New Brunswick Insurance Board

DECISION

IN THE MATTER:
Of a rate revision application for
Promutuel de l’Estuaire, Société mutuelle d'assurance générale
With respect to automobile insurance rates for
Private Passenger Vehicles

Written Hearing

Held by videoconference

PANEL:	Mr. Marven Grant	Vice-Chair
	Ms. Elizabeth Turgeon LL.B.	Member
	Ms. Ferne Ashford LL.B.	Member

Applicant:

Promutuel de l’Estuaire ,
Société mutuelle d'assurance générale

Intervenors: **Office of the Attorney General**

Consumer Advocate for Insurance

Hearing Dates : June 25, 2020; July 20, 2020

Decision Rendered: August 04, 2020

Summary

[1] Promutuel de l'Estuaire Company (the "Applicant" or "Promutuel") filed a Rate Revision Application (the "Filing") with respect to automobile insurance rates for Private Passenger Vehicles (PPV) in New Brunswick requesting approval for a proposed average rate increase of +14.62% (+13.48 % after capping) based on an indicated average rate increase of +35.37%.

[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 June 25, 2020 via videoconference.

[3] In compliance with subsection 19.71(3) of the *Act,* the Board provided to the Office of the Attorney General ("OAG") and the Office of the Consumer Advocate for Insurance ("CAI"), all documents relevant to the Hearing. Pursuant to subsection 19.71(4) of the *Act*, the OAG intervened, questioned the Applicant by way of written interrogatories and presented written submissions. The CAI intervened as well, adopted the position of the OAG, and presented a written submission.

[4] Following the hearing, in correspondence of June 26, 2020, the Panel requested the following additional information from the Applicant:

> 1) The actuarial justification revised from the previous year's rate filing dated November 21, 2018 (filing no. 2018-219), amended April 4th, 2019, related to policies with an effective date of June 1, 2019 for new business and September 1, 2019 for renewal business. This revised prior-year actuarial justification should reflect the Hearing decision that was rendered April 23rd, 2019, which ordered "[…] the Applicant to exclude the cancelled broker business from historical experience and account for this change in its rate indication, including the actual business (premiums and losses) cancelled by accident year and coverage." This revised prior-year actuarial justification should include all the components required in NBIB filing guidelines, among others:
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> a. Provincial indication;
> b. Territory analysis; and
> c. Classification, limit/deductible, discount/surcharge analyses.

The proposed base rates and differentials resulting from this revised prior-year actuarial justification should clearly support and tie with the current base rates and differentials that used in Exhibit XI – Current Average Premium Calculation as found in the amended current-year actuarial justification dated March 13th, 2020.

The Board also requests that Promutuel provides revised current-year indications that reflect the following corrections:

2) Properly apply the HST [Harmonized Sales Tax] Adjustment Factors in the calculations of Projected Ultimate Losses and LAE on Exhibit VI-B for all coverages, not only TPL-BI, TPL-PD, and TPL-DCPD; and

3) Determine the Health Services Levy Costs based on TPL-BI, TPL-PD, TPL-DCPD, and AB premium, and allocate the Health Services Levy Costs between TPL-BI, TPL-PD, TPL-DCPD, and AB as part of the calculations of the fixed expenses.

Additionally, the Board requests that Promutuel provides revised current-year indications for the impact of the following adjustments to its rate filing:

4) For TPL-BI,

a. Maintain the past and future severity trends at +5.0%; and

b. Modify the past and future frequency trends to -6.9% (or annual trend based on 5 points as in Exhibit XXIV-B).

5) For all coverages, modify the credibility formula and standard as prior-year filing.

Considering that the baseline is the amended current-year filing dated March 13th, 2020. The revised indications should show

- The impact from the baseline for each of the four items 2) through 5) separately,
- As well as the impact from the baseline for all items combined.

Each revised indication should also detail the impact by coverage, as well as overall. A revised actuarial justification should be provided reflecting the effect of all items combined.

