

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 modify its rates and risk-classification system for Private Passenger Vehicles and Taxis

BEFORE: Roberta J. Clarke, Q.C., Member
David J. Almon, LL.B., Member

APPLICANT: **FACILITY ASSOCIATION**
Matthew T. Hayes, LL.B.

INTERVENOR: **HALIFAX TAXI OWNERS' ASSOCIATION**
Kevin A. MacDonald, LL.B.

BOARD COUNSEL: S. Bruce Outhouse, Q.C.

BOARD COUNSEL CONSULTANT: **OLIVER, WYMAN LIMITED**
Paula Elliott, FCAS, FCIA

HEARING DATES: November 14 and 15, 2018

FINAL SUBMISSIONS: January 21, 2019

DECISION DATE: **February 14, 2019**

DECISION: **Applications are approved as modified.**

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I INTRODUCTION

[1] Facility Association (Facility) filed supporting documents and materials (Applications) with the Nova Scotia Utility and Review Board (Board) for approval to modify its rates and risk-classification system for Taxis and for Private Passenger Vehicles. The Taxi Application was filed electronically on May 15, 2018, and the original documents were received on May 16, 2018. The Private Passenger Vehicle Application was filed electronically on May 10, 2018, and the original documents were received on May 11, 2018.

[2] Facility's Taxi Application, which is for an overall increase of 25.0% follows a November 15, 2017, Order of the Board which saw rates increase by 3.0%.

[3] Facility's Private Passenger Vehicle Application proposes an overall rate change of 25.1%, follows a November 15, 2017 Order of the Board which approved an increase of 0.6%.

[4] In an advertised Notice of the Applications, the Board invited comments from interested persons. After receiving many comments from taxi operators, the Board decided it was in the public interest to conduct a formal hearing on both Applications.

[5] The hearing was advertised in both the *Chronicle Herald* and the *Cape Breton Post*, pursuant to the Hearing Order issued on July 23, 2018.

[6] The public hearing took place at the Board's offices in Halifax on November 14 and 15, 2018.

[7] The Board heard Facility's Taxi Application first. The parties agreed that the evidence of Facility and Board Counsel consultant, Paula Elliott, FCAS, FCIA, of Oliver Wyman Limited (Oliver Wyman or OW), be adopted for both Applications.

[8] Facility was represented by Matthew Hayes, LL.B. His only witness was Shawn Doherty, its Senior VP Actuarial & CFO; David Simpson, President & CEO, provided Opening and Closing Statements.

[9] S. Bruce Outhouse, Q.C. appeared as Board Counsel. His only witness was Ms. Elliott.

[10] The Halifax Taxi Owners' Association (HTOA) intervened in the Taxi proceeding and was represented by Kevin A. MacDonald, LL.B. He called David Buffett, President of the HTOA, and Fleet Manager of Yellow Cab Halifax, as his only witness.

[11] The Board received letters of comment from 22 individual taxi operators, all of whom opposed any increase in insurance premiums for Taxis.

[12] Information Requests (IRs) were sent by Oliver Wyman to Facility in both matters on August 2 and August 24, 2018, and responses were received on August 17 and September 7, 2018. IRs were sent by Facility to OW in both matters on October 5, 2018, and responses were received on October 25, 2018. In the Taxi matter only, IRs were sent by Board staff to Facility on August 2, 2018, and responses were received on August 17, 2018. As well, in the same matter, the HTOA IRs were sent to OW on October 5, 2018, and responses were received on October 25, 2018.

[13] No requests to speak at the scheduled evening session were received and it was cancelled as a result.

II BACKGROUND

[14] Facility is not itself an insurer. It is, for Nova Scotia, an association of all providers of automobile insurance in the Province. It operates in the same way in other Canadian jurisdictions which also have compulsory automobile insurance requirements.

[15] Facility's activities are governed by a Plan of Operation, authorized by statute.

[16] In his opening remarks, Mr. Simpson noted that the role of Facility is "encapsulated in our mission and vision statement," which he quoted, stating:

Facility Association's mission is to administer automobile insurance residual market mechanisms, enhance market stability, and guarantee the availability of automobile insurance to those eligible to obtain it. We strive to keep the market share of the residual markets as small as possible so consumers may benefit from the competitive marketplace to the greatest extent possible.

[Transcript, November 14, 2018, p.6]

[17] Mr. Simpson explained that Nova Scotia has been experiencing increasing auto insurance loss costs and because of that Facility is requesting approval of a rate increase of 25% for taxis, which averages to an annual increase of exposure of \$658, or about \$55 per month. He added that Facility is also requesting approval for a rate increase of 25.1% for private passenger vehicles, which averages to an annual increase for exposure of about \$527 or about \$44 per month.

[18] Facility, in its closing submissions, explained how vehicle owners seeking automobile insurance through Facility are served:

We would like to emphasize that FA's role in the marketplace is to guarantee the availability of automobile insurance to those eligible to obtain it, acting as the "market of last resort". A healthy and competitive voluntary market keeps FA's size relatively small. For 2017, FA's share of the Nova Scotia taxi market premium was 97%. Rather than being a "market of last resort", FA currently is (and has been for some time) the only market for the vast majority of taxi owners and operators in Nova Scotia, and we believe that this reflects, at least in part, the voluntary markets perception of rate inadequacy relative to the risk profile presented.

It is important, in our view, that FA's rates are set to generate an appropriate return to ensure a properly functioning market, provide incentive for voluntary market participation in the provision of automobile insurance to taxis in Nova Scotia and to provide an appropriate signal to taxi owners and operators of the risk profile they present, which is largely a factor of driving behaviours of operators.

[Facility Association Closing Submissions, December 13, 2018, p. 1]

III ISSUES

[19] The following formed the Board's Final Issues List for the public hearing:

Issues Common to Both Hearings

- While the Board rejected the use by Facility of a risk-free rate as the return on investment assumption, does the 2.5% ordered in the last applications still represent a reasonable return on investment to use in these applications?
- While the Board approved the use of a cost of capital (or profit) provision in its Decision [2010 NSUARB 104], does the 11% return on equity (equivalent to 6.7 cents for every premium dollar) allowed by the Board still represent an appropriate provision?
- While the Board determined, in the last public hearing, there should be an adjustment to expenses for premium financing fees, is the ordered 0.9% adjustment still appropriate for both types of vehicles?
- Is the information provided by Facility to support the use of the Servicing Carrier Operating Expense and Servicing Carrier Fee in the variable expense provision used in the application, sufficient to support its use in this application?
- Are the proposed increases in the driver abstract fees supported by actual experience?
- What are the appropriate loss development factors to apply to reported claims amounts to bring them to the ultimate level for use in the indications?
- Are the proposed changes, and the resultant rates, just and reasonable in the circumstances?

Issues Related to Taxis Only

- What are the appropriate commercial vehicle loss trend selections for use in determining indicated rate changes for Taxis in this Application (e.g. Facility selections, Board consultant selections, or some other selections)?
- Do the proposed changes to the factors applied to private passenger premiums to determine taxi premiums for physical damage coverages (Collision, Comprehensive, Specified Perils) properly reflect the proposed increase in the Private Passenger Vehicles Application?
- Do the current driving record differentials properly distinguish between the risk posed for years claims-free? Should the number of driving records be

expanded to provide increased credit for more years licensed up to a maximum of six, as allowed by *Regulations*?

- Does the risk-classification system appropriately reflect the driving and claims history of the operators of the vehicle?

Issues Related to Private Passenger Vehicles Only

- What are the appropriate private passenger vehicle loss trend selections for use in determining indicated rate changes for Private Passenger Vehicles in this Application (e.g. Facility selections, Board consultant selections, or some other selections)?

[20] For the reasons explained in this Decision, the Board directs Facility to revise its proposed rates for taxis and private passenger vehicles in accordance with the findings made by the Board. The Board finds that, once modified, the proposed rates will be just and reasonable, and the Board will approve them.

IV ANALYSIS

[21] The Company sought approval to change its rates and its risk-classification system for taxis and private passenger vehicles. The Applications were made in accordance with the Board's *Rate Filing Requirements for Automobile Insurance – Section 155G Prior Approval (Rate Filing Requirements)*. The Company's mandatory filing date for private passenger vehicles was September 1, 2019, and September 1, 2020 for taxis.

[22] The proposed effective dates for new business and for renewal business for both taxis and private passenger vehicles is 100 days after the issuance of an Order approving the rates, rounded to the first day of the following month.

Return on Investment (ROI)

[23] For ROI, Facility used a risk-free rate of 1.60%, based on Government of Canada bonds of various terms and short-term Treasury Bills. Facility submitted that it does not hold assets for investment; these are held by its member companies. Those companies bear the investment risk to achieve higher returns. Therefore, the reward of that higher risk should attach to the companies, and not the insured parties. Hence, Facility chose the risk-free rate.

[24] The approach used by Facility to produce its 1.60% assumption for ROI is consistent with the approach it used in the last public hearing.

[25] The Board observes that the use of a lower ROI results in larger discounted cash flows. As a result, the present value of claims is higher. This leads to higher indications and, thus, higher premiums.

[26] Facility said that if it were forced to use a higher rate for ROI, it should also be allowed to reflect the additional capital associated with the riskier assets that member companies would have to use to generate higher returns. Facility said, therefore, that a risk-free rate is the appropriate ROI to employ. These submissions are also consistent with those it made in the last hearing.

[27] As it did in the last hearing, the Board observes that the use of a 2:1 premium to surplus ratio reflects any additional capital required to support higher risk assets used to achieve higher ROI assumptions than those used by Facility.

[28] In its evidence, OW highlighted that the Board, faced with similar evidence in the last hearing, required Facility to use a 2.5% ROI. That level of ROI fell within the range of ROIs that insurers achieved, as presented in that hearing.

