

Order No. 2/21

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

REASONS FOR DECISION IN ORDER 145/20

January 5 , 2021

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

TABLE OF CONTENTS

1.0 EXECUTIVE SUMMARY	4
2.0 BACKGROUND	6
3.0 APPLICATION	8
3.1 MPI Financial Position	10
3.1.1 Basic Revenues	11
3.1.2 Claims Forecasting	11
3.1.3 Investments	12
3.1.4 Net Income	14
3.1.5 Total Equity	14
3.2 Rebate Rules	16
4.0 INTERVENER POSITIONS	17
4.1 Consumers' Association of Canada (Manitoba) Inc. (CAC)	17
4.2 Coalition of Manitoba Motorcycle Groups (CMMG)	18
4.3 Taxi Coalition	18
5.0 BOARD FINDINGS	19
5.1 Substantial Change in Circumstances	20
5.2 Reasonableness of Rebate	21

5.3	<i>Capital Management Plan</i>	22
5.4	<i>Rebate Rules</i>	22

1.0 EXECUTIVE SUMMARY

The Board hereby provides its reasons for Order 145/20. In that Order, the Board directed MPI to issue to ratepayers a uniform percentage of their Basic premiums earned between March 16, 2020 and November 21, 2020, for all vehicle classes, through a special rebate in an amount equal to the approximate sum of \$69 million, by December 23, 2020 or as soon thereafter as is reasonably practicable. This was the second rebate applied for by MPI and approved by the Board during the COVID-19 pandemic.

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 (SRA II or the Application) from MPI for the rebate on November 27, 2020, and issued Order 145/20 on December 14, 2020, following an expedited, paper-only hearing process due to the provincial state of emergency resulting from the COVID-19 pandemic. In Order 145/20, 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 the rebate in the amount of \$69 million to be issued.

The Board also issued a directive to MPI in Order 145/20 to file with the Board on a quarterly basis, 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 quarter commencing October 1, 2020 and continuing thereafter until March 31, 2021. The Board will thereby continue to monitor the Corporation's financial performance during this period of uncertainty.

In Special Rebate Application I (SRA I), which MPI filed on April 27, 2020, MPI had asked the Board to order rebates in respect of policies *in force and earning premium* at March

15, 2020. In Order 67/20, the Board found that it was just and reasonable to order the rebate requested for policies *in force* at March 15, 2020, because the consequence of requiring that the policy be earning premium was the exclusion of the Motorcycle class from the rebate. A shortcoming of the point-in-time methodology used in SRA I was that a customer with a policy in force on March 15, 2020 but cancelled shortly thereafter would still be entitled to a full rebate.

The methodology proposed by MPI in this Application required that a policy be *earning premium* at any time from March 16, 2020 to November 21, 2020 in order to be eligible for a rebate, which, in this instance, would include the Motorcycle class. The Board found that this was just and reasonable in the circumstances, as it avoided the shortcoming of the point-in-time methodology used in SRA I, while also including the Motorcycle class as part of the rebate. The Board therefore was prepared to deviate from the methodology it directed in Order 67/20, and approved MPI's proposed methodology for the calculation of the rebate in SRA II.

In SRAs I and II, the Board received proposals from MPI for how to apply excess Basic reserves in a manner not permitted by the Capital Management Plan (CMP). The Board accepted that proposal for the purposes of SRAs I and II based on the exceptional circumstances of the COVID-19 pandemic. This is not expected to be a regular occurrence after a return to pre-pandemic levels of driving activity.

Lastly, the Board notes that Bill 35, *The Public Utilities Ratepayer Protection and Regulatory Reform Act* (Bill 35), passed first reading in the Manitoba Legislature on October 14, 2020. Section 18(6) of Bill 35 provides that the RSR must not be used to pay rebates. Accordingly, if Bill 35 passes, the Board will not be permitted to approve any rebates in the future.