Additionally, the Board requests that Promutuel provides the Board with its revised proposed rate changes by coverage, as well as overall, taking into account the results from all items combined. Promutuel should as well provide an updated rationale for the deviations from the indications if any.

[5] As a result of the requested revisions, the Applicant's overall indication increased from +35.37% to +38.73%.

[6] The Panel, after examining the evidence and submissions made by all parties, determines that the indication proposed by the Applicant must be modified.

[7] The Applicant is ordered to incorporate changes to the rate application as set out in paragraph [4] above and is **approved to adopt the proposed average rate change of +14.62 % before capping, and 13.48 % after capping.**

[8] The approved rates will be effective on October 15, 2020 for new business and for renewal business.

Exhibits

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

EXHIBIT	DESCRIPTION	DATE
1	Promutuel Original Private Passenger Rate Filing	November 28, 2019
1.a	Promutuel Original Private Passenger Rate Filing	November 28 2019
2	Round 1 Questions from KPMG	December 16, 2019
3	Round 1 Response to KPMG	January 17, 2020
4	Round 2 Questions from KPMG	January 28, 2020
5	Round 2 Response to KPMG	January 31, 2020
5.a	Amendment	January 31, 2020
6	Round 3 Questions from KPMG	February 6, 2020

7	Round 3 Response to KPMG	February 11, 2020
7.a	Amendment	February 11, 2020
8	Request from KPMG	February 19, 2020
9	Response to KPMG Updated Table 26	February 19, 2020
10	Round 4 Questions from KPMG	February 21, 2020
11	Round 4 Response to KPMG and Amendment	February 26, 2020
12	Round 1 Questions from NBIB	February 26, 2020
13	Round 5 Questions from KPMG	February 27, 2020
14	Round 1 Response to NBIB	March 2, 2020
15.a	Round 5 Response to KPMG and Amendment Part 1	March 2, 2020
15.b	Round 5 Response to KPMG and Amendment Part 2	March 2, 2020
16	Round 6 Questions from KPMG	March 3, 2020
17	Round 6 Response to KPMG	March 6, 2020
18	Round 7 Questions from KPMG	March 10, 2020
19	Round 7 Response to KPMG	March 13, 2020
20	Amendment Part 1	March 13, 2020
20.a	Amendment Part 2	March 13, 2020
21	Round 8 Questions from KPMG	March 16, 2020
22	Round 8 Response to KPMG	March 18, 2020
23	KPMG Actuarial Review	March 18, 2020
24	Round 1 Interrogatories Questions from OAG	May 8, 2020
25	Round 1 Interrogatories Response to OAG	May 15, 2020
26	Round 2 Interrogatories Questions from OAG	May 22, 2020
27	Round 2 Interrogatories Response to OAG	May 28, 2020
28	Round 2 Interrogatories Questions Follow up from OAG	June 3, 2020
29	Round 2 Interrogatories Response to OAG	June 8, 2020
30	Final Submission from CAI	June 10, 2020
31	Final Submission from OAG	June 12, 2020

1. Introduction

[10] 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

[11] The Applicant filed a rate revision application for the PPV category on November 28, 2019. The original overall indication of the rate filing was +27.02% and the Applicant sought an overall average rate increase of +14.65%.

[12] Following the Board's consulting actuaries' questions, the Applicant submitted a number of amendments, concluding with an Amended Filing on March 13, 2020, with an average rate indication of 35.37% and proposed selected average rate increase of +14.62% (before capping) and +13.48% (after capping).

[13] As the proposed average rate increase was greater than 3%, a Hearing was triggered before the Board. The Board issued a Notice of Hearing on March 30, 2020 and convened this Panel of the Board to conduct this Hearing on the matter. The OAG and the CAI both provided notice of their respective intentions to intervene in Hearing.

[14] Prior to the Hearing, after the eight (8) rounds of questions asked by the Board's consulting actuaries, the OAG submitted two (2) sets of interrogatories to the Applicant, to which answers were provided. Furthermore, pre-hearing written submissions were provided to the Panel by the OAG and the CAI.

