

New Brunswick Insurance Board DECISION

IN THE MATTER:

Of a rate revision application for the **Wawanesa Mutual Insurance Company**
With respect to automobile insurance rates for
Private Passenger Vehicles

Hearing Date: April 29, 2020

Written Hearing

PANEL:

Mr. Marven Grant

Vice-Chair

Mr. James Jessop

Member

Mr. Georges Leger

Member

PARTIES:

Applicant:

The Wawanesa Mutual Insurance Company

Intervenors:

Office of the Attorney General

Consumer Advocate for Insurance

Decision Rendered: May 22, 2020

Summary

- [1] The Wawanesa Mutual Insurance Company (the Applicant or Wawanesa) filed a Rate Application with respect to automobile insurance rates for Private Passenger vehicles(PPV) in New Brunswick requesting approval for a proposed average rate increase of 10.45% before capping (12.42% after capping) based on an amended indicated rate increase of 19.50% [Note: the overall indication increased to 20.02% with the requested change of effective date to September 1, 2020 as a result of the Covid-19 pandemic].
- [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 April 29, 2020 in Saint John.
- [3] Pursuant to 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 a written submission. The Office of the Consumer Advocate for Insurance (“CAI”) intervened as well, adopted the position of the OAG, and provided a written submission.
- [4] Following the examination of the evidence and submissions made by all parties, the Panel finds that the indications proposed by the Applicant are just and reasonable in the circumstances, as are the rates proposed to be charged.
- [5] The Applicant’s proposed average rate change of +12.42% (after capping) is approved for the reasons set out below.
- [6] As requested by the Applicant, the rate increase is effective on September 1, 2020 for both new and renewal business.

Exhibits

[7] As part of the hearing process, the Panel accepted the following Exhibits as part of the Record as shown below:

EXHIBIT	DESCRIPTION	DATE
1	Original Filing	Oct 31, 2019
2	Round 1 Questions from KPMG	Nov 15, 2019
3	Round 1 Response to KPMG	Nov 25, 2019
4	Amendment	Dec 3, 2019
5	Round 2 Questions from KPMG	Dec 3, 2019
6	Round 2 Responses to KPMG part 1 of 2	Dec 6, 2019
7	Round 2 Responses to KPMG part 2 of 2	Dec 7, 2019
8	Round 3 Questions from KPMG	Dec 17, 2019
9	Round 3 Response to KPMG	Dec 19, 2019
10	Round 4 Questions from KPMG	Jan 3, 2020
11	Round 4 Response Part 1 of 2	Jan 3, 2020
12	Round 4 Response Part 2 of 2	Jan 8, 2020
13	KPMG Actuarial Summary Review	Jan 8, 2020
14	Round 1 Questions from NBIB	Jan 13, 2020
15	Round 1 Response to NBIB	Jan 16, 2020
16	NBIB Request for Profile Submission	Feb 3, 2020
17	NBIB Further Questions	Feb 3, 2020
18	Response to Request for Profiles-Questions	Feb 5, 2020
19	Round 1 Questions from OAG	Feb 28, 2020
20	Round 1 Response to OAG	Mar 3,2020
21	Round 2 Questions from OAG	Mar 13, 2020
22	Round 2 Response to OAG	Mar 20, 2020

23	OAG Intervenor Report	Apr 3, 2020
24	Final Submission Wawanesa	Apr 17, 2020
25	Final Submission OAG	Apr 17, 2020
26	Final Submission CAI	Apr 20, 2020

1. Introduction

[8] 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.

Procedural History

[9] The Applicant filed this rate revision application for the PPV category on October 31, 2019. The original overall indication of the Filing was 20.64% and the Applicant sought an overall average rate increase of 10.45% before capping .

[10] Following questions from the Board's consulting actuaries, the Applicant submitted an

Amended Filing dated November 25, 2019, decreasing its rate indication to 19.50% and the proposed selection remaining the same.

[11] The Applicant was therefore seeking a rate increase greater than 3% and had filed for a rate change twice within a twelve (12) month period. As a result, a Hearing was triggered. The Board issued a Notice of Hearing on January 28, 2020 and convened a Panel of the Board 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.

