New Brunswick Insurance Board

DECISION

IN THE MATTER:
Of a rate revision application for the **Aviva General Insurance Company**
With respect to automobile insurance rates for
Private Passenger Vehicles

Written Hearing Held:

July 15, 2020
Held by videoconference

Saint John, New Brunswick

PANEL:	Mr. Marven Grant	Vice-Chair
	Mr. James Jessop	Member
	Ms. Francine Kanhai	Member

Applicant: **Aviva General Insurance Company**

Intervenors: **Office of the Attorney General**

Consumer Advocate for Insurance

Decision Rendered: August 20, 2020

Summary

[1] The Applicant, Aviva General Insurance Company, (the "Applicant" or "Genco") filed a rate revision application (the “Filing”), requesting approval for a proposed average rate increase of +6.38%, based on an indicated rate increase of +7.10% for automobile insurance rates for Private Passenger (PPV) in New Brunswick.

[2] Pursuant to subsection 267.5(1) of the *Insurance Act,* R.S.N.B., 1973 c. I-12 (the “*Act*”), the New Brunswick Insurance Board (the “Board”) convened a Panel of the Board (the “Panel”) to conduct a written hearing (the “Hearing”) on July 15, 2020.

[3] In compliance with subsection 19.71(4) of the *Act*, the Office of the Attorney General (“OAG”) intervened, questioned the Applicant by way of written interrogatories and presented written submissions along with an expert actuarial report from Oliver Wyman. The Office of the Consumer Advocate for Insurance (“CAI”) intervened as well, supported the position of the OAG, and presented a written submission.

[4] On July 16, 2020, following the Hearing, the Panel ordered the Applicant to provide revised overall indications resulting from the following combination of changes:

1) Removal of the legislative adjustment included to reflect the indexation of the MIR cap for Bodily Injury and Uninsured Automobile;

2) Change in the Bodily Injury to:

    a. Use a severity trend model with start date 200602 without the seasonality and MIR variables;
    b. Use the frequency trend model with start date 200601 using Time, Seasonality and MIR as shown in Genco’s final submission on page 32;

3) Amend the SEF 44 trend to reflect the change in the Bodily Injury trend;

4) Removal of the premium delay provision in the expense provision.

[5] In addition, the Applicant was requested to modify the proposed average rate level change for each coverage so that it is set to the minimum of:

- The coverage's proposed average rate level change prior to the amendments listed in points 1) to 4), and

- The coverage's revised indicated average rate level change resulting from the amendments listed in points 1) to 4).

[6] The required changes as per above result in a decrease to the Applicant's overall indication from +7.10% to +4.38%.

[7] The Panel, after examining the evidence and submissions made by all parties, determines that the Filing submitted by the Applicant must be modified.

[8] The Applicant is ordered to incorporate changes to the rate application as noted in paragraph [4] above and, subject to the direction at paragraph 83 and the selection that is required therein, is **approved to adopt an average rate level change of +4.38%.**

[9] The approved rates will be effective on November 1, 2020 for new and renewal business.

Exhibits

[10] In the hearing process, the Panel accepted the following exhibits from the Applicant and the OAG as part of the record as shown below:

EXHIBIT	DESCRIPTION	DATE
1	Original Filing	Sept 3, 2019
2	Round 1 Questions from Eckler	Jan 27, 2020
3	Round 1 Response to Eckler	Mar 6, 2020
4	Round 2 Questions from Eckler	Mar 13, 2020
5	Round 2 Response to Eckler	Mar 18, 2020
6	Eckler Actuarial Review Summary	April 1, 2020
7	Round 1 Questions from NBIB	April 2, 2020
8	Round 1 Response to NBIB	April 13, 2020
9	Round 1 Questions from OAG	May 15, 2020
10	Round 1 Response to OAG	May 22, 2020
11	Round 1 Response to OAG - additional info	May 22, 2020
12	Round 2 Questions from OAG	May 29, 2020
13	Round 2 Response to OAG	June 5, 2020
14	OAG Intervenor Report	June 19, 2020
15	Final Submission from CAI	June 24, 2020
16	Final Submission from GENCO	July 7, 2020
17	Final Submission from OAG	July 7, 2020

