

NEW BRUNSWICK INSURANCE BOARD**IN THE MATTER OF:**

a rate revision application for the:

Definity Insurance Company

With respect to automobile insurance rates for:

Private Passenger Vehicles

Oral Hearing Date: April 8 and 9, 2025

PANEL:

Chair Ms. Marie-Claude Doucet, LL.B.

Member Ms. Brigitte M. Ouellette, LL.B.

Member Ms. Heather Stephen

Applicant: Definity Insurance Company Ms. Nadia McPhee, LL.B.**Intervenors:** The Office of the Attorney General Mr. Christopher Whibbs, LL.B.
Mr. Jason Caissie, LL.B.

The Office of the Consumer Advocate for Insurance Ms. Michèle Pelletier, LL.B., K.C.

Decision Rendered: May 28, 2025

Summary

- [1] Definity Insurance Company (the "Applicant" or "Definity") 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. Definity presented its filing to the New Brunswick Insurance Board (the "Board") based on an overall rate change indication of +13.17% and proposed an overall average rate increase of +9.74% (before capping) and +9.68% (after capping). The indication was later amended to +10.36% but the proposed rate increases remained unchanged.
- [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 an Oral Hearing (the "Hearing") on April 8 and 9, 2025.
- [3] In compliance with subsection 19.71(3) of the *Insurance Act*, the Board provided to the Office of the Attorney General ("OAG"), all documents relevant to the Hearing. This documentation was also provided to the Office of the Consumer Advocate for Insurance ("CAI"). Both the OAG and the CAI intervened in this Hearing; the OAG submitted an expert report and a final written submission with the assistance of actuaries, Oliver Wyman ("OW"), while the CAI filed a written submission and, in many respects, adopted the position and alternatives of the OAG.
- [4] Following deliberations, the Panel requested on April 15, 2025 that the Applicant provide amended provincial indications and combined impact resulting from the following adjustments to assumptions:
 1. Using the corrected Comprehensive Loss Development factors as presented in Section 10 of the amended final submission (i.e., page 1179 of 1225 of the Record of Hearing);
 2. Using a catastrophe loading of 3.5%, as suggested by Oliver Wyman (i.e., page 1215 of the Record of Hearing);
 3. Using a bonus commission provision of 1.3%, as suggested by Oliver Wyman (i.e., page 1217 of the Record of Hearing);
 4. Using a Bodily Injury future frequency trend assumption of +0.00%;
 5. Using a Comprehensive future frequency trend assumption of -2.80%;

6. Reflecting the COVID-19 adjustments for Bodily Injury and Accident Benefits in the Expected Loss Ratio analysis, based on the method suggested by Oliver Wyman (i.e., page 1200 of the Record of Hearing);
7. Removing the High Theft Vehicle rating variable; and
8. Removing the HTV Tier 1 and HTV Tier 2 variables for the Anti-Theft x High Theft Vehicle.

[5] The Applicant responded to the request on April 22, 2025, with additional information and exhibits. These required changes result in a decrease to the Applicant's overall indication from +10.36% to +3.98%. No changes were made to the proposed overall rate change of +9.74%.

[6] The Panel, after examining all of the evidence and submissions made by the parties, including the revised indications provided on April 22, 2025, determines that the indications must be modified to reflect the adjustments in paragraph [4] above. The Applicant is ordered to incorporate changes to the Filing as per the request for assumption adjustments delivered to the Applicant on April 15, 2025.

[7] The Applicant's proposal of +9.74% is materially above the revised indicated rate level change and is therefore found to be not reasonable. The Panel finds that Definity's revised overall indicated average rate level change from its April 22, 2025 correspondence is just and reasonable in these circumstances and Definity is approved to adopt an overall average rate level change of +3.98%.

[8] The approved rates will be effective on July 1, 2025 for new business and September 1, 2025, for renewal business.