2. Evidence and Positions of the Parties

Promutuel de l'Estuaire

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

[16] The following summarizes the Applicant's indicated and proposed changes to the existing rates by coverage [before the Panel's June 26, 2020 request for information]:

Coverage	Indicated	Proposed (before capping)	Proposed (after capping)
Bodily Injury (BI)	21.35%	15.00%	19.33%
Property Damage (PD)	17.49%	11.69%	14.38%
Property Damage - Direct Compensation (DCPD)	31.36%	15.00%	11.23%
Accident Benefits (AB)	37.56%	15.00%	13.65%
Uninsured Auto (UA)	14.65%	0.00%	-1.12%
Collision	43.58%	15.00%	12.55%
Comprehensive	53.12%	15.00%	11.72%
Specified Perils (SP)	2.31%	0.00%	-1.02%
All Perils (AP)	82.0%	11.07%	8.35%
Underinsured Motorist (UM) – SEF44	-63.38%	0.00%	0.00%
Total	**35.37%**	**14.62%**	**13.48%**

[17] The rate indication calculations set out in the Filing incorporate various assumptions, including a target return on equity (ROE) of 12%, a pre-tax return on investment (ROI) of 1.90%, and a 2:1 premium to surplus ratio. Proposed average rates would increase from the current average of approximately $905 to approximately $1035 (before capping) / $1013 (after capping).

[18] Promutuel provided the following reasoning for its proposed rate increase:

> Our analysis suggests that the indicated overall rate change is 35.37%. An overall change of 100% of indicated premium is not recommended for the following reasons. First, Promutuel's experience is better than industry's experience, but since we use industry as a complement of credibility, our indicated premium is a lot driven by industry's experience. Secondly, the hypothesis that are used to determine the indicate premium have a lot of volatility over the past years. Not going directly to the indicated premium helps us gain more experience and solidify our hypothesis over the next year. For those reasons, we didn't select 100% of the indicated premium. Instead, we selected 70% of indicated rate for Bodily Injury, 48% of the indicated rate for DCPD, 40% of indicated rate for Accident Benefit, unchanged premium for SEF44, UA and Specified perils, 67% of indicated rate for PD Tort, 18% of indicated rate for All perils, 34% of indicated rate for collision and

28% of indicated rate for comprehensive coverage. The selected overall rate change prior to capping became 14.62%.
…
Promutuel de l'Estuaire did not have a good experience for BI (2015 and 2017), DCPD (2014--2018), Collision (2014-2018) and All perils (2014, 2015, 2017 and 2018). For these coverages, the indicated rate change has always been positive in recent years and we have always made a lower selection than indicated rate change."
[Record, pp. 3152, 3153]

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 query the Applicant through a written interrogatory process, which provided for two rounds of interrogatory questions and answers. The interrogatory questions and answers formed part of the Record before the Panel. At the conclusion of the interrogatory process, and prior to the Hearing, the OAG made a final written submission to the Panel, summarizing its position with an expert actuarial report prepared by Oliver Wyman ("OW").

[20] The OAG's expert challenged the Applicant's Filing on a number of assumptions and methodologies and, in the Final Submission, summarized its findings and conclusions to the Panel as follows:

> We reviewed the rate level indications developed by Promutuel, and, in so doing, examined all aspects of Promutuel's ratemaking procedure. There are several aspects of Promutuel's analysis of its rate level needs where we believe that alternate calculations and/or assumptions should be considered by the Board.
>
> Our findings are based on the information contained in the application, responses provided by Promutuel to our questions, and our review of insurance industry statistical experience in New Brunswick as published by the General Insurance Statistical Agency (GISA).
>
> Following Promutuel'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, +10.6%1, less than the 14.62% change proposed by Promutuel. Our estimate of the indicated rate level need assumes that the rates approved in the prior filing represent Promutuel's current rates. As described in Section 4.2, we do not find this assumption to be consistent with information that Promutuel presents in its filing.
> [Record, p. 3825]

Consumer Advocate for Insurance

[21] The CAI's intervention was limited to a written submission opposing the level of rate increase sought by the Applicant and adopting the position of the OAG. The CAI argued that the rate increase requested by the Applicant is neither just nor reasonable.