1. Introduction

[11] The Board is mandated by the Legislature with the general supervision of automobile insurance rates in the Province of New Brunswick. In order to fulfill that mandate, the Board exercises the powers prescribed by the *Act*. One key responsibility for the Board is to ensure that rates

charged or proposed to be charged are just and reasonable. Under the *Act*, each insurer carrying on the business of automobile insurance in the province must file with the Board the rates it proposes to charge at least once every 12 months from the date of its last filing. An insurer must appear before the Board when:

a. The Insurer files for a rate change more than twice in a 12-month period, or

b. The Insurer files rates where the average rate increase is more than 3% greater than the rates charged by it within the 12 months prior to the date on which it proposes to begin to charge the rates, or

c. When the Board requires it to do so.

2. Procedural History

[12] The Applicant filed a rate revision application for the PPV category on September 13, 2019. The original overall indication of the rate filing was +7.10% and the Applicant sought an overall average rate increase of +6.38%.

[13] The Board issued a Notice of Hearing on April 7, 2020 and convened the Panel to conduct a written hearing on the matter. The OAG and the CAI both provided notice of their respective intentions to intervene in the Hearing.

[14] Prior to the Hearing, the OAG, through its consulting actuaries Oliver Wyman (OW), submitted two sets of interrogatories to the Applicant, to which answers were provided. Oliver Wyman prepared an Intervenor Report on behalf of the OAG. Thereafter, pre-hearing written final submissions were provided by the Applicant, the CAI and the OAG for the Panel’s consideration.

3. Evidence and Positions of the Parties

Genco

[15] The Applicant's Filing forms the main portion of its submission and the evidence before the Panel.

[16] Genco presented its Filing to the Board with an overall average indication of +7.10% and proposed to select an average rate change of +6.38%. Following the request for information from the Panel on July 16, 2020, the Applicant provided revised rate indications by coverage.

[17] The following sets out Genco's initial indicated and proposed average changes to the existing rates by coverage, along with the revisions provided on July 23, 2020 as requested by the Panel:

Coverage	Indicated	Proposed	Revised Indicated	Revised Proposed
TPL- BI	+5.88%	+5.00%	-0.73%	-0.73%
TPL -PD	+36.28%	+34.99%	+35.50%	+35.00%
TPL-DCPD	+11.74%	+10.00%	+10.31%	+10.00%
AB	+16.01%	+15.00%	+15.15%	+15.00%
UA	+10.06%	+9.81%	+9.82%	+9.82%
Coll.	+15.63%	+4.00%	+14.16%	+4.00%
Comp.	-14.82%	0.00%	-15.91%	-15.91%
(SP)	n/a	n/a	-	-
UM	+2.84%	0.00%	-0.80%	-0.80%
Total	**+7.10 %**	**+6.38%**	**+4.38%**	**+2.109%**

[18] The rates contained in the Filing were estimated assuming a target return on equity (ROE) of 12%, a pre-tax investment rate on cash flow (ROI) of 2.5%, an investment rate on capital of 2.5% and a 2:1 premium to surplus ratio. Proposed average rates, prior to the revisions

requested by the Panel, would have increased from the current average of approximately $1,199 to approximately $1,275.

