Addendum to Decision

An Amendment was issued on December 5, 2023 to the; the amendments have been made to the text and <u>underlined.</u>

New Brunswick Insurance Board

DECISION

IN THE MATTER OF:

a rate revision application for Echelon Insurance

With respect to automobile insurance rates for

Private Passenger Vehicles

Hearing Date: September 07, 2023

PANEL:

	Chair	Ms. Marie-Claude Doucet, LL.B.
	Member	Ms. Elizabeth Turgeon, LL.B.
	Member	Ms. Heather Stephen
Applicant:	**Echelon Insurance**	
Intervenors:	The Office of the Consumer Advocate for Insurance	Ms. Michèle Pelletier, LL.B., K.C.

Decision Rendered: October, 13, 2023

NBIB Reference 2023-131

Summary

[1] Echelon Insurance (the "Applicant" or "Echelon") filed an application to revise rates (the "Filing" or the "Application") with respect to automobile insurance rates for Private Passenger Vehicles ("PPV") in New Brunswick. Echelon presented the Filing to the New Brunswick Insurance Board (the "Board") and requested approval of an average rate change of +7.00% based on an indicated average rate change of +19.78%.

[2] Pursuant to subsection 267.5(1) of the *Insurance Act,* R.S.N.B., 1973 c. I-12 (the "*Act*"), the Board convened a Panel of the Board (the "Panel") to conduct a Written Hearing (the "Hearing") on September 7, 2023, with deliberations held by video conference on that date.

[3] In compliance with subsection 19.71(3) of the *Act,* the Board provided to the Office of the Consumer Advocate for Insurance ("CAI") all documents relevant to the Hearing. While the OAG declined to intervene, the CAI intervened and filed a written submission for the Panel's consideration.

[4] The Panel, after examining all of the evidence and submissions made by the parties, determines that while the assumptions underlying the indications in the Filing are not fully supported, nevertheless the proposed overall rate change would be unaffected by changes to those assumptions and the Panel finds that the proposed average rate change of +7.00% is reasonable. The Applicant is ordered to incorporate changes to the Filing set out as follows:

> To estimate the consent rate of 50% during the introductory phase of credit score as a rating variable and amend its Filing accordingly.

[5] The Panel finds that Echelon's proposed average rate change is just and reasonable in the circumstances and Echelon is **approved to adopt the proposed average rate change of +7.00%** effective <u>March 01, 2024</u> for new business and March 01, 2024 for renewal business.

Exhibits

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

EXHIBIT	DESCRIPTION	DATE
1	Original Filing	May 2, 2023
2	Round 1 Questions from NBIB	May 12, 2023
3	Round 1 Response to NBIB	May 26, 2023
4	Round 1 Questions from Eckler	June 9, 2023
5	Amendment	June 13, 2023
6	Round 1 Response to Eckler	June 16, 2023
7	Round 2 Questions from Eckler	June 28, 2023
8	Round 2 Response to Eckler	July 11, 2023
9	Round 2 Questions from NBIB	July 14, 2023
10	Actuary Report - Eckler	July 14, 2023
11	Round 2 Response to NBIB	July 19, 2023
12	Revised Actuary Report – Eckler	July 21, 2023
13	Final Submission from CAI	Aug 2, 2023
14	Final Submission from Company	Aug 4, 2023

1. Introduction

[7] 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. The Board requires it to do so.

2. Procedural History

[8] The Applicant filed this Application for the PPV category on May 2, 2023. The original overall rate level change indication of the Filing was +19.78% and the Applicant sought an overall average rate increase of +7.00%.

[9] Following rounds of questions from the Board staff and the Board's consulting actuaries, ("Eckler") the Board issued a Notice of Hearing on July 21, 2023, and convened a Panel of the Board to conduct a Written Hearing to consider the Application.

[10] Pre-hearing written submissions were provided by the Applicant and the CAI to the Panel for consideration.

[11] The Hearing into this Application took place on September 7, 2023, with deliberations taking place virtually.

3. Evidence and Positions of the Parties

Echelon Insurance

[12] Echelon is New Brunswick's second largest non-standard writer after Facility Association. Echelon points out that with the proposed increase, its rates will be nearly 11% lower than Facility Association, which is consistent with the Applicant's long-term target.

