DECISION | **2023 NSUARB 215**
M11313

NOVA SCOTIA UTILITY AND REVIEW BOARD

IN THE MATTER OF THE INSURANCE ACT

- and -

IN THE MATTER OF AN APPLICATION by **FACILITY ASSOCIATION** for approval to change its rates and risk-classification system for private passenger vehicles

BEFORE: Julia E. Clark, LL.B., Member

APPLICANT: **FACILITY ASSOCIATION**

FINAL SUBMISSIONS: October 10, 2023

DECISION DATE: **December 6, 2023**

DECISION: **Application is approved as modified by this decision, subject to a compliance filing**

I INTRODUCTION

[1] Facility Association applied to the Nova Scotia Utility and Review Board to change its rates and risk-classification system for private passenger vehicles. The company proposes rate changes that vary by coverage and result in an overall increase of 11.2%.

[2] The Board must consider whether the proposed rates and risk-classification system are just, reasonable, and in compliance with the *Insurance Act* (*Act*) and its *Regulations*. The Board is not satisfied that Facility's application meets these requirements and directs Facility to revise its proposed rates for public passenger vehicles that match the staff-indicated changes resulting from the December 2022-based loss trend selections of the Board's consulting actuaries, Oliver Wyman, with the remaining assumptions used in the Facility alternative indications for return on equity and return on investment, and the Board-approved indications from the previous filing in the complement of credibility, where previous indications are required.

[3] The Board anticipates the new rates will result in a smaller overall increase than the 11.2% increase proposed in the application and has concluded the resulting rates to be just and reasonable. Facility must submit the new rates to the Board within 15 days of this decision.

[4] The Board further directs Facility to provide updated information on the costs of the Single Servicing Carrier to administer Facility's business in a private passenger vehicles or taxi filing, to be filed with the Board in 2025.

II ANALYSIS

[5] Facility applied under the Board's *Rate Filing Requirements for Automobile Insurance – Section 155G Prior Approval* (*Rate Filing Requirements*). The Board determined it would hold a paper hearing. Since the filing of this application, Facility received and responded to Information Requests (IRs) from Board staff. Board staff prepared a report to the Board with recommendations on the application (Staff Report). Before providing the Staff Report to the Board, Board staff shared it with Facility. The company reviewed the report and emphasized that it considered Facility's own actuarial assumptions and indications to be reasonable. While Facility respectfully disagreed with Board staff about whether the Board should rely on Oliver Wyman's loss trends rather than Facility's selected trends, it accepted the recommendations in the Staff Report for the purpose of moving its applications forward.

[6] Facility is not an insurer, but an association of all providers of automobile insurance operating in the Province. Facility operates in the same way in other Canadian jurisdictions with compulsory automobile insurance requirements. Its purpose is to ensure the availability of automobile insurance to owners, lessees, and licensed drivers who are eligible but may have difficulty obtaining coverage because of their risk profile. In past processes, the Board has held public hearings to explore issues raised in Facility's filings. The issues the Board considers in this filing, and Facility's concurrent filings for taxis, Snow Vehicles, and Interurban Trucks, have been addressed at previous hearings. The Board considered it had sufficient information to decide these matters based on the documents and written submissions.

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

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

- Loss Trends
- Return on Investment
- Servicing Carrier Operating Costs

Loss Trends

[9] To determine indicated rates, a company must take reported claims and develop them to their ultimate claim value. After determining the ultimate claim amounts for each accident year in the experience period, the company must project them to the expected level for the average claim date for the period the rates will be effective. The ultimate costs must be adjusted to reflect observed trends in the loss costs. For example, if loss costs have been shrinking over time, the ultimate reported amounts from prior accident years must be reduced to reflect the application of the observed trends to bring them to the expected level at the average claim date in the future.

[10] Oliver Wyman prepares private passenger vehicle loss trend selection reports for the Board based on industry-wide Nova Scotia data. The Board publishes these reports on its website. Oliver Wyman derives indicated annual loss trend rates from an exponential regression analysis of the data, over different time periods, with and without certain points included. Using actuarial judgment, Oliver Wyman makes loss cost

trend selections to apply to developed losses to estimate the amounts of the needed claims.