[19] In its Final Submission made to the Board, Genco provided the following reasoning for its proposed rate increase:

> (…) Genco will defend three main assumptions that were critiqued: loss trend, expense assumptions, and underwriting profit.
>
> - Loss Trend: Trends are subject to judgement but the trends selected by Oliver Wyman for the coverages they question (bodily injury, property damage, and accident benefits) do not fall in a reasonable range. Oliver Wyman's trend selections are far from the industry average and are overly dependent on statistics to justify unreasonable trends. Genco's trends are superior as they are statistically supported and are far more reasonable.
>
> - Expense: Genco's ULAE and HO, G&A ("All Other") expense assumptions are from our projected business plan rather than from historical actuals. In particular, the historical 2-3 years following the RBC acquisition are not necessarily representative for the future. We maintain that our selections are reasonable.
>
> - Profit Provision: Oliver Wyman questions the size of our profit provision due to the indicated Return on Premium number. Genco is not in agreement with this observation given that several of our assumptions that fall into this calculation are from previous guidance of the Board. In addition, Genco's Return on Premium is lower than what is indicated given our proposal is less than the indication.
>
> We maintain that the assumptions we selected in our indication are reasonable and supported by accepted actuarial practice (…)
>
> (…)
>
> We have demonstrated that the industry results in New Brunswick have been deteriorating and there is need for rate action.
>
> (Record, pp. 694 and 720)

[20] The Applicant submitted that the Filing was prepared in accordance with the Board's Filing Guidelines, utilizing sound actuarial methods and practices and that the assumptions contained therein are reasonable.

Office of the Attorney General

[21] The OAG was provided with the Filing and all related documents and chose to intervene in the Hearing. As such, the OAG was also given the opportunity to further query the Applicant through a written interrogatory process, which provided for two rounds of interrogatory questions and answers. At the conclusion of the interrogatory process, and prior to the Hearing, the OAG filed an expert actuarial report and thereafter made a final written submission to the Panel.

[22] In its final submission, the OAG summarized its findings and conclusions to the Panel as follows:

> We reviewed the rate level indications developed by GENCO, and, in so doing, examined all aspects of GENCO's ratemaking procedure. There are several aspects of GENCO's analysis of its rate level needs where we believe that alternate calculations and/or assumptions are more appropriate.
>
> (Record, p. 755)

Consumer Advocate for Insurance

[23] The CAI adopted the position of the OAG in relation to the Filing and submitted to the Panel that the rate increase requested by the Applicant is neither just nor reasonable.

[24] In her submission, the CAI submitted that the insurance rates in New Brunswick have to be just and reasonable and questioned whether Genco's selection of the ROE and ROI are fair to the consumers of New Brunswick and reasonable. The CAI summarized as follows in her submission:

> The CAI reiterated to the Board that automobile insurance is mandatory in New Brunswick and therefore rates should be reasonable, affordable and fair.
>
> We submit that the proposed increases are high. This increase requested by Aviva General is neither just nor reasonable.

[Record, p. 684]

3. Analysis and Reasons

[25] The Panel has reviewed all of the written evidence before it, the submissions of the parties and the additional information provided by the Applicant at the Panel's request.

[26] The Panel recognizes the actuarial expertise of the witnesses of the Applicant and the OAG for the purpose of the present Hearing. The Panel's decision reflects that neither expert opinion was accepted *in toto*, and that each assumption and methodology decision is laced with layers of data, assumptions and judgement. As set out below in more detail, on some issues, the Panel accepted the Applicant's evidence as satisfying its evidentiary burden of just and reasonable, while in others, the Panel accepted contrary positions, and finds that the Applicant failed to meet its burden of proof.

[27] In the present matter, the Panel determines that Genco must amend some of the assumptions, calculations and methodologies used in its Filing. The Applicant was consequently ordered to provide the Board with the calculations resulting from those amendments on July 16, 2020.

[28] During its review of the evidence and in its deliberations, the Panel identified several areas of note, the most substantial and impactful of which are addressed individually below.

1) Treatment of the Facility Association Experience in the Trend Analysis

[29] The loss cost trend rates proposed by Genco were prepared by fitting a curve to actual historical industry data, excluding the Facility Association (FA) experience. Ultimate frequency, severity and loss costs excluding FA results were fitted for all coverages. In doing so, Genco relied upon the Board's Filing Guidelines, which state in part:

> 'Where industry-wide statistics are used, Facility Association Residual Risks results should be excluded.'

