Order No. 21/22

MANITOBA PUBLIC INSURANCE CORPORATION (MPI OR THE CORPORATION): COMPULSORY 2022/23 DRIVER AND VEHICLE INSURANCE PREMIUMS AND OTHER MATTERS AND 2022 SPECIAL REBATE APPLICATION

APPLICATION FOR REVIEW AND VARIANCE OF ORDER 134/21 FILED BY MANITOBA PUBLIC INSURANCE CORPORATION

February 28, 2022

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

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1. BACKGROUND

On December 15, 2021, the Public Utilities Board (Board) issued Order No. 134/21 with respect to the General Rate Application (GRA) of Manitoba Public Insurance (MPI or the Corporation) for rates and premiums for compulsory vehicle insurance and driver insurance premiums (Basic), effective April 1, 2022, and ordered an overall 1.57% rate decrease for all major classes combined. By Order 134/21, the Board also approved a rebate in the approximate amount of $312 million, following MPI's 2022 Special Rebate Application (SRA), filed with the Board on July 19, 2021, and consolidated with the GRA.

The Board also issued a number of other directives, including those related to certain aspects of the Driver Safety Rating (DSR), Basic target capital levels, Vehicles for Hire (VFH), and the Asset Liability Management (ALM) study to be undertaken by MPI in early 2022, among others.

MPI filed this application on January 14, 2022, seeking an order rescinding, changing, altering and/or varying certain directives (the Directives) and portions of Order 134/21. The Board sought written responses from Interveners in the GRA, which were filed with the Board on January 31, 2022. MPI filed a reply on February 7, 2022.

2. MPI POSITION

MPI's application requests relief related to a number of directives from Order 134/21. The Directives and portions of Order 134/21 at issue are included at Appendix A to this order.

MPI's position on each of the Directives is summarized as below.

2.1. Directive 11.3 - Alternative Rate Indication

This Directive requires that in the 2023 GRA, MPI provide an alternative rate indication using different methodology from that in its rate request. MPI submits that it requires clarification on the aspect of this Directive that required it to "*remove actual serious losses (consistent with the current approach) and allocate serious losses based on the frequency*

of collision claims for each vehicle type" and to "*split vehicle type among passenger vehicle, light truck, heavy truck, bus, motorcycle, trailer, and off-road vehicle.*" MPI has a concern that, without clarification, it could act in a manner that it reasonably believes to amount to compliance with this Directive and learn later that the Board does not consider this compliance. Therefore, MPI requests that the Board vary Directive 11.3 to include the rationale supporting the need for the Directive and to further vary the Directive to clearly set out what changes it expects for the alternative rate indication.

2.2. Directive 11.4 - Generalized Linear Models (GLMs)

This Directive requires that in the 2023 GRA, MPI provide an alternative rate indication using a preliminary set of GLMs. MPI submits that it cannot produce an alternative rate indication using a preliminary set of GLMs within a matter of months, because the appropriate software would be required at a significant cost, and that proper integration with other MPI technology is necessary. Accordingly, MPI advises that it cannot comply with the Directive in the time required, and could commit to doing so in the 2024 GRA at the earliest. MPI therefore requests that this Directive be rescinded, or alternatively, that it be varied to require MPI to submit a plan for the possible implementation of the GLMs, which, if implemented, would include the study of additional rating factors and interactions in order to address the question of territorial subsidies, among others, which could be provided in the 2023 GRA.

2.3. Directive 11.5 - Fleet Rebate Program

This Directive requires MPI to provide an analysis and proposal for modifications to the fleet rebate program in the 2023 GRA. MPI advises that timing and resource constraints prevent it from filing an analysis and proposal for modifications to its fleet program by the 2023 GRA, as required by this Directive. While MPI agrees that its fleet program needs to be reviewed, it submits that a proper analysis would require the use of resources currently devoted to other matters and therefore MPI cannot ensure compliance with this Directive in time for the 2023 GRA. MPI requested that the Board rescind this directive, or in the alternative, that it vary this Directive to not require compliance by the 2023 GRA.

2.4. Directive 11.11 - Vehicles for Hire (VFH)

This Directive repeats Directive 10.8 from Order 1/21, issued following the 2021 GRA, and requires MPI to include a number of matters in its VFH framework review. MPI states that it cannot assure compliance with this Directive as written. With respect to Directive 11.11(b), which requires MPI to provide information regarding DSR, MPI argues that this is outside the jurisdiction of the Board. 11.11(c) which is related to the fleet program, imposes too high of an administrative burden on the Corporation. MPI submits that it has already addressed Directives 11.11(d), (g), and (h) and that 11.11(f) and (i) require third parties to share data with MPI, something outside its control. Lastly, the Corporation cannot comply with Directives 11.11(c) and (j) in the timeline required.

MPI therefore requests that the Board rescind 11.11(b), (c), (d), (f), (g), (h), (i) and (j). In the alternative, MPI requests that the Board vary 11.11(i) to make clear that MPI is in compliance if it collects and analyzes relevant data, if available.

2.5. Directive 11.13 - Driver Safety Rating (DSR)

This Directive, in summary, requires MPI to bring forward a five-year plan for the implementation of the Primary Driver rating model.

In addition, in Appendix A to Order 134/21, the Board held that the Corporation had failed to comply with Directive 10.12 of Board Order 1/21, which provides:

In the 2022 GRA the Corporation shall bring forward a plan, including timelines, major milestones and implementation date, for any changes to the Driver Safety Rating model, including a date by which the Corporation will file an application for any such changes with the Board.

It is MPI's position that it is under no obligation to comply with any “findings” not forming part of a directive and, in any event, the Board does not have the requisite jurisdiction to direct MPI to implement a new DSR model, i.e. a Primary Driver model as opposed to the current Registered Owner model (or direct that MPI make plans to implement one).

Further, MPI repeats that the implementation of a new DSR model is not possible without Government of Manitoba approval and legislative changes. As well, MPI takes the position that it has complied with Directive 10.12 from Order 1/21.