[29] In its evidence in the Taxi application, OW provided a sensitivity test that suggested a one percentage point increase in ROI (e.g., if 2.6% were used in place of 1.6%), the rate level indication would decrease by 4.2 percentage points, if no other assumptions were changed. The OW evidence in the Private Passenger Vehicle Application suggests a similar impact on the indication for those vehicles.

[30] OW stated the weighted average ROI reported by insurers in Nova Scotia was 3.5%. OW suggested the Board could consider using this level of ROI, which would result, assuming no other changes, in a 7.9% reduction in indicated rate level needs, for both taxis and private passenger vehicles.

[31] The HTOA said that the apparent spread between the OW average ROI earned by insurers of 3.5% relative to the average yield on Government of Canada 5-year bonds from November 2016 to October 2017, when applied to the average yield for the same bonds over November 2017 to October 2018, would suggest a higher ROI of 4.3% was supported.

[32] The Board acknowledges that insurers invest in different term bonds over time that give rise to the average ROI identified by OW. The development of a spread over average 5-year bond yields over a single year, and applying that spread to a more recent average bond yield may not be an appropriate approach to determining a ROI. The Board does not accept the HTOA proposal to use 4.3% as ROI.

[33] The Board expressed concerns with the use of the risk-free approach in the development of Facility rate level needs in the last hearing. The Board rejects that approach in this hearing, as well. As a result, the Board must decide what is the appropriate ROI for Facility to use.

[34] In the last hearing, the Board was provided a range for ROI earned by insurers of 2.5%-3.0%. The Board opted to use the lower end of the range. In these Applications, rather than a range, OW provided a weighted average of the ROIs earned by insurers, which was 3.5%.

[35] While the risk-free ROI used by Facility in this hearing (1.60%) is about 1% higher than the risk-free ROI Facility used in the last hearing (0.48%), the Board is not convinced that the ROI earned by insurers has necessarily increased by a similar amount.

[36] Lacking the information regarding the range of ROIs earned by insurers in Nova Scotia that it had in the last filing, the Board will rely on its previous finding. The Board directs Facility to use an ROI of 2.5%. The Board expects the impact of this change, in isolation from all other changes, to be about a 3.8 percentage point reduction in indicated rate level needs for both taxis and private passenger vehicles.

Return on Equity (ROE)

[37] Facility used a 12% target ROE in developing its indications in the Applications. According to Mr. Doherty's evidence, Facility's Board of Directors, which is composed of representatives of its member companies, directs the actuarial group to seek this rate of ROE, believing it to be an appropriate return for the provision of insurance through Facility, given the risk such business poses.

[38] Mr. Doherty agreed that in the most recent Board decisions on Facility applications, the Board has only permitted the use of an 11% target ROE. He also acknowledged that Facility had not provided any evidence in these Applications to suggest that circumstances now warrant a 12% ROE.

[39] The HTOA also opined that the need for a ROE in excess of 11% was unwarranted.

[40] In the absence of any persuasive evidence, the Board sees no reason to depart from its previous finding. The Board requires Facility to use an 11% target ROE.

[41] The Board notes that, while Facility used a target ROE of 12% and its own prior indications for the complement of credibility when developing its indications, the proposed rate changes for both private passenger vehicles and taxis are based upon the alternate indications provided by Facility. The alternate indications reflect an 11% target ROE and the use of Board based indications for the complement of credibility, as the Board also requires.

Premium Financing Fees

[42] The three Servicing Carriers for Facility offer premium financing to their customers, whether they are in Facility or in the standard market. Of the three, for Facility customers, two carriers charge financing fees of 6%; the other, Co-operators, charges no financing fee for any of its customers. The 6% fee is twice what the Servicing Carriers charge their standard market customers, arguing that Facility customers are a greater risk for default or bad debt.

[43] Facility noted that while all three carriers provide financing for private passenger vehicles, only two, Intact and Co-operators, offer financing for taxis.

[44] In the last public hearing, Mr. Doherty acknowledged, in response to Board questions, that the evidence of increased credit risk for Facility customers was anecdotal. No new evidence was provided in this hearing to replace the anecdotal evidence.

[45] In applications for standard market insurers, the Board requires the inclusion of revenue from financing fees to reduce a company's provision for its variable expenses. Any costs associated with their premium financing would then be captured in those expenses.

[46] Facility took the position that it does not receive any revenue from the financing fees and has no associated costs. Its Servicing Carriers bear the expenses of the premium financing and earn any revenue from it.

[47] Mr. Doherty testified:

A. Yeah, we, we do not believe that the premium financing is part of the Facility Association mechanism. That is, it's a financial service that is between the servicing carrier and the policy holder. That is, the policy holder is buying a service from the applicable servicing carrier, where the servicing carrier pays the premium, the full-year premium, to Facility Association upfront on behalf of the, the policy holder, and then they collect that from the policy holder over the ensuing number of months, and in addition to that, collects the fee. So, there's a fee associated with it. Now, the case of Co-op, it's zero, but that's the choice they have.

[Transcript, November 14, 2018; pp. 120-121]

...

Q. ...does the Facility Association handle, receive, take any of those finance fees?

A. No.

Q. Is that, it's neutral to you? It's not part of what you do, correct?

A. Yeah, as far as we're concerned, from what we see, it, it never happens. We get full payment as if it's, it's not happening.

Q. Charged by the carrier and...?

A. Yeah. So, we presume it's being collected by the carrier, but if the carrier's paying on behalf of their policy holder, that, we, we don't see any difference. We get, we get the cash...

Q. Yeah.

A. ...when it's due.

[Transcript, November 14, 2018; pp. 165-166]

[48] Facility submitted that, consequently, its expenses should not be offset; however, if there were to be an offset, the offset should be reduced by the costs of offering premium financing and the related cost of capital to support the financing. In Facility's view, these two items would reduce the net premium financing to nil.

[49] In the last public hearing, Ms. Elliott agreed on cross-examination that the costs of premium financing should be an offset, but opined that Facility had not provided evidence of what that should be. She was unable to provide an estimate without supporting data.

[50] In its decision on the 2014 Private Passenger Vehicle application by Facility [2014 NSUARB 156], the Board said at Paragraph 45:

The Board understands that, while FA receives no finance fee revenue, its servicing carriers charge fees and receive them. Therefore, the Board considers that this revenue must be accounted for in determining the expense ratio, in order to provide just and reasonable rates. The Board accepts the recommendation that a 1% amount be taken into account in the indications.

[51] The Board's conclusion, in that application, was based on the assumption that approximately one-third of Facility customers used premium financing, and were subject to a 3% fee, thus creating the 1% amount (one-third of 3% = 1%).

[52] Ms. Elliott confirmed she had not changed her opinion since the 2017 hearing.

[53] In these Applications, OW suggested that the approach taken by the Board in the last filing (i.e., apply an offset to expenses to reflect premium financing fees) should be followed. Ms. Elliott agreed, however, that the policyholder pays the financing fee to the Servicing Carrier.

[54] During Mr. Buffett's testimony, the Board learned that an informal survey of taxi drivers the HTOA had undertaken suggested upwards of 70% of taxi drivers finance

their insurance premiums. The higher percentage than provided by Facility resulted from the inclusion of those taxi drivers who pay via installments on their credit cards or by using a third-party financing company, such as IFS Financial Services (IFS). Mr. Buffett testified:

Q. And as president of the organization, do you, from time to time, take surveys or ask questions of your membership and other drivers to determine information for purposes of, by way of example, this hearing?

A. Absolutely. It's, it's actually quite routine.

Q. And in point of fact, at one place, there's a reference to a Board decision, assuming that about 31 percent of taxi drivers in the HRM use monthly pay for, credit card or debit, to pay for their insurance premiums. Are you able to comment on whether or not that 31 percent is accurate, based on anything, any work that you've done?

A. Yes. As a matter of fact, because of our concern about this increase – we, we've known about this for months, so myself and a number of other board members, and some drivers that are not board members, began asking drivers. It's an amateur survey, I'll admit, but, an amateur poll, but it's, it's plus 70 percent. Because for the majority of us, we cannot simply open our wallet and pay 2,000, 2,500 dollars a year insurance. So, we have to make an installment and, make a down payment and pay in installments.

[Transcript, November 14, 2018; pp. 174]

[55] Mr. Buffett explained he had been with IFS to finance his insurance payments in the past. Because he does not have the lump sum available, in his words, he is "forced to finance".

[56] The HTOA concluded the Board should apply a higher percentage of taxis using premium financing than the 30% the Board used to determine the current adjustment.

[57] Facility said that its relationship with its Servicing Carriers regarding premium financing, is no different than its relationship with the credit card companies or third-party financing companies like IFS. Facility has no interaction with the credit card companies or IFS. These companies merely pay the premium to the Servicing Carriers. As Mr. Doherty testified, Facility bears no risk with respect to the financing fees. The

Servicing Carrier remits the full premium to Facility at the outset of the policy. IFS and credit card companies then collect the premiums according to the agreed schedule, collecting interest/fees as outlined in their contracts. Similarly, the Servicing Carriers administer the financing; however, the premiums, from the Facility perspective, are provided at policy outset.

[58] The Board's prior ruling [2017 NSUARB 172] would result in the two financing sources (i.e., third-party and Servicing Carrier) being treated differently. While the Board regulates the Servicing Carriers' own business, it has no authority over any third-party financing company. There is no offset to the expenses for any premium financing fees for the third-party financing.

[59] The evidence in this proceeding from Facility and the HTOA has caused the Board to reconsider its findings in the last hearing. The Board accepts the Facility portrayal of the premium financing fee arrangement as being equivalent to a third-party financing arrangement. The Board accepts the Facility approach of applying no offset for premium financing fees and does not require Facility to make any adjustment for the financing fees collected by its Servicing Carriers for taxis and private passenger vehicles.