[30] The OAG raised concerns with Genco's approach in excluding the FA data and suggested that the changes in the percentage of risks in the FA portfolio over time would distort the measurement of the loss trend rate.

[31] The market share held by FA in New Brunswick has been quite stable and relatively small. The impact of the exclusion of FA data is not material to the indicated rates. The Panel does not share the OAG's concern for the potential distortion. The Panel is of the view that Genco's exclusion of FA experience from the data is appropriate and in compliance with the Board's Filing Guidelines.

[32] The OAG also questioned the accuracy of Genco's methodology to exclude the FA data as Oliver Wyman were not able to match the experience. This led to the OAG questioning the credibility of Genco's calculations. The Panel has reviewed the evidence and accepts the response of Genco to this concern - specifically that the difference in results arises due to the exclusion of Trailers and Fleets from the industry trend analysis. In the Panel's view, this methodology is reasonable and has remained consistent since the previous filing.

2) R-Squared statistics

[33] Genco's Filing reports the R-squared values in its trend analyses in order to provide a measure of how well each model explains the data. In general, it is accepted that the higher the adjusted R-squared value, the better the fit.

[34] During the pre-hearing processes, the OAG discovered an error in the calculations of the adjusted R-squared values as reported in Genco's Filing.

[35] Genco, upon review of the OAG's concern, agreed that the calculations were incorrect and reissued trend selections with the corrected adjusted R-squared values appendixed to its final submission. While the errors were present in their Filing, they argued, they were minimal and

were consistently in the same direction. As a result, they did not affect Genco's selection of the model or resulting trend assumptions.

[36] The Panel accepts Genco's acknowledgement of the error in calculation of adjusted R-squared values and agrees that the overall shift in adjusted R-squared values resulting from the corrected calculations did not y impact the reasonableness of the selection of trends.

3) Trend – Minor Injury Regulation – Adjustment for Indexation of Cap

[37] Genco's Filing includes an adjustment to reflect the indexation of the cap on damages prescribed by Regulation 2003-20 ("Minor Injury Regulation" or "MIR") to the *Insurance Act*, RSNB 1973, c I-12. The provisions of that Regulation provide that the cap on certain damages is indexed annually to reflect inflation; this increasing amount is then included as an adjustment to Bodily Injury and Uninsured Automobile losses in Genco's indications.

[38] The OAG argues that the indexation adjustment is the equivalent to 'double counting' the impact of those reforms, as the annual change in the cap is already reflected in the loss costs and severity data that has been used to determine the loss trends.

[39] Eckler, the Board's consulting actuaries, flagged the same concern, that the adjustment was redundant, and requested a calculation of the impact of removing that adjustment from the indicated rates. When Genco removed the adjustment, the overall revised indication decreased only by 0.02%. In its final submission, Genco acknowledged the adjustment was inappropriate but argued that the adjustment was immaterial.

[40] The Panel confirms that the adjustment for indexation was redundant, duplicating the measurement of inflation. The Panel required that Genco make the appropriate adjustment, albeit minimal, to the indicated rates.

4) Bodily Injury Trend Selection

[41] Bodily Injury coverage trends are a significant driver of the Applicant's overall indicated average rate level changes. A number of issues were raised by the OAG with the Applicant's methodologies in arriving at the selected trend.

[42] In developing its Bodily Injury selected trends, Genco adopted a loss cost regression model, rather than separating the analyses of frequency and severity. Genco justified this approach by arguing that fitting a trend on a period which includes both pre- and post- reform experience required an adjustment so that numbers are on the same basis. Further, they argued that, given the correlation between frequency and severity regarding the reform, it is reasonable to use a loss cost model for the BI trend. Using data for the period from 2010-H2 to 2018-H2, Genco's final selected loss cost trend was +4.4%.