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 November 27, 2020, MPI filed SRA II. Pursuant to section 44 of *The Public Utilities Board Act*, C.C.S.M. and Rules 3(2), 4(1), 18, 36(1) and 40(2) of the Board's Rules of Practice and Procedure, the Corporation asked 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. Directions on procedure for the hearing of the SRA II, including directions on proceeding by way of a written hearing;
- c. An Order that any evidence tendered by MPI in SRA I and the 2021 General Rate Application (GRA) be received as evidence in SRA II as required;
- d. A review and variation of the directives contained in Orders No. 159/18 and No. 176/19, to the extent that they do not also direct MPI to issue to ratepayers, through a special rebate, a uniform percentage of their Basic premiums earned between March 16, 2020 and November 21, 2020, for all vehicle classes; and
- e. A directive that MPI issue to ratepayers a percentage of their Basic premiums earned between March 16, 2020 and November 21, 2020, for all vehicle classes, through a special rebate, in an amount equal to the approximate sum of \$69 million, by December 23, 2020 or as soon thereafter as is reasonably practicable.

The Board issued a directive to MPI and Interveners of Record in the 2020 and 2021 GRAs on December 4, 2020, for the hearing procedure for SRA II. In the interests of public health and safety, the Board directed that SRA II proceed as a paper hearing.

On December 8, 2020, MPI provided responses to one round of Information Requests, which were issued on behalf of the Board and Interveners of Record in the 2021 GRA, Consumers' Association of Canada (Manitoba) Inc. (CAC), Coalition of Manitoba Motorcycle Groups (CMMG), and Unicity Taxi Ltd. and Duffy's Taxi Ltd. (Taxi Coalition).

MPI, CAC, CMMG and the Taxi Coalition filed written submissions with the Board on December 9, 2020.

Public comments on SRA II were received by the Board on its website until December 8, 2020.

Following the receipt of written submissions, the Board issued Order 145/20 on an expedited basis.

In Order 145/20 the Board found that 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 Crown Corporations Governance and Accountability Act* justifying a review and variation of Order 159/18 and 176/19, to allow further rebates to be issued.

In Order 145/20 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 November 30, 2020 by the Minister of Crown Services that, subject to the approval of the Board, MPI would provide economic relief to ratepayers of \$69 million, in addition to the \$110 million provided in the Spring of 2020 (which was comprised of \$52 million from Extension and \$58 million from Basic).

MPI requested that the Board issue a directive requiring it to issue to ratepayers a percentage of their Basic premiums earned between March 16, 2020 and November 21, 2020, for all vehicle classes, through a special rebate, in an amount equal to the approximate sum of \$69 million, by December 23, 2020 or as soon thereafter as reasonably practicable.

MPI argued that the increased severity of the COVID-19 pandemic in Manitoba and, in particular, the Province-wide move to the Critical Level (Red) on the Pandemic Response System on November 12, 2020, could not have been reasonably anticipated within 30 days of the issuance of Board Orders 159/18 and 176/19, nor could it have been reasonably anticipated before May 1, 2020, the date on which the Board issued Order No. 67/20. MPI could therefore not have included the relief sought in SRA II, through SRA I filed on April 27, 2020.

MPI also argued that, as a result of the COVID-19 pandemic, its financial position continued to improve at a time when the financial position of many of its ratepayers may have substantially declined, creating again an urgent need for support.

MPI noted that this was not a request to issue an additional rebate to ratepayers for savings generated between March 15, 2020 and May 15, 2020 (the 2021 SRA I rebate period). SRA II requested a rebate amount calculated using actual and projected savings in the subsequent period, May 16, 2020 to March 31, 2021.

MPI also conceded that by virtue of its request for a rebate, it had departed from position it advanced during the course of the 2021 GRA, which concluded on November 5, 2020. In the GRA, MPI had taken the position that allowing the CMP to work as intended (by applying a release of excess capital to decrease the indicated rate) was preferred over issuing another rebate.

Based on the financial information in evidence at the 2021 GRA hearing (MPI's actual financial results to August 31, 2020), CAC had proposed that the Board order a second rebate in the amount of \$70 million. CAC's position was premised on an assumption that MPI's financial position would continue to be affected by COVID-19 until March 31, 2021. MPI opposed that position, advocating an approach that did not assume any further COVID-19 impacts. MPI also stated that if there were a desire to rebate further funds beyond its applied-for capital release of 5%, it should be by a credit to ratepayers, citing the significant cost of issuing cheques of over \$900,000. However, MPI opposed any further release of excess capital.

MPI explained that, since the close of the GRA hearing, the adverse effects of the COVID-19 pandemic increased to such a degree as to warrant providing additional financial relief to Manitobans immediately.

