

New Brunswick Insurance Board

DECISION

IN THE MATTER:

Of a rate revision application for the FACILITY ASSOCIATION

With respect to automobile insurance rates for

SNOW VEHICLES

Hearing Date: April 20, 2017

Heard at Saint John, New Brunswick

BOARD:	Ms. Marie-Claude Doucet	Chair
	Ms. Francine Kanhai	Member
	Ms. Elizabeth Turgeon	Member

Decision Rendered: May 10, 2017

Summary

[1] Pursuant to subsection 267.5(1) of the *Insurance Act*, R.S.N.B., 1973 c. I-12, the New Brunswick Insurance Board (the “Board”) convened a Panel of the Board (“Panel” or “Board”) to conduct a written hearing on April 20, 2017 at the office of the New Brunswick Insurance Board, in Saint John. The purpose of the hearing was to consider the rate revision application (the “Filing”) submitted by the Facility Association (the “Applicant” or “FA”) with respect to automobile insurance rates for snow vehicles in New Brunswick. The FA is an unincorporated non-profit association to which every automobile insurer licensed in New Brunswick under the *Insurance Act*, *supra*, is a member.

Under the *Insurance Act, supra*, the FA is required to provide automobile insurance to owners and licensed operators of automobiles who, but for it, would be unable to obtain such insurance and the FA shall carry out this obligation in the Province of New Brunswick.

[2] In compliance with subsection 19.71(2) of the *Insurance Act, supra*, the Board provided notice of the hearing to the Office of the Attorney General (“OAG”). The OAG decided not to exercise its statutory right to intervene in this matter pursuant to subsection 19.71(4) of the *Insurance Act, supra*.

[3] Only the Applicant made representations to the Panel and presented written submissions for the purpose of the hearing.

[4] The Panel accepted the following exhibits as part of the record in this matter as shown below:

EXHIBIT	DESCRIPTION	DATE
1	Original Snow Vehicle Rate Filing (2016-078)	Apr 26, 2016
2	2016-06-10 Questions from KPMG	Jun 10, 2016
3	2016 07 05 Response to KPMG	Jul 05, 2016
4	2016 07 11 Questions from KPMG	Jul 11, 2016
5	2016 07 21 Response to KPMG	Jul 21, 2016
6	2016 09 16 Questions from NBIB	Sep 16, 2016
7	2016 09 21 Response to NBIB	Sep 21,2016
8	2016-09-30 Question from NBIB	Sep 30, 2016
9	2016 10 04 Response to NBIB	Oct 04,2016
10	2016-10-27 NBIB Request for amendment to filing	Oct 27, 2016
11	2016 10 31 Amendment	Oct 31, 2016
12	2016-11-02 KPMG Review Summary	Nov 02, 2016

[5] After examining the evidence and submissions made by the Applicant, and further to the written hearing in this matter, the Panel ordered on May 3, 2017 the Applicant to provide revised overall indications reflecting the following the two (2) changes:

- 1) Remove the Minor Injury Regulation (“MIR” or “Reform”) conversion factors estimated in the Draft Exactor Report¹
- 2) Modify the pre-tax return on investment from 0.51% to 1.5%

[6] The required changes as indicated above result in an average decrease to the overall rate indication of -2.2%.

[7] The Applicant is ordered to incorporate changes to the rate application as noted in paragraph [5] above and is **approved to adopt the average rate change of +5.9%**.

[8] The approved rates will be effective on September 1, 2017 for new and renewal business.

1. Introduction

[9] The Board is charged by the Legislature with the general supervision of automobile insurance rates in the Province of New Brunswick. In order to fulfill that mandate, the Board exercises the powers prescribed by the *Insurance Act, supra*. One key responsibility for the Board is to ensure that rates charged or proposed to be charged are just and reasonable. Under the *Act*, each insurer carrying on the business of automobile insurance in the province must file with the Board the rates it proposes to charge once every 12 months from the date of its last filing. If the proposed rates reflect an average increase greater than 3% or if the insurer files rates more than twice in a period of twelve months, the insurer will be required to appear before the Board to provide justification.