[13] The following table summarizes the indicated and proposed rate changes by coverage:

Coverage	Indicated	Proposed
Bodily Injury (TPL-BI)	13.91%	2.00%
Property Damage (TPL-PD)	18.58%	11.02%
Property Damage – Direct Compensation (DCPD)	21.97%	9.60%
Accident Benefits (AB)	20.21%	7.02%
Uninsured Auto (UA)	12.11%	-0.01%
Collision (COL)	16.88%	0.00%
Comprehensive (COM)	41.68%	30.00%
Specified Perils (SP)	n.a.	n.a.
Underinsured Motorist (UM) – SEF44	8.31%	0.00%
Total	19.78%	7.00%

[14] The rate indication calculations detailed in the Filing incorporate various assumptions, including an after-tax target return on equity (ROE) of 12% (implied ROE of 2.75%), a target Return on Premium of 8.81% (implied Return on Premium of 1.63%), an investment rate on cash flow (discount rate) of 0.92%, an after-tax investment rate on capital (IRS) of 0.92%, and a 1.81:1 premium to surplus ratio. With the proposed increase, average rates would increase from the current average premium of approximately $2,263 to approximately $2,422.

[15] The Applicant chose not to seek a rate increase equivalent to the indications found in the Filing. It justifies this decision with the following rationale:

> *Not to go with the full indication was a management decision, considering the competitive position.*
>
> [Record of Hearing, page 5]

The Office of the Consumer Advocate for Insurance

[16] The CAI, in her final written submission, argued that the increase proposed by the Applicant is neither just nor reasonable.

[17] The CAI pointed out that the Applicant's prior filing was before the Board in late 2022, and the early 2023 decision of the Board allowed an average rate increase of +20.0%. She is critical of the Applicant's increased assumptions to reflect additional inflation since that time.

[18] The CAI also raised concern with respect to the introduction of credit scores into the rating process.

[19] Finally, the CAI questions the Applicant's target ROE of 12%. In conclusion, she submits:

> *The CAI reiterates to the Board that automobile insurance is mandatory in New Brunswick and therefore, rates should be reasonable, affordable and fair. With this huge increase requested by the present insurer, we submit the consumers of New Brunswick may have difficulties paying their insurance premiums. We ask the Board to choose the alternatives presented by the Office of the Attorney General, which are reasonable under all circumstances.*
>
> [Record of Hearing, page 500]

[20] While in this case, the Office of the Attorney General did not intervene nor offer any alternatives, the Panel understands the CAI's argument to be that the Applicant's assumptions should not be accepted on the points raised, and that a lesser rate increase would be more reasonable.

4. Analysis and Reasons

[21] The Panel has reviewed all the evidence before it, including the interrogatories and the written submissions.

[22] The Panel recognizes and accepts the actuarial expertise of the Applicant's actuaries who prepared the Filing and responded to the various inquiries.

[23] The materials within the Record raised a number of issues for the Panel to consider and determine at the Hearing; each of those issues is discussed individually below.

[24] The Panel's decision reflects that each model and methodology decision is laced with layers of data, assumptions, and judgement. As set out below in more detail, the Panel accepted the Applicant's evidence that the proposed rates to be charged will be just and reasonable, though the Applicant must make some changes to its Filing. The Panel concludes that Echelon may adopt the proposed average rate level change of +7.00%.

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

A. Credit Score as a Rating Variable
B. Loss Trend Selections - Inflation Adjustment
C. Premium Trend
D. Expense Assumptions
E. Profit Provision
F. Covid-19

A. Credit Score as a Rating Variable

[26] In this Filing, Echelon proposes to introduce a consenting policyholder's credit score as a rating variable for the determination of premiums for all coverages, except endorsements. The Applicant argues that the proposed introduction of credit score will allow better segmentation of risk to ensure appropriate rates are charged. For those who expressly consent to the use of their credit score, a discount factor between 5% and 25% may apply, with increasing discounts to reflect more favourable credit scores. No insured will have their premium increase as a result of credit score (i.e., credit score applies as a discount, not a surcharge).

[27] Echelon argued that the introduction of this variable is appropriate because there is a correlation between losses, and the credit score for the Echelon NB PPV book. It makes this argument based on an analysis of Echelon PPV data between 2016-2020 conducted by TransUnion. That analysis revealed that credit score provides a strong segmentation of historical loss ratios. Indicated relativities were then derived for appropriate groups of scoring, and then Echelon fitted an exponential regression to the indicated relativities to obtain proposed differentials. The maximum discount selected by the Applicant is 25%, for the highest credit score grouping, and the differentials span a range of credit scores from 420 to 900.