3.1 MPI Financial Position

Based on results to the end of September 30, 2020, MPI estimated that Basic would retain capital in excess of \$69 million by March 31, 2021. MPI built in to this forecast an assumption that the Board would approve the 8.8% Basic rate reduction that MPI requested in the 2021 GRA.

MPI reported that as of September 30, 2020 the Basic Rate Stabilization Reserve (RSR) was at a Minimum Capital Test (MCT) ratio of approximately 107%, and forecasted to grow to 132% by the end of March 31, 2021 excluding the proposed \$69 million rebate.

MPI reported that the substantial increase in excess capital was primarily the result of a favourable claims experience brought on by public health orders, coupled with better than expected operating expenses. The proposed \$69 million rebate was comprised primarily of claims savings, but also included expected operating expense savings.

A \$69 million rebate would place the Basic RSR MCT ratio at 116.5% at the end of the fiscal year (March 31, 2021). MPI stated that the ratio of 116.5% would be the minimum level necessary to permit the 5% capital release for the 2021/2022 rating year, which MPI requested in the 2021 GRA. If the rebate were to exceed \$69 million, MPI stated that it would need to amend its 2021 GRA. MPI did not have any expectation that Basic's capital position would deteriorate significantly.

MPI characterized the requested rebate as an acceleration of the distribution of excess funds to policyholders in the form of a one-time payment, rather than by applying a capital release to decrease rates in future years.

3.1.1 Basic Revenues

Assuming an 8.8% rate decrease for 2021/22, MPI projected its 2020/21 Basic Total Earned Revenues at \$1.15 billion:

Forecast Total Earned Revenues – Basic

Fiscal Year	2020/21	2021/22	2022/23	2023/24	2024/25
(\$000)					
Current Forecast	1,150,746	1,135,434	1,128,735	1,169,362	1,211,280
2021 GRA Rate Update	1,148,935	1,133,869	1,129,129	1,169,750	1,211,681
Change	1,811	1,565	(394)	(388)	(401)

MPI's forecast in SRA II was close to that in the 2021 GRA Rate Update (the Rate Update), the latter being based on updated financial results as at August 31, 2020.

MPI also reported that it had adjusted forecasted units down for 2020/21 to reflect policy cancellations and non-renewals resulting from government restrictions instituted to address the COVID-19 pandemic. This adjustment resulted in a lower growth rate for 2020/21. By November 2020, more customers had reduced coverage on their policies to comprehensive than in all of 2018 or 2019.

3.1.2 Claims Forecasting

MPI reported that, relative to the forecasts in the Rate Update, the 2020/21 Claims Incurred forecast before provisions (i.e. on a financial reporting basis, before interest rate impacts and DPAC adjustments) decreased by approximately \$69 million. This was due to a \$31 million improvement in the Collision forecast, a \$28 million improvement in the Personal Injury Protection Plan (PIPP) forecast, and a \$5 million improvement in Internal Loss Adjustment Expenses (ILAE). For fiscal year 2021/22 and thereafter, the Basic forecast remained similar to, or slightly above, that presented in the 2021 GRA.

MPI expected that Basic Ultimate Collision claims (on an ultimate reporting basis excluding ILAE) would be nearly 9.6% under budget compared to the Rate Update, a savings of \$40.1 million. Added to this were Property Damage (PD) savings of \$4.3 million and PIPP savings of \$14.1 million:

Forecasted Basic Claims Savings – April 1, 2020 to March 31, 2021

	Forecast excluding COVID-19	COVID-19 Adjustment	2021 GRA	COVID-19 until March 31, 2021	Difference from Forecast excluding COVID-19 Adjustment		Difference from 2021 GRA
	[a]	[b]	[c] = [a] + [b]	[d]	[e] = [d] – [a]	%	[f] = [d] – [c]
Weekly Indemnity	\$93,074,139	(\$9,033,837)	\$84,040,303	\$77,504,546	(\$15,569,593)	-16.73%	(\$6,535,756)
ABO-Indexed	\$69,087,548	(\$6,265,301)	\$62,822,247	\$57,530,471	(\$11,557,077)	-16.73%	(\$5,291,776)
ABO-Non-Indexed	\$33,820,374	(\$3,363,053)	\$30,457,321	\$28,162,847	(\$5,657,527)	-16.73%	(\$2,294,474)
Collision	\$451,372,477	(\$35,314,526)	\$416,057,952	\$375,866,156	(\$75,506,321)	-16.73%	(\$40,191,79)
Property Damage	\$42,868,368	(\$4,167,240)	\$38,701,127	\$34,450,951	(\$8,417,417)	-19.64%	(\$4,250,177)
Total		(\$58,143,957)			(\$116,707,935)		(\$58,563,978)

MPI assumed a direct one-to-one correlation among Collision, PD and PIPP claims in terms of costs. Regarding PD claims, MPI expected a higher decrease (19.6%) than reported in the Rate Update. Based on these assumptions, the projected Basic Ultimate claims savings from April 1, 2020 through March 31, 2021 was \$58.6 million.