Exhibits

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

EXHIBIT	TAB	DESCRIPTION	DATE
1.	01	Original Private Passenger Rate Filing	August 30, 2024
	02	Round 1 Questions from NBIB	September 20, 2024
	03	Round 1 Response to NBIB	September 26, 2024
	04	Round 2 Questions from NBIB	October 4, 2024
	05	Round 1 Questions from Eckler	October 9, 2024
	06	Round 2 Response to NBIB	October 10, 2024
	07	Round 1 Response to Eckler	October 18, 2024
	08	Round 3 Questions from NBIB	October 22, 2024
	09	Round 2 Questions from Eckler	October 25, 2024
	10	Round 3 Response to NBIB	October 28, 2024
	11	Round 2 Response to Eckler	November 8, 2024
	12	Round 3 Questions from Eckler	November 15, 2024
	13	Round 3 Response to Eckler	November 21, 2025
	14	Follow up on R1Qs from NBIB	November 26, 2024
	15	Follow up on R1Qs Response to NBIB	November 26, 2024
	16	Actuarial Review Eckler	November 29, 2024
	17	Round 1 IRs from OAG	January 10, 2025
	18	Round 1 IRs Response to OAG	January 17, 2025
	19	Round 2 IRs from OAG	January 24, 2025
	20	Round 2 IRs Response to OAG	January 31, 2025
	21	Intervenor Report	February 14, 2025
	22	Final Written Submission CAI	February 20, 2025
	23	Final Written Submission Company	February 21, 2025
	24	Final Written Submission OAG	February 21, 2025
	25	Applicant Reporting Error in Supporting Information	March 21, 2025
	26	Applicant Reporting Error in Supporting Information – Board Response	March 24, 2025

EXHIBIT	TAB	DESCRIPTION	DATE
	27	Additional Round 3 IRs from OAG	March 26, 2025
	28	Additional Round 3 IRs Response to OAG	March 28, 2025
	29	Amended Final Written Submission - Applicant	April 2, 2025
	30	Amended Final Written Submission - OAG	April 2, 2025
	31	CAI Closing Arguments	April 10, 2025
	32	Board Request for Revisions	April 15, 2025
	33	Response to Request for Revisions	April 22, 2025

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 *Insurance Act* (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 to further investigate its rates.

Procedural History

- [11] The Applicant filed this Application for the PPV category on August 30, 2024. The original overall rate level change indication of the Filing was +13.17% and the Applicant sought an overall average rate increase of +9.74% before capping (+9.68% after capping).
- [12] Following questions from the Board staff and the Board's consulting actuaries (Eckler) the Applicant made several amendments to its Filing, with a final indicated rate change of +10.36% and a proposed overall average rate increase of +9.74% before capping (+9.68% after capping).
- [13] The Board issued a Notice of Hearing on December 11, 2024, and convened a Panel of the Board to conduct an Oral Hearing in relation to the Filing. The OAG and the CAI both provided notice of their respective intentions to intervene in the Hearing.
- [14] Prior to the Hearing, in addition to the Filing, additional information and clarification was provided; the Board posed a number of questions to the Applicant through questions from the Board's staff and its consulting actuaries, and the OAG submitted interrogatories to the Applicant. The Applicant responded to all questions posed and the answers form part of the Record.
- [15] Pre-hearing written submissions were provided by the Applicant, the OAG, and the CAI to the Panel for consideration.
- [16] On or about March 21, 2025, the Applicant discovered a spreadsheet error in some of its supporting documentation for the Bodily Injury and Accident Benefits loss trends. The OAG was provided an opportunity to ask questions related to this disclosed error and all parties were given the opportunity to file amended final written submissions to address it. The Panel noted that Definity's Filing contained several errors which were discovered in the pre-hearing process, as well as at the Hearing itself.
- [17] The Hearing into this Application took place on April 8 and 9, 2025. The CAI was unable to attend the second day of the Hearing to make a final oral argument; she was therefore permitted to file a final written argument for the Panel's consideration. The document was filed on April 10, 2025.