[28] The CAI raised concerns in her submission regarding the introduction of credit score into the rating analysis, arguing that it would negatively impact some of the insureds who can least afford insurance. She argued that driving records alone should sufficiently identify the relative risk.

[29] To answer some of the CAI's concerns, Echelon argued that income is not a factor used to calculate credit scores, but rather the score is a reflection of how well one uses credit. Further, Echelon argued, the variable is already being used in the industry and, if disallowed for Echelon, the Applicant would be anti-selected.

[30] It is noted by the Panel that the introduction of this rating variable in this Filing does not impact rate level indications, as the impact of the discounts will be off-balanced to achieve revenue neutrality. This calculation required an assumed adoption, or consent, rate, and Echelon selected the same rate as determined on its book of business in Quebec, where it has used credit score as a rating variable since 2019. It says that 92.5% of its policyholders provided consent in Quebec, and adopts that assumption in this Filing for New Brunswick.

[31] The Board's consulting actuaries, during the review process, requested sensitivity testing based on alternate consent rates of 20% and 50%. Echelon responded that these would result in overall decreases of 2.3% and 6% (on the impact of introducing credit score) respectively.

[32] A rate that is just and reasonable is ideally one which correlates as well as possible with the risk of being insured. The Panel noted that the TransUnion analysis that the Applicant relied upon was using the Applicant's own data and that analysis confirmed a relationship between credit risk and insured loss.

[33] While some provinces are subject to legislation that prohibits the use of credit score as a rating variable for automobile insurance, New Brunswick is not one of those provinces. Faced with evidence of a reasonably strong correlation, the Panel accepts that the use of this variable leads to rates that are reasonable insofar as they align as well as possible with the best estimate of expected loss cost for the coming policy period. In the absence of a legislative prohibition, this is a reasonable rating variable.

[34] However, the Panel was not convinced that the assumed 92.5% consent rate would be immediately realized in New Brunswick, matching the Quebec rate where the consent process has been in place for some time. Therefore, the Panel finds that this assumption is not a reasonable one and must be modified. The Panel concludes that a more reasonable estimate of consent rate, at least during this introductory phase, would be approximately 50% and the Applicant is ordered to amend its Filing accordingly. As noted above, this affects the estimated impact of introducing credit score, proposed base premiums, but not overall rate need.

B. Loss trend Selections - Inflation Adjustment

[35] The selection of loss trends requires the analysis of past data and the application of professional judgment in order to select trend rates that reasonably reflect the rates of change of past experience and are reasonable predictions of future expected rates of change for each coverage.

[36] For all coverages, the Applicant judgmentally set the future annual loss cost trends equal to the selected past annual loss cost trends, and then made an adjustment for inflation of 4.5%.

[37] The CAI argued that the inflation adjustment of 4.5% in the current Filing was inappropriate, citing a previous decision where the panel had been satisfied that the current economy supported an inflation factor of 3.5%.

[38] The Applicant justifies the adjustment with the observation that there has been a significant increase in inflation rates, which started in late 2021. It argued that these rising inflation rates are likely to continue to the projected period and ought to be considered in making selections for prospective loss trends.

[39] The level of the selected inflation adjustment was derived by the Applicant using the Consumer Price index ("CPI") data from Statistics Canada between 2012 and February 2023. It calculated an annual inflation rate for vehicle parts, maintenance, repairs as well as for "all items". This analysis exposed significant increases in the inflation rate starting in July 2021, leading to the Applicant's selection of the adjustment factor of 4.5%.

[40] The Panel is cognizant of the current inflationary environment and the support from the Statistics Canada data. The Panel accepts that there has been increased inflationary pressure since the last Filing, where the acceptable inflation rate was 3.5%. The Panel supports the argument that there ought to be some adjustment upward to reflect this pressure. However,

the Panel is not convinced that the Applicant has justified the level of the selected adjustment of 4.5%.