The basis for MPI's jurisdictional argument is that section 25 of *The Crown Corporations Governance and Accountability Act,* C.C.S.M. c. C336 (CCGA) and section 6.4 of *The Manitoba Public Insurance Corporation Act*, C.C.S.M. c. P215 (MPIC Act), limit the Board's jurisdiction to approving changes to Basic rates. In support of its position, MPI refers to the Manitoba Court of Appeal decision in *Public Utilities Board v. Manitoba Public Insurance Corp. et al*, 2011 MBCA 88 which, the Corporation says, not only confirms that the Board's jurisdiction is limited to "…*review and approve the MPIC's rate bases and premiums charged with respect to compulsory driver and vehicle insurance*", but also establishes that the Board is not entitled to any future plans that do not affect the rates currently under review within the GRA:

> *As regards the failure to advise the PUB of any plans, plans do not affect the rates that are subject to review in a particular year. While plans, if implemented, may well affect the rates for basic insurance in future years, those rates will be subject to review by the PUB if and when the plans are realized and put into effect. Until then, the mandate to review and comment on long-term plans has been left to the Crown Corporations Council and the government, and the PUB has not demonstrated how they are relevant to, or affect, its ability to carry out its mandate in any particular year. The fact is that the government has the right to change legislation and to require that the MPIC make changes to its business, and neither the government nor the MPIC are required to give the PUB any advance notice. This is an issue for the government and not the PUB.*

MPI goes on to submit that Directive 11.13 either assumes facts not in evidence (i.e. government approval of the Primary Driver model) or ignores material facts (i.e. that pursuant to Subsections 33(1)(h) and 33(1)(h.1) of the MPIC Act, the Lieutenant Governor in Council (LGiC) is the only one who can, through regulatory changes, fundamentally alter the DSR system).

Consequently, MPI submits that the Board cannot direct MPI to implement or use a different DSR model than the one approved by Government and prescribed by law, even if it believes that a different driver model is superior.

On the other hand, MPI acknowledges that the DSR system forms the basis for the “plan premium” as defined in subsection 1(1) of the MPIC Act, including any discount or additional amount under subsection 6.1(3) of the MPIC Act (i.e. under the DSR system).

MPI does recognize that, pursuant to subsection 6.4(2) of the MPIC Act, it must obtain the approval of the Board before it can establish a new plan premium for Basic and that subsection 33 (1.1) of the MPIC Act makes it clear that no regulation changing the amount of premiums charged for Basic may be made unless the change has been approved by the Board. However, MPI argues that this is a "top-down change process" (i.e. Government to PUB) such that the role of the Board commences at the end of the process to establish the new plan, not at the beginning.

Essentially, MPI argues that words to the effect "*under the existing DSR model*", namely the Registered Owner model, must be read into the current legislation. Finally, MPI submits that obtaining the necessary primary driver information from ratepayers in order to assess the practicalities of complying with Directive 11.13 is prohibited by subsection 36(1) of *The Freedom of Information and Protection of Privacy Act*, C.C.S.M. c. F175 unless:

> a) the collection is information authorized by or under an enactment of Manitoba or Canada (which it is not); or
>
> b) the information relates directly to and is necessary for an existing service, program or activity of the public body (a new driver model is not an existing service or program); or
>
> c) the information is collected for law enforcement purpose or crime prevention, (which it is not).

2.6. Directives 11.19 and 11.20 - Asset Liability Management (ALM) Study

These Directives require MPI to file its planned updated ALM Study with the 2023 GRA, and directs certain inputs to be included within the updated ALM Study. Citing the same Manitoba Court of Appeal authority set out above, MPI submits that the Board lacks the jurisdiction to direct it to undertake and file a new ALM Study by a particular date, or at all, because the Board's jurisdiction is limited to approving Basic rates. MPI further submits that the Board cannot direct it as to the content of any ALM Study. Lastly, MPI states that the timelines imposed in Directive 11.19 are impractical and/or MPI may not be able to comply with them.

MPI requests that the Board rescind Directives 11.19 and 11.20 or alternatively, that Directive 11.19 be varied to remove a required filing date and that 11.20 be varied such that the Directives are recommendations only.

2.7. Appendix A - Target Capital Analysis

Appendix A to Order 134/21 does not direct the Corporation to take any action. Rather, Appendix A is a list of Directives previously issued by the Board, with which the Board found MPI had not complied at the time of Order 134/21. In this case, Order 1/21 Directive 10.7 required that in this GRA MPI file an analysis supporting the level of the Basic target capital level (100% MCT) or the use of a single target capital level (versus a range) to promote rate stability.

The Corporation submits that the Board must remove any reference to Order 1/21 Directive 10.7 from Appendix A. MPI's grounds for this position are that it is bound by the *Reserves Regulation*, M.R. 76/219, which states that the target capital level for Basic must be the amount equivalent to 100% MCT. The Corporation's argument is that because it is required to comply with the *Reserves Regulation*, providing an analysis to the Board of a target capital range outside of that regulation could render MPI in non-compliance with the law. Further, MPI argues that the analysis would only be theoretically useful given that MPI "could not legally adopt the results." The Corporation therefore

requests that the Board remove reference to Directive 10.7 of Order 1/21 from Appendix A.

2.8. Pages 56 to 59 - Board Comments on Driver and Vehicle Administration (DVA)

MPI has requested that the Board delete a number of comments it made in Order 134/21 on the subject of transfers MPI made from its Extension line of business to DVA. The Corporation submits that, because the Board does not have the jurisdiction to direct MPI as to how to allocate Extension excess capital, any comments that the Board might make in that regard are not relevant. The Corporation also submits that the Board's comments "do not properly reflect the evidence adduced" before the Board and "unnecessarily include disparaging comments that bring the reputation of MPI into disrepute."

MPI also submits that the Board erred in finding that MPI's financial statements lacked transparency in showing the transfer of $60 million from Extension to DVA in fiscal year 2020/21, arguing that this finding was contrary to the evidence presented in the GRA.

The Board made reference to section 44 of the MPIC Act within this section of Order 134/21. MPI submits that this issue was not identified in the Final Issues List set out in the Board's Procedural Order 76/21, and that it has no application to the funds transferred from Extension to DVA, because the transfer occurred within MPI and not in circumstances contemplated in section 44, from MPI to the Government.

The Corporation submits that there will be resulting prejudice or damage should the paragraphs at issue remain in Order 134/21; namely, that the comments will lower MPI's reputation in the eyes of ratepayers in Manitobans generally.

3. INTERVENER RESPONSES

The Board received comments from the Interveners in response to MPI's application, which are summarized below.