[18] On April 15, 2025, a request for revised indications was delivered to the Applicant, to which a response was received on April 22, 2025. The Applicant's response was placed before the Panel and this decision finalized thereafter.

2. Evidence and Positions of the Parties

Definity Insurance Company

[19] The following sets out the indicated and the proposed changes to the existing rates by coverage as of the date of the Hearing:

Coverage	Indicated	Proposed (before capping)	Proposed (after capping)
Bodily Injury (TPL-BI)	+12.16%	+4.00%	+3.96%
Property Damage (TPL-PD)	Included with BI		
Property Damage – Direct Compensation (DCPD)	+14.45%	+15.00%	+14.96%
Accident Benefits (AB)	-14.52%	-6.00%	-6.03%
Uninsured Auto (UA)	+12.40%	-0.27%	-0.28%
Collision (COL)	-4.27%	0.00%	-0.04%
Comprehensive (COM)	+35.59%	+35.00%	+34.81%
Specified Perils (SP)	-5.20%	+35.00%	+35.00%
Underinsured Motorist (UM) – SEF44	+4.44%	0.00%	-0.04%
Total	+10.36%	+9.74%	+9.68%

[20] The rate indication calculations detailed in the Filing incorporate various assumptions, including an after-tax target return on equity (ROE) of +11.93% (implied ROE of +10.84% with proposed rate change), a target Return on Premium of +6.50%, an implied Return on Premium of +5.73%, an investment rate on cash flow (discount rate) of +3.80%, an after-tax investment return on capital (IRS) of +3.80%, and a 2.00:1 premium to surplus ratio. Proposed average rates would increase from the current average premium of approximately \$1,059 to approximately \$1,162, after capping.

[21] The Applicant argued that the assumptions and methodologies underlying the Filing are reasonable and consistent, the data is reliable and sufficient, and the assumptions are appropriate. It submitted that the rates proposed to be charged are just and reasonable.

The Office of the Attorney General

[22] The OAG intervened in the Hearing and took an active part in the review of the Application, questioning the assumptions through the interrogatory process, filing an expert report and participating actively in the oral hearing.

[23] The OAG, with the assistance of OW, argued that its alternative assumptions, judgments, and calculations, which it argued were more appropriate, would reduce a demonstrated need for a rate change.

The Office of the Consumer Advocate for Insurance

[24] The CAI, in her final written submission and closing submission, argued that the increase proposed by the Applicant is neither just nor reasonable. The CAI further argued that the alternatives presented by the OAG were more appropriate and that these alternatives ought to be preferred and applied in favour of New Brunswick consumers.

[25] Further, the CAI questioned the Applicant's target ROE of +11.93%, arguing that it is excessive.

3. Analysis and Reasons

[26] The Panel has reviewed all the *viva voce* and documentary evidence before it, including the interrogatories and the written submissions from all parties along with the alternative calculations provided on April 22, 2025.

[27] The Panel recognizes and accepts the actuarial expertise of the Applicant's actuaries who prepared the Filing, responded to the various inquiries and that of Mr. Shepherd who testified at the Hearing. Similarly, the expertise of Mr. Sahasrabuddhe, the actuary of OW who wrote the expert report and testified on behalf of the OAG at the Hearing, is accepted.

[28] The materials within the Record raised several issues for the Panel to consider and determine at the Hearing. Each of those issues is discussed individually below.

[29] 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 as satisfying its evidentiary burden of just and reasonable on some issues, but not all. The Panel concludes that Definity must make the revisions to its Filing set out in paragraph 4, above, and Definity is approved to adopt an overall average rate level change of +3.98%.