[11] The Board views the Oliver Wyman loss trend selections as appropriate for generating indicated rate level needs. Insurers may use the most recent published report available when preparing an application. A company may also use different selections but must explain its development and answer why its own selections are more appropriate for the application than the Board's published trends.

[12] The Board has previously considered whether to rely on Facility's loss trend selections to develop the indications against which to compare its proposed rates, or whether it should use those developed by the Board's consulting actuaries, Oliver Wyman. In its last filing for private passenger vehicles, Facility adopted the then-current loss trends selected by Oliver Wyman, as directed to do in the Board's decision in 2021 NSUARB 119 (Board Matter M10104). In this application, Facility reverted to using its own loss trend models and resulting estimates.

[13] Facility and Oliver Wyman used different models to develop selections for loss trends. Oliver Wyman uses indemnity plus allocated loss adjustment expense plus unallocated loss adjustment expense as the basis for loss amounts in their trend analysis. Facility uses indemnity only and says its approach best reflects its Servicing Carrier compensation model. Facility suggests that differences in actuarial judgment will always occur and are legitimate. The Board acknowledges that differences may result from actuarial judgment and lead to different loss trend selections.

[14] Based on the evidence presented by Oliver Wyman the Board rejected the use of the estimates from Facility's models in Matter M10404 in favor of using Oliver

Wyman's selected trends for all coverages. The experience data used by Facility in this filing covers a similar period (excluding 2000-2001) to what was used in M10404, and Board staff advise that the issues raised about Facility's models in that matter would still apply to the models developed for this application.

[15] In keeping with past decisions, the Board requires Facility to use the Oliver Wyman trends to develop the indications against which it compares rates. When Facility applied, the loss trend selections were based on data from June 2022. Since then, Oliver Wyman has developed selections based on data to December 2022. The trends in that report include a 9% severity increase for DCPD and a 10% increase for Collision in 2021-2. Using the December 2022-based trends rather than those from June 2022 will result in a higher indicated rate increase; however, the Board agrees with staff's recommendation that those trend selections be used because they reflect the newest information.

[16] The use of Oliver Wyman loss trends will result in different indications than those selected by Facility, and result in a lower overall all-coverages increase of 7.2%, rather than the 11.2% increase proposed by Facility.

Return on Investment

[17] In past decisions, the Board has required Facility to use a 2.5% return on investment until it could complete a survey of members about the type and mix of investments the members use to back Facility's assets. This information would give Facility and the Board a better understanding of the investment mix (see 2021 NSUARB 119, paragraphs 54 and 78). Facility and Board staff continue to work on the design and distribution of that survey, and it was not completed prior to this filing, as expected.

[18] In this application, Facility proposed to use a 3.25% return on investment. Facility determined this level based on a revised Average Industry Return methodology using a rolling 12-month average of Government bonds instead of the previous approach using information from the most recent Canadian Economics Statistics table from the Canadian Institute of Actuaries (CIA). For corporate bonds, Facility continues to use the CIA data.

[19] Earlier this year, in decision 2023 NSUARB 59 considering Facility's rates for public and recreational vehicles, the Board accepted Facility's use of the higher return on investment of 2.9% on a "non-prejudicial basis." The Board declined to comment on the suitability of the Average Industry Return method for calculating return on investment. The Board will take the same approach in this application. The Board views its prior approval of the 2.5% return on investment as a minimum level for Facility's return on investment. This level reflected the average industry returns presented by Oliver Wyman in a previous hearing. In the current application, using the proposed 3.25% return on investment results in smaller indicated rate level needs and the Board approves it.

Servicing Carrier Operating Costs

[20] In recent decisions on Facility applications, including the company's last application for private passenger vehicle rates, the Board allowed Facility to use a 9% Servicing Carrier Operating Cost and a 1% Servicing Carrier Fee. This was a change from earlier Board decisions that reduced the operating costs used to calculate rate indications because the Board was not satisfied the evidence sufficiently supported the servicing carrier cost levels.