[60] The Board remains concerned however, about the premium financing fees charged by two of the Servicing Carriers for Facility business being twice the fees charged for those carriers' own business. The Board is further concerned that such fees, which the Board views as rates, may not be properly regulated. The Board proposes to examine these concerns in future applications for rates made by these two Servicing Carriers.

Servicing Carrier Operating Expenses & Fees

[61] Facility does not administer the policies written using its rates. Instead, Facility has entered into agreements with three companies to operate as Servicing Carriers to administer Facility business. The Servicing Carriers are responsible for all aspects of administering an automobile insurance policy including collecting premiums, issuing policies and renewal documents, processing, adjusting and paying claims, etc.

[62] Facility's Plan of Operation outlines the details of how these Servicing Carriers are compensated for conducting these aspects of policy administration on behalf of Facility. In addition to the actual costs of obtaining Driver Record Abstracts, a formulaic reimbursement for claims expenses, and amounts to defray the cost of getting Prior Carrier Reports, Servicing Carriers for Facility business written in Nova Scotia receive (a) 9% of written premiums for operating costs (excluding claims expenses); and (b) 1% of written premiums as a service fee.

[63] Facility included a provision for these compensation agreements when deriving its indicated rate level need. The full amounts of these reimbursements, dictated by the Plan of Operation, are included in the provision.

[64] In its previous Decision, the Board expressed the following concern:

[161] The Board acknowledges that Facility must pay the fees set in the Plan of Operation, and that the inclusion of such expenses is in keeping with accepted actuarial practice. However, the Board has no evidence to determine whether these expenses are reasonable. It is unable to compare them to the actual costs which the servicing carriers incur.

[162] In these circumstances, the Board does not consider it appropriate to direct Facility to reduce the expense provision related to these operating expenses. However, the Board directs Facility to provide a comparison of the 10% expense paid to the servicing carriers to the actual costs incurred by the servicing carriers, either before, or in, Facility's next application to the Board for rate approval.

[2017 NSUARB 172]

[65] In its Applications, Facility explained it requested its Servicing Carriers to provide the actual incurred operating costs to service Facility business, to comply with the Board Order.

[66] The Servicing Carrier responses resulted in the following ratios of underwriting operating costs to written premium, for 2017,

Co-operators	15.1%
Intact	7.6%
<u>RSA</u>	<u>7.7%</u>
All Combined	8.5%

[67] Facility suggested these costs compare favourably to the 9% Servicing Carrier Operating Expense.

[68] In the hearing, Mr. Doherty testified that Facility had not questioned Co-operators as to why its costs appear to be almost double those of the other two carriers. Facility confirmed that the company had operated at that level of expenses since 2012. Facility noted that Co-operators only services policies written by its captive agency force and perhaps did this solely to support their agents. Facility also suggested the volume of business written and the fixed costs required to handle the Facility business may give rise to the larger number.

[69] Facility could not, however, explain why the other two carriers are so much lower than Co-operators. Facility acknowledged that by servicing the business for less cost than the 9% Servicing Carrier Operating Expense paid to them, these Servicing Carriers are essentially earning extra profit.

[70] Facility excluded the 1% Servicing Carrier Fee, which is also paid to these companies, from the analysis. Mr. Doherty explained that this 1% was a profit margin

granted to the Servicing Carriers. These companies are “for profit” companies who have agreed to take on the role of administering the policies on behalf of Facility.

[71] The HTOA also views this 1% as a profit margin paid to the Servicing Carrier. The HTOA, however, objected to the inclusion of this amount in the rates charged for taxis on the basis that the Servicing Carrier does not get this 1% on its own policies, and therefore, it should not receive it on Facility policies.

[72] The Board does not accept the argument put forward by the HTOA. In this case, the profit built into a Servicing Carrier’s own policies has nothing to do with the Servicing Carrier’s administration of the Facility business. While some of the resources used for the administration of the Facility policies may be the same as, or like, those used to service the Servicing Carrier’s own business, the 1% fee on the Facility business is unrelated to the Servicing Carrier’s own business.

[73] The Board accepts the explanation that the 1% fee is essentially an incentive to attract and retain the Servicing Carriers. Facility does not have the ability to directly administer its business and relies on the Servicing Carriers to do this. In order to encourage the Servicing Carriers to continue to do this administration, Facility has determined that this 1% fee is required. The Board also accepts that it is reasonable and appropriate to include a provision for this fee in the indications. The Board further accepts it reasonable for such an incentive to vary with the written premiums as outlined in the Plan of Operation.

[74] The Board recognizes that Facility is contractually obligated to pay the 9% Operating Expense to its Servicing Carriers. The Board had concerns about the level of potential disconnect between the actual operating costs and the fee paid to the Servicing

Carriers for them. While Facility addressed the directive from the Board's last Order, the Board has concerns about the interpretation of the findings.

[75] While the total operating costs from the survey support an 8.5% operating cost level, this result is bolstered by Co-operators operating at twice the expense level as the other two carriers. Facility, as noted, did not question Co-operators about this result but instead accepted the level. The Board has no understanding as to why that carrier's costs are so high. The Board is concerned about the allocation of the costs to the Facility business. Without evidence, the Board cannot rely on the inclusion of the full Co-operators costs in the comparison.

[76] The Board concedes, however, that the same could be said for the results of the other two carriers. That is, the allocation of costs for those carriers may not be appropriate. It is safe to assume Facility simply accepted their results without question, as well. The Board believes, however, that there is little incentive to understate the costs in such a comparison. On the balance of probabilities, the Board accepts the cost estimates from the other two carriers as being true representations of their costs.

[77] The Board believes the operating costs that Nova Scotia drivers should bear are 8.0%, representing a rounded value of the results for the Servicing Carriers other than Co-operators, versus the 9% in the Plan of Operation. The Board requires Facility in the Applications for both taxis and private passenger vehicles to reduce the provision from 9% to 8% when determining its indicated rate level need. The Board may reconsider this conclusion in future applications if Facility provides more evidence to support or explain the Servicing Carrier cost levels.

[78] In its evidence, OW provided the impact of the use of 8.5% in place of 10% on indications with no other changes. The result was a decrease of about 3 percentage points. The Board direction in Paragraphs [73] and [77] would result in a 9.0% provision instead of the 10%. As a result, the impact will be a slightly smaller reduction. Although the actual value is unknown at this time, the Board expects it would be about a 2 percentage point reduction in the indicated rate level need.

[79] OW also raised an issue regarding the level of operating costs for taxis versus those for private passenger. The General Insurance Statistical Agency (GISA) data suggests that the average cost of administering insurance for a private passenger vehicle, with an average premium of \$826, is about \$97. Facility includes \$260 per taxi in its analysis. OW acknowledged that the cost of administering taxis would be higher than private passenger vehicles, due to the higher number of drivers, for example, but questioned whether the difference should be so great.

[80] Mr. Doherty testified:

So, if I'm an insurer and I'm going after business, I want to make sure that I retain the business, and so, I'm going to do things to make sure that I make it easy for my clients, and once I get them on my books, I'm going to keep them and I'm not going to be looking at them too closely. Facility Association doesn't operate that way, so our servicing carriers are required to re-underwrite every year, to make sure that the risks that are with them should still be with us, and if they shouldn't be, that we're finding avenues to get them out. So, I believe that there is more work involved with Facility Association than there would be with the regular market. There tends to be a bit more churn and the nature of the risks that come to the Facility Association tend to come to Facility Association 'cause they have issues. So, they've had payment problems or conviction problems or something along that nature, that again makes it more work-intensive. So, I don't think that taking an average of the industry and saying, "Here's the operating result for the industry" is directly comparable to the Facility Association. But someone else might have a different view.

[Transcript, November 14, 2018, pp. 117-118]

[81] OW also said that by merely increasing the premiums by 25% as Facility proposes, the reimbursement for operating costs grows by 25%. The actual work has not

materially changed, but the revenue to the Servicing Carriers to offset its costs has grown by 25%.

[82] Facility pointed out that when rates decrease or the size of the Facility book of business decreases, the Servicing Carriers will receive less revenue without potentially having any reduction in costs, as the resources required to service the business may be primarily fixed costs.

[83] The HTOA suggested the Board should adopt an approach of allowing Facility to include a fixed cost per policy in its indications and then tying this level to inflation. This approach would replace the percentage of written premium approach used by Facility. It would also eliminate the “increased or decreased revenue with no change in the underlying costs” problem when rates rise or fall.

[84] The Board accepts that the cost of administering taxi policies would be higher. The Board further accepts that, while it may lead to some apparent anomalies as noted, the pricing approach by Facility (i.e., tying the revenue to written premiums) is a simpler approach and is preferable to the Board arbitrarily picking a starting point for the expenses and tying future growth to an external index.

Driver Record Abstract Fees

[85] When developing its indications, Facility included a provision for the costs of driver abstracts its Servicing Carriers must obtain when underwriting a risk. The costs of these abstracts are over and above the Servicing Carrier Operating Expenses (i.e., the 9% in the Plan of Operation).

[86] Facility increased the provision for these costs for taxis from the \$72.77 per vehicle used in the last hearing to \$99.77 per vehicle. For private passenger vehicles,

Facility increased the provision for these costs from the \$38.71 per vehicle used in the last filing to \$52.46 per vehicle.

[87] OW explained that Facility added an additional step in its calculations that reconciles the actual costs of the driver abstracts ordered with the result of the assumed fee per vehicle type, multiplied by the number of vehicles for each type. OW found this additional step makes the process for developing the fee per vehicle assumption reasonable.

[88] While the HTOA provided some thoughts on this issue, the comments did not address this driver abstract fee issue but rather addressed the concern about the overall level of expenses between taxis and private passenger vehicles. These comments were addressed in Paragraphs [83] and [84] of this Decision.

