

**Order No. 107/21**

**MOTION BY MANITOBA PUBLIC INSURANCE  
REGARDING PROCEDURAL MATTERS IN THE 2022/2023 GENERAL RATE  
APPLICATION AND THE 2022 SPECIAL REBATE APPLICATION**

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**October 4, 2021**

**BEFORE: Irene A. Hamilton, Q.C., Panel Chair  
Robert Gabor, Q.C., Chair  
Michael Watson, Member**

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## 1. SUMMARY

By this Order, the Public Utilities Board (Board) grants, the motion of Manitoba Public Insurance (MPI or the Corporation), seeking: (1) 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); and (2) an order consolidating the GRA with the 2022 Special Rebate Application.

### 1.0 Overview

MPI filed the GRA on June 28, 2021. In the GRA, MPI stated that it intended to file a Special Rebate Application prior to the hearing of the GRA, based on actual and projected excess capital from March 31, 2021, to September 30, 2021.

In its Procedural Order 76/21, dated July 15, 2021, the Board approved the Final Issues List for the GRA. Among the issues approved by the Board was the anticipated Special Rebate Application. MPI filed the 2022 Special Rebate Application (SRA) on July 19, 2021.

Order 76/21 also outlined the process for the treatment of confidential or commercially sensitive information (CSI) in the 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 17, 2021. The Second Round IR responses were filed by MPI on September 15, 2021.

The within motion was filed on September 17, 2021, and seeks confidential treatment of certain documents and information filed by MPI in the GRA. It also seeks an order consolidating and hearing together the GRA and SRA.

MPI's motion requests confidential treatment for the following:

**Documents Filed as part of the General Rate Application**

1. Part IV – NOV IT &VM – VM – Appendix 1
2. Part IV – NOV IT &VM – VM – Appendix 2
3. Part IV – NOV IT &VM – VM – Appendix 5
4. Part IV – NOV IT &VM – VM – Appendix 6
5. Part IV – NOV IT &VM – VM – Appendix 7
6. Part IV – NOV IT &VM – VM – Appendix 8
7. Part IV – NOV IT &VM – VM – Appendix 9
8. Part IV – NOV IT &VM – VM – Appendix 10
9. Part IV – NOV IT &VM – NOV – Appendix 1
10. Part IV – NOV IT &VM – NOV – Appendix 2

11. Part IV – NOV IT &VM – NOV – Appendix 4
12. Part VIII – RF&P – AR – Appendix 5
13. Part IV – NOV IT &VM – VM – Appendix 1
14. Part VII – R&RM – RMF – Appendix 5
15. Part VIII – RF&P - AR – Appendix 1 (MPI Exhibit 7)
16. Part VIII – RF&P - AR – Appendix 2 (MPI Exhibit 8)
17. Part VIII – RF&P - AR – Appendix 3 (MPI Exhibit 9)
18. Part VIII – RF&P - AR – Appendix 4 (MPI Exhibit 24)

**Responses to Round One Information Requests**

19. PUB (MPI) 1-66 – Appendix 1
20. PUB (MPI) 1-70 – Appendix 1
21. PUB (MPI) 1-76 - Appendix 1
22. CAC (MPI) 1-4 Attachment A (MPI Exhibit 22)
23. CAC (MPI) 1-08 – Attachment A
24. CAC (MPI) 1-34 – Appendix 1

**Responses to Round One CI Information Requests**

25. CI CAC (MPI)1-01
26. CI CAC (MPI) 1-02

27. CI CAC (MPI) 1-02 - Appendix 1
28. CI PUB (MPI) 1-01
29. CI PUB (MPI) 1-02
30. CI PUB (MPI) 1-02 - Appendix 1
31. CI PUB (MPI) 1-02 - Appendix 2
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33. CI PUB (MPI) 1-03
34. CI PUB (MPI) 1-05
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38. CI PUB (MPI) 1-08
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45. CI PUB (MPI) 1-12 - Appendix 1
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56. CI PUB (MPI) 1-19
57. CI PUB (MPI) 1-20
58. CI PUB (MPI) 1-21
59. CI PUB (MPI) 1-22
60. CI PUB (MPI) 1-23
61. CI PUB (MPI) 1-24
62. CI PUB (MPI1) 1-24 - Appendix 1

63. CI PUB (MPI) 1-25

64. CI PUB (MPI) 1-26

65. CI PUB (MPI) 1-27

66. CI PUB (MPI) 1-28

### **Responses to Round Two Information Requests**

67. CAC (MPI) 2-15 - Appendix 1

68. CAC (MPI) 2-15 - Appendix 2

69. CAC (MPI) 2-15 - Appendix 3

70. CAC (MPI) 2-15 - Appendix 4

(collectively, the "Documents").