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

- A. Use of 2024 Data
- B. Expected Loss Ratio Selections
- C. Loss Development Factors – Comprehensive
- D. Loss Trends – Bodily Injury Future Frequency
- E. Loss Trends – Collision Severity
- F. Loss Trends – Comprehensive Frequency
- G. Loss Trends – Comprehensive Severity
- H. Catastrophe Loading
- I. Expenses – Bonus Commissions
- J. High Theft Vehicle Rating Variable

A. Use of 2024 Data

[31] On or about March 21, 2025, the Applicant advised the parties that it had discovered errors in its Filing. The Applicant submitted an Amended Final Submission on April 2, 2025, prior to the Hearing. The Amended Submission went farther than correcting errors, and brought into the arguments new data from 2024. This data had not been available to the Applicant at the time of the Filing, and therefore was not available to the Board's consulting actuaries or the Intervenors for analysis and scrutiny (e.g., Record of Hearing p. 1164).

[32] The Board recognizes that a filing requires a great deal of analysis and therefore companies have a recognized need to determine a cutoff date for the data to be used in the Filing. The Board expects that an Applicant will use the most recent available data at the time the analysis is performed. However concerns were raised within the Panel regarding the introduction of new data just days before the Hearing, particularly when it was not available for scrutiny by the Board's consulting actuaries or of the OAG. The new data also appears to have been selectively used by the Applicant when supporting some of its assumptions, while it was not when it was possibly proving to be contrary to the Applicant's assumptions. In this case, the Panel could not be confident in the integrity or completeness of the new data, and therefore the updated data was not considered for the purposes of this Hearing.

B. Expected Loss Ratio Selections

[33] The computation and analysis of rate level needs requires that an insurer bring its loss data to the levels that can be reasonably contemplated to be the ultimate levels. While there are several actuarially sound methods for doing so, one accepted method is the Expected Loss Ratio method, which requires several assumptions to be made. Definity selected an a priori expected loss ratio that is based on an average of ultimate trended loss ratios from 2019-2024 (excluding 2021). These accident years reflect varying levels of impact from the COVID-19 pandemic, with the most recent years arguably being referred to as the 'new normal.'

[34] Before computing an average of those loss ratios, Definity did not include an adjustment for the estimated impact of COVID-19 to ensure consideration of an appropriate comparison and relationship of the loss ratios.

[35] The OAG argued that Definity's methodology was inappropriate, and it should have applied COVID-19 adjustments to unwind the effects of the COVID-19 pandemic and bring all loss ratios on the same basis.

[36] Definity initially responded that the OAG's suggested approach would risk creating a situation of circularity since the COVID adjustments are calculated from the loss trend analysis which requires the use of estimated ultimate losses. In the Applicant's view, this suggested process generates more uncertainty for long-tail lines like Bodily Injury. Instead, Definity argued, it was appropriate to make a COVID-19 adjustment through the selection of accident years for estimating the *a priori* loss ratio and by reducing the weight assigned to the accident years most heavily impacted by COVID in the derivation of the provincial indications.

[37] Mr. Shepherd, testifying for the Applicant, stated that the challenge in adjusting for COVID-19 for Bodily Injury and Accident Benefits is that the adjustment is quite uncertain and the COVID-19 adjustment factors are developed based on ultimate losses, this is the concern regarding circularity of the analysis. Nevertheless, in its amended final submission and at the Hearing, the Applicant confirmed its agreement that the OAG's approach to apply COVID-19 adjustments prior to calculating an *a priori* expected loss ratio was a reasonable alternative approach and, should the Panel direct so, it would incorporate this approach into an amended filing.

[38] The Table at page 730 of the Record of Hearing shows that the loss ratios set out in column 15 of that table are not adjusted for COVID-19. Instead, Definity computed an average for the years 2019-2024 (excluding 2021) and used this to get an *a priori* expected loss ratio which is then used to determine the ultimate loss ratio for each accident year. The Panel agreed with the OAG's position, that the loss ratios used in the average are not directly comparable, since some are impacted by COVID-19, and some are not. While the accident year 2021 loss ratio was excluded from the average, both 2020 and 2022 loss ratios were impacted by COVID-19 as well, yet treated differently in the averaging.