[89] The Board concludes the driver abstract fee assumptions for both private passenger vehicles and taxis are supported by the actual experience and requires no changes in this area.

Loss Development

[90] One of the key components of premiums for automobile insurance, including for taxis, is the provision to cover claim costs and the associated loss adjustment expenses.

[91] The starting point for this provision is the reported costs, including case reserves for the accident-years used in the analysis. These claims are at various stages of their evolution (e.g. just reported, partially settled, fully settled).

[92] These reported claims must first be estimated to the final amount that they are expected to be. To determine the ultimate value of these reported claims, Facility

analyzes the progression of claims over time and selects factors that will develop the reported losses to the ultimate level.

[93] Facility relied upon the development factors produced by its Appointed Actuary. The factors were developed using several actuarially accepted approaches, as well as the application of actuarial judgment in the factor selection process.

[94] OW outlined some circumstances where, using the same actuarial approaches, with some alternate judgment, the factors would be different and, in this case, lower than those selected by Facility.

[95] In the hearing, Mr. Doherty stated that there was no systemic bias towards higher indications in the determination of development factors. As well, he said the approach taken by the Appointed Actuary does involve a significant degree of rigour that would preclude such bias. Facility acknowledged that in the examples OW provided the selections are factually the higher of two methods. Facility stated, however, that this is a result of thoughtful consideration of each of the two situations rather than an explicit approach of selecting the highest.

[96] OW conceded in its evidence, and Facility agreed, that the Appointed Actuary has greater insight into Facility's claim experience and reserving practices than OW does and therefore, OW does not presume that the ultimate loss estimates are biased.

[97] Although OW provided the impact of some different selections that could be made, OW did not include a specific adjustment in its recommended indications. Instead, it presented the impact for the Board's consideration.

[98] The Board understands the concerns raised by OW, as well as the potential to infer a bias for Facility to accept the higher of the results of the methods. The Board, however, is not convinced that such a bias exists based on the information provided. The Board accepts, as it did in its Decision in the last hearing, that the loss development factors, as selected by Facility, are the appropriate ones for Facility to use in the development of indicated rate level needs. The Board, however, expects this issue will likely arise in the next application for these vehicles, and based upon the information presented in that application, the Board may choose to reconsider this conclusion.

Loss Trends

[99] Having brought prior reported claims to their ultimate levels for each year in the experience period (i.e., Accident Years 2012-2016), the next step for Facility is to project these ultimate values to the cost level expected in the period for which the proposed rates will be used. This projection is done by determining how the loss costs have trended and then applying this trend to bring the claims from the average claim date in each accident year to the average accident claim date for the new premiums.

[100] OW did not raise any concerns about the loss trends models used by Facility for private passenger vehicles. The impact of replacing the Facility loss trends to the OW selected loss trends was negligible. OW saw no reason to address the loss trend models in more detail given this result. OW did not necessarily accept the Facility models but, rather, accepted the impact of changing was small. On this basis, the Board accepts the use of the Facility loss trend models when producing indicated rate level needs for private passenger vehicles.

[101] Because the volume of taxis insured in Nova Scotia is small, the amount of data available is too limited or too narrow in scope to produce trend selections directly. A proxy for the taxi loss cost trends is, therefore, required to facilitate the projection of the ultimate loss costs to the period for which the rates are to be applicable.

[102] Mr. Doherty testified that taxi experience is correlated to both private passenger vehicles and to commercial vehicles. Taxis are driven on the same roads, are exposed to the same weather patterns, and are governed by the same benefits/coverages. Taxis, therefore, are subject to the same environmental factors that give rise to the frequency and severity trends for both types of vehicles. Either set of trends could serve as a reasonable proxy for taxis.

[103] Facility elected to use the trends determined for commercial vehicles as its proxy for taxis. This choice was made despite the commercial data not including the taxi experience. Facility indicated that it did not believe this absence of taxi experience from the data would reduce its usefulness as a proxy for the reasons noted above.

[104] OW noted that Facility used commercial vehicle trends as a proxy in previous applications before the Board. OW, for that reason, believes the use of the commercial vehicle trends as a proxy for taxi trends to be reasonable in the circumstances.

[105] Facility did not select individual "trend rates". Instead Facility used modeling to fit the experience data and project it into the future. The model provides estimated coefficients, which are akin to trend rates. This approach differs from the OW approach, where OW selects trend rates after reviewing the output of a number of regressions of

various time periods and data points. However, the goal of projecting developed claims to the projected ultimate values remains the same.

[106] OW uses regression models to measure and select the trend rates it provides to the Board in a report (Guideline Report). OW produces the Guideline Report on a semi-annual basis for private passenger vehicles and on an annual basis for commercial vehicles. The Board uses these trend rates as guidelines when reviewing the trend rates used in applications.

[107] Models are developed separately for the frequency (number of claims per vehicle), and severity (the average claim amount). The selections for frequency and severity are then combined to develop a trend for loss costs (the average claim per vehicle). In some cases, OW looks directly to the loss costs to develop the trends.

[108] Facility notes it does not consider frequency and severity models in isolation, given its goal is to fit loss costs. Facility does, however, model frequency and severity separately. This provides the opportunity to consider, among other things, claims frequency correlations for traffic accidents across coverages.

[109] Key considerations in the selection of trends include: how well the model “fits” the actual historical data (in a statistical sense); the reasonableness of the parameters used in the regression model; the time periods over which the trends are measured; and, the exclusion of data points viewed to be outliers from the model to avoid them having an undue influence on the results.

[110] Both Facility and OW trends are based upon industry data for commercial vehicles as provided by the GISA. Facility used data reported as of June 30, 2017 while OW used data as of December 31, 2017.

[111] Facility uses indemnity only values for the industry data. That is, the loss data excludes loss adjustment expenses that are typically included in the industry data. Facility uses this data because of the unique structure of compensating its Servicing Carriers for these adjustment expenses. OW uses the industry data including the loss adjustment expenses. The Board does not anticipate this would produce a material difference in the trends selected in either case.

[112] The Facility model reflects 20 years of data (1997-2 to 2017-1) in half-year intervals, subject to the exclusion of certain points viewed as outliers and including parameters that Facility believes are reasonable.

[113] OW uses regression analysis over various time periods, generally spanning 10 years or less, also subject to exclusion of outliers and the use of parameters that OW view as reasonable.

[114] The following table, prepared by Board staff, summarizes the loss cost trends selections:

Coverage	Facility	OW
Bodily Injury	+5.3%	+3.0%
Property Damage-Tort (PD-Tort)	+0.6%	-1.5%
Direct Compensation Property Damage (DCPD)	+1.8%	-1.5%
Accident Benefits	+5.7%	+0.0%
Uninsured Automobile	+0.0%	+0.0%
Collision	+1.8%	+2.0%
Comprehensive	+1.3%	+3.0%
Specified Perils	+0.0%	+3.0%

[115] OW expressed concern about the Facility model estimates for Bodily Injury, Property Damage (PD) and Direct Compensation Property Damage (DCPD), and Accident Benefits. OW discussed these coverages in more detail in its evidence. The hearing focused on the differences in trends for these coverages.

[116] In its evidence, OW expressed no concerns about the Facility models for the remaining coverages. The Board, therefore, accepts those Facility trend estimates.

Bodily Injury

[117] Facility estimated a value of +5.3% for loss cost trend for Bodily Injury. This level results from a claim frequency trend estimate of 0.0% and a claims severity trend estimate of +5.3%. OW selected a +3% loss cost trend, resulting from a frequency trend of -2% and a severity trend of +5%.

[118] OW viewed the +5.3% estimate for claims severity to be reasonably consistent with its own selection of +5.0% and did not suggest the Board needs to consider a change in this component. The main source of disagreement surrounded the frequency estimate.

[119] In developing its models, Facility split the 20 years of data used for its models for both frequency and severity into three segments. In each of these segments, Facility believed the introduction of another parameter at the beginning point of the segment results in a better fit of the data and produces residuals that are more random than if the parameter were excluded. As well, the analysis would also suggest the parameter was statistically significant. The inclusion of such a parameter also suggests the estimate of trend for the new segment would be different from the preceding segment.

[120] For both frequency and severity models, the time segments used are the same. The first segment ends at the first half of 2003 (denoted 2003-1). The second segment includes second half of 2003 (denoted 2003-2) and runs to the end of the 2008 (i.e., 2008-2). The final segment runs from 2009-1 through the end of the data period (2017-1).

[121] Facility estimated the trend for frequency in the third segment as 0.0%. This represents a change from the trend for the second segment where the estimate was -7.6%. It is clear the addition of the parameter results in a different trend estimate.

[122] OW observed that Facility did not provide the rationale for why it believes there was a change in frequency that began at 2009-1. Facility stated it wanted to align its frequency and severity segmentation (i.e., use the same time segments). OW contended that such alignment did not require the introduction of a new parameter at 2009-1.

[123] OW observations from the data suggested that if the 2009-1 parameter is removed, the frequency estimate would be in the range of the OW selection of -2%.

[124] OW, based on information provided by Facility, also looked at several different starting points other than 2003-2, with data going to the end of the 2017-1. Each of these starting points produce an estimate of frequency that represents a decrease, rather than the 0.0% estimate used by Facility.

[125] In the hearing, Mr. Doherty said that, while it had provided the results of these models to OW, it viewed these models as sub-optimal. In fact, the last model, based upon the standard error, would not be statistically different from its own selection of 0.0%.

[126] Facility also said that its estimate for loss cost trends for commercial vehicles is more consistent with its estimate for private passenger vehicles than the OW selections. Facility noted that the private passenger vehicle trends could have be used as the proxy for taxis. The Facility response to Undertaking U-4 was used as the

reference for this observation. Facility said this result should also cause the Board to favour its estimates over the OW selections.