[43] The OAG argued that Genco's methodology resulted in unstable and inaccurate trend and MIR factors, decreasing the MIR coefficient and increasing the implied loss cost trend rate. The OAG suggested instead that the trend should be based on separate frequency and severity models over a longer-term experience period.

[44] In terms of the experience period for the BI trend, Genco limited its modelling to the post 2005 experience. The OAG argues that Genco's model does a poor job of fitting observations outside of the experience period, suggesting that too many parameters had been included in the model compared to the number of data points. In the OAG's view, a longer-term period should have been used to capture the real effect of the MIR. The OAG's proposed model for frequency included scalar parameters at 2003-H2 and 2013-H2 and fit accident half years between 1999-1 and 2018-2. For severity, the OAG's proposed model included a scalar parameter at 2015-H2 and fit accident half years between 2004-1 and 2018-2.

[45] Genco responded to the OAG's suggestion by arguing that the OAG's proposed model had parameters that were not meaningful for predicting the current trend and contributed to overfitting in order to fit the longer term. Genco takes the position that data from 2003 "has

little relevance to the trend today and is a way of manipulating their model to have better statistics…" [Record, p. 702)

[46] Genco calculated the impact of the MIR reform of July 1, 2013 using a scalar parameter in a loss cost regression model. The cliff (scalar) parameter was inserted in the trending model at 2013-H2 to model the impact of the reform. In the view of the OAG, the MIR reform should not have been modelled using a loss cost trend, but rather by analyzing frequency and severity separately. This conclusion arises from the OAG's submission that the impact of the MIR on frequency occurred at a different time than it did for severity.

[47] The OAG takes the position that the MIR reform's impact on severity did not occur immediately with the legislated changes of July 1, 2013, but rather went through a phased in approach. As a result, the OAG suggests that the scalar for severity ought to be applied at 2015-2, as it was not feasible to measure an incremental lift over each and every accident half – year since the reforms were introduced. The OAG's analysis is based upon the observation of a material shift upward in severity at 2015-2 that is statistically significant.

[48] Genco argued against this use of a 2015-2 scalar , noting that there was no evidence to support the assertion that the reform would impact severity two (2) years after the implementation of the reform.

[49] The OAG also suggested that the effect of selecting a loss cost trend with a one-time adjustment for MIR, as opposed to a separate impact of MIR on frequency and severity, produces an implied MIR impact on severity of -13%, an illogical result. The OAG argued that the separation of loss costs into frequency and severity is necessary to correctly capture the true effect of the MIR.

[50] Genco countered this position with the argument that it has selected its trend based on the loss cost method, which results in an estimated MIR impact of +20%. Genco defended its loss

cost model stating that it is reasonable to use this approach to consider the correlation between frequency and severity regarding MIR.

[51] Genco's selected loss cost model resulted in a positive trend of +4.4% while the model proposed by the OAG would suggest a loss cost trend of -1.3%. The statistical measurements tied to Genco's selected model are indicators of a relatively good fit, with an adjusted R-squared value of 0.87 and p-values less than 0.05. The Panel proceeded cautiously in considering frequency and severity models with additional parameters to improve fit, noting that a reasonable approach adopts a balance to avoid overfitting.

[52] The Panel has reviewed the underlying rationale for Genco's modelling approach and carefully considered the arguments from the OAG. The Panel agrees that older data may not be particularly reflective of the current environment of auto insurance. While acceptable modelling may use this longer-term approach, the Panel recognized the need to balance responsiveness and stability in the selection of trend and is persuaded by the Applicant's arguments for judgmentally selecting the data set commencing in 2006 in the derivation of the BI loss trend.

[53] However, Genco's arguments supporting the use of a loss cost model instead of separating the frequency and severity analyses were not robust and did not persuade the Panel. The Panel sought to explore the results of revising this methodology with a request for further information.

