Order No. 71/20

MANITOBA PUBLIC INSURANCE CORPORATION (MPI OR THE CORPORATION): 2021 SPECIAL REBATE APPLICATION

REASONS FOR DECISION IN ORDER 67/20

May 20, 2020

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

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1.0 EXECUTIVE SUMMARY

The Board hereby provides its reasons for Order 67/20. In that Order, the Board directed MPI to issue to ratepayers a uniform percentage of their annualized premiums in respect of universal compulsory automobile insurance policies in force on March 15, 2020, for the Private Passenger, Public, Commercial and Motorcycle classes, through a special rebate in an amount equal to the approximate sum of $58 million by May 31, 2020, or as soon thereafter as reasonably practicable.

The actual amount of the rebate paid to an individual policyholder will vary based on the amount of premium paid by the policyholder.

The Board received the Application from MPI for the rebate on April 27, 2020, and issued Order 67/20 on May 1, 2020, following an expedited hearing process given the provincial state of emergency resulting from the COVID-19 pandemic. In Order 67/20, the Board stated that it would provide its reasons to follow.

The Board found that MPI had demonstrated a substantial change in its circumstances, justifying a review and variation of its prior Orders 159/18 and 176/19, to allow rebates to be issued.

Given the urgency of the Application, while the Board reviewed and considered all of the financial information filed by MPI, its review was not as in-depth as typically conducted in a General Rate Application (GRA). There are areas in which the Board intends to do further testing to evaluate MPI's financial position in the 2021 GRA. The Board also issued a directive to MPI in Order 67/20 to file with the Board, as soon as reasonably practicable following such information being available to MPI, a comparison of monthly claims costs versus budget for universal compulsory automobile insurance for the period commencing March 1, 2020, and continuing thereafter until September 30, 2020. The Board will thereby continue to monitor the Corporation's financial performance during this period of uncertainty.

In its Application, MPI sought to exclude the Motorcycle class from the rebate. The Board found this was not just and reasonable. The Corporation's rationale for the rebate was, in part, that it was an acceleration of the capital release provisions of its Capital Management Plan (CMP). In the absence of the rebate, however, if MPI had followed the CMP, the reduction in rates would apply across all Major Use classes.

The Board also found that the assumptions made by MPI for the purposes of the Application were reasonable – in particular, it is reasonable to assume that MPI will experience the same or a similar magnitude of claims costs savings for April 16, 2020 to May 15, 2020 as it did for the previous 30 day period. The Corporation's assumption that claims costs will revert to pre-COVID-19 levels following May 15, 2020 is not likely to be borne out; however, given the uncertainty at the present time, the Board found that the degree of conservatism built into MPI's forecast beyond May 15, 2020 is reasonable.

In its April 27, 2020 Application, MPI proposed to apply excess Basic reserves in a manner not permitted by the CMP. The Board accepted that proposal for the purposes of this Application only, based on the exceptional circumstances. While the Board does not have the jurisdiction to direct MPI as to how to apply its excess Extension reserves, a central element of the CMP approved by the Board in Order 176/19 was a commitment from MPI to transfer any Extension reserves in excess of an amount equivalent to 200% MCT to Basic. MPI did not do so in this case, and instead opted to rebate the Extension excess directly to ratepayers. The Board expects that the balance held by the Corporation in its Extension reserves over 200% MCT after the rebate of $52 million will be transferred to Basic in the first quarter of 2020/21, and that thereafter MPI will continue to comply with the CMP in terms of transfers from Extension. The Board made an exception for this Application only and expects MPI to comply with the CMP going forward.

2.0 BACKGROUND

On March 20, 2020, the Government of Manitoba declared a province-wide state of emergency pursuant to *The Emergency Measures Act*, C.C.S.M. c. E80 as a result of the COVID-19 pandemic.