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 stressed that its portfolio strategy resulted in Basic customers being well-positioned for the uncertainties of the COVID-19 pandemic. Over the nine months ending September 30, 2020, the equity portfolio decreased by 2.6%, infrastructure increased 5.4% and real estate increased 0.6 %. MPI had reported in the 2021 GRA that the equity portfolio peaked on February 20, 2020 and reached its low on March 24, 2020, falling by 24.1% during this period. From March 24, 2020 to September 30, 2020, the portfolio increased by 23.2%.

A snapshot of the investment portfolio values at September 30, 2020 is as follows:

Investment portfolio Preliminary Valuations

Fiscal Year	July 31, 2020	August 31, 2020	September 30, 2020	Monthly Change Aug-Sept	Capital Return
(\$000)					
Basic	2,229.4	2,211.6	2,219.5	7.9	0.4%
Extension	166.2	167.0	166.7	(0.3)	-0.2%
SRE	214.7	215.6	233.3	17.7	-0.1%
RSR	393.0	394.6	486.4	91.8	-0.1%
EFB	504.4	502.3	501.5	(0.8)	-0.2%
Total	3,507.7	3,491.1	3,607.4	116.3	0.2%

MPI's investment income allocated to Basic for fiscal year 2019/20 was \$59.6 million. For the 13-month period ending March 31, 2020, the share of investment income allocated to Basic was \$107.2 million, with Basic earning \$47.6 million in the first of those 13 months. In the Rate Update, MPI had forecasted total Basic investment income to be \$205.7 million for 2020/21 and \$87.9 million for 2021/22.

MPI stated that it has significant cash and premium revenues that it can use to fund the requested rebate. It reported that it held \$135.8 million of operational cash at November 20, 2020, and expected this would increase until the mailing date of the rebate cheques.

Therefore, MPI could fund the entire rebate out of operational cash; no investment assets would need to be liquidated.

3.1.4 Net Income

MPI estimated its 2020/21 net income at \$186.8 million, an increase of \$81.4 million from that forecasted in the Rate Update. MPI experienced a reduction in claims costs relative to the Rate Update and expects that decrease to last in part until March 2022.

The forecasted net income was reported by MPI in this Application as follows:

Basic Net Income

Fiscal Year	2020/21	2021/22	2022/23	2023/24	2024/25
<i>(\$000)</i>					
Current Forecast	186,793	8,972	(42,282)	(50,147)	(52,791)
2021 GRA Rate Update	105,384	42	(41,194)	(53,230)	(56,042)
Change	81,409	8,930	(1,088)	3,083	3,251

Of the \$8.9 million in net income for 2021/22, MPI advised that \$3.5 million was attributed to interest rate impacts on investment income.

3.1.5 Total Equity

MPI forecasted Basic Total Equity of \$504.8 million at fiscal year-end 2021/22 after taking into account the requested rebate of \$69 million. This equates to an MCT ratio of 116.5%. MPI stated that it was focused on providing the optimal rebate while sustaining the 5% capital release applied for in the 2021 GRA.

The Total Equity positions for Basic and Extension at fiscal year-end 2021/22 based on the Rate Update (as at August 31, 2020) and on this Application (as at September 30,

2020) (with the Rate Update excluding the proposed rebate, and this Application including the proposed rebate), were projected by MPI as follows:

Projected Total Equity and MCT

(C\$ 000s, rounding may affect totals)	BASIC		EXTENSION	
	August, 2020	September, 2020	August, 2020	September, 2020
Total Equity				
Retained Earnings				
Beginning Balance	440,522	440,522	142,866	142,866
Net Income (Loss) from annual operations	105,384	186,792	56,716	55,496
Surplus Distribution/Rebate	(58,000)	(127,000)	(52,000)	(52,000)
Transfer (to) / from Non-Basic Retained Earnings	63,177	59,426	(63,177)	(59,426)
Total Retained Earnings	551,083	559,740	84,405	86,936
Total Accumulated Other Comprehensive Income				
Beginning Balance	(34,296)	(34,296)	(2,367)	(2,367)
Other Comprehensive Income for the Year	49,550	45,515	7,671	6,990
Change in Remeasurement of Employee Future Benefits	(65,247)	(66,105)	n/a	n/a
Total Accumulated Other Comprehensive Income	(49,993)	(54,886)	5,304	4,623
Total Equity Balance	501,090	504,854	89,710	91,560
MINIMUM CAPITAL TEST (C\$ 000s)				
Total Equity Balance	501,090	504,854	89,710	91,560
Less: Assets Requiring 100% Capital	39,658	39,658	3,432	3,432
Capital Available	461,432	465,196	86,278	88,128
Minimum Capital Required (100% MCT)	400,132	399,229	43,139	44,064
MCT Ratio % (Line 17) / (Line 18)	115.3%	116.5%	200.0%	200.0%

Accordingly, as seen above, Basic and Extension are expected to meet their respective capital targets of 100% and 200% even after the proposed rebate.

Further, MPI advised that at the end of 2020/21, Extension is forecasted to have \$59.4 million in capital above the 200% MCT target, which MPI will transfer to Basic (as shown in the above table). In 2021/22 and thereafter, MPI is forecasting to transfer all excess Extension capital to Basic such that the Extension MCT ratio remains at 200% MCT, consistent with the Rate Update and in compliance with the CMP.

3.2 Rebate Rules

MPI's rationale for the proposed rebate was that, given its reduced claims costs and operating expenses, customers would have paid significantly less to insure their motor vehicles between March 16, 2020 and November 21, 2020, had MPI calculated premiums on a monthly (as opposed to annual) basis.

The proposed rebate would therefore apply to Basic ratepayers with a policy earning premiums between March 16, 2020 and November 21, 2020. Those ratepayers would receive an approximate 6% rebate of their Basic annual premium (9.28% of their premium earned during this period).

Unlike its proposal in SRA I, MPI proposed in this Application that the rebate benefit all vehicle classes. If a policy was not earning premium during this period, then according to MPI, the customer paid no premium and no financial relief would be justified. In SRA I, the applicable period to qualify for a rebate was a single day (March 15, 2020). The qualification period in SRA II was longer, and included the traditional riding earning period for motorcycles.

MPI estimated that approximately 675,000 policyholders would qualify for a rebate under these rules.

MPI expected that the total cost of issuing the rebates would be \$973,000, comprised primarily of the cost of postage (\$623,000) and of purchasing and printing cheques (\$300,000).

4.0 INTERVENER POSITIONS

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

CAC was supportive of a variation of Board Orders 159/18 and 176/19 to allow for an additional rate rebate, in light of the material improvement in MPI's financial circumstances resulting from pandemic-related reductions in Claims Incurred in the current year.

CAC also agreed with MPI that: (1) it would be appropriate to rebate customers a consistent percentage of the premium their policies earned over the period covered by the rebate; and (2) that it was reasonable to assume a direct one-to-one correlation in terms of costs among Collision, PD and PIPP claims.

However, CAC argued that the level of the rebate should be \$90 million rather than the \$69 million proposed by MPI. CAC referred to the admission by MPI in response to an Information Request that a higher rebate would better relieve the serious economic hardships facing many Manitobans, and that a \$90 million rebate would still allow for the 5.0% capital release applied for in the 2021 GRA, while being projected to achieve the capital target level of 100% MCT at the end of 2022/23.

CAC argued that MPI offered little in support of its position that the rebate should not be higher than \$69 million, except that to do so would be a deviation from the CMP, whereby the goal of any release is to restore the Basic MCT ratio to 100% over a three-year period. CAC criticized this argument, stating that it could not be reconciled with MPI's concession that Manitoba ratepayers are in urgent need and that it could do more to address their undue hardship while still achieving its capital target in 2022-23.

CAC also noted that MPI has conceded that the CMP is ill-suited to current conditions, and that MPI has diverged from the CMP by seeking two rebates in one year.

CAC estimated that a \$90 million rebate would equate to an average \$99 rebate per eligible private passenger vehicle, compared to the average \$76 rebate per eligible private passenger vehicle under the MPI proposal.

