

April 30, 2010

The Honourable Gordon Mackintosh  
Minister of Family Services and Consumer Affairs  
357 Legislative Building  
Winnipeg, Manitoba  
R3C 0V8

Dear Minister Mackintosh:

Reference:    2009-10 Annual Report, Public Utilities Board

Pursuant to the provisions of Section 109(1) of *The Public Utilities Board Act*, and on behalf of my fellow Board members and myself, I am pleased to convey to you the Public Utilities Board's Annual Report for the year ended March 31, 2010.

The Board's mandate is to determine the public interest with respect to utilities and other matters prescribed or otherwise assigned to be within the Board's set of responsibilities. With respect to utilities, the public interest has been defined as not only meeting the interests of consumers in the establishment of fair and reasonable rates and service terms, but also providing for the financial health of the regulated utilities. Upon application, either initiated by a utility or directed to be filed by the Board, the Board sets rates and terms of service following a review of the utility's financial, general and environmental operations. Generally, the Board may approve, vary or deny applications brought before it.

The Board's regulatory jurisdiction currently includes three of the Province's major Crown Corporations, privately owned natural gas and propane distributors, and, with one exception (that being the City of Winnipeg), municipal water and sewer utilities. The Board also oversees the safety of the pipeline distribution of natural gas and propane, and provides oversight through the licensing and/or review of privately owned cemeteries and crematoriums, pre-arranged funeral plans, perpetual care trust accounts and natural gas brokers.

The Board may also hear appeals of service disconnection decisions taken by Manitoba Hydro's subsidiary, Centra Gas, and municipal water and sewer utilities. The Board also may hear appeals of 911 service licence refusals, and decisions by the Highway Traffic Board pertaining to highway accesses and adjacent signage. Further, by virtue of *The City of Winnipeg Charter Act*, the Board is required to approve any non-City owned fixed-fare transportation operators and/or any agreements between such operators and the City of Winnipeg.

Government has amended the Board's role in setting the maximum rates permissible for payday loans; the Board is now an advisor to government. The Board continues to have the responsibility of setting the maximum rate or charges for the cashing of government cheques and, both with respect to this function and the provision of advice on payday loans, the Board is required to conduct a public review of maximum rates on either a triennial basis, or at the request of the Minister responsible. In meeting these responsibilities, the Board makes recommendations to government related to these practices.

During the period under review, the Board held public hearings with respect to Manitoba Hydro, Centra Gas, Manitoba Public Insurance, municipally and privately owned water and sewer utilities, and appeals of Highway Traffic Board highway access decisions. The Board also conducted both public and *ex- parte* paper reviews of rate and other applications by Manitoba Hydro, Centra Gas, numerous water and sewer utilities and, as well, private natural gas and propane distributors. Arising out of these processes, the Board set rates and directed terms of service, made amendments to rate schedule designs and related processes, and offered recommendations to government, Crown Corporations, municipal utilities and other operations.

As at March 31, 2010, there were six very involved, productive and effective part-time members of the Board as well as myself, the Board's full-time Chairman. The Board has a full-time staff of six, led by Executive Director, Gerry Gaudreau CMA, and a roster of experienced professional Board Advisors (legal, accounting, actuarial and engineering). Board members, staff and advisors are all dedicated to providing Manitoba and its residents with effective and efficient regulatory service with respect to matters within the jurisdiction of the Board. During the year under review, Associate Board Secretary Hollis Singh received the Civil Service's Community Service Award (Mr. Singh was instrumental in developing with Manitoba Hydro a new approach to Centra Gas service bill delinquency that has effectively brought about an end to what has been between 5,000 and 9,000 service disconnections each year – electricity load limiters are installed and payment plans arrived at, allowing for the continuation of natural gas service for customers and lower bad debts and collection costs incurred by Centra).

Sincerely,



Graham F.J. Lane, C.A.  
Chairman



Le 30 avril 2010

Monsieur Gord Mackintosh  
Ministre des Services à la famille et de la Consommation  
Palais législatif, bureau 357  
Winnipeg (Manitoba) R3C 0V8

**Objet : Rapport annuel 2009-10, Régie des services publics**

Monsieur le Ministre,

Conformément aux dispositions du paragraphe 109(1) de la *Loi sur la Régie des services publics*, j'ai le privilège de vous présenter, de la part des autres membres de la Régie et en mon nom propre, le rapport annuel de la Régie des services publics pour l'exercice, qui s'est terminé le 31 mars 2010.