On April 27, 2020, Manitoba Public Insurance (MPI or the Corporation) filed the 2021 Special Rebate Application (the Application), pursuant to section 44 of *The Public Utilities Board Act*, C.C.S.M. c. P280 (the CCGAA) and Rule 36 of the Board's Rules of Practice and Procedure, for:

a. An Order dispensing with the requirement under Rule 36(3) that an application for review and variance be made within 30 days of the order or decision;

b. A review and variance of the directives contained in Orders No. 159/18 and No. 176/19, to the extent that they do not require the issuance of rebates; and

c. A directive that MPI issue to ratepayers a percentage of their annualized premiums in respect of universal compulsory automobile insurance policies in force and earning premium on March 15, 2020, through a special rebate in an amount equal to the approximate sum of $58 million, by May 31, 2020 or as soon thereafter as is reasonably practicable.

MPI argued that the COVID-19 pandemic presented a pressing and unique situation that it could not have reasonably anticipated within 30 days of Orders No. 159/18 and No. 176/19, and that as a result, its financial position significantly improved at a time when the financial position of many of its ratepayers might have substantially deteriorated.

The Board issued directions on procedure to MPI Interveners of Record from the 2019 and 2020 GRAs, by letter dated April 27, 2020. The procedure directed by the Board included one round of Pre-Ask questions, to be submitted in writing to MPI by Wednesday, April 29, 2020, one half-day of a question and answer session on April 30, 2020, and one half-day of closing submissions from MPI and Interveners on May 1, 2020. Members of the public were invited to provide their views on the Application by posting comments on the Board's website.

Following the hearing, the Board issued Order 67/20 on an expedited basis, as requested by MPI and supported by Interveners of Record.

In Order 67/20 the Board found that, given the provincial state of emergency resulting from the COVID-19 pandemic, it was just and reasonable to dispense with the requirement that an application for review and variance be made within 30 days of an order. The Board found that MPI had demonstrated a substantial change in its circumstances contemplated by s. 26(3) of the CCGAA justifying a review and variation of Order 159/18 and 176/19 to allow rebates to be issued.

The Board also found that MPI’s Capital Management Plan provided for rate decreases over a three-year period applicable to all classes in circumstances where the Minimum Capital Test (MCT) ratio exceeds 100% for Basic insurance. It was clear from both the Application and the evidence at the hearing that the proposed rebate would accelerate the return of excess capital to policyholders in the form of a one-time payment, instead of assessing lower rates in the future. Therefore, the Board found that the exclusion of the Motorcycle class from the applied-for rebate was not just and reasonable. The Board ordered that:

1. Board Orders No. 159/18 and No. 176/19 be varied to the extent that they did not require the issuance of rebates.

2. MPI issue to ratepayers a uniform percentage of their annualized premiums in respect of universal compulsory automobile insurance policies in force on March 15, 2020, for the Private Passenger, Public, Commercial and Motorcycle classes,

through a special rebate in an amount equal to the approximate sum of $58 million, by May 31, 2020, or as soon thereafter as reasonably practicable.

3. MPI file with the Board, as soon as reasonably practicable following such information being available to MPI, a comparison of monthly claims costs versus budget for universal compulsory automobile insurance for the period commencing March 1, 2020, and continuing thereafter until September 30, 2020.

In Order 67/20 the Board stated that it would provide detailed reasons for its decision in due course. The Board's reasons for decision are set out below.

3.0 APPLICATION

The Board's jurisdiction applies to rate-setting for MPI's universal compulsory automobile (Basic) insurance line of business, and not to MPI's optional lines of business, namely, Extension and Special Risk Extension (SRE).

MPI stated that the Application resulted from the announcement on April 23, 2020 by the Minister of Crown Services that MPI provide economic relief to its customers during the COVID-19 pandemic. The total amount proposed to be rebated was $110 million, comprised of $52 million from Extension (over which the Board does not have jurisdiction) and $58 million from Basic, the latter being the subject of the Application.

MPI sought a directive from the Board that it issue to ratepayers a percentage of their annualized premiums for Basic insurance policies in force and earning premium on March 15, 2020, through a special rebate in an amount equal to the approximate sum of $58 million. The proposed $58 million would be a capital release of excess funds being held in the Basic Rate Stabilization Reserve (RSR).

3.1 MPI Financial Position

MPI reported that its financial performance in 2019 and in the months leading up to the COVID-19 pandemic was favourable. This was due to lower than anticipated claims experience, as well as what MPI described as prudent management of its investments and operating expenses. As a result, Basic's year-to-date net income to the end of the third quarter of fiscal year 2019/20 was $121.1 million. This exceeded the results for the prior year period by $78.9 million.