[22] In her written submission, the CAI submitted that the insurance rates in New Brunswick have to be just and reasonable. The CAI questioned whether Promutuel's selection on target ROE, is it fair to the consumers of New Brunswick and is it reasonable. The CAI argued:

> The New Brunswick Insurance Board's mandate is to ensure that New Brunswick insurance rate are just and reasonable, and to the greatest possible, based on New Brunswick driver experience, on the New Brunswick companies experience and on comparison to other provinces of Atlantic Canada. It is our opinion that in determining whether the rates proposed by Promutuel de l'Estuaire are just and reasonable, the Board should also give consideration to the reasonableness of alternate assumptions and adjustments to Promutuel's rate level indication calculations. In this present case, the Office of the Attorney General proposed other alternative who were reasonable.
>
> Unfortunately, the Office of the Consumer Advocate for Insurance does not have an actuary to help and challenge the numbers and alternatives chosen by Promutuel. Therefore, we support the position put forward by the Office of the Attorney General. When there are other alternatives, we submit that they should be apply for the benefit of the policy holders of New Brunswick.
>
> We also maintain that the return on equity should follow the market and

should also be align with other provinces. Is a return of 12% is just and reasonable in the current market? Are consumers getting that rate on their investments? We must remember that ROE has a massive impact on premiums. We also submit that insurers doing business in other Atlantic provinces and Ontario are not getting a ROE of 12%. Furthermore, we submit that Promutuel must take steps to control their costs.
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 Promutuel is neither just nor reasonable.
[Record, pp. 3819, 3820]

3. Analysis and Reasons

[23] The Panel has reviewed and considered all of the written evidence before it, including the written submissions.

[24] The Panel recognizes the actuarial expertise of the authors of the expert reports submitted by both the Applicant and the OAG for the purpose of the present Application. 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 finds that the Applicant failed to meet its burden of proof and thus the Panel accepted the contrary position.

[25] In the present matter, the Panel of the Board determines that Promutuel must amend some of the assumptions, calculations and methodology used in its amended Filing. The Applicant was consequently ordered to provide the Board with the calculations resulting from those amendments in correspondence dated June 26, 2020.

[26] The Panel addresses each issue individually below:

1) **Harmonized Sales Tax *("HST") Adjustments***

[27] Insofar as rate indications are based upon historical claims data, these figures must be adjusted to reflect the cost level to be expected in the prospective policy period. Certain claims reflected in the historical data used by Promutuel have been subject to HST. On July 1, 2016, the HST rate for New Brunswick increased from 13% to 15%. This change will affect coverages differently, depending on the proportion of claims within that coverage that would be subject to HST.

[28] When calculating its indicated rate change, Promutuel omitted to apply the HST adjustment factors to the pure premium of certain coverages. The correction of this calculation would result in an increase in the indicated rate change of approximately 0.2 % point. While not directly affecting the proposed rate changes, the Panel orders that the Applicant must properly apply the HST adjustment factors in the calculations of Projected Ultimate Losses and LAE on Exhibit VI-B for all coverages, to ensure the Filing is as accurate as it can be.

2) Average Current Premium and Broker Cancellation

[29] In order to calculate the indicated premium change and the selected premium change, the starting point for the Applicant is the current average premium. The current average premium assumed by the Applicant is detailed at page 2459 of the Record, line 15. However, some of the information related to the Applicant's current base rate was not available for the Panel to review during the Hearing on June 25, 2020.

[30] The current average premium is a function of the Applicant's prior rate application. That rate filing was the subject of a hearing in April 2019. At that time, that panel was not satisfied with the justification provided by Promutuel for retaining the experience data of significant cancelled brokers in their actuarial analysis. Promutuel was therefore ordered to exclude the cancelled broker business from its historical experience and take this into account in its rate indication, including the premiums and losses cancelled by accident year and coverage.