Le mandat de la Régie consiste à déterminer l'intérêt public relativement aux services publics et aux questions prévues par règlement ou autrement qui relèvent de ses responsabilités. En ce qui concerne les services publics, l'intérêt du public est caractérisé non seulement par la satisfaction des intérêts des consommateurs dans l'établissement de taux et de modalités de service justes et raisonnables, mais aussi par le maintien de la santé financière des services publics visés par règlement. Sur demande présentée par un demandeur ou ordonnée par la Régie, celle-ci établit des tarifs et des modalités de service, après examen des activités financières, générales et environnementales du demandeur. En général, la Régie approuve, modifie ou rejette les demandes qui lui sont présentées.

Les compétences de la Régie en matière de réglementation englobent trois des principaux services publics de la Province, les distributeurs privés de gaz naturel et de propane, et les services d'eau et d'égouts, sauf ceux de la Ville de Winnipeg. La Régie veille aussi à la sécurité des réseaux de distribution de gaz naturel et de propane, et elle assure la surveillance des cimetières et crématoires privés, des services de pompes funèbres avec arrangements préalables, des comptes en fiducie d'entretien perpétuel et des courtiers en gaz naturel en leur délivrant des licences et des permis ou en procédant à des examens auprès d'eux.

De plus, la Régie entend les appels interjetés par rapport aux décisions de la filiale d'Hydro-Manitoba, Centra Gas, et des services municipaux d'eau et d'égouts, relativement aux interruptions de services. Elle entend également les appels relatifs aux refus de permis de centre 911 et aux décisions du Conseil routier en ce qui a trait aux accès routiers et aux panneaux de signalisation adjacents. En outre, la Régie doit autoriser, en vertu de la *Charte de la Ville de Winnipeg*, les exploitants de services de transport non urbains à tarif fixe ainsi que les ententes passées entre ces exploitants et la Ville de Winnipeg.

Le gouvernement a modifié le rôle de la Régie concernant l'établissement des tarifs maximums admissibles pour l'encaissement de prêts de dépannage; cette dernière joue à présent un rôle de conseillère du gouvernement. Elle continue aussi d'être responsable de l'établissement du taux et des frais maximums relatifs à l'encaissement des chèques du gouvernement, et dans le cadre de cette fonction et de son obligation de fournir des conseils au sujet des prêts de dépannage, la Régie est tenue de mener l'examen des taux maximums tous les trois ans ou encore à la demande du ministre responsable. En assumant ces responsabilités, la Régie donne des recommandations au gouvernement en lien avec ces pratiques.

Durant la période visée, la Régie a tenu des audiences publiques relativement à Hydro-Manitoba, à Centra Gas, à la Société d'assurance publique du Manitoba, aux services d'eau et d'égouts municipaux et privés et à des appels de décisions du Conseil routier concernant l'accès à une route. La Régie a aussi procédé tant à des audiences publiques qu'à des études *ex parte* de dossiers relativement à des demandes, tarifaires ou autres, d'Hydro-Manitoba, de Centra Gas, de nombreux services réglementés d'eau et d'égouts, et de distributeurs privés de gaz naturel et de propane. Conséquences de ces travaux, la Régie a fixé des tarifs et ordonné les conditions de service, elle a apporté des modifications à l'établissement du barème de taux et à des processus connexes, et a fait des recommandations au gouvernement, à des sociétés d'État, à des organismes municipaux de services publics et à d'autres entités.

En date du 31 mars 2010, la Régie comptait six membres à temps partiel très motivés, productifs et efficaces, outre moi-même, qui exerce les fonctions de président à temps complet. La Régie a un effectif de six employés à temps plein, placés sous l'autorité du directeur administratif, M. Gaudreau, CMA, auquel s'ajoutent des conseillers professionnels d'expérience (juristes, comptables, actuaires et ingénieurs). Les membres, le personnel et les conseillers de la Régie sont déterminés à fournir à la province et à ses résidents un service de réglementation efficace et efficient sur toutes les questions relevant du mandat de la

Régie. Au cours de l'exercice visé par le présent rapport, M. Hollis Singh, secrétaire associé de la Régie, a reçu la récompense de la fonction publique pour services rendus à la communauté. M. Singh a joué un rôle crucial auprès d'Hydro-Manitoba dans la mise sur pied d'une nouvelle approche chez Centra Gas pour traiter les cas de défaillance de paiement. Ainsi, l'installation de limiteurs d'électricité et la mise en place de formules de paiements ont permis de mettre fin efficacement aux interruptions de service, qui se chiffraient de 5000 à 9000 par année, rendant possible le maintien du service de gaz naturel pour les consommateurs, une diminution des créances douteuses et le recouvrement des frais encourus par Centra.