[54] Genco responded to the Panel's request for information on July 23, 2020, with revised indications based upon a loss trend of + 0.77% based on frequency and severity trend models as follows:

a. Using a severity trend model with start date 200602 using time only and excluding seasonality and MIR variables; and

b. Using the frequency trend model with start date 200601 using time, seasonality and MIR as set out in the Applicant's final submission, page 732 of the Record.

[55] The Panel accepts the arguments of the OAG that the most reasonable and consistent analysis for the Applicant's calculation of the BI trend is to separate the severity and frequency calculations as detailed in the response to the request for revised indications. Based upon the response, the Panel accepts the resulting BI trend calculation of +0.77% and requires that the Filing be amended to adopt this methodology.

5) Property Damage Tort Trend Selection

[56] Unlike Bodily Injury, Property Damage Tort (PD) is a short tail coverage, meaning claims that are usually known and paid shortly after the loss actually occurs. Genco's approach to trend analysis for this coverage was to use more recent data instead of considering longer term trends and to analyze frequency and severity trends separately.

[57] For frequency, Genco's selected trend was -3.4%. While the OAG did not agree with Genco's methodology in the determination of this trend, it did agree that the end result was reasonable. Similarly, the Panel does not take issue with the selected frequency trend of -3.4%.

[58] In relation to severity, Genco chose a trend period of 2012-H1 to 2018-H2. The final severity trend selection was +6.3% and the resulting loss cost trend selection is 2.6%

[59] Genco excluded the 2014-H2 data point for both frequency and severity because, in its view, that data point differed significantly from other observations. As a result of their analysis, Genco is of the view that the data point should not reasonably be included within the data set for the purposes of modelling.

[60] The OAG suggested a different methodology, with a cliff parameter at 2014-2 for severity. There is, however, little justification offered to support such a cliff, other than visual observation. The OAG also suggests that the Genco's selected model does not fit observations outside the experience period.

[61] The Panel accepts Genco's property damage coverage modelling as reasonable. Though the experience period underlying the analysis is more limited than suggested by the OAG, the coverage is short tail, and the model fits the recent data well. The exclusion of the 2014-2 data point as an outlier was reasonable, as its inclusion would likely unduly affect the resulting loss cost trend. This is evident upon a review of the box plot of ultimate loss costs found at page 706 of the Record. While the adjusted R-squared values from Genco's models are not high, the OAG's suggested models produced fitted loss costs that do not appear to be in line with the observed loss costs over the experience period. The Panel accepts the result of the Applicant's modelling and the overall loss cost trend selection of +2.6% for the purposes of this Filing.

6) Accident Benefits Trend Selection

[62] For the Accident Benefits trend selection, Genco first performed separate analyses for frequency and severity, then judgmentally selected a loss cost trend of +1.5% primarily based upon the trend mandated by a previous panel of the Board at a prior hearing.

[63] For the frequency analysis, Genco judgmentally selected 0.0% as the statistical fit for time was poor. The OAG does not agree with the approach or methodology used by Genco to determine the frequency trend rate of 0.0%, but agrees with the end result.

[64] For the severity analysis, Genco performed some modelling and found that the fit with the highest statistical measurement resulted in a positive severity trend of 5.23% with a significant p-value. Nevertheless, it judgmentally selected +1.5% for severity leading to an overall loss cost trend of +1.5%.

[65] The OAG considered severity trend by utilizing a stepwise regression from which the only significant parameter was the intercept which implies a 0% severity trend rate. The OAG disagreed with Genco's judgmental selection of trends for this coverage and argued that the methodology is inconsistent with the Board's Filing Guidelines:

> "Loss trends are (sic) should be based on a review of the most recent available New Brunswick industry-wide experience for each class of insurance and coverage to the extent possible. To the extent credible, loss trends based on the insurer's own experience may also be useful to reflect the dynamics of the insurer's business. Loss trend selections that do not follow the indicated loss trends must be rationalized and explained."

