DECISION

2020 NSUARB 35
M09549, M09551, M09554

NOVA SCOTIA UTILITY AND REVIEW BOARD

IN THE MATTER OF THE INSURANCE ACT

- and -

IN THE MATTER OF APPLICATIONS by **FACILITY ASSOCIATION** for approval to change its rates and risk-classification system for hotel and country club buses, public vehicles (school buses) and commercial vehicles

BEFORE: Roberta J. Clarke, Q.C., Member

APPLICANT: **FACILITY ASSOCIATION**

FINAL SUBMISSIONS: February 14, 2020

DECISION DATE: **March 6, 2020**

DECISION: **Applications are approved as modified**

I INTRODUCTION

[1] Facility Association applied to the Nova Scotia Utility and Review Board to change its rates and risk-classification system for hotel and country club buses, public vehicles (school buses) and commercial vehicles. Facility proposes rate changes that vary by coverage and result in an overall increase of 5.8% for hotel country club buses, 22.2% for school buses, and 13.4% for commercial vehicles.

[2] The Board must consider whether the proposed rates and risk-classification system are just and reasonable and in compliance with the *Insurance Act* (*Act*) and its *Regulations*. The Board is satisfied that Facility's applications will meet these requirements if Facility submits revised proposed rates for approval using adjusted assumptions in its indications for return on investment, servicing carrier operating costs, and return on equity as directed in this Decision. If that occurs, the Board will review and, if satisfied, approve the revised proposed rates.

II ANALYSIS

[3] Facility applied under the Board's *Rate Filing Requirements for Automobile Insurance – Section 155G Prior Approval* (*Rate Filing Requirements*). Since the filing of these applications, Facility received and responded to Information Requests (IRs) from Board staff. Board staff prepared a report to the Board with recommendations on the applications (Staff Report). Before providing the Staff Report to the Board, Board staff shared it with Facility. Facility provided new evidence in its response to Board staff. As a result, Board staff sent further IRs to Facility. After Facility responded, Board staff revised its original recommendations on loss cost trends and provided a revised report to

Facility. Facility reviewed the revised report and informed Board staff that it maintained the position that its assumptions were reasonable and to be preferred to those suggested by Board staff and asked that its proposed rate changes be approved.

[4] Board staff examined all aspects of the ratemaking procedure to make the recommendations in the Staff Report and suggested that the Board further review certain issues. Board staff consider that Facility satisfactorily addressed all other aspects of the ratemaking procedure in its applications and IR responses.

[5] The Board will examine the following issues in this decision:

- Profit provision, including return on equity and return on investment
- Loss trends
- Expense provisions for servicing carrier operating fees.

Profit Provision, including return on equity and return on investment

[6] As a result of a Board decision in 2010 (2010 NSUARB 104), Facility is entitled to include a provision for the cost of capital in its indications. Since that decision, Facility has consistently used a 12% return on equity and a 2:1 premium to surplus ratio in its indications. In the current applications, Facility used the same provisions, despite the Board having ordered the use of 11% rather than 12% in recent decisions on private passenger vehicles and taxis (See 2019 NSUARB 15 and 2019 NSUARB 155). The Board notes that Facility did provide alternate indications with the 11% provision in its proposed rates, while maintaining the use of 12% was appropriate.

[7] Facility provided no new evidence to satisfy the Board that a 12% return on equity should be used. Consistent with past decisions, the Board requires the use of 11%.

[8] For return on investment, Facility used 1.42%, based on current market yields for risk-free government bonds. In the last two private passenger vehicles and taxi applications noted above, the Board rejected the use of a risk-free method to determine the return on investment and instead concluded that Facility should use a 2.5% return.

[9] In the current applications, Facility again provided no new evidence to persuade the Board that the risk-free method should be used. Therefore, consistent with past decisions, the Board concludes that Facility should use 2.5% as the return on investment. The Board observes that this reduces the overall increases for each of the classes of miscellaneous vehicles by a range of 2.5-3.9%.

Loss Trends

[10] Facility used different loss trends for commercial vehicles than it had used as a proxy in the most recent taxi application. In that application, the Board required Facility to lower its loss trend assumptions for Bodily Injury, Direct Compensation Property Damage and Accident Benefits coverages.