[39] The Panel recognizes that the OAG's suggested alternative approach is imperfect, since it does contain a degree of circularity, which is not ideal. However, the Panel was provided with no other alternatives that would improve the Applicant's selection of an *a priori* expected loss ratio while avoiding circularity. For the current Filing, the Panel orders the Applicant to adopt the approach suggested by the OAG and

recommends that the Applicant derive an approach that reflects the estimated impact of COVID-19 in the selection of an a priori expected loss ratio while avoiding circularity for future filings.

C. Loss Development Factors – Comprehensive

[40] The OAG's expert, OW, discovered an error in the Filing with respect to the loss development factors used in the calculation of projected ultimate loss amounts for the Comprehensive coverage.

[41] Definity confirmed that there was a spreadsheet error in its Filing, where incorrect loss development factors were used for the Comprehensive sub-coverages and acknowledged that this error would be corrected.

[42] The Panel agrees that the Applicant's acknowledgment is appropriate and orders that the correction be made to the Filing.

D. Loss Trends – Bodily Injury Future Frequency

[43] Loss trends are assumptions that measure the annual rate of changes of past and future claims costs over time.

[44] 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.

[45] In the Filing, Definity considered a past frequency trend for the Bodily Injury coverage by considering data for the period 2016-2023. The model had no scalar, and the fitted trend was -6.5%.

[46] A second model was considered, using data from 2020-2023, arriving at a +10.8%. Definity then took an average of those two trends and selected a +2.0% future trend. As part of the final submission and to support the reasonableness of that selection, Definity reviewed alternative models; the first considered

data for 2016-2023 and included a scalar, producing a trend of +1.8%. The second was a trend model based on industry data for 2019-2023 and included a scalar, producing a trend of +1.0%. On the basis of these checks for reasonableness, Definity argued that its selected +2.0% future frequency trend was reasonable.

[47] The OAG argued that the future trend model, which used data from 2020-2023, was using only the seven (7) least mature data points, despite the fact that Bodily Injury is a long tail coverage. The OAG also noted that none of the statistical parameters used to indicate the quality of the model vis-à-vis the data, were statistically significant, with a negative R^2 value of -0.78%.

[48] The OAG argued that a more appropriate approach would be to adjust frequency estimates by applying COVID-19 adjustment factors and use the past trend to adjust estimates to a common cost level. This produced a frequency trend of -5.6%, with a poor adjusted R^2 value of -32.4%. The OAG argued that once the data is adjusted and trend is applied, there is no real difference between the past and future trend. It therefore argued that the appropriate approach is to select a future trend rate equal to past trend.

[49] Definity responded that its selected future +2.0% trend was reasonable for several reasons: the alternative model including a scalar (which is consistent with its approach for DCPD and Collision coverages), has a better fit; it is similar to the alternative industry trend provided of +1.0%; the additional 2024 company data provided showed a continuing increase in frequency over the 2022 and 2023 levels; there is a similar trend for the Collision coverage; and the approach is consistent with a Panel decision in 2023. Definity suggested that the OAG is interpreting the COVID-19 related drop in frequency as trend and that the frequency resulting from the application of a -6.5% trend would be lower than pre-pandemic frequency levels by about 45%, which Definity says is not reasonable.

[50] Definity's evidence at the Hearing was that the OAG's alternative was less reasonable because the COVID-19 parameter estimates are uncertain, whereas Definity's approach should be preferred because it models the COVID-19 impact through the use of an explanatory variable. Further, Definity argued that the OAG's suggested alternative of -6.5% is unreasonable as there are several indications suggesting that the strong negative trend into the future will not continue.

[51] At the prior hearing for Definity, which it now relies on as supporting its trend selection, the Panel found that in the context of the uncertainty in *that* filing, a future Bodily Injury frequency trend rate of 0%, as opposed to a negative one, was appropriate. With the additional insight of a year, Definity argued there is more evidence of an uptick in frequency than there had been in 2023, therefore it suggests that the proposed trend is consistent.

[52] The Applicant's reliance on the modelling of the 2020-2023 data which produced a frequency trend of +10.8% is not persuasive. The modelling statistical measures suggest this is a poor fit.