Je vous prie d'agréer, Monsieur le Ministre, mes sincères salutations.



Graham F.J. Lane  
**Président**

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## Chairman's Report

### Review of Board Proceedings For the Fiscal Year Ended March 31, 2010

#### 1. INTRODUCTION

The Public Utilities Board (Board) approves and sets rates, oversees pipeline safety and oversees such other matters as are prescribed by legislation or otherwise assigned. In its decisions, the Board is expected to determine that the public interest, with respect to utilities, reflects fairly treated consumers and financially-viable utilities. With the enactment of *The Sustainable Development Act* in 1997 (proclaimed into force in 1998), the public interest also includes energy efficiency, conservation and clean energy.

The Board is comprised of an appointed full-time Chairman and a roster of part-time members, ably assisted by staff and Board Advisors. The Board is a quasi-judicial administrative tribunal that makes regulatory decisions independent of government direction, in accordance with enabling legislation, regulation and stated public policy.

The Board fulfils its mandate through oral public hearings, paper reviews and direct intervention; its processes generally involve enquiry, research, consultation and careful deliberation.

Major Board responsibilities, as at March 31, 2010, were:

1. Establishing fair and reasonable rates and terms for:
  - a. electricity;
  - b. natural gas and propane, as provided by pipeline;
  - c. basic compulsory automobile insurance rates; and
  - d. water and sewer utilities (excluding those operated by the City of Winnipeg and the Manitoba Water Services Board).
2. Overseeing natural gas and propane pipeline safety, capital expenditures and general operations.
3. Licensing and/or overseeing:
  - a. privately owned cemeteries and crematoriums; including the monitoring of funeral directors' trust accounts pursuant to *The Prearranged Funeral Services Act*, and perpetual care trust funds under *The Cemeteries Act*; and
  - b. natural gas brokers.
4. Hearing appeals of:
  - a. Highway Traffic Board decisions, pursuant to *The Highways Protection Act*;

- b. applicants denied 911 emergency response centre licenses, pursuant to *The Emergency 911 Public Safety Answering Point Act*;
  - c. consumers disconnected from natural gas service, and customers disconnected from electrical service, where their residence is heated by natural gas provided by Manitoba Hydro; and
  - d. customers in contract disputes with natural gas brokers.
5. Establishing and/or advising with respect to maximum rates for:
    - a. Payday Loans (advising government); and
    - b. Cashing of government cheques (setting maximum rates).
  6. Approving and licensing operators of fixed fare transportation services pursuant to agreements with the City of Winnipeg and *The City of Winnipeg Charter Act*.

The Board is a member of the Manitoba Council of Chairs of Administrative Tribunals (MCAT), Canadian Association of Members of Public Utility Tribunals (CAMPUT), and the Canadian Automobile (insurance) Rate Regulators (CARR). Canadian and Manitoba regulatory practices and related matters are discussed, and professional development provided through all three associations. The Board also participates within the Canadian Standards Association, (where natural gas and propane safety standards are established) through its safety advisors, and the Organization of MISO States (OMS), the latter related to the generation and transmission of electricity.

The Board Chairman is a Board member of MCAT and a voting member of CAMPUT and OMS. OMS was formed in 2004 and exists to provide a co-ordinated view of electrical transmission issues among 14 American states and Manitoba. Manitoba participates in the Midwest Independent Transmission System Operators (MISO), in which Manitoba Hydro operates as both a seller and purchaser of wholesale electricity. CARR's third annual meeting was held in September of 2009, and the Board (through its Executive Director) has been an active participant in this relatively new association of regulators. (Mr. Gaudreau is a member of CARR's executive and is Chair of the association's Governance Committee.)

The year reported on was, as usual, a very busy one for the Board. During the period April 1, 2009 to March 31, 2010, the Board issued 177 orders and 205 licences (2009-172 orders and 188 licences), and attended to a host of other matters.