[11] The trends in this application reflect some additional data but are not significantly different than those Facility used in the taxi application. Board staff originally recommended that Facility be required to use the same approach to trends in this application; however, in response, Facility provided evidence to suggest changes in loss trends for both DCPD and Accident Benefits coverages. As a result, Board staff recommended, in the circumstances of these applications only, the Board should allow Facility to use its selected loss models and the resulting loss cost trend estimates for those coverages. The Board accepts this recommendation but notes that it will have its

consulting actuaries assess the reasonableness of the models in any future taxi applications.

Expense provisions for servicing carrier operating fees

[12] Under its Plan of Operation, Facility must pay its servicing carriers an operating fee of 9%. Facility used this level in its expense provision when it determined indicated rate changes. In previous private passenger vehicle and taxi applications, the Board reviewed information Facility provided on the actual costs of these servicing carriers and required Facility instead to use 8%. The Board based this percentage on a rounding of two of the servicing carrier costs, as Facility was unable to provide the Board with a satisfactory explanation of the much higher cost for the third carrier. While the Board stated that it would reconsider this in future Facility applications if persuasive evidence was provided, in these three applications Facility merely continued to use the 9% rate. In the absence of any such evidence, the Board accepts the recommendation of Board staff to continue to require the use of 8% for the servicing carrier operating fees as an expense provision. The result is a decrease of less than 2% for each class of vehicles in these applications.

Staff Indications

[13] Board staff developed indications (Staff Indications) using the Facility alternate assumptions, except for a 2.5% return on investment and an 8% servicing carrier operating fee, as the target against which the Board should assess the reasonableness of the proposed rates. The Staff Indications result in lower increases for hotel and country club buses by 4.2 %, for public vehicles (school buses) by 5.0%, and for commercial vehicles by 5.6%.

[14] Because the Staff Indications are lower than the Facility alternate indications used to support the proposed rate changes, Facility's proposed rates would result in a return on equity of more than 11%, contrary to the Board's direction that 11% should be used.

[15] As a result, the Board concludes that Facility should submit new proposed rates that under the Staff Indications would produce a return on equity of no more than 11%. The new proposed rates should be submitted within 15 business days of the date of this Decision, after which the Board will review them for approval.

III SUMMARY

[16] The Board finds that the applications follow the *Act* and *Regulations*, as well as the *Rate Filing Requirements*.

[17] The Board finds that rates which use the Staff Indications as outlined in Paragraphs [13] and [15] are just and reasonable. Facility is directed to file revised rates within 15 days of the date of this Decision, after which the Board will review them, and issue an Order if the rates are approved. The Board will then set an effective date for the changes for new business and renewal business.

[18] Facility is not an insurance company but instead is supported by its member companies who underwrite automobile insurance in Nova Scotia. As a result, Facility is not required to provide financial information to the Board. The financial information of member companies, however, is reviewed in their respective filings with the Board. The Board is satisfied, under Section 155I(1)(c) of the *Act,* that Facility's proposed changes

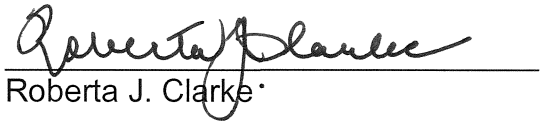
and those recommended by Board staff, are unlikely to impair the solvency of the member companies.

[19] The applications qualify to set a new mandatory filing date under the *Mandatory Filing of Automobile Insurance Rates Regulations*. The new mandatory filing date for Facility for each of these classes of vehicle is January 1, 2023.

[20] Facility proposed no changes to its underwriting or rating rules. Board staff reviewed Facility's Automobile Insurance Manual filed with the Board and did not find any instances where the Manual contravened the *Act* and *Regulations*. Because Facility's online manual includes rates, once rates are approved, Facility is required to post the revisions to the online manual within 30 business days of the Order.

[21] An order will issue accordingly once the Board has reviewed and approved the proposed rates in accordance with the directions set out in this Decision.

DATED at Halifax, Nova Scotia, this 6th day of March, 2020.



Roberta J. Clarke