MPI also reported that due to positive financial results in the 2018/19 and 2019/20 fiscal years, the capital position of Basic grew at a rate faster than MPI had anticipated. Accordingly, MPI was in a better position to withstand the uncertainty accompanying the COVID-19 pandemic than it would have been otherwise.

3.1.1 Basic Revenues

For 2021/22 and thereafter, assuming a 0% rate change, MPI projected its 2019/20 Basic Total Earned Revenues at $1.116 billion:

Forecast Total Earned Revenues – Basic

Fiscal Year	2019/20	2020/21	2021/22	2022/23	2023/24
($000)					
Current Forecast	1,116,063	1,164,380	1,201,342	1,243,667	1,288,164
Compliance Forecast	1,115,126	1,169,091	1,213,206	1,261,832	1,312,606
Change	937	(4,711)	(11,864)	(18,165)	(24,442)

For 2020/21 and thereafter, the reduced revenue forecast reflects revised volume and upgrade factors, which MPI will include in the 20201 GRA. MPI did not forecast any reduction in revenues due to changes in driver behavior such as cancellations, lay-ups, or changes in insurance use resulting from the COVID-19 pandemic. MPI's evidence was that to date, there had been no meaningful change in cancellations from the prior year level. Further, if there was an increase in lay-up policies, MPI would likely make more profit on its Extension line of business, with a decrease in Basic premium revenue. The result would therefore be that MPI would transfer more funds from Extension to Basic at the end of the year.

3.1.2 Claims Forecasting

MPI reported that, relative to the forecasts in its Compliance Filing following the 2020 GRA (the Compliance Filing), the 2019/20 Claims Incurred forecast before provisions decreased by $32.8 million. This was primarily due to a $38.8 million improvement in the Personal Injury Protection Plan (PIPP) forecast.

Claims Incurred for 2020/21 were forecasted to be lower based on continuation of the favorable claims experience in 2019/20, along with a $58 million reduction from the impact of the COVID-19 pandemic comprised of: (1) a $29 million reduction in actual claims costs from March 16, 2020 to April 15, 2020; (2) an assumed $29 million reduction in claims costs from April 16, 2020 to May 15, 2020; and (3) an assumption of a reversion to normal frequency of forecasted claims after May 15, 2020.

The $29 million in forecasted Basic claims savings for the period from March 16, 2020 to April 15, 2020, was broken down as follows:

Forecasted Basic Claims Savings – March 16, 2020 to April 15, 2020

	Incurred	Claim Counts
PIPP	-$9,331,095	-705
Basic Collision	-$17,657,263	-5,038
Basic Property Damage	-$2,083,620	-2,766
Basic Total	**-$29,071,978**	**-8,510**

MPI assumed that savings of the same magnitude would continue until May 15, 2020, given that the Government of Manitoba had extended the period for the state of emergency to May 18, 2020.

MPI monitors Collision claim counts monthly against budget. It does not maintain a monthly budget for Property Damage and Bodily Injury claims costs. The Property Damage and Bodily Injury claims occur because of an associated Collision claim. MPI advised that because Collision claims frequency was 63.5% under budget in the period from March 16, 2020 to April 15, 2020, it assumed both Property Damage and Bodily Injury claims counts would follow the same trend. To calculate the savings for the Application, MPI assumed a perfect correlation between Collision, Property Damage, and Bodily Injury claims in terms of frequency. MPI estimated the Property Damage and Bodily Injury claim amounts using this approach, owing to an expected lag in the reporting of these claims.

MPI advised that it would continue to monitor the ongoing effects of COVID-19 beyond May 15, 2020.

3.1.3 Investments

In Order 162/16, the Board directed MPI to conduct an Asset Liability Management (ALM) study. The ALM study was completed in November 2017. As a result of the recommendations in the ALM study, MPI separated its commingled portfolio into five unique portfolios: Basic Claims, Basic RSR, Employee Future Benefits (EFB), Extension, and Special Risk Extension (SRE).