[66] Actuarial judgment is an essential and recognized element of the trending and ratemaking processes. The Panel has reviewed the prior decision relied upon by Genco and notes that the conclusion was based on evidence, modelling and arguments that are not before this Panel. Nevertheless, the Panel considered whether the adoption of the +1.5% severity trend in the current filing was a justified exercise of judgement. In its final submission, Genco provided the following additional rationale for this selection, justifying its adoption of the judgment based assumptions:

> "If Genco were to select an Accident Benefits trend without giving consideration to the 2018 filing hearing, we would consider the +2.39% trend starting at 2006-1 and the 5.23% trend starting at 2013-1. These two trends have the largest Adjusted R squared values in the table above, as well as different time frames of thirteen years and six years respectively. Therefore, it seems tat whether we take a longer view of historical data points, or a shorter view, the range of reasonable trend selections would fall between approximately 2.4% and 5.2%. Genco would therefore choose to make a judgmental selection between these two values. However, given the prior year's selection, Genco selected the lower trend of +1.5% as we found it close enough to 2.4% in addition to being consistent with last year's filing."
>
> [Record, p .708]

[67] With this justification, the Panel is persuaded that Genco has provided sufficient evidence of a positive trend for this coverage and accepts the judgmentally selected trend rate of 1.5% as being reasonable.

7) Expenses

A. Other Expenses and Unallocated Loss Adjustment Expenses

[68] Expenses such as Head Office, General and Acquisition costs are categorized within the Filing as "All Other". Unallocated Loss Adjustment Expenses ("ULAE") are costs incurred by an insurer (to adjust claims) and which are not attributed specific claims .

[69] The OAG raised concerns with both the "Other" expense provision and the ULAE provision included by Genco in the Filing. For Other expenses, the OAG noted that the selection of 5.86% is materially higher than the Applicant's actual recent experience and the ULAE assumption of 5.37% was high and inconsistent with Genco's adoption of its sister company's, Aviva Insurance Company of Canada ("Aviva"), assumptions.

[70] In relation to All Other Expenses, Genco pointed out that the Filing used the most recent data available to it at the time of filing, and that it could not use 2016 figures as those were incomplete and distorted from the RBC General Insurance Company acquisition. Therefore, Genco based its assumption on a prospective view (i.e. planned expenses determined by various team members within the company who are knowledgeable of future plans and business strategies). These planned future expenses deviate from the past expenses, Genco argued, as the Genco business has been (due to revamped products and other changes) and has not yet stabilized.

[71] Similarly, for ULAE expenses, Genco points out that its provision of 5.37% is within the range of historical actual ULAE expenses, although it prefers to focus on the prospective view that claims handling and reserving philosophy are gradually aligning with Aviva. Given that the ULAE

ratios are more volatile, Genco is therefore of the view that the selection of 5.37% is more appropriate than the OAG's suggested 3.28% assumption.

[72] The Panel has considered the arguments from the Parties and has reviewed the now-available expense data for 2019 as found in the Record at page 783. The Panel accepts as reasonable the approach taken by Genco to prospectively, but reasonably, assess the anticipated expense ratios, acknowledging that the approach of Aviva will not always be applicable. The expense provisions for Other Expenses and ULAE as presented by Genco are accepted as reasonable.

B. Premium Delay

[73] The premium delay provision in the Filing was intended by Genco to reflect the difference between when the premium is written and when it is received. Genco used a 1% factor to quantify the impact of receiving premiums at a later date. The OAG argued that this provision is double counting, as the Applicant already accounts for the delay in its investment income provisions. In its Final Submission, Genco acknowledged double counting and agreed it is appropriate to exclude the 1% provision. The removal of the premium delay provision was reflected as part of the Panel's request for additional information of July 16, 2020.