[12] Prior to the Hearing, the OAG submitted two sets of interrogatories to the Applicant, to which answers were provided. Furthermore, all parties provided pre-Hearing written submissions to the Panel.

2. Issues and Positions of the Parties

Wawanesa Mutual Insurance Company

[13] The Applicant's Filing forms the main portion of the evidence before the Panel.

[14] Wawanesa's amended Filing set out an indication of 19.50% and it proposed to select an average rate change of 10.45% before capping /12.42% after capping. Just prior to the Hearing, Wawanesa sought to postpone the effective date of the rate increases as a result of the affect of the Covid-19 pandemic. The postponement slightly increased the overall indicated rate to 20.02%, but had no effect on the proposed rates.

[15] The following sets out the selected rate changes after capping to the existing rates by coverage:

Coverage	Indicated	Proposed (before Capping)
Bodily Injury (BI)	26.39%	14.89%

Property Damage (PD)	37.89%	6.53%
Property Damage – Direct Compensation (DCPD)	11.42%	8.13%
Accident Benefits (AB)	35.18%	13.00%
Uninsured Auto (UA)	28.40%	25.00%
Collision	9.09%	4.32%
Comprehensive	10.56%	7.00%
Specified Perils (SP)	-15.17%	6.99%
Underinsured Motorist (UM) – SEF44	14.29%	9.91%
Total	19.50%	10.45%*

*12.42% after capping

[16] The rate indication calculations contained in the Filing incorporate various assumptions, including a target return on equity (ROE) of 12%, a pre-tax investment rate on cash flow and investment rate on capital (ROI) of 2.30%, and a 2:1 premium to surplus ratio. Proposed average rates would increase from the current average of approximately \$853 to approximately \$957 after capping, resulting in an implied ROE lower than the target of 12%.

[17] In its Filing, Wawanesa provided the following reasoning for the purpose and scope of the proposed rate increase:

Even after recent rate increases, our indications still remain high suggesting that our rates are still quite inadequate. Competitors are also continuing to take significant rate increases. With this proposal, our only change other than increasing base rates, is to introduce Driving Records 7, 8, 9 which would improve rate segmentation for the best drivers and allow those drivers to not see as much of an increase. To manage the dislocation while still allowing enough rate to flow through, we are also proposing different capping levels by coverage.

[Record, p. 315]

[18] The Applicant submits that the Filing was prepared utilizing sound actuarial methods and practices, that the assumptions contained therein are reasonable and that the Filing has been

completed in accordance with the Board's RFG 1 Rate Filing Guidelines.

Office of the Attorney General

[19] The OAG was provided with the Filing and all related documents. 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 made a final written submission to the Board summarizing its position.

[20] The OAG's Final Written Submission challenged the Applicant's Filing in several respects, summarized as follows at page 808 of the Record:

"In preparing this report, we reviewed the rate level indications developed by Wawanesa, and, in so doing, examined all aspects of Wawanesa's ratemaking procedure. There are several aspects of Wawanesa's analysis of its rate level needs where we believe that alternate calculations and/or assumptions should be considered by the Board.

Following Wawanesa's general methodology for determining its rate level needs, but with alternate assumptions, judgments, and calculations that we believe to be more appropriate, we find its overall rate level change need to be +8.1%, which is less than the +10.45% change proposed by Wawanesa. In this report, we present the basis for our conclusion."

[21] The material concerns raised by the OAG for the Panel to determine are the following issues:

- Loss Trends – Data Source
- Loss Trends - MIR Impact
- Premium Trends
- Complement of Credibility
- Profit Provision

Consumer Advocate for Insurance

[22] Before the Hearing, the CAI presented the Panel with written submissions and challenged the Filing submitted by the Applicant.

[23] The CAI noted that this was the second increase requested by Wawanesa in the last 12 months and argued that this was not justified. The CAI adopted the position of the OAG, and argued that the Board should request the Applicant to adopt the alternatives presented by the OAG, giving the benefit of any uncertainty to the insurance consumers of New Brunswick. Finally, she questioned the return on equity calculations adopted by the Applicant, and suggested that insurers doing business in other Atlantic provinces and Ontario are not getting a ROE of 12%. In sum, the CAI took the position that the rates proposed to be charged were neither just nor reasonable.