During the fiscal year ended March 31, 2010, the Board expended \$1.292 million in direct costs (2008/09- \$1.326 million), including approximately \$247,000 expended on natural gas pipeline safety. As well, the Board directed regulated utilities to pay a further \$2.586 million (2008/09- \$2.059 million) to meet Board Advisor and intervener costs related to extensive Board proceedings held during the year (the number of major hearings was higher in 2009/10 than in 2008/09). The Board meets its direct costs through levies on regulated utilities and other parties. Regulated utilities also bear their direct costs of participating in Board regulatory proceedings.

Taking into account all costs incurred or directed by the Board, overall regulatory costs for the fiscal year ended March 31, 2010 approximated \$3.9 million (2008/09- \$3.4 million), excluding sums directly expended by the regulated entities with respect to Board-related matters.

The three hundred plus entities regulated by the Board have estimated annual revenues of approximately \$4 billion (regulatory costs account for less than 1/10<sup>th</sup> of 1% of revenue generated).

Most regulated utilities are monopolies, though some monopolies also operate in competitive markets. Some operators are privately or co-operatively owned and are active in competitive markets. The Board's responsibilities affect every Manitoba resident, business and organization.

## **2. OVERVIEW OF BOARD PROCESSES**

Regulated utilities make application to the Board when seeking amended rates or, in some cases, some other operational or structural change. When large utilities are involved, or a proposed rate increase is exceptionally large or controversial, the Board generally hears the application through an oral public hearing process. Board hearings may either be conducted in a court-like atmosphere, with sworn witnesses and evidence received subject to cross-examination, or, in the case of smaller utilities or issues judged to be of a technical or less important nature, held in a more informal setting. In the interests of restraining regulatory costs, the Board employs less formal processes as long as those processes do not compromise the integrity of the Board's proceedings.

For public hearings related to Manitoba Hydro, Centra Gas Manitoba, Manitoba Public Insurance and the review of maximum fees and charges for either the cashing of government cheques or the making of payday loans, interveners representing various special or general interests participate. Intervenors pose questions, cross-examine witnesses and set out positions. In addition, at all public hearings of the Board, presenters from the general public are able to address the Board. For major hearings, Intervenors and the Board retain counsel and often employ expert witnesses. Witnesses provide sworn testimony, and such testimony generally supports, opposes or provides options with respect to matters before the Board. Interventions are intended to assist the Board in reaching decisions by presenting views and providing useful information for the public interest.

Prior to Board hearings, and with the exception of *ex parte* hearings taking place in camera, public notices are issued advising of upcoming hearings and informing of the opportunity to participate and the availability of cost awards in support of interventions. Transcripts of major hearings are posted on the Board's website and made available on request to interested parties. Copies of Board decisions are posted on the Board's website, issued to those involved in the hearing, and on request, to the media and members of the public. As well, major Board decisions are accompanied by a news release.

The Board's Rules of Practice and Procedure (Rules) guide public hearings; the Rules are available to all participating parties in advance of a hearing and are posted on the Board's website. Board decisions may be appealed to either the Board itself, by a motion to reconsider and vary or in certain defined circumstances, to the

Manitoba Court of Appeal. Historically, very few Board decisions are appealed.

In some cases, where special circumstances exist, the Board issues interim direction, generally representing decisions on rates reached through reviews not attended or participated in by interveners and the general public. Such proceedings are denoted as *ex parte* hearings. Reasons supporting *ex parte* decisions are made public and circulated to affected or interested parties (interveners and on request, the media and the public). Interim *ex parte* decisions are subject to confirmation, repeal or variance through a subsequent public or other Board proceeding. At such proceedings, the utility, registered interveners and the public are or may be present. *Ex parte* decisions may also be appealed, either to the Board through a motion to vary, or to the Court.

In 2008, the Supreme Court of Canada (SCC) altered the approach for judicial review challenges of decisions by administrative tribunals. In the past, there were three standards of review for the court to consider with respect to an application to set aside a decision of an administrative tribunal, those being correctness, reasonableness *simpliciter*, and patent unreasonableness. Now, there are only two grounds, with reasonableness *simpliciter* and patent unreasonableness merged into one.

The stricter standard, of correctness, will apply to claims of errors of law and/or fact; the reasonableness standard will apply to the judgment calls of administrative tribunals. This decision was later commented on in March 2010 in another decision by SCC, which supported the notion that the courts are to defer to an administrative tribunal with respect to applying the standard of reasonableness. The Board expects these two decisions to work in favour of upholding Board decisions, as the Board has a long history of providing full reasons for its decisions, and follows processes informed by legal advice as to jurisdiction and other matters requiring correctness.