The Basic Claims portfolio, which was fully implemented on March 1, 2019, is comprised exclusively of fixed income assets, which are dollar duration matched to the associated liabilities. The ALM strategy ensures that investment losses in the Basic Claims portfolio are offset by the corresponding reduction of the Basic Claims liabilities, since both are interest rate sensitive and have a similar duration and size.

MPI reported that during the course of the COVID-19 pandemic, equities have experienced greater losses than bonds, and because the Basic Claims portfolio contains no growth assets, it experienced a better return than other MPI portfolios.

A snapshot of the investment portfolio values at March 31, 2020 is as follows:

Investment Fund Preliminary Valuations

Fiscal Year	January 31, 2020	February 29, 2020	March 31, 2020	Monthly Change Feb-Mar	Capital Return
($000)					
Basic	2,125.0	2,129.6	2,127.0	(2.6)	-0.1%
Extension	154.1	151.1	157.4	6.2	0.2% *
SRE	207.7	203.7	196.8	(7.0)	-3.4%
RSR	391.7	383.9	370.3	(13.6)	-3.5%
EFB	498.2	489.4	476.9	(12.4)	-2.5%
Total	3,376.7	3,357.7	3,328.4	(29.3)	-0.9%

* $6 million of operational cash was deposited into global equities in late March

MPI reported that since the end of December 2019, the equity portfolio is down approximately 14% but other growth assets, namely, real estate and infrastructure, are up 1.6% and 1.3% respectively. The removal of the growth asset classes from the investments backing the Basic claims liabilities had positioned MPI well for the unforeseen pandemic. MPI noted that the Basic claims portfolio was enhanced by the addition of a 20% allocation to corporate bonds, which were yielding 3.80% compared to just 2.30% for government bonds.

MPI also reported that it had significant cash and premium revenues, which could be used to fund the requested rebate. MPI did not expect that it would have to liquidate any existing investment holdings to meet the $110 million total rebate payment. MPI had decided to maintain higher levels of cash than it would normally, as a contingency for the unknown impacts of COVID-19, and held back $85 million in cash that would otherwise have been transferred to its Investment Fund. At the time of the Application, MPI had operational cash on hand of approximately $165 million, of which it identified approximately $80 million that could be used to fund the total rebate of $110 million. The remaining $30 million would be funded from revenues.

MPI's investments experienced significant volatility in March 2020, with investment income (excluding interest rate impacts) falling $24.6 million relative to the forecast in the Compliance Filing. The primary cause was a decline in the equity portfolio of 9.1% in March 2020, and 14.5% overall since December 4, 2019, as a result of which MPI recognized a $33.3 million impairment of equities at March 31, 2020.

MPI’s 2019/20 net income forecast was estimated at $110.8 million, compared to the $108.4 million in the Compliance Filing. For 2020/21, MPI projected net income of $95.2 million, of which $58 million was anticipated from the claims costs savings as outlined above.

MPI's forecast assumes no rate changes for 2021/22 and thereafter. MPI advised that it will revise its forecast to reflect break-even rates with the applied-for rate indication in the 2021 GRA, bringing net income forecasts closer to zero.

3.1.4 Total Equity

MPI forecasted Basic Total Equity of $395.9 million and an MCT ratio of 97.7% in 2019/20, compared to the forecast of $390.1 million and a 96.4% MCT indicated in the Compliance Filing. The Compliance Filing forecast assumed a transfer of $75.1 million in excess capital from Extension at March 31, 2020, as contemplated by MPI's Capital Management Plan.

The current Basic Total Equity forecast for 2019/20 was achieved without transferring the excess Extension capital at the end of 2019/10. Basic has a forecasted 97.7% MCT ratio due to a material improvement in Accumulated Other Comprehensive Income (AOCI), discussed below. MPI reported that, instead of applying the transfer of excess Extension capital to Basic, it received government approval to rebate $52 million from Extension directly to ratepayers.

MPI's Basic Total Equity for 2020/21 is forecasted to be $531.7 million (an MCT ratio of 130.1%). This resulted almost entirely from higher projected Basic net income of approximately $46 million compared to the Compliance Filing (which is unrelated to the claims cost savings from the COVID-19 pandemic), and an expected transfer from Extension to Basic in the amount of $68 million. MPI anticipates that it will use the capital release process in the CMP to distribute excess funds to ratepayers, reducing the Basic MCT to 100% over a period of three years.