Procedural History

[10] The Applicant filed a rate revision application on April 22, 2016 and an amended rate revision application on October 31, 2016.

[11] The Board issued a Notice of Hearing on December 5, 2016 and convened a Panel of the Board to conduct a written hearing on the matter. After receiving notice of the hearing the

¹ *Summary Actuarial Report Re: Impact of the July 2013 Automobile Insurance Reforms on New Brunswick Private Passenger (Excluding Farmers)* by Ms. Barb Addie dated August 13, 2013 (“Draft Exactor Report”).

Office of the Attorney General and the Consumer Advocate for Insurance waived their right to intervene in the rate hearing.

[12] Prior to the hearing, the Board submitted four sets of questions to the Applicant, to which answers were provided.

2. Evidence and Position of the Applicant

Facility Association

[13] The Applicant's Filing forms the main portion of its submission and the evidence before the Panel. The Board's consulting actuaries reviewed the Filing for material errors, and conducted an analysis of the methodology utilized by the Applicant along with the assumptions made, to ensure compliance with accepted actuarial principles.

[14] The Filing stated the payment pattern for Uninsured Auto ("UA") was to be set equal to Accident Benefits ("AB"), however, the actual calculations to discount UA losses used the Third Party Liability ("TPL") pattern in the filing. The correction of this would result in minor increase in the UA indication (5.1% to 5.3%). However the impact on the overall indication is 0.00%

[15] The payment pattern of Uninsured Motorist ("UM") should have been set equal to TPL. However, in the Filing, FA set the payment pattern for UM equal to AB. Correcting this would result in minor decreases in the UM indication (2.5 %). The impact of this correction on the overall indication is 0.00%

[16] Upon internal review, it was noted that the Applicant inadvertently omitted to factor in approved rate change of +9.5% for Accident Benefits in their on-level adjustment calculation. The Board therefore requested the FA to correct this material error, which resulted in the Amended Filing submitted on October 31, 2016. This correction had the impact of decreasing the overall indication by 2.3%, for an overall indication of +8.1%.

[17] Pursuant to its mandate, the Board then proceeded to investigate the rate filing submitted by the FA in order to determine whether the proposed rates are “just and reasonable”.

[18] The FA presented a final Filing to the Board with an overall indication of + 8.1% and proposed to select an average rate change in the same amount. Following are the changes proposed to the existing rates by coverage:

TPL	- 1.50%
Property Damage	0.00%
Direct Compensation – Property Damage	+ 3.90%
Accident Benefits	+ 25.30%
Uninsured Automobile	+ 5.30%
Collision	- 2.10%
Comprehensive	+ 3.80%
Specified Perils	+ 6.10%
<u>Underinsured Motorist</u>	<u>+ 2.20%</u>
<i>Total</i>	<i>+8.10%</i>

[19] The revised rates contained in the Filing are produced assuming a target return on equity of 12% and a 2:1 premium to surplus ratio. Proposed average rates would increase from the current average of approximately \$361.15 to approximately \$390.23.

[20] The Applicant submits that the Filing was prepared utilizing sound actuarial methods and practices, that the assumptions contained therein are reasonable and that the Filing has been prepared in accordance with the filing guidelines issued by the Board.

3. Analysis and Reasons

[21] The Panel has reviewed all of the written evidence before it, along with the arguments and submissions of the Applicant.

[22] In the present matter, the Panel of the Board determines that the Facility Association must amend some of the initial assumptions, calculations and methodology used in its Filing.

[23] Further to a review of the points of interests raised by the Board's retained actuaries, the Panel addresses the key issue(s) identified below:

1) Projection of Losses

[24] In the calculation and selection of a-priori expected loss ratio for Third Party Liability – Bodily Injury (TPL-BI) and Accident Benefits – Medical Expenses (AB-ME), the Applicant has incorporated MIR conversion factors estimated in the *Draft Exactor Report* with adjustment to reflect the indicated impact of industry data as of December 31, 2014.