8) Profit Provision – Return on Equity

[74] Genco adopts an after-tax target ROE of 12% for the purpose of calculating indicated rate need, and a premium to surplus ratio of 2:1. Genco's ROI is 2.5% based upon the company's own investment strategy, which includes holding 60% of the investments in highly liquid government debt, with the remainder being primarily investment grade public corporate debt.

[75] Genco noted in its Final Submission that, while its shareholders require a 15% after-tax ROE, its selection of 12% is based on a deferral to the prior panel's decision to adopt a 12% target after-tax ROE.

[76] The OAG argued that Genco has not provided any support or evidence to support the reasonableness of the after-tax ROE of 12%. Noting that other provinces adopt a lower provision.

[77] On this issue, the CAI also argued in her final submission that an after-tax return of 12% is neither just nor reasonable.

[78] Neither Intervenor provided evidence, beyond argument and identification of different treatment in different jurisdictions, that challenged the reasonableness of a 12% after-tax ROE. While other regulators may arrive at a different conclusion in the specific circumstances of their jurisdictions, this Panel is satisfied that a target after-tax ROE of 12% is reasonable in the circumstances .

[79] The Panel also notes that while the original indicated average rate level change would have led to a Return on Premium (ROP) lower than 12%, Genco is not seeking to adopt its indicated average rate increase. Moreover, the indicated average rate changes will further decrease as a result of this decision. The Implied ROE will be significantly lower than the implied ROE of 12% target and the Panel is satisfied that the assumptions underlying the profit provisions are reasonable.

9) Covid-19

[80] This decision is a fulsome consideration of the Applicant's Filing dated September 13, 2019. It bears repeating that, in addition to the consideration of applications for rate increases, the Board is mandated with the general supervision over auto insurance rates in the Province of New Brunswick. As a result of the world-wide Covid-19 pandemic, many insurers, including the Applicant, have introduced temporary measures to support their customers during this uncertain time, and recognizing changing insurance risks. Considering the absence of available data related to the impact of Covid-19 on this industry at this time, this Panel's decision does

not integrate considerations related to the impact of Covid-19; nevertheless, the Board continues to monitor the ever-changing circumstances and the temporary measures put in place by each insurer to ensure rates are as just and reasonable as possible.

4. Decision

[81] For the reasons set out above, the Panel finds the rates resulting from the Applicant's Filing are not just and reasonable in their entirety and therefore orders the following changes to be made:

1) Removal of the legislative adjustment included to reflect the indexation of the MIR cap for Bodily Injury and Uninsured Automobile;

2) Change in the Bodily Injury to:

    a. Use a severity trend model with start date 200602 without the seasonality and MIR variables;

    b. Use the frequency trend model with start date 200601 using Time, Seasonality ad MIR as shown in Genco's final submission on page 32;

3) Amend the SEF 44 trend to reflect the change in the Bodily Injury trend;

4) Removal of the premium delay provision in the expense provision.

[82] The impact of these changes was calculated at the Panel's request in the Applicant's response to the request, dated July 23, 2020. The revised indicated average rate change is therefore 4.38%. For all coverages except comprehensive, the Panel requires the Applicant to adopt the lowest selection between the new indicated average rate change and the prior proposed average rate change.

[83] For the comprehensive coverage, the Panel accepts that the original indicated average rate level change of -14.82% was not contemplated by the Applicant when the original proposed rate changes were selected. The indicated average rate level change for this coverage is a

significant decrease and it is the view of the Panel that it would be unjust to require the Applicant to adopt the revised indicated average rate change for that coverage. The Panel orders the Applicant to select a revised proposed average rate level change for the comprehensive coverage of -2.6%, which is the change required to produce an overall average rate level change equal to the revised indicated overall average rate level change of +4.38%.

[84] The approved rates will be effective on November 1, 2020 for both new and renewal business.

Dated at Saint John, New Brunswick, on August 20, 2020.

Marven Grant, Panel Chair
Vice-Chair, New Brunswick Insurance Board

WE CONCUR:

James Jessop, Board Member

Francine Kanhai, Board Member