The Total Equity positions for Basic and Extension as at March 31, 2020 and May 31, 2020 (before and after the proposed rebates), were projected by MPI as follows:

Projected Total Equity & MCT - Before & After Rebate

	BASIC		EXTENSION	
(C$ 000s, rounding may affect totals)	**March, 2020**	**May, 2020**	**March, 2020**	**May, 2020**
Total Equity				
Retained Earnings				
Beginning Balance	319,914	430,732	104,984	145,741
Net Income (Loss) from annual operations	110,818	108,321	40,757	4,726
Surplus Distribution/Rebate	-	(58,000)	-	(52,000)
Transfer (to) / from Non-Basic Retained Earnings	-	-	-	-
Total Retained Earnings	**430,732**	**481,053**	**145,741**	**98,467**
Accumulated Other Comprehensive Income (AOCI)				
Beginning Balance	(48,956)	(34,802)	(3,966)	(2,996)
Other Comprehensive Income for the Year	14,154	-	970	-
Total Accumulated Other Comprehensive Income	(34,802)	(34,802)	(2,996)	(2,996)
Total Equity Balance	**395,930**	**446,251**	**142,746**	**95,471**
MINIMUM CAPITAL TEST (C$ 000s)				
Total Equity Balance	395,930	446,251	142,746	95,471
Less: Assets Requiring 100% Capital	35,489	35,489	3,024	3,024
Capital Available	360,441	410,762	139,722	92,447
Minimum Capital Required (100% MCT)	368,892	371,408	37,665	35,301
MCT Ratio % (Line 17) / (Line 18)	**97.7%**	**110.6%**	**371.0%**	**261.9%**

In the Compliance Filing, MPI projected AOCI for Basic of ($103.2 million) at the end of February 2020. As seen above, in the Application MPI was projecting AOCI to be ($34.8 million) at March 31, 2020. MPI explained that this $68.4 million improvement was primarily attributable to the impact of interest rates on the valuation of the Employee Future Benefits (EFB) liability. In the Compliance Filing, MPI used a projected discount rate of 2.86%. The Application used a discount rate of 3.88%. If interest rates used to value the EFB liability were to revert to prior levels, the impact would be a $100 million reduction in equity, of which 40% is hedged, for a net impact of approximately $60 million.

3.2 Capital Management Plan

In Order 176/19, the Board approved MPI's Capital Management Plan (CMP), which is comprised of:

- A single Basic target capital level based on a 100% MCT ratio;
- A commitment to transfer excess Retained Earnings from the Extension line to Basic, where excess is determined relative to the single Extension target capital level of a 200% MCT ratio;
- A phase-in approach to move towards the Basic target capital level over a number of years through capital build or capital release provisions;
- Determination of the need for any capital build or capital release provisions in each GRA after consideration of the Basic rate level change indication and the expected capital transfers from Extension;
- Use of judgmentally selected five-year and three-year phase-in periods for capital build and capital release provisions, respectively;
- Imposition of a judgmentally selected 5% cap on the combination of the overall Basic rate indication and any capital build provision; and
- Imposition of a judgmentally selected 5% cap on any capital release provision.

MPI did not transfer any excess capital from Extension to Basic in 2019/20. Given the volatility in March 2020 caused by the COVID-19 pandemic, MPI decided to wait until after year end to execute the transfer, and ultimately, decided instead to provide an immediate rebate of $52 million in May 2020 to policyholders from the excess capital. MPI characterized the requested rebate of $58 million from Basic as an acceleration of, and tantamount to, a capital release through the CMP through an immediate cash payment rather than a future rate reduction.

After the rebate, MPI forecasts Extension to have a 261.9% MCT ratio at May, 2020. At the end of 2020/21, Extension is forecasted to have $68.6 million in excess capital above the 200% MCT target, which MPI will transfer to Basic. In 2020/21 and thereafter, MPI forecasts assume a transfer of all excess Extension capital to Basic such that the Extension MCT ratio remains at 200% MCT.

As the CMP does not contemplate rebates, but rather rate decreases when the Basic RSR exceeds 100% MCT, MPI stated that there was no requirement under the CMP to first transfer the excess Extension monies to Basic before they could be released in the form of a rebate.