3. Analysis and Reasons

[24] The Panel has reviewed and considered all of the evidence before it, along with the submissions made by the Parties.

[25] The Panel addresses each of the material issues individually below:

1) Two Filings within 12 months

[26] Wawanesa last filed a rate increase application April 2019. The indicated rate increase, at that time was 24.28%. Wawanesa proposed a rate increase of 8.60% and in the August 2019 decision, was granted +8.60 % effective January 15, 2020. The current filing seeks a rate increase of 12.42% effective September 1, 2020. As a result, those customers who renew between January 2020 and August 2020 will see the previously approved rate increase (8.6 %). Those who renew after September 1, 2020 would see the effects of the prior approved rate

increase along with any additional rate increase approved with the current filing. Of course, the first group would, upon renewal in 2021, see the effect of that second requested increase at that time.

[27] The Act does not preclude any insurer from seeking a second rate increase within a 12 month period. It does, however, require additional scrutiny and acts as one of the triggers for a hearing before the Board [Act, section 267.51(1)]. The role of this Panel following the written Hearing is the same, to determine whether the rates proposed to be charged are just and reasonable, in light of all circumstances, including the prior rate increase approved on August 12, 2019.

2) Loss Trends – Data Source

[28] The OAG raised a concern with the data utilized by the Applicant in deriving loss trends. The final submission prepared by Oliver Wyman (OW) for the OAG suggests that the Applicant's trend approach does not conform with the Board's guidelines as:

"the trend models are not based on a review of the most recent available New Brunswick industry – wide experience."

[Record, p. 821]

[29] The Guidelines are not quite as prescriptive as the OAG suggests; they state as follows

:

"4.b.2 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."

[30] While industry-wide data is often the best reflection of experience upon which to derive trends, this is not always the case. The insurer's own experience is valuable information, to the extent it is credible. Importantly, Wawanesa's approach has remained consistent year over year in the use of company data for these trends, and it adds valuable insight into the expected experience of the company going forward. Wawanesa responded to this criticism in its final

submission:

“... In coverages where we do not have enough historical claims to achieve 100% credibility based on the commonly used industry standard, we believe that our position as the insurer with the most market share and our company- specific reserving practices make our internal data more appropriate than industry data when selecting a trend to apply to our historical and prospective losses. We also find that our internal data more accurately reflects our company’s mix of business, leading to a better prediction of future losses. Additionally, we have found that the most recently available industry data is outdated compared to company data given the lag in reporting.”

[Record, p. 801]

[31] The Panel agrees that in the circumstances of this Filing, considering Wawanesa’s market share, its historical practices, and comparing its results with industry data, the use of internal data for developing trends was appropriate and is accepted as a reasonable foundation for analysis.

3) Trends – Third Party Liability- Bodily Injury

[32] The Panel reviewed the Applicant’s analysis of TPL-BI loss trends, including the data source. The Applicant utilized data from 2004-2018, without regard for seasonality. It did not utilize a scalar to reflect MIR reform. This was the same approach used by the Applicant in its previous filing. While this was the data adopted for the purpose of the models chosen, it is again noted by the Panel that Wawanesa analyzed and shared numerous models, some of which included different time frames, reflection of seasonality and scalars for reform. This allowed the Panel to compare and contrast the trends discerned using these variables.

MIR impact

[33] The OAG proposes the use of a different data set with data from 1999-2018, including a reflection of seasonality and a reform scalar. The MIR reform scalar suggested by the OAG occurs in 2015, not 2013 when the MIR reform occurred, and the impact ceases in 2018. The OAG explains this model with the suggestion that the 2013 reform created uncertainty in the

application of the cap , leading to a lag in the effect, speculating that “the lag between the MIR implementation date and the date the MIR was realized in the severity data is dependent on how quickly an insurer is able to adapt to the new regulatory environment and therefore may vary” [Record, p. 779]. In particular, the OAG suggests uncertainty in questions of:

- ***“Do the claimant’s injuries meet the serious impairment definition? Is the claimant unable to perform the essential tasks of employment, education, training or normal activities of daily living? What are reasonable efforts to accommodate? This uncertainty made the application of whom the cap should apply to challenging.***
- ***The list of six minor injuries is not necessarily exhaustive as to what was previously considered a minor injury under the July 2003 Regulations, and, again, introduces more uncertainty.***

This initial uncertainty and process of an evolving interpretation has led to a decreasing pattern of the percentage of claimants subject to the cap (i.e., do not meet the minor injury definition) and therefore a phase-in of higher costs over time. “

[Record, pp. 817, 818]

[34] The Panel is not persuaded on the evidence that there was any lag in understanding or interpretation of the changes to the Minor Injury Regulation in 2013 nor to support the cessation of the impact of that reform in 2018. This inference from the data is not supported by any evidence before this Panel.

[35] While the OAG is critical of the modelling of trend performed by the Applicant, the Panel reviewed the various alternative models within its Filing, including those that take into account seasonality, reform considerations and different time periods. The difference in trend for other reasonable parameters which approximate the parameters suggested by the OAG is a result that is not materially different from that chosen by the Applicant.

[36] The Applicant’s approach garners further credibility from the fact that the approach has maintained consistent, year over year. The trends proposed by the Applicant in this Filing are

calculated using the same approach as in their previous filing, following the decision of the Panel to restate. Following the last hearing, while not binding on the present Filing, the Panel accepted that trends were reasonable when it based trends on 2004-2018 data, without seasonality or reflection of the MIR reform. Based on all of the evidence before this Panel, the use of this approach for determining TPL-BI trends continues to be reasonable.

4) Trends – TPL- PD

- [37] For third party liability – property damage coverage, the Applicant used its own data for a period 2007-2018 to develop a trend. This approach is consistent with the previous filings by the Applicant.
- [38] The OAG’s actuarial expert was critical of Wawanesa’s trending on this coverage. First, it notes that Wawanesa’s relies on internal company data, which is less credible and more variable than the commonly used industry data. However, notwithstanding the difference in approaches, the OAG agrees that the selected frequency trend rates were reasonable and consistent with their own findings based on the industry data. No further issue was taken with them, and the Panel agrees that the frequency trend rates are reasonable.
- [39] For severity, however, the parties differ more substantially. The OAG suggests a 0% trend, while the Applicant argued that trend of +4.88% is reasonable and appropriate. This determination has a material impact on indications. The OAG arrives at its trend model by the insertion of a shift of 31% at 2014-2. As a result, the OAG’s model does visually appear relatively flat thereafter. This is evident to the OAG regardless of whether company or industry data is used. The OAG argues that the failure of Wawanesa to account for this one time shift in severity at 2014 overestimates the future severity trend rate, and thus the rate level change need.
- [40] In the absence of an explanation for the shift in terms of the insurance environment, the Panel does not accept that it is reasonable to impose a substantial shift in 2014, followed by no increasing trend. A shift with no rationale or explanation has little predictive value in terms of

when the next shift will occur. The more reasonable approach is that of the Applicant, with a slightly increasing severity trend. This trend proposed by Wawanesa is accepted by the Panel.

5) Trends – Accident Benefits

[41] For the proposed accident benefit severity coverage trends, the Applicant used its own quarterly data from 2014-2018. The data points are somewhat volatile, leading to a less optimal r-squared measurement for severity. The same can be said for the frequency analysis.

[42] In addition to the on-going concern with respect to the use of company data over industry data, the OAG raised concern primarily with the severity trend of 5.64 %; pointing out that the Applicant's trend model does not include statistically significant trend parameters and has a very low r-squared values. The OAG proposed the reasonable selection should be a zero trend where none can be discerned in the data.

[43] However, Wawanesa has provided the Panel with numerous alternate models, many of which also share poor fit statistics, exploring longer data periods, semi-annual or annual data, and other variables. There are some severity models with a reasonable fit, including a seven-year model using annual data. The statistical measurements are improved with the r-square measurement at 69.3% and the p value less than 5%. This would have been a reasonable selection for Wawanesa to make, though it would result in a higher trend than what Wawanesa proposes (+7.6% v. 5.64%). The Panel is satisfied that the appropriate trend is not zero, and that the Applicant's selection of a trend of 5.64% was not unreasonable.