[31] Changes were made in an incomplete final filing of July 2, 2019. For the current Filing, however, the current base rates and differentials do not match with those proposed in the July 2, 2019 filing. When the Board's consulting actuaries questioned this discrepancy, the Applicant responded:

> "After our initial submission last year, another filing was requested, without the cancelled brokers. In order to achieve the accepted rate change of 11.88%, we used the base rates that were derived from our portfolio without the cancelled brokers. This year we decided to exclude the cancelled brokers from the beginning to have a better picture of our actual portfolio and average premium."
> [Record, p. 1216]

[32] The Applicant asserts in its response to the interrogatories, that the current base rates and differentials should be as set out in its current Filing, not as found in its July 2, 2019 amended filing. The Panel understands that the July 2, 2019 amended filing would have confirmed the base premium rates and differentials that are adopted in this Filing. In the absence of that document, because of the apparent inconsistencies with the other levels set out in the Record, the Panel could not confirm the accuracy of the current base rates and differentials which act as the starting point for indicated and selected premium changes.

[33] The OAG's analysis similarly did not have the benefit of the missing information. As a result, the OAG's submission does not assist in shedding any additional light on this issue. In order to ensure that the foundational evidence and calculations are accurate and appropriate, to inform the most recent filing, the Panel requested the additional documentation from the Applicant to confirm the current base rate and validate the differentials.

[34] The missing information was received with the Applicant's response to the request for information on July 10, 2020. The Panel has confirmed the base rates and differentials utilized for the calculations now match. As a result, the rate change between the proposed average premium and the current average premium is confirmed as correct.

3) Health Services Levy Cost

[35] In 1992, the New Brunswick government enacted legislation requiring a levy to be assessed against every automobile to recover certain hospital costs that are incurred as a result of motor vehicle accidents. This replaced the right of subrogation against at-fault parties. The levy is paid by each insurer in respect of each vehicle insured by the carrier.

[36] The Health Services Levy Cost is calculated as a percentage of the total earned premiums for Third Party Liability (TPL) and Accident Benefit (AB) coverages for all classes of vehicles.

[37] While the Applicant performed the calculation of the levy using the appropriate formula, it then applied the levy as a fixed expense in the AB coverage only, with no application against the TPL coverage.

[38] The concern with this approach of allocation to AB coverage only, is that the classification for that coverage is slightly different than for the TPL classification. For instance, the AB coverage uses rate group classification, meaning that a safer vehicle attracts a lower premium, and thus a lower health services levy cost. Where TPL classification is applied, the levy would be affected by the type of driving, driver record etc. The application of the levy to both coverages would result in a levy that is impacted by all of these different factors in a proper premium allocation by driver.

[39] While a correction of this allocation will not affect the Applicant's proposed average rate change, as it is well below the indicated rate change, the accuracy and the correctness of the calculations underlying the actuarial analysis are important to ensure fair allocation of premium to individual insureds. The Panel therefore ordered that the Applicant correctly allocate the levy amounts between these two mandatory coverages. When the Applicant corrected that calculation, it reduced the indicated rate change by 0.04% point.

4) MIR and BI Trends

[40] The Applicant models the effect of the Minor Injury Regulation (“MIR”) changes using a two-step method. For severity, using data from 2004-2018, the Applicant applied a factor to prior claims history to bring those amounts to the current claims environment. The 25% factor adopted was from the IAO Actuarial Consulting Services AON Reed Stenhouse Inc. (IAO) PPV filing, to adjust the pre reform data to the post reform level. The Applicant then trended the data, selecting a trend of +5% for severity.

[41] The Applicant did not apply any reform factor to the frequency trend analysis, selecting a -3.5% frequency trend.

[42] Rejecting the two-step approach, the OAG’s proposed approach was to model the MIR as a scalar that is parameterized simultaneously with trends. It used a longer data period (1999-2018) and applied a lift in 2013H2 in the frequency model and in 2015H2 in the severity model, reflecting what it sees as a lag in the effect of the reform. OW estimated the frequency MIR factor at 38.2%. While it did not disclose the estimated severity MIR factor, the graph on p. 3838 of the Record implies a significant MIR impact on BI severity.