Lastly, CAC noted the cost of issuing rebates by cheque and recommended that MPI use more imaginative methods for issuing rebates in future applications, such as e-transfers.

4.2 Coalition of Manitoba Motorcycle Groups (CMMG)

While CMMG was supportive of the proposed rebate, it argued that the eligibility criteria for the rebate should be consistent with that directed by the Board in Order 67/20; therefore, rebates should be issued to ratepayers at a uniform percentage of their annualized premiums in force between March 16, 2020 and November 21, 2020.

4.3 Taxi Coalition

The Taxi Coalition did not object to the proposed amount of the rebate, the proposed manner in calculating the rebate, or the proposed manner of distributing the rebate.

5.0 BOARD FINDINGS

The procedure employed by the Board for this Application was based on a need to proceed expeditiously 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 unexpected and unique conditions caused by the 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 additional 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 Rate Update to the date of the SRA II, and in particular, the now forecasted Basic excess capital of \$69 million by March 31, 2021.

5.2 Reasonableness of Rebate

The Board found that it was just and reasonable for MPI issue a rebate in the amount of \$69 million in excess Basic capital given the unique circumstances.

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. However, the Board had very recently reviewed MPI's financial position in the 2021 GRA, and so the Board's focus in this Application was on the variation from MPI's financial results and forecasts presented in the GRA.

MPI's assumption of a 1-to-1 correlation between collision claims and injury claims is reasonable. The Board notes the evidence that, while MPI had concerns about the assumption, as more PIPP data became available injury claim counts and incurred reductions continued to track very close to collision trends, serious injury claims largely trended back to normal levels, and injury claims duration continued to be managed close to expectations.

It is not yet known when the conditions leading to the provincial state of emergency will subside. MPI may well experience further significant reductions in claims costs after

March 31, 2021. The Board will have another opportunity to review MPI's financial results in the 2022 GRA. In the meantime, the Board ordered MPI to file a comparison of monthly claims costs versus budget for universal compulsory automobile insurance, on a quarterly basis, for the quarter commencing October 1, 2020 and continuing thereafter until March 31, 2021.

5.3 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. At that time, the Board made an exception for SRA I and expected MPI to comply with the CMP going forward.

While MPI took the position in the 2021 GRA that allowing the CMP to work through a capital release was preferable to a rebate, that position changed by virtue of SRA II. It was reasonable to deviate from the CMP due, again, to unanticipated financial results and revised forecasts resulting from another strict "lockdown" period in Manitoba. Nevertheless, the Board found that it was not reasonable to increase the rebate from \$69 million to the \$90 million requested by CAC, accepting MPI's position that the immediate release of any further excess capital would not comply with the CMP's requirement to restore the Basic MCT ratio to 100% over a three-year period, requiring MPI to amend its 2021 GRA.

5.4 Rebate Rules

In approving SRA II, the Board departed from the methodology it approved in Order 67/20. The Board found it was just and reasonable to do so, because the inequity to the Motorcycle class in the methodology proposed by MPI in SRA I was not present in SRA II. The proposed rebate rules in this Application required that a policy be earning premium at any time from March 16, 2020 to November 21, 2020 in order to be eligible for a rebate, which would include the Motorcycle class.

The Board found in Order 145/20 that it was just and reasonable to approve MPI's proposed rebate rules in this Application, notwithstanding that this differed from that approved in Order 67/20. This was because the rebate rules proposed in this Application avoided the shortcoming of the point-in-time methodology from SRA I, while including all vehicle classes as part of the rebate.

Lastly, the Board notes that Bill 35, *The Public Utilities Ratepayer Protection and Regulatory Reform Act* (Bill 35), passed first reading in the Manitoba Legislature on October 14, 2020. Section 18(6) of Bill 35 provides that the RSR must not be used to pay rebates. Accordingly, if Bill 35 passes, the Board will not be permitted to approve any rebates in the future.

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

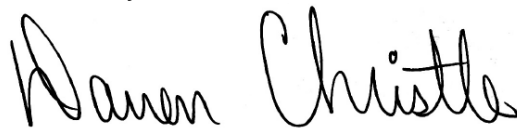
"Irene Hamilton, Q.C."

Panel Chair

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

Secretary

Certified a true copy of Order 2/21
issued by the Public Utilities Board



Secretary