[127] Facility provided a range around its estimate (+5.3%) of the Bodily Injury loss cost trend based on the standard error of 2.1%. The bottom end of this range would be +3.2%, which the Board notes is reasonably close to the OW recommended rate.

[128] The HTOA expressed support for OW suggestion of a 0% frequency trend that coupled with a +5% severity trend would produce the +3% loss cost trend for bodily injury, suggesting that OW had made a stronger case than Facility.

[129] In the last hearing, the Board expressed concerns about the introduction of a parameter at 2009-1 in the post 2003-2 segment. Based on the evidence provided in the Applications and the hearing submissions, the Board still has these concerns.

[130] The Board, therefore, requires the use of the OW selection for loss trends for Bodily Injury, namely 3.0%, instead of the Facility selection of 5.3%.

Property Damage: PD-Tort and DCPD

[131] In April 2013, the Property Damage coverage was split into PD-Tort and DCPD coverage. Facility chose to review these coverages separately. OW, concerned about there being insufficient data for DCPD alone, chose to review these coverages on a combined basis until more experience emerges.

[132] Facility models failed to discern a trend for frequency for PD-Tort and produced an estimated 0% coefficient. For severity, the Facility model produced an estimated severity trend of +0.6%.

[133] Facility agreed that there is insufficient data to model DCPD alone after its introduction. Facility instead imposed the results of its Collision model onto the DCPD

model for both frequency and severity. This resulted in a frequency estimate of 0.0% and a severity estimate of +1.8%.

[134] Facility believed that DCPD and Collision loss cost trends would be aligned because both coverages respond to damage to the policyholder's vehicle. This is different from Property Damage before the introduction of DCPD where that coverage responded to damage to vehicles that did not belong to the policyholder.

[135] Facility cautioned, in its final submission, that the apparent change in frequency for the combined PD-Tort and DCPD that occurred when DCPD was introduced should give the Board pause to consider whether there was a structural change at that time. This would not impact Facility, as it modelled the two coverages separately, but would impact the OW analysis of the combined result.

[136] OW produced a trend rate for loss costs only for the combined coverage, arguing that the loss cost data is more stable for analysis than the separate frequency and severity data. OW noted a material reduction in claims frequency and an increase in average claim severity that coincided with the introduction of DCPD.

[137] In its Guideline Report, OW selected a -1.5% trend for PD-Tort and DCPD. However, in these Applications, OW acknowledged that in the last hearing the Board accepted the Facility concession that a 0% trend was feasible, but a negative trend could not be defended. OW provided an alternate assumption using a 0% trend rate rather than its own negative selection.

[138] The HTOA expressed the following view in its final submission:

The Association considers that the DCPD is essentially a cash flow timing issues where, eventually, the at-fault party's insurance company pays the PD-Tort costs. There are some small incremental costs that are incurred by the innocent party's insurance company. The data for DCPD, according to OW, is not yet sufficient to determine these costs on its own.

[HTOA Submission, December 13, 2018, p. 21]

[139] Based on this observation, the HTOA did not agree with the separation of the coverages (i.e., PD-Tort and DCPD), when developing trends, and therefore, favoured the 0% trend put forward by OW as being more reasonable.

[140] The Board believes that OW foregoing its own negative selection in favour of a 0% trend would be sufficient to address the concerns about structural change raised by Facility. The Board accepts the OW arguments and requires Facility to use a 0% trend rate for PD-Tort and DCPD in place of its own selections.

[141] The way that DCPD coverage operates was addressed by Mr. Doherty on cross-examination by Board Counsel:

A. So, the nature of the coverage changed, so what you are left with, post-reform, under the previous benefit, the injured party and their property would bring suit for whatever property of theirs was damaged, whether it was a tree that got hit or their house that got hit or, more often, their vehicle, and they would bring a suit to the at-fault party to make them whole, relative to whatever property got damaged, whether it's their vehicle or some other property. With the reforms, instead, if it was their property that wasn't related to their vehicle, they would still bring a suit against the at-fault party, but if it was damage to their vehicle, their own insurer would cover that damage. And so, you have a change in who, what policy responds to damage to the vehicle, regardless of fault. And so, because of this, you may have changes in what policies respond as a rating class. And so what I mean by that is private passenger vehicles make up the largest population of vehicles on the road and if an at-fault party from private passenger hits a taxi, where before the taxi could bring a suit against the at-fault private passenger vehicle and get their vehicle repairs done through that exercise, now it's the Facility Association, effectively, that's going to be paying for those damages, regardless of fault. Now, if it is the taxi driver who is at fault, then if they have collision, their vehicle damage would get under the collision coverage. If they don't have collision, then they're go..., they're on their own for the vehicular, vehicular repairs. So, under the current, for with respect to the taxis, damage from af..., where they're not at fault, to other parts of, of, I guess, the taxi business, would still go through the PD. Vehicle damage would be covered by the Facility Association policy, where they were not at fault. And so...

Q. So...

A. The, the commercial, it's the same...

Q. Basically...

A. ...sort of thing.

Q. ...it's a knock-for-knock agreement of sorts to save the lawyer costs and the adjuster's cost of determining who's at fault for a property damage issue?

A. Yeah, and, and I think one of the results could be that costs that would have perhaps been borne by private passenger vehicles, 'cause they are the largest part, are now going to get borne more by commercial vehicles or, or other smaller classes in the jurisdiction. That may be an unintended result of this change.

Q. I don't quite follow that, but I'm not sure it's important for the purpose of this hearing. Is it?

A. It, it may eventually be, because to the extent that this is a case where taxi drivers get hit by private passenger vehicles or commercial vehicles, just because there's more of them out there.

Q. Mm-hmm.

A. And this is already ha..., like, this is, this was happening before the reform. It was just a matter they were able to sue the other party, and so their own insurance policy was not responding, whereas now, when that happens, they're not at fault, but their insurance policy, i.e. the Facility Association insurance policy, is now responding.

Q. If they have collision?

A. No, if they have, this is the DCPD, so it's not at fault. So, to the extent that they're being, they were being hit by private passenger vehicles or commercial before, they would sue to get their taxi replaced...

Q. Yes.

A. ...from the other party. I, I'm not saying we can determine that now, but what we may see is that the actual DCPD coverage may have to increase more than what would have been under the previous property damage and tort. Like, the, just the PD or the DC, sorry. There was no DCPD before, it was just a property tort. That combined coverage may cost more going forward. We just don't have enough information yet to be able to see that that's actually manifesting.

Q. But it is not an issue in this hearing?

A. It is to the extent that the indication for third-party liability, even though we haven't done it individually for bodily injury, property damage, and DCPD, we've combined it. To the extent that that DCPD is growing faster because of this reform, we may be seeing that going forward, that, that there's going to be more costs come in that haven't been reflected yet in the rates. So, I'm just giving a heads-up that you may see DCPD continue to be something that needs rate for some time to come as we build up the credibility on that data.

Q. But at the present time, you don't have enough data to determine separate rate indications for DCPD?

A. That's right, yes.

[Transcript, November 14, 2018; pp. 82-84]

[142] In his direct evidence, Mr. Buffett observed how this impacts taxis:

Q. Even in the case of an individual who is a wonderful driver, if they're doing more driving, are they at more risk of somebody hitting them, even if it's not their fault?

A. Yeah, I'm certainly not an actuary, but I would say that if you're on the road 10 hours a day, you're more inclined to be involved in a motor vehicle accident than if you're on two hours a day, so...

Q. And even if it's not your fault, that may impact on your, your insurance rates, because of the no-fault provisions, is that right?

A. Apparently so, yes.

Q. All right. So, based on that, what do you say as to whether or not taxis are more at risk to have increased premiums, even if it's not their fault?

A. I, I just learned today that, that, I understand the basics of no-fault insurance, but I was surprised to learn that because there's more people that are non-taxi drivers that could run into us, that, that our premium is affected by that. It was quite a surprise. Quite a disappointment as well.

[Transcript, November 14, 2018; pp. 175-176]

[143] The Board acknowledges the concern raised in the hearing regarding the introduction of DCPD. For "not at-fault" accidents, rather than having the "at-fault" party insurance covering the claims (as it did under Property Damage), DCPD covers the cost to repair the vehicle of the "not-at-fault" party. In this case, a taxi damaged in an accident for which the taxi operator was not "at fault" would be covered by Facility and not the "at-fault" driver's insurer. Because taxis are on the road for more hours and in all driving conditions, the risk of a taxi being involved in an accident covered under DCPD is higher. As a result, the claims under DCPD may result in a potential transfer of costs from private passenger vehicles and commercial vehicles to taxis, simply due to the relative number of such vehicles on the road. In short, taxi operators may be seeing rates rise due to these "not at-fault" claims resulting in more claims under DCPD coverage.

[144] While this may be an unfair or an unintended/unexpected result of the introduction of DCPD, Facility correctly pointed out, in its final submission, that the result arises from the current insurance regime in Nova Scotia. In determining its premium, Facility must consider and model this regime. It cannot make any assumptions or

allowances for potential future relief or changes to that regime when determining its rate level need. Facility will continue to pay the claims under DCPD and will reflect those claims when determining its indicated rate level needs.

[145] The Board agrees that Facility should not model claims under an insurance regime different from the current one to reflect this issue. This issue may warrant the Superintendent of Insurance and the Province considering changes to the regime to address it. Should changes be made, then Facility would be required to model claims costs under the new regime. Until then, however, Facility is properly modelling the DCPD indicated rate level need as per the current regime.

Accident Benefits

[146] Facility selected separate frequency and severity trends for Accident Benefit using its selected regression models. For severity, the models essentially were unable to discern a trend and a 0.0% estimate was produced. OW accepted this result for severity.

[147] OW indicated that the Facility model breaks the 20-year period into three periods. For 1997-2 through 2003-1, the Facility model estimated a 0% frequency trend. For the period 2003-2 through 2010-1, the Facility model suggested an estimated -6.2% trend. For the final period (2010-2 through 2017-1), the modelled trend reversed, as the Facility estimate is +5.7%. It is this final segment that is applied to the experience period data.