Directive 11.3 - Alternative Rate Indication

The Taxi Coalition (TC) takes the position that the most efficient way to address the Corporation's request regarding Directive 11.3 would be for TC's experts, Board Advisors, and MPI Actuarial Staff to discuss this issue and propose clarifications or variations to the Board, if necessary. Neither of the other Interveners, Consumers Association of Canada (Manitoba) Inc. (CAC) and Coalition of Manitoba Motorcycle Groups (CMMG) took a position on this aspect of MPI's application.

Directive 11.4 - GLMs

TC submits that the Board should dismiss the request related to GLMs, because there is no basis for the Directive to be rescinded, changed, altered, or varied. Specifically, TC notes that the Board has not directed MPI to file for approved rates based on GLMs or otherwise adopt GLMs for the 2023 GRA. TC also refers to evidence before the Board that a simple GLM model could be developed as a start and calibrated overtime adding new variables and interactions, and new data. TC also notes evidence from its experts, who gave evidence in the public hearings that GLM modelling software need not be fully integrated into IT systems. In response to MPI's argument that it does not have the resources to conduct GLM work, TC suggested the simplest means of complying would be to outsource the work to consulting actuaries with experience in GLMs.

Neither CAC nor CMMG took a position with respect to this Directive.

Directive 11.5 - Fleet Rebate Program

CAC does not oppose MPI's request for a variance of Directive 11.5. In that regard, CAC recommends that the Board vary this Directive to require MPI to file the fleet rebate

program analysis in the 2024 GRA, which would represent a one-year extension to the timeline required in Order 134/21.

Neither TC nor CMMG took a position with respect to this Directive.

Directive 11.11 - VFH

TC opposes MPI's application to vary Directive 11.11 and submits that the Corporation is misinterpreting the Directive and conflating partial compliance with full compliance. In that regard, TC makes reference to Order 134/21, where the Board accepted TC's recommendations regarding the VFH framework review and noted that MPI has not complied with this order. TC notes that in its closing submission, it argued that the Directive contained ten separate sub-directives related to research and analysis that would be reasonably required to complete a comprehensive VFH framework review, and that few of these directives were completed, and fewer in a timely fashion. TC submits that there was sufficient evidence before the Board for it to find that much work was left to be done by the time of the GRA hearings. Again, should MPI lack the resources to undertake this work, TC submits that consulting actuaries may be able to assist in providing a thorough and timely response to this Directive.

CAC and CMMG only made comment with respect to Directive 11.11(b), and submitted that the Board has the requisite jurisdiction regarding the DSR model in order to direct MPI to move towards adopting a new model.

Directive 11.13 - DSR

CAC

CAC opposes MPI's request and submits MPI’s arguments are contrary to the long-standing regulatory authority of the Board over MPI rates for service as confirmed through the statutory scheme, case law and established regulatory practice. MPI’s application attempts to unduly limit the jurisdiction of the Board.

CAC says that, with respect to the DSR system, the Board has statutory jurisdiction over "customer classification" which is the act of grouping similarly situated customers for the purpose of charging appropriate rates on the basis of the value of the service provided to the class and/or the cost incurred in providing that service. The setting of customer classifications is an inherent part of rate setting.[1]

CAC goes on to submit that in automobile insurance, a driver's at-fault claims experience, which is indicative of the costs they introduce to the system, is reflective of that driver's risk. As such, the DSR system is clearly a form of customer classification which includes the authority of the Board to impose changes to the composition of customer classes, such as directing MPI to transition from a DSR system classifying vehicle premiums based on the vehicle's registered owner, to a system based on the primary driver.

More specifically, as the DSR system establishes "plan premium" for Basic insurance, Board approval pursuant to S. 6.4 of the MPIC Act is to be made in accordance with the factors set out in Part 4 of CCGA, including "all elements of insurance coverage affecting insurance rates".

CAC further submits that the provisions of *The Public Utilities Board Act,* C.C.S.M. c. P280 (PUB Act) and Manitoba Court of Appeal jurisprudence[2] support the Board's authority over the setting of just and reasonable customer classifications as an inherent part of its review of rates for service.

Finally, CAC argues that the Board has the authority to direct MPI to initiate change and is not limited to mere approval of changes initiated by MPI or government. This authority flows from the Board's ability to vary applications by MPI and approve rates other than those sought by MPI, as provided in section 44 of the PUB Act.

[1] (see *Manitoba (Hydro-Electric Board) v. Manitoba (Public Utilities Board) et al*, 2020 MBCA 60, para 40).
[2] *Manitoba (Hydro-Electric Board) v Manitoba (Public Utilities Board) et al,* 2020 MBCA 60; *Coalition of Manitoba Motorcycle Groups Inc. v. Public Utilities Board (Man.) et al,* (1995) 102 Man R (2d) 155.

In specific response to MPI's submissions in support of this application, CAC first states that MPI's submission of a "top-down change process" is not based on principles of modern statutory interpretation. To the contrary, Section 33(1.1) of the MPIC Act, read in context and in its grammatical and ordinary sense, shows that the Board must first approve any proposed change, following which the LGiC may proceed to make the change. Indeed, MPI itself demonstrated its compliance with Section 33(1.1) by bringing proposed changes to the DSR before the Board in the 2022 GRA. Now that those changes have been approved by the Board, they can be incorporated in regulation by the LGiC.

Finally, MPI's argument that the Board does not have the authority to request long-term plans is not supported by the case law, does not recognize that the Directive is aimed at remedying ongoing subsidization and is therefore directly related to the rates under review, and does not accord with an orderly annual regulatory process that prioritizes rate stability and predictability for both the Corporation and its ratepayers.

CAC submits that MPI's interpretation of the Manitoba Court of Appeal decision in *Public Utilities Board v. Manitoba Public Insurance Corp. et al*, 2011 MBCA 88 is not consistent with an orderly annual regulatory process that prioritizes rate stability and predictability for both the Corporation and its ratepayers. In exercising its rate-setting authority, the Board's role necessarily includes consideration of long-term plans in achieving rate stability and conducting effective annual regulatory processes through the implementation of incremental change.

CMMG

CMMG also submits that MPI's application as it relates to this Directive and Appendix A to Order 134/21, should be dismissed.

First, with respect to Directive 10.12 from Board Order 1/21, CMMG points out that while the directive required MPI to bring forward a plan for changes to the DSR model, in the 2022 GRA MPI brought forward only proposed changes to the DSR scale (as

directed to by Directive 10.11 of Board Order 1/21), and, therefore, has not complied with Directive 10.12.