6) Premium Trends

[44] In the Filing, the Applicant acknowledges the anticipated changes to the mix of vehicle and driver characteristics by applying Premium Trends. Wawanesa's approach utilized a three-year history of average premiums paid by policy holders. The extension of exposures method was

used to re-rate all premiums, for each coverage, at the current rate level. The 12-month rolling average inforce premium at current rates was assessed at each quarterly point. Those premiums were then fitted to an exponential curve to determine the expected annual premium trend.

[45] The OAG raised concern with Wawanesa's approach as follows:

"To the extent that we find Wawanesa's use of its own data to calculate loss trend rates not to be reasonable due to lack of credibility, we have concerns with the application of premium trend rates that include a provision for the change in the mix of business."

[Record, p. 774]

[46] As the Panel has accepted the choice by Wawanesa to use its own industry data for this Filing, then the parallel change in business mix, as reflected by Wawanesa's approach, is relevant and appropriate.

7) Complement of Credibility

[47] To the extent Wawanesa's own data is not sufficient large to be credible, it must utilize another measure to complement that credibility.

[48] The Applicant has chosen, for reasons that the Panel previously found to be reasonable, to use its own company data for trending analysis. With this limited number of claims, however, the data is not considered to be fully credible, and Wawanesa must therefore look to another data source to complement and supplement.

[49] While there are a number of options available to actuaries to complement credibility, Wawanesa has continued its pre-existing practice of using *Net Trend + Gap*.

[50] The OAG argues that this approach is neither reasonable nor appropriate:

"We don't consider using the same historical data for both the experience

period data and the complement appropriate. These are not two independent sources. Further, for those coverage where the experience period data credibility is less than 50%, even with using the suggesting complement, there is not 100% credibility with Wawanesa's approach.

[...]

In Wawanesa's prior filing, the proposed and approved rate change was +8.6%. While the indicated rate change calculated by Wawanesa was higher, we likely would have different views on assumptions, as we do in this filing. We therefore assume Wawanesa's rates were adequate as a result of the prior approval. Therefore, it is not necessary to adjust the net trend for the residual rate indication (i.e., the portion of the prior rate indication that was not implemented).

[Record, p. 832]

- [51] The OAG's position with respect to the prior indication is not reasonable. A panel held a written hearing to consider Wawanesa's prior filing on August 12, 2019. Prior to the Hearing, after receiving Notice of the hearing, the OAG declined the opportunity to intervene. Nevertheless, that panel thoroughly reviewed the filing in full, including not only the proposed rate increase of +8.6% but also the indicate rate of +24.55% with its underlying assumptions and methodologies. While the proposed increase of +8.6% was well below the indicated, the panel nevertheless required Wawanesa to restate its indications using alternative assumptions as this would affect the complement of credibility analyses.
- [52] In light of this scrutiny, this Panel has confidence in the prior indicated rate level changes, and accepts the Applicant's approach to complement of credibility as a reasonable one.

8) Return on Equity (ROE)

- [53] In her final written submission, the CAI raised concern regarding the adoption of a ROE of 12% in the calculation of indicated rates and questioned whether this was reasonable in the current market. She also suggested that insurers doing business in other provinces were not achieving a ROE of 12%.

[54] While the target ROE in this submission is 12%, it was noted by the Panel that the implied ROE based upon the Applicant's proposed rate change will be significantly lower than the target of 12%. The Panel is of the view that this result is just and reasonable in the circumstances of the current Filing.

[55] The Panel reiterates that the Board has not set a benchmark ROE in this province and that every applicant's target ROE is assessed on the merits of the particular evidence before a panel.

Decision

[56] This decision is a fulsome consideration of the Applicant's Filing, dated October 31, 2019, as amended. 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 Covid-19 impact; 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.

[57] For the reasons set out above, the Panel finds the Applicant's Filing to be just and reasonable.

[58] The Applicant is approved to adopt the proposed overall average rate change of +12.42% (after capping), +10.45% (before capping).

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

Dated at Saint John, New Brunswick, on May 22, 2020.

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

WE CONCUR:

Mr. James Jessop, Board Member

Mr. Georges Leger, Board Member