[21] Facility has recently undergone changes in its servicing carrier model and now has a single remaining servicing carrier. In the latest applications, the Board allowed Facility to use the requested 9% operating cost and 1% fee while directing Facility to supply its actual servicing carrier costs in its 2023 filing for taxis or private passenger vehicles.

[22] In this application, Facility provided an analysis of its actual 2022 costs and projected 2023 operating costs under the current model. The 2022 value was 4.9% of the premium. Facility explained this was a result of diminished service standards as the single service carrier struggled with increased volumes and conversion of business from the other carriers. Facility said that the projected 2023 operating costs of 7.3% of the premium may also be understated. The carrier will invest in new technology and automation. It faces high inflation, including wage inflation in the insurance sector.

[23] Board staff advise that there is significant uncertainty about the true operating cost of the single servicing carrier model. Staff recommends that the Board maintain the status quo of the proposed 9% Servicing Carrier Operating Cost and 1% Servicing Carrier Operating Fee until Facility provides more information on its operating costs in a 2025 private passenger vehicle filing or taxi filing.

Rates

[24] Facility proposed rates for all coverages equal to its alternate indications, which would result in an 11.2% overall increase. As discussed, following its past decisions, the Board opted to compare Facility's proposal against the indications recommended by staff, which equal those using Oliver Wyman's 2022-based loss trend

selections for all coverages, along with the remaining assumptions Facility used in its alternative indications: 11% return on equity, 3.25% return on investment, and the use of the Board-approved indications from the previous filing in the complement of credibility, where previous indications are required. The staff indications suggest rates should increase by 7.2% overall.

[25] Using those loss trends, the overall proposed change would be higher than the indicated change and the proposed rates would produce a return on equity greater than the Board-approved 11%. Board staff recommended the Board approve rates for private passenger vehicles that, based on the staff-indicated assumptions, adjusted so that the changes would not produce a return on equity that exceeds 11%.

[26] The Board, therefore, directs Facility to resubmit rates that match the staff-recommended indications based on Oliver Wyman’s loss trend selections using data through December 2022, including the one-time severity increases for DCPD and Collision at 2021-2, for all coverages. All other Facility alternative assumptions would be used.

III SUMMARY

[27] The Board finds that the application follows the *Act* and *Regulations*, as well as the *Rate Filing Requirements*.

[28] The Board directs Facility to revise its rates for private passenger vehicles using the changes resulting from the use of Facility’s alternative assumptions, except for loss trends where Oliver Wyman’s loss trend selections using data through December 2022, including the one-time severity increases for DCPD and Collision at 2021-2, are

used for all coverages to produce rates that the Board considers will be just and reasonable, and to submit a compliance filing within 15 days of the date of this decision.

[29] The Board directs the changes to be effective one hundred days after the date of the Board's Order, rounded to the first day of the following month for both new and renewal business.

[30] The Board directs Facility to provide updated information on the costs of the Single Servicing Carrier to administer Facility's business in a private passenger vehicle or taxi filing, to be filed with the Board in 2025.

[31] Facility is not an insurance company. It is a non-profit association supported by its member insurance companies that underwrite business in Nova Scotia. Therefore, it did not provide financial information. Recent examinations of the mandatory filings of these member companies confirm that changes proposed by Facility are unlikely to impair the solvency of the Facility member companies.

[32] The application qualifies to set a new mandatory filing date under the *Mandatory Filing of Automobile Insurance Rates Regulations*. The new mandatory filing date for Facility for private passenger vehicles is September 1, 2025.

[33] Board staff reviewed Facility's Automobile Insurance Manual filed with the Board and did not find any instances where the Manual contravened the *Act* and *Regulations*. Within 30 days of the issuance of the order in this matter, Facility must provide the Board with an electronic version of its Manual, updated for the changes approved in this decision, either by filing it with the Board or posting the manual on Facility's website and alerting the Board to the posting.

[34] An order will be issued accordingly, following receipt of the compliance filing.

DATED at Halifax, Nova Scotia, this 6th day of December, 2023.

Julia E. Clark