3.3 Rationale for Rebate

MPI argued that there is evidence that Private Passenger customers overpaid for their insurance in the mid-March to mid-April 2020 timeframe, and would likely be overpaying in the mid-April to mid-May time period. Returning $58 million to ratepayers would not materially impair the overall health of the Corporation, given its dominance in the Basic and Extension marketplaces and its high to excessive reserves.

Apart from this Application, MPI stated that the CMP will continue to work as presented in the 2020 GRA and approved by the Board in 176/19, and that all major vehicle classes would enjoy the benefit of a rate decrease. MPI argued that the $52 million from Extension and the $58 million from Basic would still flow to Basic ratepayers in accordance with the intent of the CMP, the only difference being that MPI would be doing so in a more direct and immediate manner than envisioned under the CMP. What was requested, according to MPI, was simply a "pause" in the transfer component from Extension to Basic, in order to respond to the COVID-19 pandemic.

3.4 Motorcycle Class

MPI requested that the rebate be applied only to policies "in force and earning premium" as at March 15, 2020. This would result in the exclusion of the Motorcycle class from the rebate. MPI assumed that motorcycles did not significantly contribute to the lower claims frequency between March 15, 2020 and May 15, 2020

For the purposes of calculating premiums, MPI defines the motorcycle riding season in Manitoba as running from May 1 to September 30 of each year. Accordingly, MPI's evidence was that motorcycle premiums are "fully earned" during the May 1 to September 30 riding season, meaning that premiums for the Motorcycle class would not be earned during the period to which the rebate applies.

According to MPI, because the proposed rebate was based only on actual or assumed claims reductions from the COVID-19 pandemic, if the pandemic had not occurred, MPI's forecast would not be affected by the $58 million and no policyholder would be entitled to a rebate.

In addition, according to MPI, the vast majority of motorcycles are insured as pleasure use, so MPI would not anticipate significant or at least equivalent reductions in claims frequency from motorcycles compared to other vehicles. Further, motorcyclists may cancel their insurance before the riding season. Returning funds to a class of vehicle owners that had not paid premiums, according to MPI, would not be just and would represent a windfall for the Motorcycle class.

4.0 INTERVENER POSITIONS

4.1 Consumers' Association of Canada (Manitoba) Inc. (CAC)

CAC was supportive of returning excess reserves to ratepayers on an urgent basis and stated that what was proposed was not imprudent or unreasonable.

With respect to the forecasting underlying the Application, CAC identified what it characterized as significant uncertainty. There was uncertainty in terms of the impact of COVID-19 on collisions and Claims Incurred costs, particularly after May 15, 2020, as well as on revenues and investment income. CAC noted that MPI made some simplifying assumptions in forecasting Claims Incurred: the assumption of a perfect correlation in the relationship between Physical Damage and Bodily Injury was oversimplified, but given the state of emergency, was understandable and reasonable.

With respect to the mechanism for the rebate, CAC argued that what MPI proposed was a fundamental change from the CMP. This was a clear implicit rejection of the CMP, for the specific purposes of the COVID-19 emergency. CAC recommended that the Board suspend the application of the CMP for the purposes of issuing the rebate. CAC also recommended that the Board direct MPI to provide it with monthly filings for the four months following the rebate period, and reserve the authority to provide further emergency rate relief as is just and reasonable in the future.

CAC did not take a position as to whether the Motorcycle class should be included in the proposed rebate, but noted that 90% of the Motorcycle class is registered as pleasure class, which means their risk and use pattern may differ materially from the Private Passenger class.

4.2 Coalition of Manitoba Motorcycle Groups (CMMG)

CMMG was supportive of the proposed rebate, but argued that it should include a rebate to the Motorcycle class. The Motorcycle class contributed to the claims cost savings, and the Corporations's internal accounting methodology, which determines when premiums are deemed as to be earned, would not be a sufficient reason to prohibit a Major Use class from eligibility for the proposed rebate.

Further, according to CMMG, MPI's assumption that the Motorcycle class would not contribute significantly to the lower claims frequency between March 15 and May 15 was not based in fact. Given the weather conditions and road conditions at the relevant time, the opportunity for motorcyclists to begin riding arose well before May 1, 2020.