[148] OW indicated it did not agree with the Facility segmentation of the time period. Specifically, the Accident Benefit reforms in April 2012 being so soon after the minor injury cap reform for Bodily Injury in April 2010 make it difficult to separately

distinguish the year-to-year changes in the number of claims and the impact of the reforms for Accident Benefits.

[149] OW also was concerned about the change from a negative frequency trend (-6.7%) to a positive trend (+5.7%). OW expressed concerns about the unexplained dip in frequency during 2009 and 2010 that it suggests may be due to the random nature of small number of risks and not a change in trend as Facility asserts.

[150] OW relied on loss cost given the volume of claims and the large volatility within this coverage. Being unable, on this basis, to discern a distinct trend, OW selected a 0% loss cost trend. This compares to the +5.7% result from the Facility Model.

[151] Facility also submitted that the trends for private passenger vehicles and commercial vehicles should be related. Facility pointed out that its selections, over time have been consistent, and more so than the OW selections, when looking at private passenger vehicles and commercial vehicles. OW has consistently selected 0% for commercial vehicles, while having a positive trend selection for private passenger vehicles, the level of which has grown over time.

[152] The HTOA, citing the volatility of the data, as well as “the large variation in interpreting the data”, supported the use of the OW selection of 0% for the loss trend.

[153] The Board accepts the arguments presented by OW regarding the difficulty in discerning a trend, given the volatility of the data. While the Board acknowledges that the private passenger vehicles and commercial vehicles drive the same roads in the same conditions, it is not convinced that, for this coverage, there is a need for the two trends to be aligned as closely as Facility suggests. The Board requires Facility to use a 0% trend for Accident Benefits, instead of the +5.7% used by Facility.

Impact of Loss Trend Adjustments for Taxis

[154] OW provided, in its evidence, the impact on the indications, if the Board were to accept its alternate trend assumptions, which the Board has done. Based on Facility calculations, the impact of the changes to loss trends only would reduce the indications by approximately 9 percentage points.

**Application of Private Passenger Vehicle Factors to Taxi
Physical Damages Coverages**

[155] To determine the premium for taxis for physical damages coverages, Facility applies a factor to the premium that would be charged for the same coverages for private passenger vehicles, based on the type of taxi vehicle.

[156] After reviewing its indicated rate level need for taxis for these coverages, Facility determined it would decrease the factor that it applies to the private passenger vehicle premiums. It determined the new factors, however, assuming the current private passenger vehicle rates remained unchanged.

[157] In its Private Passenger Vehicle Application, Facility proposed an increase to its rates for physical damages coverages. If approved, these new rates for physical damages coverages, in conjunction with the proposed new taxi factor, would result in higher premiums than indicated for taxi physical damages coverages.

[158] In its final submission, Facility stated in response to this issue:

FA's view is that the overall "rate" level charged for taxis should be increased by 25.0% for the policy period identified in our analysis, and we assume that such a change would be accomplished via direct increases to base rates. However, to the extent that approved rate changes for private passenger would have a direct impact (positive or negative) on the goal, FA would view it as reasonable (and expected) for the NSUARB to require FA to take this into account in any final rate change approval.

[Facility Submission, December 13, 2018, p. 12]

[159] The Board directs that, once the private passenger vehicle rates have been determined in accordance with the findings in this Decision, the factors applied to taxis for physical damages coverages are to be revised to reflect that change in physical damages premiums.

Driving Records

[160] The Board had included in its Issues List a question regarding the current driving record (DR) differentials for taxis. It also asked whether the risk classification system properly reflects the driving and claims history of the operators of the vehicle.

[161] In response to Board IRs, Facility said it has four driving records (0-3) for taxis, compared to seven (0-6) for private passenger vehicles. Further, it said that the taxi DR differentials had not been filed for more than 15 years. This compares to a review of such differentials for other classes of vehicles on a bi-annual basis. Facility said that they had been reviewed during 2018, but no changes were recommended to be made in this Application. Facility did not consider the indications significant enough to warrant revision now. The DR differentials for taxis are the same in all jurisdictions in which Facility operates.

[162] Facility stated that the DR is determined on the vehicle history and not the driver's history for taxis and other public vehicles. It identified the "key determinants" as (i) the vehicle loss history; and (ii) the length of time the named insured/applicant has owned the vehicle.

[163] The analysis of Nova Scotia DR differentials in response to Board IR-10 revealed that most exposures had DR3, which is the best driving record.

[164] The Board explored this issue with Mr. Doherty:

Q. ...So, in terms of, of the driving record, is the driver's experience totally irrelevant, then, to the rating?

A. I'm not the expert on that. If you would like, I can have an, or we, an undertaking where our underwriting experts would provide that information.

Q. Well, I guess I, I'd be interested to know how the driver's own experience and history is, is taken into account, if it is taken into account, because I'm not sure, certainly, having read the numbers of letters of comments – and I don't know whether you had an opportunity to look at those – I think there are a lot of taxi drivers who do not understand the whole system, and I think it would be helpful, not only to the Board, but generally, if we address this in our decision, to the affected people to know what makes sense about what's going on.

...

A. ...And I would, again, like, emphasize, like, the difficulty here is that, you know, if it's 25 claims per thousand taxis in a given year, that's, that's only 25. That means that 975 of them didn't have a claim, and so, even if you do that over multiple years, most of those cabs are not going to be involved in an accident. Even if you look at the DCPD, where it's over a hundred per thousand, that's still one in ten, so there's nine out of ten each year that aren't involved. And so, I can certainly understand why people would say, "I don't remember having an accident." And it's the same thing with private passenger. You've got even lower level of frequency, and so I understand the frustration. It's, that's the nature of insurance, unfortunately.

Q. Yeah. So, so, as you say, you can understand why taxi drivers might be saying, you know, "Facility is looking for a 25-percent increase and you know, I haven't had an accident, I haven't done anything."

[Transcript, November 14, 2018; pp. 153 - 154]

[165] In response to Undertaking U-2, Facility explained how the driving experience of taxi drivers is considered:

The driving experience of taxi drivers is taken into account in two ways:

i. When calculating "driving record" (based on approved Rates & Rules Manual Public Vehicles, Rule #309: Driving Record, and included with our response to NSUaRB IR1-6). The driving record is based on the proof of claims-free period as well as the period of ownership. All vehicles are initially rated at a driving record 0 and better driving records (to a maximum of driving record 3) are underwritten based on the period where there has been no accident involving the described vehicle (or one for what it has been substituted) and the applicant has owned the described vehicle or one of a similar type for which it has been substituted. The following highlights respective examples:

Example 1: The applicant purchases a new vehicle and has no experience in a vehicle of similar type; the risk will be underwritten as driving record 0.

Example 2: The applicant has 2 years' experience with a vehicle of similar type (accident free); the risk will be underwritten as driving record 2.

...

ii. When calculating accident and conviction surcharges. Surcharges are applied based on the worst driver's surcharge, however, convictions are not used more than once to determine conviction surcharges for vehicles/insureds in FA by the same Servicing Carrier; whether or not insured on the same policy (ie. a driver's conviction surcharge is applied to at most one FA insured vehicle), and:

- Surcharges for convictions are applied to Liability (including Passenger Liability), DCPD and Collision coverage.
- Conviction surcharges shall be assessed for traffic offences for which the insured was convicted in the 36 months immediately preceding the commencement of the period of insurance.
- Accident surcharges are assessed in accordance with the Surcharge Schedule for chargeable accidents that occurred during the 36 months immediately preceding the effective date of the commencement of the insurance.

[Exhibit F-23, pp. 2-3]

[166] The Board understands that Facility could have a wider range of DRs for taxis, but considers that, since the class is not large, it is difficult to have meaningful segmentation. The Board also is aware that DRs for taxis are the same across jurisdictions where Facility is the insurer, although in other jurisdictions it does not have the same "monopoly" on taxi insurance as it does in Nova Scotia.

[167] Facility states in its rebuttal evidence that its rates are:

...set to generate an appropriate return to ensure a properly functioning market, provide incentive for voluntary market participation in the provision of automobile insurance to taxis in Nova Scotia and to provide an appropriate signal to taxi owners and operators of the risk profile they present, which is largely a factor of driving behaviours of operators...
[Emphasis added]

[Exhibit F-12, p. 1]

[168] It seems ironic to the Board that, juxtaposed with this statement, is the acknowledgement by Facility that vehicle history and the length of ownership are "key determinants" of the DR. Further, in the Private Passenger Vehicle hearing, Mr. Doherty confirmed that while there is a combination of the driver and the vehicle which is rated for private passenger vehicles, greater weight is given to the driver.

[169] The Board is aware that taxis may have more than one operator, and there must be some recognition for this; however, the Board urges Facility to consult either through its member companies, or directly with the taxi industry, and possibly the Superintendent of Insurance, to investigate ways to better reflect the drivers' experience for taxi insurance. This may be one of the issues for dialogue as discussed later in this Decision.

Commissions

[170] In the regular market, commissions are determined by applying a percentage to the premium. In provinces other than Ontario, Facility determines its commissions payable to the agents/brokers writing business in this manner. Facility used a factor of 11% for private passenger vehicles (except classes 10/11/12 where 9% is used) and 6% for taxis. The amount of commissions will rise and fall as rates increase or decrease without any real additional work for the agent/broker.

[171] Concerned about the level of commission paid on Facility business, the Ontario regulator imposed a maximum value, or cap, on the amount of commissions that can be paid per vehicle. Commissions may not exceed \$370 for private passenger vehicles and taxis. This current level of the cap was effective April 1, 2015.