With respect to the Board's jurisdiction over the DSR program, the DSR system determines discounts and additional premiums to be charged and, therefore, falls directly within the jurisdiction of the Board. Pursuant to s. 6.4(3) of the MPI Act, the Board may not only approve or reject plan premiums, the Board may vary the plan premium as applied for by MPI.

The power of the LGiC, pursuant to section 33(1.1) of the MPI Act to make regulations to establish the DSR system does not diminish the Board's powers pursuant to s. 6.4(3). CMMG argues that MPI's position in this application is blatantly contradictory to evidence given by MPI counsel and witnesses, particularly in the last two GRAs.

Like CAC, CMMG points out that Manitoba Court of Appeal decision quoted by MPI concerned information "*relating to [MPIC's] divisions other than compulsory driver and vehicle insurance*", i.e. Basic. Accordingly, the decision is distinguishable as the issue in the present application, the DSR model, significantly affects the Basic insurance program for which the Board has ultimate jurisdiction. Further, CMMG submits that the combined effect of sections 6.4(3) and 33(1.1) encourages the Board's involvement in the creation and review of new plans or decisions relating to the Basic insurance.

As well, Directive 11.13 does not usurp the responsibility or control of Government as the Government has a clear opportunity to weigh in on the recommended change.

Finally, CMMG submits that MPI's concerns as to the collection of personal information are insignificant as the Directive requires MPI to address the process it will employ to obtain the necessary primary driver information from ratepayers. MPI may provide a position about what steps must be taken to permit the information to be obtained in time for the initiation of a new DSR model.

TC

TC also opposes MPI's application in respect of Directive 11.13.

Pursuant to s. 44(1) of the PUB Act, the Board has the jurisdiction to grant such further and other relief in exercising its mandate of ensuring MPI customers pay rates which are just and reasonable and not unjustly discriminatory or unduly preferential. In TC's submission, MPI's interpretation of section 33(1.1) of the MPI Act is contrary to the spirit and intent of the legislation as a whole conferring the primary responsibility on the Board to regulate rates for services. Section 33(1.1) recognizes that the Board should first consider and approve any premiums, including discounted driver premium because of its expertise. The LGiC relies on that expertise and is directed not to make any regulatory changes unless the Board has considered the change and approved the change.

TC notes that section 33(1.1) specifically contemplates "discounted driver premium(s)" which is exactly what the Board seeks to address by the directive: DSR discounts based on "drivers" as opposed to "registered owners". Under the interpretation suggested by MPI, there would never be a regulation which could be made by the LGiC because of the condition precedent for the regulatory jurisdiction being "the proposed change has been approved by The Public Utilities Board".

Directives 11.19 and 11.20 - ALM

CAC

CAC and CMMG provided a response to MPI's request for a variation of Directives 11.19 and 11.20, regarding the ALM Study. Both take the position that the Corporation's application in this regard should be dismissed.

CAC submits that, while it is not within the Board's jurisdiction to direct MPI on the particulars of its portfolio management, the Board nonetheless has the jurisdiction to review the reasonableness of MPI's investment decisions, and that these decisions have a direct impact on rates, through MPI's investment income. In the event that MPI's

investments are considered unreasonable by the Board and are found to have led to higher rates as a result, it would be open to the Board to make a determination that rates for service should be lower than requested to reflect the cost of MPI's unreasonable investment decisions. By directing what should be included in an ALM Study, the Board is indicating to MPI the information it requires in order to assess the reasonableness of its investments. CAC refers to the decision of the Manitoba Court of Appeal in *Manitoba Hydro-Electric Board v. Public Utilities Board (Man) et al.*, 2019 MBCA 54, which it characterized as an analogous issue on an application for leave to appeal filed by Manitoba Hydro relating to an order by the Board for Manitoba Hydro to conduct an independent asset management study. CAC notes that, in that case, the Manitoba Court of Appeal found that the Board did not have jurisdiction to intrude on how the Corporation conducts its asset management but that it was within the Board's mandate to issue information-seeking directives. As to the timing of the ALM Study, CAC submits that it is appropriate and within the jurisdiction of the Board to require that the ALM Study be filed within a certain time, commenting that the GRA is the only venue in which the board reviews rates for service for MPI and that the ALM study must be filed on a timely basis in order to ensure that the parties have meaningful opportunity to examine the study.

CMMG

CMMG's submission echoed many of the comments made by CAC. CMMG further notes that, in previous GRAs, it has been acknowledged by the Board and by MPI that the Motorcycle class is more affected by changing interest rates than other major classes due to the specific composition of the motorcycle Basic rate. As a result, MPI's investment strategy has been of particular concern to CMMG. With respect to the filing date for the ALM study, CMMG notes that from the time of filing of this application, the consultant retained by MPI will have over five months to complete the study in order to have it filed concurrently with the 2023 GRA. CMMG further noted that the previous ALM study was completed in under three months at MPI's request.

Appendix A

CAC opposes MPI's request to remove reference to Directive 10.7 of Order 1/21 from Appendix A, and comments that MPI's application in this regard does not raise a substantial doubt as to the correctness of the Board's decision. CAC notes that in the review of the CMP to be undertaken in the 2023 GRA, it is open to the Board to find (as it did in Order 176/19) that the *Reserves Regulation* is invalid for the purposes of rate-setting. Accordingly, the Board would have the jurisdiction to order an amount to be maintained by MPI in its in Basic's Rate Stabilization Reserve, other than that set out in the *Reserves Regulation*.

TC and CMMG did not take a position on this aspect of MPI's application.

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CAC takes the position that MPI's application in this regard does not raise a substantial doubt as to the correctness of the Board's decision and findings. While the Board decided that it did not have the jurisdiction to order any transfers from Extension DVA be reversed, CAC noted that the findings and comments made by the Board represent "an important signal to a regulated monopoly that the actions it took were not transparent and lacked accountability." Further, CAC submits that the Board's emphasis in Order 134/21 on transfers from Extension to DVA was rooted in the direct impact those transfers have on Basic customers, due to the operation of the CMP. Transfers from Extension are a component of the CMP and have a direct impact on Basic customers. In particular, in these proceedings, the amount of the rebate approved by the Board in the SRA was affected by the amount of capital transferred from Extension to DVA, instead of to Basic (as required by the CMP). CAC further submits that the Board's findings of fact regarding the DVA transfers are important for purposes of public accountability and trust, and any possible impact this may have on the Corporation's reputation in the eyes of its ratepayers are in the public interest and a product of the proper functioning of the regulatory process.