[53] The Panel does not agree with the OAG that the past trend is the same as the future trend. The various graphs and data, and *viva voce* evidence persuaded the Panel that the future trend is different than the past. The various models used to determine the future frequency trend do not produce compelling statistical results; the data remains volatile. While the Panel agrees that a past negative trend of this magnitude is not likely to continue, in the absence of satisfactory modelling of a future trend, a zero trend cannot be discarded. The Panel orders the Applicant to amend its Filing to use a BI future frequency trend of 0%.

E. Loss Trends – Collision Severity

[54] Definity's severity trend models for Collision coverage include a scalar at 2021-2 related to the one time increase in costs arising from inflation of vehicle values and car parts. It uses this same scalar in models for its other property damage coverages.

[55] The OAG argued that the scalar ought to have been applied at 2022-1, not 2021-1.

[56] Definity acknowledged that the OAG's proposed timing of the scalar was a better statistical fit, it argues that its choice of timing was based on all physical damage coverages, as the approach was consistent for all of those coverages. It raised concerns that adhering purely to the best statistical fit risks overfitting.

[57] The impact on the indication of this selection versus the OAG alternative is small, neither party focused on this point during the oral Hearing. The Panel accepts the Applicant's methodology for the purposes of the current Filing.

F. Loss Trends – Comprehensive Frequency

[58] For the Comprehensive coverage, Definity judgmentally selected a future frequency trend rate of 0%. It noted that it observed a significant difference between historical and recent (since 2021) trend rates. Definity also suggests that recent rises in theft rates will make the Comprehensive frequency trend more positive going forward. The Panel gave no weight to Definity's reference to 2024 data in its amended final submission since the 2024 data was not part of its Filing or Interrogatories.

[59] Definity argued that much of the negative past trend was due to improvements in its mix of business, which are not expected to continue. The reason being that the improvements were based on past rate actions and the Applicant is not expecting to take similar actions in the near future. At the Hearing, Definity cited mix of business as one of the big explainers of why there has been a reduction in the Comprehensive frequency. However, in support of this argument, Definity provided data in relation to only three variables to demonstrate the change in the mix of business. The Panel was not provided with a fulsome analysis of the mix of business changes.

[60] The OAG suggested that the trend analysis in the Filing does not account for COVID-19 effects, which results in the trend model interpreting increased frequency due to easing of pandemic restrictions as trend. The OAG's alternative was to adjust the trend data for COVID-19, with the result that there is no material difference between the past and future trend rate of -5.4%.

[61] Definity responded that the OAG's alternative model had poor statistical measures and started at a high point, ending on a low point, which unfairly portrays the trend.

[62] The Panel reviewed the evidence regarding the trend, and the explanation from the Applicant that a past change in the mix of business explains the negative past frequency trend but is not expected to continue. Based on the evidence, the Panel is not convinced that the change in mix of business has plateaued, but

it does not accept the OAG's suggestion that the frequency trend will remain at past significant negative levels. The Panel is satisfied that there will continue to be a lesser negative trend for the prospective period, the degree of which is uncertain. The Panel orders the Applicant to amend its trend to the average of the past trend presented by the Applicant in its amended Filing and the one presented by the OAG.

G. Loss Trends – Comprehensive Severity

[63] Definity selected past and future severity trends for this coverage of +8.8%. Definity included a scalar and argued that it is reasonable because it was considered not only in the context of Comprehensive but holistically on all Physical Damage coverages. It argues that the scalar prevents a one-off sharp increase in costs being included as part of the trend.

[64] The OAG argued that the scalar is not statistically significant. The OAG is also critical of the fact that the Applicant included a high and immature 2023-2 data point which it claimed may be an outlier. The OAG relies on the principle of Cook's distance to determine potential outliers and said that the most recent data point has the largest Cook's distance of all data used in the Applicant's model. The OAG suggests the 2023-2 data point should be removed to avoid giving it too much weight. On cross-examination, the OAG's expert witness conceded that the threshold for determining an outlier using Cook's distance is 1.0 and this data point fell well below that threshold.