MPI acknowledged that it provides insurance coverage to the Motorcycle class with active basic policies year-round. It provides a service and covers claims outside of its defined riding season. There was no evidence in this Application that motorcyclists are cancelling policies and in fact, reported policy cancellations had decreased from the previous year.

Had the process in the CMP been followed, there would be a reduction of premiums across all Major Use classes. Therefore, the Motorcycle class would have benefitted from a reduction in premiums.

CMMG's position was that the rebate should be equally and fairly distributed across all Major Use classes, thereby including the Motorcycle class.

4.3 Insurance Brokers Association of Manitoba (IBAM)

Although the issues raised in the Application did not relate specifically to IBAM's constituency, IBAM nonetheless advised the Board that it was supportive of the rebate.

5.0 BOARD FINDINGS

As noted earlier in these reasons, the Board held a public hearing of the Application on April 30 and May 1, 2020. Due to the COVID-19 public health emergency, in-person appearance in the Board's hearing room was limited to ten people, with the remainder of participants attending remotely via teleconference and videoconference technology. The Board issued Order 67/20 on an expedited basis. The procedure employed by the Board for this Application was based on a need to proceed expeditiously and efficiently given the provincial state of emergency resulting from the COVID-19 pandemic, and in accordance with Rules 3(2) and 4(1) of the Board's Rules of Practice and Procedure (Rules), which provide that:

> 3.(2) In any proceeding, the Board may dispense with, vary or supplement any of the provisions of these Rules.
>
> …
>
> 4.(1) In any proceeding, the Board may issue directions on procedure which will govern the conduct of that proceeding and will prevail over any provision of these Rules that is inconsistent with those directions.

With respect to the relief sought in the Application, pursuant to Rules 36(1) and 40(2) thereof, the Board may on application or on its own initiative review, rescind, change, alter or vary any decision or Order it has made. The Board's jurisdiction in that regard flows from section 44(3) of *The Public Utilities Board Act*, C.C.S.M. c. P280 (the Act).

In accordance with Rule 36(4), upon receipt of an application for review and variance, the Board is to determine, with or without a hearing, in respect of an application for review, the preliminary question of whether the matter should be reviewed and whether there is reason to believe the order or decision should be rescinded, changed, altered or varied.

After determining the preliminary question under Rule 36(4), pursuant to Rule 36(5), the Board may:

a) Dismiss the application for review if,

   i. In the case where the applicant has alleged an error of law or jurisdiction or an error in fact, the Board is of the opinion that the applicant has not raised a substantial doubt as to the correctness of the Board's order or decision; or

   ii. In the case where the applicant has alleged new facts not available at the time of the Board's hearing that resulted in the order or decision sought to be reviewed or a change of circumstances, the Board is of the opinion that the applicant has not raised a reasonable possibility that the new facts or change in circumstances as the case may be, could lead the Board to materially vary or rescind the Board's order or decision; or

b) Grant the application; or

c) Order that a hearing or proceeding be held.

Rule 36(3) requires that an application for review and variance be made within 30 days of the date of the order or decision. However, Rule 3(2) provides that in any proceeding, the Board may dispense with, vary or supplement any of the provisions of the Rules.

Given the provincial state of emergency resulting from the COVID-19 pandemic, it was just and reasonable for the Board to dispense with the requirement that an application for review and variance be made within 30 days of an order.

5.1 Substantial Change in Circumstances

The Board found that MPI demonstrated a substantial change in its circumstances contemplated by section 26(3) of the CCGAA justifying a review and variation of Orders 159/18 and 176/19 to allow rebates to be issued.

In particular, section 26(3) of the CCGAA provides as follows:

> 26(3) Where The Public Utilities Board is satisfied that the circumstances of a corporation have changed substantially, The Public Utilities Board may, of its own motion or on the application of the corporation or an interested person, review an order made pursuant to this section and modify the order in any manner that The Public Utilities Board considers reasonable and justified in the circumstances.

The Board's finding of a substantial change in circumstances was based on the significant changes in forecasted financial results from the Compliance Filing to the date of the Application, in particular:

- The reduction in actual claims costs from March 16, 2020 to April 15, 2020 in the amount of $29 million; and
- The assumed additional savings in claims costs for the period from April 16, 2020 to May 15, 2020, in the amount of $29 million.