Lastly, CAC argues that as a quasi-judicial tribunal, the Board is presumed to be familiar with the statutory scheme governing its authority and therefore, even if the parties did not

raise a specific provision from the MPIC Act, it was appropriate for the Board to make note of section 44 of that Act in this part of the Order.

CMMG commented on MPI's assertion that its financial statements sufficiently identified the $60 million transferred from Extension to DVA in fiscal year 2020/21. CMMG noted that the evidence given by MPI in cross-examination clearly supported the Board's finding that on a stand-alone basis, the financial statements did not provide the necessary information in order for the general public to discern the nature or amount of the transaction. In particular, MPI's Chief Financial Officer acknowledged that MPI could make an improvement to make the transfer more explicit and to state that there had been a transfer. CMMG further submitted that the Board's lack of jurisdiction over Extension does not preclude it from commenting on business decisions made by the Corporation that have a direct impact on the rates of its insureds.

4. BOARD FINDINGS

Pursuant to the Board's Rules of Practice and Procedure, and in particular, 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* (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 of 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.

The Board has reviewed and considered the information and positions advanced by MPI with respect to each of the Directives sought to be varied, in accordance with Rules 36 and 40(2). The Board's findings in respect of each of the Directives is as follows.

Directive 11.3 - Alternative Rate Indication

The Board recognizes MPI's concern that a misunderstanding or misinterpretation of this Directive could result in MPI inadvertently failing to comply. In the Board's view, the most efficient way in which this concern can be addressed is for this Directive to be varied to require MPI to consult with the Board advisors regarding the methodology to be used in this alternative rate indication and file the alternative rate indication in accordance with those consultations.

Directive 11.4 - GLMs

The Board finds that MPI's request for a variance to this Directive is appropriate given the resource and technology limitations faced by the Corporation at this time. It is not the Board's intention to require MPI to retain consulting actuaries to undertake this work and for that reason the Board declines to follow TC's suggestion in that regard. Nonetheless, the Board has not been persuaded that MPI should not undertake any work towards

GLMs at this time and therefore dismisses MPI's request to rescind this Directive. Rather, the Board grants MPI's request to vary Directive 11.4 in accordance with its alternative position and therefore this Directive shall be varied accordingly.

Directive 11.5 - Fleet Rebate Program

The Board notes that no Interveners oppose MPI's request to vary this Directive, and further notes MPI's submissions regarding its likely inability to fulfill this Directive in the timeframe required. However, MPI recognizes that its fleet rebate program needs to be reviewed and therefore dismisses MPI's request to rescind the Directive. The Board agrees with the alternative suggested by CAC, that the timeframe for this Directive be extended to the 2024 GRA, and will vary it accordingly.

Directive 11.11 - VFH

The Board made a clear finding in Order 134/21 that MPI had not complied with its previous Directive from Order 1/21 regarding the VFH framework review. That finding was made following extensive evidence on this issue and after hearing argument from the parties. MPI has not demonstrated any change in circumstances or error raising a substantial doubt as to the correctness of this decision. The Board also notes that, had MPI had a concern with its ability to comply with this Directive it could have filed a review and variance application following Order 1/21. It did not do so.

The ongoing review of MPI's VFH framework is significant to the Board's review of the justness and reasonableness of its rate-setting for this new class. MPI previously advised in the 2021 GRA that, as experience data became available, it would ensure that the rates assigned to each VFH category would be reflective of risk and actuarially supported. Since the introduction of the VFH class in 2018, there is evidence that VFH rates have not been adequately reflective of risk. It was MPI that advised the Board, in the 2021 GRA, that it would be undertaking a framework review in order to address known issues with its current product design. The Directives first issued by the Board in Order 1/21 and repeated in Order 134/21 are in place in order to ensure a robust review.

Lastly, with respect to MPI's specific argument that Directive 11.11(b) regarding the Board's jurisdiction to direct MPI to adopt a new DSR model, the Board refers to its findings below in respect of Directive 11.13.

The Board therefore dismisses MPI's request to vary Directive 11.11.

Directive 11.13

MPI's application is based upon a misunderstanding of Directive 11.13.

It was not the Board's intention to peremptorily direct MPI to implement a new DSR program based upon the Primary Driver model. Rather, this Directive puts in place an appropriate process to permit a substantive review preparatory to the introduction of any new model for the DSR program.

Nevertheless, there is no question that the DSR program has a direct effect on driver and vehicle premiums. As such, there is no question of the Board's jurisdiction over the DSR, including the methodology employed, to ensure those premiums are just and reasonable.

It is again worth noting the history of the development of the DSR program. In 2009, the Board approved MPI's application for amended compulsory driver insurance premiums and vehicle premium discounts pursuant to a DSR program based upon what is now referred to as the Registered Owner model. The Board approved the DSR program as being a significant improvement over the pre-existing bonus/malus scheme and representing progress towards establishing a rate structure that more fairly collects premiums from drivers and vehicle owners by better matching the risk they represent to the collective pool of risks. However, the Board also noted numerous concerns with the program, including relative rate adequacy and cross-subsidization and, as such, the Board's approval included several variances and a number of recommendations. MPI committed to monitor experience as it unfolded by DSR level in order to apply “for future rate changes that are consistent with the actuarial evidence on a directional basis”.

Of particular significance, MPI advised that the program was designed with three primary goals:

1. To provide higher rewards (via reduced premiums) for the safest drivers;

2. To provide stronger incentives for higher risk drivers to improve their driving behaviour; and

3. To improve drivers' understanding of how their driving behaviour can affect the amount they pay for auto insurance.

As a result, since 2009, review, variation, research and future planning of the DSR program have become regular features of the GRA process. Over the last five GRAs, there has been particular focus on driver premium rates that are more statistically consistent with the estimated average claims cost per driver for each level on the demerit side of the DSR scale, vehicle premium discounts that are actuarially indicated based on principal driver performance evaluation for each level on the merit side of the DSR scale, and the better determination of rates and vehicle premium discounts based on principal driver rating rather than registered owner rating.

One of the most significant shortcomings of the Registered Owner model is that it does not tie premium to driver risk. MPI's Chief Actuary testified in that GRA that the Primary Driver model is more actuarially sound, which was confirmed again in this GRA.