[43] The resulting severity trends, despite the two different approaches, are comparable. Promutuel’s severity trend is +5% and the OAG’s severity trend is +5.2%. The frequency trends, however are quite different, with the Applicant’s trend and the OAG’s trend reported at -3.5% and -6.4% respectively.

[44] The Board does not mandate particular modelling or methodologies for insurers in this Province. There are advantages and disadvantages to each of the approaches that are before the Panel in this Application. For the Applicant’s two-step model, it allows the integration of other data or claims analysis. It may be helpful for immature data or data that is relatively volatile. The simultaneous method, as proposed by the OAG, ensures that the trend does not act as an offset for an inaccurate reform factor.

[45] The data sets used by the parties are similarly not prescribed by the Board but are rather the results of actuarial judgment and expertise. Longer tail coverages or low claim counts often benefit from longer time periods for trending, while shorter periods are more reactive and is more apt to capture changing signal.

[46] The Applicant's frequency trend model results in an R-squared value of 64%, based on roughly 15 years of annual data. The OAG, using 20 years of semi-annual data, selected a frequency trend of -6.4% with an R-squared value of 95.8%.

[47] The Panel is of the view that the Applicant's model is pushing reform impact into trend, compensating for the lack of reform factor.

[48] The Applicant's use of IAO reform factors is not well supported in the Filing. The adoption of work outside of the Applicant's own data and analysis requires review and consideration to confirm that the applicability of the adjustment factors to the Applicant's data, and to document that review. There is nothing in the Filing to fulfill that requirement. Consequently, the Applicant's frequency model using 15 data points and 0% reform factor is not sufficiently justified. Had the Applicant been confined to its own analysis, the modelling would have resulted in different frequency trend.

[49] The Panel was not persuaded that the IAO's 0% impact from the reform was applicable to the Applicant's portfolio. Therefore the Panel required that the Applicant, using their own data and own model, use the post reform data points. The frequency trend of -6.9%, with an R-squared value of 88.9% is deemed reasonable and appropriate in these circumstances. The impact of this approach upon the average indicate rate change is -3.16% point.

5) Credibility Standard

[50] Credibility standards serve to identify the number of claims an insurer accepts as a reliable volume of experience that is sufficient to be predictive. There are varying methods used for determining that standard, creating a range of reasonable assumptions. The Applicant's Filing used 657 claims as a full credibility standard for all coverages, which appeared to the Panel to be on the low end of the range compared to other insurers and in relation to the Applicant's own prior standard of 1,082 claims. Promutuel's rationale for adopting this standard was that it had a better experience than industry and wanted to give more weight to its own data.

[51] Promutuel is a relatively small insurer in New Brunswick with approximately 1.5% of the market. This means the data set is also quite small, and as a result, the data may have more volatility over time. The adoption of this lower credibility standard will affect future rate filings, as the volatility will cause rate indications to vary more. Conversely, more weight upon industry data would create more stability.

[52] In response to the Board's request for revision dated July 2, 2020, the Applicant conducted some sensitivity testing. Adopting the credibility standard that was used in the past would increase the indicated rate change by 7.05% point.

[53] Despite its favourable impact on the average rate indications, the Panel finds that the Applicant's adoption of 657 claims as a credibility standard is not supported on the evidence in the Record and required the Applicant to revert to the methodology previously used, i.e., a credibility standard of 1,082 claims for each coverage.

6) Complement of Credibility

[54] To the extent that the Applicant's own experience is not fully credible to determine its rate level need, it must assign a complement of credibility (a remaining predictive value) to another measure of rate level need. The Applicant used industry loss costs as a complement of credibility

but first adjusted it for Promutuel's own distribution. The adjustments made were for driving record, class and territory.

[55] The OAG suggested that a more appropriate complement of credibility for the Applicant was net trend, arguing that the Applicant's adjustments are oversimplified. The net trend methodology is based upon industry and therefore is independent from the Applicant's own experience. The OAG's argument, however, fails to address the weakness of the net trend method, specifically that it ignores known rate inadequacy.