[25] The issue with the methodology employed by the Applicant is that the MIR conversion factors estimated in the Draft Exactor Report are not solely based on New Brunswick Private Passenger Vehicle (PPV) Industry data and is therefore in contravention of the Board's Filing Guideline issued on September 2014 in *Information Bulletin 2014-004*, which states the following:

2) Rate applications submitted for rates effective beginning in 2015 and beyond will be permitted to include conversion factors and trends for the impact of the amendments to the MIR applicable for those rates. ***The conversion factors and trends will have to be based on available data from New Brunswick experience only.*** These conversion factors and trends will have to be justified on a case- by-case basis by the insurer submitting the rate application.

[26] Despite the fact that section 2 requires conversion factors and trends to be based on available data from New Brunswick experience only, this section also indicates that the conversion factors must to be justified on a case-by-case basis.

[27] The Guidelines are drafted with the intent that they be reasonably complied to, but the Board as an administrative tribunal can exercise its discretion when necessary in order to ensure fairness to all parties and consider each case on its merits.

[28] Further to an analysis of the evidence presented to the Board, the Panel concludes that the Applicant failed to establish that this Application is one where it should exercise its discretion to allow the non-compliance of the Board's Guidelines. The Panel sees no justification to depart from the Guidelines, and allowing such would be unreasonable in the circumstances.

[29] The Panel of the Board consequently concludes that the Applicant should change its ultimate selection to remove the MIR conversion factors calculated in the *Draft Exactor Report*.

2) Profit Provision

[30] For the calculation of its overall rate level change need, the FA includes a profit provision targeting a return on equity (ROE) of 12%, a premium to surplus ratio (PS) of 2 to 1, as well as a pre-tax return on investment (ROI) of 0.51% for cash-flow and surplus.

- ***Selection of pre-tax Return on Investment***

[31] The process of developing rates which are just and reasonable requires rate applications to account for the revenue received from sources other than directly from policyholders. One source of these funds is investment income that is received on surplus funds held by insurers. Generally these surplus funds are from two sources: short-term cash flow and accumulated equity (surplus) and are invested using different approaches, i.e. short-term and long-term respectively. Generally, the higher the overall investment return, the lower the overall rate indications.

[32] The Applicant prepared its Filing by selecting a pre-tax ROI of 0.51% for cash flow and surplus. This ROI is assumed by the Applicant on the basis of an estimated return on a risk-free portfolio of investments. This is based on marketable bond yields and Treasury bill yields published by the Bank of Canada, with the consideration of average investment duration based on claim payment pattern and estimated investment expense.

[33] The Panel finds that FA's assumed ROI is significantly low and concludes it is unreasonable based on the evidence presented. The Panel of the Board concludes that

the rate of 1.5% would be more reasonable in light of the current investment market. Although not intended to be a benchmark, the Panel orders the Applicant to modify its pre-tax investment rate to 1.5%.

4. Decision

[34] The Board has considered all of the evidence presented, including the submission of the parties.

[35] For the reasons set out above, the Board finds that the Applicant's Filing not to be just and reasonable in its entirety and therefore orders the following changes to be made:

- 1) Remove the MIR conversion factors estimated in the Draft Exactor Report
- 2) Modify the pre-tax return on investment from 0.51% to 1.5%

[36] The impact of these changes will be to lower overall rate indications from an average increase of +8.1% to an average increase of +5.9%.

[37] The Applicant is ordered to incorporate changes to the rate application as noted in paragraph 35 above and is **approved to adopt the average rate change of +5.9%**.

[38] The approved rates will be effective on September 1, 2017 for new business and renewal business.

Dated at Saint John, NB on May 10, 2017

Marie-Claude Doucet, Panel Chair
Chair, New Brunswick Insurance Board

WE CONCUR:

Francine Kanhai

Elizabeth Turgeon