Also in this GRA, it was determined that only MPI and SGI (and ICBC in a modified form) assess risk and premium using a registered owner model, whereas private North American automobile insurers employ a primary driver model. As stated by MPI in the present application:

MPI currently assesses the risk of the vehicles of all of its customers by looking at the risk posed by the person who owns and registers the vehicle, not by the person who actually drives the vehicle.

Notwithstanding MPI's acknowledgment of the shortcoming of the Registered Owner model, that a Primary Driver model would better reflect risk and its repeated assurances that it adopts industry best practices, it has confirmed its unwillingness to undertake any steps in the next five years to lay the foundation for a Primary Driver model should one be approved by the Board.

The history of the on-going development of a DSR program that is more just and reasonable for ratepayers was set out extensively in Board Order 134/21. As set out in that history, MPI repeatedly requested review and variation of the Board's DSR directives, initially to permit additional time to review the availability and practicality of other analytical tools and ratemaking methodologies and to research alternatives to the registered owner model. Thereafter, upon being directed by the Board to provide a pricing examination of the Registered Owner and Primary Driver models, MPI again requested a variation on the basis that changes to the DSR might have an impact on one or more of the *Automobile Insurance Plan Regulation*, *Driver Safety Rating System Regulation* under *t*he MPIC Act and the charges for licences, registrations, permits and other services regulation under the HTA. MPI also stated that it must coordinate the impact of DSR changes on its major IT initiative, Project Nova, and that its Board of Directors would require more time to decide on a direction for the DSR.

MPI then asked for a further variance so that it would not be required to advise in the next GRA as to which DSR rating model it intended to proceed with, but instead that it would file information in the 2021 GRA as to the timeline and major milestones for such a decision. The Board granted MPI's request on that basis, however, in the 2021 GRA, MPI simply advised that it is developing recommendations for the future of the DSR system but it did not plan to make any changes prior to the completion of Project Nova. In response, the Board again directed the Corporation to bring forward, in this GRA, a plan, including timelines, major milestones and implementation date, for any changes to the DSR model, including a date by which MPI file an application for any such changes with the Board. The Board emphasized that timeline for Project Nova requires that MPI move forward on DSR changes without delay. However, instead, in the 2022 GRA, MPI advised

that it intends to continue to use the Registered Owner model and will not be considering any changes to its model for five years. As stated in Board Order 134/21, this was not compliance, but rather complete disregard for Directive 10.12.

Directive 11.13 was necessary given MPI's reluctance and unwillingness over the past five GRAs to carry out necessary steps to permit the proper evaluation of a DSR program that will provide for just and reasonable rates based on risk. As such, Directive 11.13 directs MPI, in no uncertain terms, to carry out the requisite foundation for such a change if it is approved by the Board.

Therefore, MPI's application to rescind Directive 11.13 and the reference to Directive 10.12 of Order 1/21 from Appendix A is dismissed.

Directives 11.19 and 11.20 - ALM

Pursuant to section 25(4) of the CCGAA, the Board may take into consideration any factors the Board considers relevant to its rate-setting jurisdiction. As part of that exercise, the Board has the jurisdiction to review the reasonableness of MPI's investment decisions, given that investments generate income for the Corporation in order to cover its claims liabilities. Directive 11.20 ensures that the Board has the information it requires to assess the reasonableness of MPI's investments. As confirmed by the Court of Appeal, the Board as regulator has the jurisdiction to issue information-seeking directives to MPI.

As to the timing of the ALM Study, the Board notes that MPI's most recent ALM Study was completed in less time than is required in order for MPI to comply with Directive 11.19. Without timely filing of the ALM Study, the Board will lose the opportunity for a rigorous review of the study in the 2023 GRA, with no opportunity for further review until the 2024 GRA. MPI has not provided the Board with any new information that persuades the Board that it should vary Directive 11.19.

The Board therefore dismisses MPI's application to vary Directives 11.19 and 11.20.

Appendix A

The Board notes that its finding in Appendix A, that MPI had not complied with Directive 10.7 from Order 1/21, has not actually been challenged by the Corporation. Rather, MPI asserts that it should not have been required to file the analysis as directed because it needs to comply with the *Reserves Regulation*.

MPI had the opportunity to seek review and variance of Directive 10.7 of Order 1/21 after it was issued in January 2021. It did not do so.

The Board stated in Order 1/21 that it would continue to assess the performance of the CMP and the Basic target capital level over the trial period, after which the Board would undertake a detailed review of the CMP and Directive 10.7 was to assist the Board in its review of the CMP. The Board previously found in Order 176/19 that the *Reserves Regulation* was invalid and therefore it is open to the Board to order that the amount to be maintained in Basic RSR be an amount other than that set by the regulation. Directive 10.7 from Order 1/21 was an information-seeking directive intended to assist the Board in its determination of the appropriate methodology and level for the Basic RSR.

MPI's application in respect of Appendix A does not raise a substantial doubt as to the correctness of the Board's decision, nor does it have any impact on the decisions and directives contained within Order 134/21. It is simply a factual finding that MPI did not file the analysis directed. The Board therefore dismisses MPI's request that the Board remove the reference to Directive 10.7 from Order 1/21 from Appendix A.

DVA

MPI's transfers from Extension to DVA were a significant focus of this GRA.

This specific issue was added to the Final Issues List following the filing of the GRA and the Pre-Hearing Conference. The DVA transfers were addressed by MPI in the GRA filing. Information Requests were issued to MPI on this issue during the course of the GRA. The Board heard significant argument from Interveners and from MPI on DVA, and MPI's

President and Chief Executive Officer highlighted the issue in his direct testimony before the Board.

The significance of issue of transfers from Extension to DVA, rather than Basic, is without doubt because the CMP contains a commitment from MPI to transfer Extension retained earnings over 200% MCT to Basic. The Board commented in Order 1/21 that "*it is of concern to the Board that within the first year of this two-year trial period MPI has already departed from its commitment to Extension transfers and is acknowledging the possibility this could happen again.*"

As noted above, the Board may take into consideration any factors the Board considers relevant to its rate-setting jurisdiction. Further, pursuant to section 24(4) of the PUB Act, the Board:

> …as respects the attendance and examination of witnesses, the amendment of proceedings, the production and inspection of documents, the enforcement of its orders, the payment of costs, and all other matters necessary or proper for the due exercise of its powers, or otherwise for carrying any of its powers into effect, has all such powers, rights, and privileges as are vested in the Court of Queen's Bench or a judge thereof.