5.2 Reasonableness of Rebate

The Board found that it was just and reasonable for MPI to issue a rebate in the amount of $58 million in excess Basic capital given the unique circumstances; however, the Board varied the relief requested in the Application such that the rebate would apply to ratepayers in respect of universal compulsory automobile insurance policies in force on March 15, 2020, for the Private Passenger, Public, Commercial and Motorcycle classes.

The actual amount of the rebate paid to an individual policyholder will vary based on the amount of premium paid by the policyholder.

Given the urgency of the Application, while the Board reviewed and considered all of the financial information filed by MPI, its review was not as in-depth as typically conducted in a GRA. There are areas in which the Board intends to do further testing to evaluate MPI's financial position in the 2021 GRA, including the $68.4 million improvement in AOCI attributed to a change in valuation of the EFB liability.

The Board also found that the assumptions made by MPI for the purposes of the Application are reasonable – in particular, it is reasonable to assume that MPI will experience the same or a similar magnitude of claims costs savings for April 16, 2020 to as May 15, 2020 as it did for the previous 30 day period.

The Corporation's assumption that claims costs will revert to pre-COVID-19 levels following May 15, 2020 is not likely to be borne out; however, given the uncertainty at the present time, the Board finds that the degree of conservatism built in to MPI's forecast beyond May 15, 2020 is reasonable. Due to this uncertainty, in Order 67/20 the Board directed that MPI file with the Board, as soon as reasonably practicable following such information being available to MPI, a comparison of monthly claims costs versus budget for Basic insurance for the period commencing March 1, 2020, and continuing thereafter until September 30, 2020. With that information, the Board will continue to monitor the Corporation's financial performance during the COVID-19 pandemic.

5.3 Motorcycle Class

The Board found that it was not just and reasonable to exclude the Motorcycle class from the rebate. The Corporation's rationale for the rebate was, in part, that it was an acceleration of the capital release provisions of the CMP. In the absence of the rebate, however, if MPI had followed the CMP, the reduction in rates would apply across all Major Use classes.

Further, MPI's intent is to issue rebates from the Extension reserves to the Motorcycle class, which contradicts its rationale for excluding it from the Basic rebate. The Board accepted the position put forth by CMMG, that because motorcyclists have coverage outside the riding season as defined by MPI (and have paid premiums for that coverage), it was not just and reasonable to exclude them from the rebate. The fact that MPI, for accounting purposes, does not consider that premium to be "earned" until the riding season was not persuasive to the Board.

MPI estimated the administrative cost of issuing rebate cheques at $0.97 million. Given that the costs of issuing cheques to Motorcycle class policyholders from Extension excess reserves was included within that $0.97 million, there should not be a significant increase in administrative costs to MPI to extend the rebate for motorcyclists from the Basic excess RSR as well.

5.4 Capital Management Plan

By Order 67/20, the Board varied its previous Orders 159/18 and 176/19 to the extent that they did not allow for rebates. In this Application, the Board received a proposal from MPI for how to apply excess Basic reserves in a manner not permitted by the CMP. The Board accepted that proposal for the purposes of this Application only, based on the exceptional circumstances. While the Board does not have the jurisdiction to direct MPI as to how to apply its excess Extension reserves, a central element of the CMP approved by the Board in Order 176/19 was a commitment from MPI to transfer any Extension reserves in excess of an amount equivalent to 200% MCT to Basic. MPI did not do so in this case, and instead opted to rebate the Extension excess directly to ratepayers. The Board expects that the balance held by the Corporation in its Extension reserves over 200% MCT after the rebate of $52 million will be transferred to Basic in the first quarter of 2020/21, and that thereafter MPI will continue to comply with the CMP in terms of transfers from Extension. In that regard, the Board declines to suspend the operation of the CMP, as was recommended by CAC. Rather, the Board made an exception for this Application only and expects MPI to comply with the CMP going forward.

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, Q.C."
Panel Chair

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

Certified a true copy of Order No. 71/20 issued by The Public Utilities Board

Darren Christle
Secretary