[65] Definity agreed that the 2023-2 is a less mature data point, but also noted Comprehensive is a short tail coverage. It argues that based on the development factors, 93.2% of claims are developed and the data can be relied upon. It is important to capture recent data, it suggested, provided the data is reasonably reliable.

[66] In relying on the 2023-2 data point, Definity ascribed much of the recent elevation in 2023-2 to an increasing proportion of theft claims, which hold a higher severity than most other Comprehensive claims.

[67] The Applicant's trend of +8.8% is based on a model that has good adjusted R^2 and p-value. The OAG's alternative, with the excluded latest data point, produces a severity trend of +7.7%.

[68] While acknowledging that the most recent data point is high, the Panel is not convinced that it is an outlier and is likely explained by the increase in theft experience. The Applicant's trend is therefore accepted.

H. Catastrophe Loading

[69] Definity selected a loading of +6.8% to estimate losses that could be sustained from a catastrophic event. To determine this, Definity looked at catastrophic loss data in the Atlantic provinces. The selected loading was higher than the historic five year average. Definity justified the selection on the basis that it believes that there is an increasing trend in losses from natural catastrophes impacting Canada and worldwide.

[70] The OAG raised the Board's Filing Guidelines, which provide that the Board does not expect the application of a Catastrophe loading due to the fact that New Brunswick is rarely impacted by catastrophes affecting automobile insurance claims. It further argued that New Brunswick incurs lower catastrophes than the combined Atlantic provinces data and that, therefore, the catastrophe loading was unsupported at the selected level and suggested it ought to be +3.5% based on the five-year average based on New Brunswick data only.

[71] The Panel determined that the Applicant's approach was unsupported and it was not persuaded that the data from the Atlantic Provinces was as relevant to the New Brunswick experience to justify the actuarial judgment applied for the selected loading. The Panel found that the OAG's approach was reasonable, based on the New Brunswick data, over a five year average. As such, the Panel orders the Applicant to use a +3.5% catastrophe loading and amend the Filing accordingly.

I. Expenses - Bonus Commissions

[72] In considering its expenses, Definity's assumptions for bonus commissions in the coming policy period is +2.3% based upon expenses forecast to be incurred. From 2019 to 2023, bonus commissions given by the Applicant to Brokers were +4.0%, +1.8%, +1.2%, +1.1% and +1.2%, respectively.

[73] The OAG argued that the selected assumption is higher than the average of the last five years of 1.9% and suggested a reasonable alternative to be +1.3%, based on a four year average from 2020 to 2023.

[74] Definity responded that these commissions are based on future expectations, not exclusively on the past paid commissions. It noted the variable and fixed expenses have been relatively consistent historically in total, but bonus commissions selection reflects the company's growth expectations.

[75] The Panel considered both the overall expense provisions and the individual components. It recognized the higher profit commissions and variable expense ratios which coincided with the COVID-19 pandemic.

[76] The Panel finds that the Applicant's selected bonus commission rate of +2.3% is not supported by the evidence. The Applicant's explanation for the 2019 high bonus commission rate of +4.0% being based on rates is not persuasive in light of the correlation between rates and growth since that time. The OAG's suggested alternative approach of +1.3% (average from 2020-2023) is a reasonable alternative, and the Panel accepts that alternative. The Applicant is ordered to make that change to the Filing.

J. High Theft Vehicle Rating Variable

[77] Relying on a recent "2024 Auto Theft Trend Report" from Équité, Definity justified the introduction of a two-tier high theft vehicle variable to allocate risk to vehicles within its book of business that it says are at a higher risk of being stolen. Tier 1 of the variable relies on Québec experience, and Tier 2 on Atlantic. The Applicant admits to a limited volume of data in New Brunswick and Atlantic, but argues that its approach is nevertheless reasonable.