In exercising its jurisdiction, the Board must have the ability to comment on issues that it finds significant or relevant to the matter before it, and to make findings and comment on legislation relevant to its mandate. The Board's finding that it did not have the jurisdiction to order the specific relief requested by CAC regarding the DVA transfers does not preclude the Board, in the exercise of its powers, from providing *obiter* comment on the issue.

MPI has not alleged any new facts that were not available at the time of the public hearings. MPI has not raised a substantial doubt as to the correctness of a Board order or decision grounded in these comments, which were made in *obiter*.

The Board therefore dismisses MPI's request to remove these portions of the Order.

5. IT IS THEREFORE ORDERED THAT:

1. Directive 11.3 of Order 134/21 be varied to read as follows:

In the 2023 GRA, the Corporation shall provide an alternative rate indication by use and territory. The methodology for this alternative rate indication shall be determined following consultation between the Corporation and Board Advisors, and include the following, as informed by Board Advisors:

- The Corporation shall remove actual serious losses (consistent with the current approach) and allocate serious losses based on the frequency of collision claims for each vehicle type;
- The Corporation shall split vehicle type among passenger vehicle, light truck, heavy truck, bus, motorcycle, trailer, and off-road vehicle; and
- The Corporation shall consider whether this approach is expected to result in less volatility for smaller uses or territories, and whether an adjustment to its credibility standard or minimum credibility may be warranted.

2. Directive 11.4 of Order 134/21 be varied to read as follows:

   In the 2023 GRA, the Corporation shall submit a plan for the possible implementation of Generalized Linear Models, which plan, if implemented, would include the study of additional rating factors and interactions in order to address the question of territorial subsidies, among others.

3. Directive 11.5 of Order 134/21 be varied to read as follows:

   In the 2024 GRA, MPI shall file an analysis and proposal for modifications to the fleet program to better reflect cost causation.

4. The application for a review and variance of Directives 11.11, 11.13, 11.19, 11.20, Appendix A, and pages 55 to 59 of Order 134/21 is hereby dismissed.

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 21/22
issued by the Public Utilities Board

Secretary

APPENDIX A - BOARD DIRECTIVES AND FINDINGS

10.0 IT IS THEREFORE ORDERED THAT:

3. In the 2023 GRA, the Corporation shall provide an alternative rate indication by use and territory. For this alternative rate indication:

    a. The Corporation shall remove actual serious losses (consistent with the current approach) and allocate serious losses based on the frequency of collision claims for each vehicle type;

    b. The Corporation shall split vehicle type among passenger vehicle, light truck, heavy truck, bus, motorcycle, trailer, and off-road vehicle.

    c. The Corporation shall consider whether this approach is expected to result in less volatility for smaller uses or territories, and whether an adjustment to its credibility standard or minimum credibility may be warranted.

4. In the 2023 GRA, the Corporation shall provide an alternative rate indication using a preliminary set of Generalized Linear Models using existing rating factors, and bring forward a plan to study additional rating factors and interactions in order to address the question of territorial subsidies, among others.

5. In the 2023 GRA, MPI shall file an analysis and proposal for modifications to the fleet program to better reflect cost causation.

11. The Corporation shall include the following matters in its Vehicle For Hire framework review:

    a. Whether MPI requires any regulatory or municipal by-law changes in order to collect relevant information for the VFH rate design(s);

    b. Which DSR model(s) best reflect risk and incentives to reduce risk;

c. Whether the fleet program, or some variation of that program, which takes into account the claims experience of multiple vehicles and multiple drivers is appropriate for corporately owned VFH fleets of two or more vehicles;

d. Whether any one or more other metrics, such as time on the road or kilometers driven or driver risk, are appropriate for designing VFH premiums;

e. Whether time bands should be adjusted to better reflect the business operations and risk of VFH;

f. Collection of and analysis of relevant data in order to better understand the causes of high relativities of VFH, and in particular of Taxicabs, in their major class;

g. Analyze and report on whether it continues to be appropriate to have Passenger VFH and Private Delivery services in a different major classes;

h. Analyze and report on the relative probability, as between the Passenger VFH and the other VFH classifications, as to whether there will be a serious loss claims experience in the future;

i. Collect and analyze, if available, relevant data on the composition of and characteristics of the Passenger VFH Class, including (based on a metric such as per week or per month) time available for fares, number fares taken, time of day (e.g. evenings, weekends, etc.) on the road, and kilometers driven; and

j. Report on whether and which parts, if any, of the proposed VFH framework require regulatory changes or Board approval.

13. In the 2023 GRA, the Corporation shall bring forward a five-year plan for the implementation of the Primary Driver rating model. The five-year plan shall address such issues as:

a. Required regulatory changes and a timeline for the initiation of the regulatory changes;

b. Required IT changes and a timeline for the implementation of the IT changes;

c. The process the Corporation will employ to obtain the necessary primary driver information from ratepayers; and

d. The Corporation's communications plans in order to educate ratepayers about the rating model change.

14. The Corporation shall file the Crown Benchmarking Report in the 2023 GRA.

19. The Corporation shall file its ALM study to be undertaken in 2022 with the 2023 GRA.

20. With respect to the ALM study to be undertaken in 2022, the Corporation shall:

a. Consider the use of a real liability benchmark, as opposed to a nominal liability benchmark;

b. Require the study to examine the reasons for higher investment returns in MPI's peers;

c. Refrain from imposing constraints on the type of investments included;

d. Require the provision of an objective opinion regarding the prudence of including or excluding various assets in the Basic Claims portfolio, including:

i. Whether the inclusion of growth assets is prudent while maintaining the surplus volatility (the relevant risk) at levels that are consistent with the risk appetite of the Corporation; and

ii. If so, what weighting of equities and other non-fixed income assets may be included to achieve the best possible expected risk-adjusted return.