[172] In its Decision in the last hearing, the Board directed Facility to consider whether a cap on commissions ought to be included in the Plan of Operation in Nova Scotia. The directive was made based on concerns about the level of commissions paid and the increase in commissions that results from a rate increase.

[173] To address the directive, Facility surveyed the larger insurers in the province with respect to their commission practices. The survey confirmed the Facility

commission levels were consistent with the industry and none of the insurers used caps. Facility also discussed commissions with the Nova Scotia Insurance Brokers Association.

[174] Facility presented a submission, which included a management recommendation that capping commission was not appropriate, to its board. The Facility board accepted that recommendation. In the hearing Mr. Doherty further stated that the Facility board is not in favour of any commission caps, including the one imposed upon them in Ontario.

[175] In its rebuttal evidence, Facility outlined four concerns with introducing a cap on commissions. Three of these concerns already exist, and were dealt with in Ontario. Mr. Doherty conceded the true concern was the first, namely, introducing a commission cap with an apparent aim of lowering premium levels for the Facility would increase the likelihood of Facility rates “competing” with the voluntary market and may lead to an increase in Facility volumes, all else equal. This result is contrary to the Facility mission.

[176] While Facility insures approximately 98% of the Nova Scotia taxi market creating essentially a monopoly (albeit one not wanted by Facility), Mr. Doherty opined that, if the taxi business is to go to the voluntary market, doing anything to arbitrarily lower the premium charged will make it difficult for an insurer to enter the taxi market.

[177] To put the commissions into perspective, the current average premium would result in a commission of \$158 for taxis. This commission would increase to \$197 if the Board were to approve the proposed rates. For private passenger vehicles, the current average commission of \$227 would grow to \$284 if the proposal is approved.

[178] Both the current and proposed commission would fall below the current Ontario cap. The Board notes, however, that the average premiums in Ontario would be much higher than those in Nova Scotia. A lower Nova Scotia cap may be more appropriate, as a result.

[179] The Board recognizes that it has no jurisdiction to impose a commission cap in the Facility Plan of Operation. The Board further understands that the Superintendent of Insurance lacks that ability because he does not have approval authority for changes to that Plan. The Board could, however, choose to limit the commissions included in the determination of indicated rate level changes, by requiring Facility to model a commission cap.

[180] Lacking information regarding how the Ontario cap was established, and lacking submissions regarding what the cap level should be, the Board is reluctant to impose what could be viewed as an arbitrary commission cap on either type of vehicle in the pricing model.

[181] The Board, therefore, will allow Facility to include the full Plan of Operation commissions in the pricing model. The Board may choose to reconsider this in future applications.

Dialogue between Facility and the Taxi Industry

[182] The Board has no jurisdiction to direct, as suggested by Counsel for the HTOA, that any portion of a premium is to be used by an insurer to fund surveys or education sessions for drivers, policyholders or the general public. The Board has no jurisdiction to require an insurer to engage in any dialogue, education or training program.

However, the Board notes an expressed willingness on the part of the HTOA to improve driving behaviours and a better understanding of insurance system.

[183] The Board notes that Mr. Doherty observed:

...and certainly, I think, just generally, insurance sometimes is a difficult concept to understand, because it is, you're transferring financial responsibility for the ownership and operation of a vehicle. And a lot of times the first thing or the first place you go to is, "I'm insuring my car so that if it gets damaged, I'm going to get someone who's going to help me to pay for it, so I'm not going to be out of pocket right away." Or maybe they're thinking about it in terms of some of the, the injury. We, not very often do we think in terms of catastrophic-type costs that we have related to other injured parties. So, we hit somebody and, and we cause them to become a paraplegic, and they're, you know, catastrophically injured. And the financial impact of that is, can be quite severe. I'm not saying that we've had any of those claims with respect to the taxis, but that's one of the challenges of insurance, is to get people to understand that this isn't, yes, we'll fix your car when you're involved in an accident, yes, we'll pay for the accident benefits, but there's also this exposure that doesn't happen very often, but when it does, the financial consequences are quite...

Q. Mm-hmm.

A. ...large. And it's difficult for people to understand that, particularly because, again, it might be only once every eight years or ten years or fifteen years that they're actually involved in a claim, and for some private passenger drivers, they're never involved in an accident in their whole driving experience, and they look at it and say, "Why am I buying insurance?" Well, you're not buying insurance as an investment. You're buying an insurance as protection.

[Transcript, November 14, 2018, pp. 159-160]

[184] The Board explored the issue of improvements in driving behaviour with Mr. Doherty:

MR. ALMON: I just have a few questions, Mr. Doherty. In your rebuttal evidence, under Facility Association's mission, one of your goals is for taxi operators to adjust their driving behaviour to help reduce the frequency of claims. Have you observed any success in improving that goal of driver behaviour?

A. We haven't done anything direct to that end. We're kind of hoping that the price itself will encourage that behaviour. And again, like, the, the, the challenge is, even with bodily injury, the claims frequency is about 25 claims per thousand taxis, so it's not like, you know, every other year a cab is getting involved in a, in a bodily injury accident. There's a, there's a number of years that a cab can go, probably seven or eight years, without an accident. And I understand that it's difficult, conceptually, to understand insurance when you're saying, "I don't remember having an accident." And so, there are certain things we have seen in other jurisdictions where there are very active underwriters who know how to manage the business, who have been able to, working with fleet managers, change the behaviour of the drivers and monitoring of the drivers to improve the driving behaviours,

but we're not specialists in, in that aspect of it, and that's where, again, the benefit comes from having the voluntary market step in and, and do these types of things.

[Transcript, November 14, 2018, pp. 142-143]

[185] It appears to the Board that, with Facility's repeated statements that improvements in driver behaviour will help to move drivers "out of" Facility, whether they are taxi operators or operators of private passenger vehicles, there is a role to be played in driver education and understanding of insurance. The Board is aware that insurance rates, particularly for taxis, have been the subject of hearings and/or inquiries in other Canadian jurisdictions. It is not, perhaps, the role of Facility to undertake these education or training activities. However, the Board's view is that the Facility member companies, or the Insurance Bureau of Canada, and possibly the Superintendent of Insurance, might consider pursuing them. They should be encouraged by the participation of the HTOA in the hearing, and its willingness to move forward on this. The Board believes HTOA should continue to keep involved and informed to help improve driving behaviours, and to impact legislative policy, as may be appropriate.

Costs

[186] The HTOA indicated from the time of filing the Notice of Intervention its intention to seek an award of costs. The Board invited submissions from Facility and the HTOA, considering the provisions of the Board's *Cost Rules*.

[187] Those *Rules* provide:

1 These rules are made pursuant to Sections 12 and 28 of the *Utility and Review Board Act* and apply to all proceedings before the Board except those under the *Expropriation Act*, the *Planning Act*, and the *Freedom of Information and Protection of Privacy Act*.

...

3 (1) The Board will not normally consider an award of costs unless at least one of the parties requests it.

...

4 (1) The Board shall not make any order as to the payment of costs by either a party or counsel unless the person against whom the order is proposed to be made is given a reasonable opportunity to make representations to the Board.

...

6 (1) The Board has no power to order intervenor funding or security for costs.
(2) The Board may consider awarding costs against a utility to non-profit, public interest intervenors with limited financial resources who
(a) have a substantial interest in the proceeding;
(b) will be affected by the proceeding;
(c) participate in the hearing in a responsible way; and
(d) contribute to a better understanding of the issues by the Board. [Emphasis added]

[188] In its decision in *Associated Freezers of Canada Ltd. v. Dartmouth City Regional Assessment Appeal Court*, 1996 NSUARB 85, the Board noted that the *Cost Rules* were a codification of the practices of the constituent boards which were consolidated in the Utility and Review Board. In other decisions, e.g., *Re Black River Wind Ltd.*, 2006 NSUARB 101, the Board considered the provisions of s. 28 of the *UARB Act* which provide:

Costs and witness fees

28 (1) Except in respect of a proceeding pursuant to the *Planning Act*, costs of and incidental to a proceeding before the Board are in the discretion of the Board and may be fixed at a sum certain or may be taxed.

(2) The Board may order by whom costs are to be taxed and may prescribe the scale under which costs are to be taxed. [Emphasis added]

[189] The Board concluded that the authority to grant costs under s. 28 was not constrained by the *Cost Rules*; however, in that decision, the Board said:

XVII. The term “non-profit public interest intervenor” in *Cost Rules* 6 (2) is one phrase. It implies that an organization must meet three tests to be eligible for a cost award. First, it must be a “non-profit” organization; second, it must represent a “public interest”; and third, it must be an intervenor. The failure to meet any one of these tests will negate a claim for costs. [Emphasis added]

[190] In *Re Cape Breton (Regional Municipality)*, 2001 NSUARB 35, a matter dealing with municipal boundaries, the Board described the *Cost Rules* as “guidelines,” and noted at Paragraph 19:

The Board’s practice has generally been not to award costs, except in exceptional circumstances.

[191] In that case, even though the Board agreed that the evidence of the party seeking costs was “constructive and useful”, the party did not meet the tests in *Rule 6(2)*.

[192] The HTOA said in its submissions that its costs exceeded \$30,000 and that it had raised about \$5,000 in voluntary contributions from its members towards the costs. It argued that as its members provide a service to the public, it had or represented a legitimate public interest by participating in the proceeding; its submission is that any increases in insurance rates in a business where the rates it can charge passengers are regulated (although not by this Board) means that drivers will no longer be able to afford to operate, and thus their services would be lost to the public.

[193] The Board makes no comment on the magnitude of the costs award sought, except to say that, other than the brief *viva voce* testimony of Mr. Buffett, the HTOA filed no evidence in this proceeding, although it did issue IRs to Facility, its counsel attended the hearing and undertook cross-examination of the witnesses and made written submissions to the Board.