[78] For Tier 1, the allocations are based on Québec data, identifying vehicles with elevated theft experience. A high theft vehicle is defined as having a three (3) year theft loss ratio higher than 200%, one (1) year theft loss ratio greater than 100% and an increase in loss ratio greater than 100%. Vehicles are identified both by model, and by model year in this tier. Tier 1 vehicles would be subject to a 10% surcharge.

[79] Tier 2 is based on data from the Atlantic Provinces for Definity and its sister company Sonnet, between 2022Q2 and 2024Q1. For Tier 2, a high theft vehicles is defined as a vehicle having a theft frequency

greater than two (2) times the overall frequency for all vehicles combined, or more than four (4) theft claims. Tier 2 vehicles would be subject to a 30% surcharge.

[80] The OAG is critical of the Tier 1 threshold, noting that Tier 1 vehicles have a lower frequency than the Atlantic and New Brunswick's overall average in 2023 and 2024. With respect to Tier 2, the OAG argued that the Applicant does not consider the low credibility of the data in their analysis.

[81] OW, on behalf of the OAG, performed an analysis of Tier 2 data, considering its credibility. Considering the outcome of that analysis, considering credibility and relativities lower than 1.3, the OAG argued the Applicant's selection of 30% was excessive and OW suggest that the surcharge should be reduced to 15%.

[82] With respect to Tier 1, the Panel is not satisfied that the Quebec data is sufficiently similar to the New Brunswick experience. The Applicant's analysis and proposed surcharge for Tier 1 is not accepted. The Panel orders that it be removed from the Filing.

[83] With respect to Tier 2, the Panel was concerned that the analysis does not differentiate based on model year. Definity's evidence was that the Atlantic data was less credible when broken down by model year. The Panel found that rationale did not make the analysis more persuasive. Further, the proposed vehicles in Tier 2, that would be subject to additional premium, are not among the top 10 stolen vehicles in New Brunswick as identified by the Applicant (Record of Hearing, page 506).

[84] The Panel finds that the proposed Tier 2 surcharge is not supported in the Filing and must be removed. A more robust support for this variable would have to be provided to justify the significant increased premium that would be allocated to those vehicle owners.

[85] In connection with the removal of the High Theft variable, the Applicant must also remove HTV Tier 1 and HTV Tier 2 variables for the Anti-Theft x High Theft Vehicle surcharge.

Profit Provision

[86] Definity adopted a +11.93% after-tax target ROE for the purpose of its Filing and a premium-to-surplus ratio of 2:1.

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

[88] The CAI did not provide evidence, beyond argument and suggestion of different treatment in different jurisdictions, that challenged the reasonableness of the 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 +11.93% is reasonable in the circumstances.

[89] The Panel reiterates 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.

4. Decision

[90] For the reasons set out above, the Panel finds that Applicant's Filing is not just and reasonable in its entirety and the Applicant is ordered to amend its Filing in accordance with the request set out in paragraph 4.

[91] The Applicant's proposed rate changes of +9.74% before capping (+9.68% after capping) are not appropriate in light of the amended indicated overall rate change of +3.98%. The Applicant is approved to adopt the following rate changes:

Coverage	Approved
Bodily Injury (TPL-BI)	+8.22%
Property Damage (TPL-PD)	Included with BI
Property Damage – Direct Compensation (DCPD)	+12.69%
Accident Benefits (AB)	-15.96%
Uninsured Auto (UA)	+11.44%
Collision (COL)	-5.57%
Comprehensive (COM)	+12.80%
Specified Perils (SP)	-8.39%
Underinsured Motorist (UM) – SEF44	+2.23%
Total	+3.98%

[92] The approved rates will be effective on July 1, 2025, for new business and September 4, 2025 for renewal business.

Dated at Saint John, New Brunswick, on May 28, 2025.

Ms. Marie-Claude Doucet, Chair

New Brunswick Insurance Board

WE CONCUR:

Ms. Brigitte M. Ouellette, Board Member

Ms. Heather Stephen, Board Member