LIST OF DIRECTIVES NOT COMPLIED WITH

Order and Directive No.	Directive
1/21, 10.7	In the 2022 GRA, the Corporation shall file an analysis supporting the level of the Basic target capital level (100% MCT) or the use of a single target capital level (vs. a range) to promote rate stability.
1/21, 10.8	The Corporation shall include the following matters in its Vehicle For Hire framework review: a. Whether the Corporation requires any regulatory or municipal by-law changes in order to collect relevant information for the VFH rate design(s); b. Which DSR model(s) best reflect risk and incentives to reduce risk; c. Whether the fleet program, or some variation of that program, which takes into account the claims experience of multiple vehicles and multiple drivers is appropriate for corporately owned VFH fleets of two or more vehicles; d. Whether any one or more other metrics, such as time on the road or kilometers driven or driver risk, are appropriate for designing VFH premiums; e. Whether time bands should be adjusted to better reflect the business operations and risk of VFH; f. Collection of and analysis of relevant data in order to better understand the causes of high relativities of

VFH, and in particular of Taxicabs, in their major class;

g. Analyze and report on whether it continues to be appropriate to have Passenger VFH and Private Delivery services in a different major classes;

h. Analyze and report on the relative probability, as between the Passenger VFH and the other VFH classifications, as to whether there will be a serious loss claims experience in the future;

i. Collect and analyze, if available, relevant data on the composition of and characteristics of the Passenger VFH Class, including (based on a metric such as per week or per month) time available for fares, number fares taken, time of day (e.g. evenings, weekends, etc.) on the road, and kilometers driven; and

j. Report on whether and which parts, if any, of the proposed VFH framework require regulatory changes or Board approval.

1/21, 10.12 In the 2022 GRA the Corporation shall bring forward a plan, including timelines, major milestones and implementation date, for any changes to the Driver Safety Rating model, including a date by which the Corporation will file an application for any such changes with the Board.

BOARD COMMENTS ON DRIVER AND VEHICLE ADMINISTRATION TRANSFER

MPI's financial statements lacked transparency regarding the transfer. The notes to the financial statements did not contain adequate disclosure about the transfer of $63 million from Extension to DVA. MPI advised the Board about the transfer when it filed the Application; however, on a stand-alone basis the financial statements did not provide the necessary information in order for the general public to discern the nature or amount of this material financial transaction.

From 2004 to 2021/22, MPI has transferred $194 million from Extension to DVA. After MPI implemented the CMP, transfers from Extension were built into MPI's forecast and therefore the Board began to examine Extension in detail. This GRA was the first occasion that the Board had sufficient information before it to analyze the impact of an Extension transfer to DVA instead of to Basic. MPI's transfer of funds from Extension to DVA reduced the amount available to rebate to Basic ratepayers by approximately $113.4 million.

If the Government of Manitoba intends to use monies held by MPI for government purposes, the process that must be followed is set out in section 44 of the MPIC Act, which provides that where MPI’s assets its liabilities at year-end, an order may be made by the Lieutenant Governor in Council, directing MPI to pay a portion of that excess to the Government. This process ensures transparency when the Government appropriates MPI's profits for government purposes:

> Excess of assets
>
> 44(1) If the financial statement which, but for this section, the minister would be required to lay before the Legislative Assembly under section 43 shows that the assets of the corporation at the end of the year for which the statement is made exceed its liabilities at the end of that year, the Lieutenant Governor in Council may, by order, direct that the corporation pay to Her Majesty in right of Manitoba forthwith after the statement, amended as provided in subsection (2), has been laid before the Legislative Assembly such portion of the remaining excess as the Lieutenant Governor in Council may determine; but not so as to reduce the remaining balance of the excess of assets over liabilities below 125% of the total of the unearned premiums upon all its outstanding unmatured policies, calculated pro rata for the time expired, together with the

amount of outstanding claims and all its other liabilities of every kind.

Adjustment of financial statement

44(2) Any payment which the Lieutenant Governor in Council directs to be made under subsection (1) shall be shown in the statement of liabilities included in the financial statement to be laid before the Legislative Assembly under section 43 as an amount owing by the corporation at the end of the year for which the statement is made, and the excess of assets over liabilities shown by that financial statement shall reflect that increase in the liabilities.

The cost to MPI to administer DVA has increased since 2004 but the level of funding from the Government has not covered those costs. By using Extension surplus to cover the DVA shortfall, MPI ratepayers are effectively subsidizing what once was a Government responsibility. While all Basic ratepayers are also DVA customers, not all DVA customers are Basic ratepayers. Further, although MPI refers to DVA as a line of business, it is not a business in the true sense because it is an expense to MPI and all income generated must be paid to the Government.

In Orders issued shortly after MPI assumed its duties as administrator under the DVA, the Board expressed concern with how the DVA line of business was allocated in the Corporation's financial operations. In Order 148/04, the Board commented as follows:

> *[…] the explanation given by MPI for its decision to place the DDVL operation within Extension, means that its functions and responsibilities would be outside of the regulatory process and, therefore, not within the purview of the Board. This is not acceptable to the Board.*
>
> *This is not a decision that the Board can accept without comment and criticism. The decision on the placement of DDVL is a public policy decision taken without consultation with the Board and its process. If left as it is, the Board and future GRA processes will have no jurisdiction to question, discuss or direct major areas of concern and importance relative to Basic Insurance.*

In Order 150/05, the Board specifically expressed a concern that with the DVA line outside the purview of the Board, deficits associated with DVL operations would shrink the transfer of retained earnings from Extension to the Basic RSR. The Board stated:

> *Accordingly, the Board can have little assurance as to the reliability of MPI's forecasts of future annual transfers from Extension to Basic Insurance and its RSR. As matters now stand, the costs of operating the DVL division, including*

> *potential and long overdue computer upgrades, is expected to reduce the transfer of funds from Extension to Basic Insurance and the RSR by $40 million over the next five years. Absent this flow of income into the RSR, future rates will likely be higher than they would otherwise be.*

And, in Order 150/07, the Board expressed concern with the flat annual payment to be made from the Government to MPI towards the cost of DVA operations, which would result in MPI carrying the full risk of inflation and/or other operating cost pressures. In the 2011 GRA, the Board was advised that the accumulated losses on MPI's operations for DVA for the previous five years totalled just under $84 million, which were borne by Extension, and by the 2012 GRA, those losses totalled $110 million.[3]

The Board noted its unease about the lack of funding from the Government for DVA operations, from the very inception of the arrangement between the Government and MPI. In this GRA, the Board's concern, that deficits from the DVA line of business would reduce the amount transferred from Extension to Basic, was clearly borne out. The limits of the Board's jurisdiction restrict it from taking any action to remedy this problem. However, the Board expresses its dismay at MPI's decision to yet again disregard its commitment to transfer Extension excess retained earnings to Basic and questions the prudence of MPI's decision to use Extension excess to essentially pre-fund DVA through to 2026/27.

The Board has concerns about the reliability of MPI's assurances about future transfers from Extension to Basic, given what has transpired.

[3] Order 162/11