On September 20, 2021, 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 did not oppose the motion.

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

## **2. PARTIES' POSITIONS AND BOARD FINDINGS**

### **2.0 MPI**

The grounds for MPI's request for an order consolidating and hearing together of the GRA and SRA are:



- That the issues to be resolved in the GRA and the SRA are inextricably linked and the outcome of one will affect the outcome of the other;
- The overall rate requested by MPI in the GRA will only be just and reasonable if the Board also approves the SRA request;
- MPI's ability to issue the rebate, and the amount of the rebate, are dependent upon the overall rate approved in the GRA;
- The parties to the GRA and the SRA are the same;
- The Board included the SRA among the approved issues in the Final Issues List; and
- The most expeditious and least expensive means to determine the issues raised in the GRA and SRA is to consolidate the applications and hear them together, and proceeding as such will not result in undue prejudice to a party or Intervener.

The grounds for the MPI's request for CSI status of the Documents are, among others:

- 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
- 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, Senior Regulatory Affairs Specialist 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.

## **2.1 Interveners**

As set out above, on September 20, 2021, 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 did not oppose the motion.

## **2.2 Board Findings**

Pursuant to Rules 3(2) and 4(1) of the Board's Rules of Practice and Procedure (Rules), the Board maintains a broad discretion to issue directions on procedure, and may supplement, dispense with, or vary any of the provisions of the Rules.

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, and has taken into account that the motion was unopposed by the Interveners.

The Board accepts the position put forward by MPI regarding the efficiency of consolidating the GRA and SRA and hearing them together. As a practical matter, the parties to both proceedings are the same, and much of the financial information in the GRA is directly relevant to the issues the Board must consider in the SRA. Further, the Board anticipates that the MPI witnesses who will be called to give evidence on MPI's

rate request and financial results will also give evidence on the requested rebate. The issues in the SRA will have been canvassed by the parties through the Information Request process by the time the matters proceed to the public hearings. Accordingly, the Board approves MPI's request to consolidate the GRA and SRA and have them heard together.

The Board is also satisfied that 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.

The Board therefore grants MPI's motion with respect to the confidential status of the Documents.

### **3.0 IT IS THEREFORE ORDERED THAT:**

- 3.1 The Board hereby grants MPI's motion to have the 2022 General Rate Application (GRA) and the 2022 Special Rebate Application (SRA) consolidated and heard together.
- 3.2 Any evidence tendered by MPI or any Intervener in the GRA, including any report, decision, finding or order made in respect of the GRA, may be received as evidence in the SRA to the extent it is relevant and necessary.
- 3.3 Any evidence tendered by MPI or any Intervener in the SRA, including any report, decision, finding or order made in respect of the SRA, may be received as evidence in the GRA to the extent it is relevant and necessary.
- 3.4 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 – NOV IT &VM – VM – Appendix 1

Part IV – NOV IT &VM – VM – Appendix 2

Part IV – NOV IT &VM – VM – Appendix 5

Part IV – NOV IT &VM – VM – Appendix 6

Part IV – NOV IT &VM – VM – Appendix 7

Part IV – NOV IT &VM – VM – Appendix 8

Part IV – NOV IT &VM – VM – Appendix 9

Part IV – NOV IT &VM – VM – Appendix 10

Part IV – NOV IT &VM – NOV – Appendix 1

Part IV – NOV IT &VM – NOV – Appendix 2

Part IV – NOV IT &VM – NOV – Appendix 4

Part VIII – RF&P – AR – Appendix 5

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CAC (MPI) 1-4 Attachment A (MPI Exhibit 22)

CAC (MPI) 1-08 – Attachment A

CAC (MPI) 1-34 – Appendix 1

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**Responses to Round Two Information Requests**

CAC (MPI) 2-15 - Appendix 1

CAC (MPI) 2-15 - Appendix 2

CAC (MPI) 2-15 - Appendix 3

CAC (MPI) 2-15 - Appendix 4

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](http://www.pubmanitoba.ca).

THE PUBLIC UTILITIES BOARD

"Irene Hamilton, Q.C."

Panel Chair

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

Secretary

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