-09

CI PUB (MPI) 1-09 – Appendix 1

CI PUB (MPI) 1-10

CI PUB (MPI) 1-10 – Appendix 1

CI PUB (MPI) 1-10 – Appendix 2

Responses to Round Two Information Requests

PUB (MPI) 2-34

Responses to Round Two CI Information Requests

CI PUB (MPI) 2-01

CI PUB (MPI) 2-01 – Attachment A

CI PUB (MPI) 2-01 – Attachment B

CI PUB (MPI) 2-02

CI PUB (MPI) 2-03

CI PUB (MPI) 2-03 – Appendix 1

CI PUB (MPI) 2-03 – Appendix 2

CI PUB (MPI) 2-04

CI PUB (MPI) 2-05

CI PUB (MPI) 2-05 – Attachment A

CI PUB (MPI) 2-05 – Attachment B

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CI PUB (MPI) 2-05 – Attachment D

CI PUB (MPI) 2-05 – Attachment E

CI PUB (MPI) 2-05 – Attachment F

CI PUB (MPI) 2-05 – Attachment G

CI PUB (MPI) 2-06

CI PUB (MPI) 2-07

CI PUB (MPI) 2-09

3.2 MPI shall file pages 4, 6, 7, 8, and 9 of Part IV - VM Appendix 3 on the public record with the Board on or before October 15, 2020.

Board decisions may be appealed in accordance with the provisions of Section 58 of The Public Utilities Board Act, or reviewed in accordance with Section 36 of the Board's Rules of Practice and Procedure. The Board's Rules may be viewed on the Board's website at www.pubmanitoba.ca.

THE PUBLIC UTILITIES BOARD

"Irene A. Hamilton"
Panel Chair

"Darren Christle, PhD, CCLP, P.Log., MCIT"

Secretary

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issued by The Public Utilities Board



Secretary