[194] In its submission on costs, Facility took the position that the HTOA did not meet the three requirements of the tests in *Rule 6(2)*, and further that it did not fulfil any of the requirements of *Rule 6(2)(a)* to *(d)*.

[195] Based on the evidence of Mr. Buffett, the Board considers that the HTOA, while not representing all taxi drivers in the province, represents the interests of what is likely the majority of taxi drivers or operators. The Board also considers that the factors outlined in *Rule 6(2)(a)* to *(d)* inclusive have generally been satisfied. In particular, the Board notes that it gained a better understanding of how the taxi system operates, e.g., variety of drivers per vehicle, and especially how taxi drivers are most likely to pay their

insurance premiums, e.g., using IFS, for example. This was helpful to the Board in its consideration of the treatment of premium fee financing.

[196] There was no evidence before the Board of the financial status of the HTOA, and the Board expects it is quite likely that it is a non-profit organization, and that its financial resources are limited.

[197] The Board notes that the *Rules* are stated to apply to "...all proceedings before the Board except those under the *Expropriation Act*, the *Planning Act*, and the *Freedom of Information and Protection of Privacy Act*." Given the wide and varied mandates of the Board, it appears that an application under the *Insurance Act*, such as this, could, at least in theory, be the subject of an award of costs.

[198] The Board observes that the *Expropriation Act* has provisions for associated costs in s. 52; the *Municipal Government Act (MGA)* and the *Halifax Regional Municipality Charter (HRMC)* which replaced the *Planning Act*, include provisions for an award of costs in very limited circumstances, i.e., *MGA*, s. 250A (6) and (7); *HRMC*, s. 266(6) and (7). This suggests that the Board has recognized that costs in such matters have been addressed in the relevant *Acts*, and therefore need not be addressed in its *Rules*.

[199] The *Insurance Act* provides:

Costs

155K The Board shall assess the costs to an insurer for a review of an application or a hearing pursuant to Sections 155 to 155J and may include the cost of retaining experts and legal counsel to provide the Board with advice, including testimony, on technical and legal matters.

s. 157

...

(9) The Board may fix fees to recover the direct and indirect costs incurred by the Board in conducting an examination, including a hearing, pursuant to this Section.

(10) The fees referred to in subsection (9)

(a) shall be paid to the Board by the licensed automobile insurers whose rates are the subject of an examination, including a hearing, pursuant to this Section in such proportions as the Board determines; and

(b) may include the cost of retaining experts and legal counsel to provide the Board with advice, including testimony, on technical and legal matters.

[200] While these sections refer to costs, the Board considers, however, that they refer to recovery of costs incurred by the Board from an insurer for the Board's experts and counsel, rather than an award of costs for an intervenor against an insurer.

[201] The Board acknowledges that it is unusual, in the insurance matters it adjudicates, to have intervenors participate. In some generic matters, various insurers have participated at their own expense.

[202] Further, the Board observes from a review of past decisions, an award of costs is not often made by the Board. In its relatively recent decision in *Re Urban Development Institute of Nova Scotia*, 2014 NSUARB 128, the Board ordered the payment of costs to an organization which it found was "a non-profit organization, incorporated under the *Societies Act*" with limited financial resources, by a large water utility.

[203] The Board concedes that there may be an element of public interest associated with the intervention, in that taxi drivers' services are generally available to the public at large. Further, the Board understands how increases in insurance rates may affect the ability of taxi drivers to remain in business. However, there is also an element of self-interest in their participation, as suggested by Mr. Doherty in his submissions on costs.

[204] In *Urban Development Institute*, the Board said:

[15] While the Board is mindful that UDI's involvement in this proceeding did advance the private interests of its members, the Board considers that UDI also advanced a public interest through its evidence and submissions. UDI brought forward the interests of growth

customers related to new development. These growth customers will comprise new commercial development, which is important to the economic development of the area, as well as new residential homeowners or tenants moving into HRM. The impact of an RDC on these customers was an important public interest for the Board to consider.

[16] Moreover, while not specifically identified by UDI, the Board considers that there is a broad public interest in developing a fair RDC. This RDC needs to balance a healthy environment for new development, in order to meet the municipality's future needs, against the need to ensure that the charge is appropriate to recover the cost of regional infrastructure related to growth.

[17] Accordingly, in the unique circumstances of this proceeding, the Board finds that UDI was a "public interest intervenor".

...

[24] The Board does not consider that UDI fails to meet the requirement in s. 6(2)(b) merely because UDI's members will be affected by the proceeding. Having found above that UDI is a public interest intervenor (in the unique circumstances of this proceeding), it is not fatal to UDI's application that the private interests of its individual members may be affected. [Emphasis added]

[205] From *Urban Development Institute*, the Board understands that what is a public interest intervenor may be interpreted quite liberally.

[206] However, where the Board most struggles with the request for costs in this proceeding is with the provisions of *Rule 6(2)* which speak of an award of costs "against a utility." This was not an issue in *Black River Wind*, because the Board was entertaining a request for costs against Nova Scotia Power Incorporated, clearly a utility by any definition. The same thing is true of *Urban Development Institute*, as the party against whom costs were awarded was the Halifax Regional Water Commission, again clearly a utility. The Board did not address this issue in *Associated Freezers* or in *Cape Breton Regional Municipality*, where the parties against whom costs were unsuccessfully sought were each a creature of statute, i.e., an assessment appeal court, and a regional municipality.

[207] The Board's *Cost Rules* do not include a definition of "utility." According to the American Heritage Dictionary of the English Language, "utility" is defined as "1". The

condition of quality of being useful; usefulness...2. A useful article or device. 3. A public service, such as gas, electricity, water or transportation... [Emphasis added].

[208] It does not appear to the Board that the provision of automobile insurance falls within such a definition when considering the plain meaning of the word. Therefore, the Board does not consider Facility falls into that category. Whether or not it is constrained by the language of *Rule 6(2)*, the Board observes that, unlike the cases where the Board has awarded costs, Facility is a non-profit association whose members are the automobile insurance industry. Those members did not participate in the hearing. Any award of costs, if ordered to be paid by Facility, would come from their contributions to Facility's expenses. The Board considers it would be unfair to expect companies which did not directly participate in the hearing, and therefore, insurance policyholders of the member companies as a whole, whose premiums include contributions to their expenses, to contribute to the costs sought by HTOA. That would, in the Board's view, be inappropriate cross-subsidization.

[209] The Board recognizes that the circumstances of this matter are somewhat unique, and appreciates the participation of the HTOA; however, for the reasons discussed above, it is not prepared to exercise its discretion and make an Order requiring Facility to pay any amount of costs to the HTOA.

Rating Rules

[210] In its Applications, Facility proposed a change to one of its rating rules for private passenger vehicles and three for commercial vehicles. The changes clarify the practice that Facility currently applies in the situations where the rules are changing.

[211] The Board approves the changes to the rating rules, as filed.

V FINDINGS

[212] The Board finds that the Applications comply with the *Act and Regulations*, as well as the *Rate Filing Requirements*.

[213] The Board directs Facility to revise its rates for both private passenger vehicle and Taxis (unless otherwise specified) in accordance with the following to produce rates which the Board considers will be just and reasonable:

- The use of a 2.5% return on investment;
- The use of an 11% target return on equity;
- The use of no adjustment to variable expenses for premium financing fees;
- The use of a provision of 8% for the Servicing Carrier Operating Expense instead of the 9% used by Facility;
- The use of the Facility provision of 1% for the Servicing Carrier Fee;
- The use of no cap on commissions;
- The use of Facility's loss development factors;
- The use of Facility's estimates for loss cost trends for all coverages for Private Passenger Vehicles;
- The use of Facility's selections for loss cost trends for all coverages except Bodily Injury, PD-Tort, DCPD, and Accident Benefits, for Taxis;
- The use of a +3.0% for Bodily Injury loss cost trends, instead of the Facility estimate of +5.3% for Taxis;
- The use of a 0.0% loss cost trend for PD-Tort and DCPD, instead of the Facility estimates of +0.6% and +1.8% respectively for Taxis;
- The use of a 0% loss cost trend for Accident Benefits instead of the Facility estimate of +5.7% for Taxis;

- The use of the Board ordered indications in the complement of credibility, as was done in the alternate indications provided by Facility; and
- The revision of the Taxi factors that are applied to private passenger vehicle physical damage rates to reflect the approved changes for the private passenger vehicle rates in this Decision.

[214] The revised rates are to be filed with the Board within ten business days of the date this Decision is issued. While the Board cannot determine the actual impact of these changes, it anticipates the revised rates will still represent increases over current rates, but the increase will be lower than Facility proposed, and significantly so for taxis.

[215] Facility is not an insurance company but rather is backstopped by its member insurance companies who do business in Nova Scotia. Accordingly, Facility did not provide any financial information. However, recent examination of the mandatory filings of these member companies confirm that it is unlikely that the changes proposed by Facility, or the changes that result from the Board's findings, will jeopardize the solvency or well-being of the Facility member companies.

[216] The Board declines to order that costs be paid to the HTOA.

[217] The Board encourages dialogue among Facility, its member companies, the Insurance Bureau of Canada, the Superintendent of Insurance and the HTOA and any other relevant industry representatives, as may be appropriate, regarding DCPD coverage, Driving Record classes, driver education and education regarding insurance, as discussed in this Decision.

[218] The Applications included full actuarial indications and the required territorial analysis; therefore, it qualifies to set the new mandatory filing date for the Company for private passenger vehicles to May 1, 2020, and for taxis to May 1, 2021.

[219] The Board approves the effective date of 100 days after the Board's issuance of the Order in this matter, rounded to the first day of the following month, for new business and renewal business. An Order will issue once the Board has reviewed and approved the revised rates filed in accordance with the directions in Paragraph [213].

DATED at Halifax, Nova Scotia, this 14th day of February, 2019.



Roberta J. Clarke



David J. Almon