[56] The Board does not dictate, through its Filing Guidelines or otherwise, a specific method for the complement of credibility. Both methodologies are commonly seen from insurers in this Province. In determining whether the Applicant's approach is reasonable in all of the circumstances, the Panel has considered the evidence, in context, particularly acknowledging the inadequacy of Promutuel's current rates. This can be addressed by using industry loss costs as a complement of credibility, with adjustments to reflect the Applicant's own portfolio. The Panel therefore accepts the Applicant's methodology.

7) Target ROE

[57] To prepare its actuarial rate level change indication, Promutuel assumed an after-tax return on equity (Target ROE) of 12%, unchanged from its previous filing.

[58] In its Final Submission, the OAG argued that Promutuel has not provided any support or evidence to support the reasonableness of an after-tax ROE of 12%. The OAG also suggested that a lower profit provision is adopted in other provinces.

[59] The CAI similarly raised the issue of the Applicant's assumed ROE, questioning whether a return of 12% is just and reasonable in the current market, particularly where insurers doing business in other Atlantic Provinces and Ontario are not receiving that level of return.

[60] While other regulators may have arrived at different conclusions on target profit provisions in the context of their particular jurisdictions, that evidence with its policy underpinnings are not before the Panel and are not binding in New Brunswick. Further, the comparisons made by the Intervenors do not reflect the profit provisions underlying the rates *proposed* to be charged by Promutuel to policyholders in this province. While the 12% Target ROE underlies the indicate rate level change, the Applicant proposes to implement an average rate level change of +13.48% after capping. If this Panel allows that level of average rate increase, the result is an implied ROE lower than the 12% target.

[61] This Panel is satisfied that a target after-tax ROE of 12% for the calculation of indicated rate level need is reasonable in the circumstances and in light of the current market conditions. The Panel reiterates that there is no benchmark for target ROE in New Brunswick and that the Board continues to assess every applicant's target on the merits.

8) COVID 19

[62] The OAG points out that the rate indications in the Filing were derived from loss experience prior to the Covid-19 pandemic, and no adjustments have been made for the effect of stay at home orders on the forecast claims experience for 2020 and 2021. The OAG recommended that the Board take into account an anticipated different loss experience as a result.

[63] This decision is a fulsome consideration of the Applicant's Filing, first filed in November 28, 2019, and last amended on March 13, 2020. 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 the 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.

4. Decision

[64] For the reasons set out above, the Panel finds the Applicant's Filing is not just and reasonable in its entirety and therefore orders the following changes to be made:

1) Properly apply the HST Adjustment Factors in the calculations of Projected Ultimate Losses and LAE on Exhibit VI-B for all coverages, not only TPL-BI, TPL-PD, and TPL-DCPD; and

2) Determine the Health Services Levy Costs based on TPL-BI, TPL-PD, TPL-DCPD, and AB premium, and allocate the Health Services Levy Costs between TPL-BI, TPL-PD, TPL-DCPD, and AB as part of the calculations of the fixed expenses.

Additionally, the Board requests that Promutuel provides revised current-year indications for the impact of the following adjustments to its rate filing:

3) For TPL-BI,

a. Maintain the past and future severity trends at +5.0%; and

b. Modify the past and future frequency trends to -6.9% (or annual trend based on 5 points as in Exhibit XXIV-B).

4) For all coverages, modify the credibility formula and standard as prior-year filing.

[65] The impact of these changes was calculated at the Panel's request increasing the rate indications to +38.73%.

[66] The Applicant is ordered to incorporate changes to the rate application as set out in paragraph 64 above, and based on the evidence as a whole, is **approved to adopt the proposed average rate change of +14.62% {before capping} and +13.48% {after capping} as filed.**

[67] The approved rates will be effective on October 15, 2020 for new and renewal business.

Dated at Saint John, New Brunswick, on August 04, 2020.

Marven Grant, Vice-Chair
New Brunswick Insurance Board

WE CONCUR:

Elizabeth Turgeon, Board Member

Ferne Ashford, Board Member