[41] During the Filing review, Eckler requested that the Applicant perform a sensitivity analysis to determine the impact of removing the inflation adjustment completely, and the Applicant responded that this would lead to a decrease in the overall indicated average rate level change of 6.6%. Though the Panel accepts that the reasonable selection for an inflation adjustment is higher than 3.5% but less than 4.5%, the Panel need not make a specific finding of the appropriate level for this assumption. An assumption anywhere between 3.5% and 4.5% will still result in an average indicated rate level change higher than the Applicant's proposed average rate level change of 7%. Therefore, the finding that the level of inflationary adjustment is not fully supported does not impact the Panel's ability to determine whether the *proposed* rate is just and reasonable.

C. Premium Trend

[42] The Applicant did not apply a premium trend for Accident Benefits (AB) coverage, although rate group is a variable used to determine premiums. While this does not have a material impact on the current rate level indications, the Applicant was questioned on this omission by Eckler. The Applicant responded that they will, in future filings, calculate a premium trend for AB.

D. Expense Assumptions

[43] The Applicant made changes to a number of their expense assumptions since its last filing, and the Panel reviewed these to ensure they were reasonable.

[44] The Applicant selected a ULAE ratio that was increased from the previous level of 3.25% to 5.25%. This increase reflects a change and modernization in claim handling expenses, as the

Applicant is working towards internalizing these expenses and adopting the Guidewire claims and management system for this purpose.

[45] Echelon's selected general expense ratio is based on a four (4) year historical average. The 2019 ratio was significantly higher than the other years which were impacted by Covid-19, but the methodology employed by the Applicant has been consistent with prior filings. It is recognized that expenses are likely to be higher in the coming period with a return to more normal activity and as the Guidewire system is adopted.

[46] The Applicant also includes a contingent profit assumption of 2%, even though virtually no such commissions have been paid over the last few years. The Applicant argued that it is reasonably expected to incur this expense in the coming period, as an accepted cost of doing business.

[47] On all of these expense assumptions issues, the Panel reviewed the Applicant's selections, methodologies and rationales and accepts that they have been justified as reasonable for the purpose of this Filing.

E. Profit Provision

[48] Echelon selected a 12% after-tax target ROE for the purpose of its Filing and a Premium to Surplus ratio of 1.81:1. The Intervenor argued that these assumptions lead to a profit provision that is excessive and unreasonable rate indications.

[49] The CAI questioned whether that assumption of 12% is just and reasonable in the current market, particularly where insurers in other provinces are not receiving that level of return.

[50] The Panel was provided with no evidence, beyond argument, and the identification of different treatment in different jurisdictions, that challenged the reasonableness of a 12% target 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 target ROE of 12% is reasonable in the circumstances for determining the Applicant's rate level indications.

[51] The Panel reiterated that there is no benchmark for the target ROE in New Brunswick, and each application is assessed individually on a case-by-case basis after considering all of the surrounding circumstances.

F. COVID-19

[52] Ratemaking is a prospective exercise. In other words, the rates charged must not be excessive, nor should they be inadequate, all based upon a reflection of the best estimate of future costs. The Covid-19 pandemic that hit New Brunswick in 2020, and continues to a lesser extent today, changed the loss experience for all insurance companies in the province during that period. The responsibility on the Applicant, and this Panel, is to ensure that 2024 policies will appropriately take into account the future environment, including consideration of the impact of Covid-19.

[53] The Panel considered the Applicant's assumptions and the potential residual impact of the Covid -19 pandemic on the upcoming policy period. The Panel finds the Applicant's assumptions in that respect were reasonable in all of the circumstances.

AMENDMENT

[54] **On November 27, 2023 the Applicant advised of a change in effective dates from January 1, 2024 for new business and March 1, 2024 for renewal business to March 1, 2024 for both new and renewal business.**

5. Decision

[55] For the reasons set out above, the Panel finds the Applicant's proposed average rate level change is just and reasonable and the Applicant is **approved to adopt the proposed average rate change of +7.00%. The Filing must, however, be amended to reflect the Panel's decision found at paragraph 34 to amend the estimated impact of introducing credit score and the resulting proposed base premiums.**

[56] The approved rates will be effective on March 1, 2024, for new business and March 1, 2024 for renewal business.

Dated at Saint John, New Brunswick, on October 13, 2023.

Ms. Marie-Claude Doucet, Chair

New Brunswick Insurance Board

WE CONCUR:

Ms. Elizabeth Turgeon, Board Member

Ms. Heather Stephen, Board Member