In 2009/10, there was one request for leave to the Court of Appeal. The request contested the Board's jurisdiction in relation to the proposed establishment of a shuttle service from Winnipeg's International Airport to downtown hotels. Leave was not granted, and the Board's process was completed through an oral public hearing.

As previously noted, and in an effort to restrain regulatory costs, the Board often reaches its decisions by way of a public paper review (when relatively smaller utilities, such as Swan Valley Gas Corporation, Stittco Utilities Man Ltd., many municipal, private and cooperatively-owned water and sewer utilities, and cemeteries and crematoriums, are involved).

Under the paper review process, the Board first reviews the application (a process that involves questions being asked of the applicant and responses considered), then, when initially satisfied that an oral hearing may not be required directs the applicant to publish a notice of its application with an indication of matters to be addressed through the proceeding. If no substantive concerns arise through correspondence to the Board from ratepayers, the Board concludes its review process and issues an Order communicating its findings and directives.

In both the oral and paper hearing processes, the Board informs itself as to the particulars of each application through a written process involving the interrogation (by information requests) of the applicant and, in rare cases, registered interveners.

A significant number of water and sewer applications, particularly those involving large rate increases, are heard by way of public hearings, which have taken place throughout Manitoba. The Board has determined that such hearings are best held in the communities, so that people affected by the decisions have a realistic opportunity to attend and be heard.

As part of its general process with respect to utility rate applications, the Board assesses the financial statements and revenue requirements of the utility, considering the particulars as well as broader issues to arrive at available options. Within those options, the Board determines the public interest. As previously indicated, the Board requires the applicant to advertise its application and share with the Board any objections and comments it may receive. In some cases, comments from the public result in the Board holding a public hearing rather than proceeding by way of paper process.

As previously indicated, the Board operates pursuant to statute and formal Rules of Practice and Procedure, and for larger proceedings affecting a material number of ratepayers, in a court-like manner. Accordingly, Board process requires Board members to declare conflicts of interest prior to a hearing or decision process.

Generally speaking, the Board sits in panels of three members, particularly for applications heard by way of public oral hearing. Board members are assigned to at least one major area of responsibility – electricity, natural gas, water and sewer, etc.

Board members also regularly meet as a committee of the whole and discuss matters pertaining to Board operations and establish and/or amend general Board policies.

### ***3. REGULATED ENTITIES***

#### ***i. Manitoba Hydro – Electricity***

Manitoba Hydro (MH) is Manitoba's largest Crown Corporation, with annual revenues in excess of \$2 billion and with a staff complement in the range of 6,500. MH is very important to the Province, through the provision of required electricity and natural gas, by furthering economic and sustainable development and First Nations relationships, and by annual contributions to the Province's Consolidated Fund (water rentals, capital tax, payroll tax, debt guarantee levies and income taxes on employee and agent income). Subsequent to the advent of accounting standards changes for government, the net results of Crown agencies (such as MH), are now consolidated within the Province's overall accounts in determining the Province's overall surplus or deficit for each year.

The Province borrows in part to meet MH's financial requirements, and MH debt represents approximately 50% of the provincial government's overall borrowings. MH's current plans for future new generation, transmission and other capital expenditures may exceed \$20 billion, requiring substantial new borrowings being undertaken and guaranteed by the Province for the Utility.

Following a decade of no rate increases, the Board has approved overall rate increases for MH, as follows:

<b>Effective date</b>	<b>Approved</b>
August 1, 2004	5.00%
April 1, 2005	2.25%
March 1, 2007	2.25%
July 1, 2008	5.00%
April 1, 2009	2.90%
April 1, 2010*	2.90%
*Interim ex parte	

Notwithstanding these increases, MH's rates remain the lowest in Canada, particularly with respect to rates for industrial large-volume customers.

With respect to MH's most recent rate application, which calls for average 2.9% rate increases for fiscal 2010/11 and 2011/12, the Board has provided MH an interim rate increase of 2.9%, effective April 1, 2010. Recognizing that the hearing process, which will involve an in-depth review of MH's risks, will extend well into the year, and in order to protect the short-term financial status of MH (through the maintenance of an adequate capital structure), the Board approved the increase on an interim basis, with finalization of the increase (or variance of same) to follow the conclusion of the public oral hearing of MH's application.

The Board has indicated concern as to MH's risks in its orders from 2004 onward. The basis for the increases granted for 2008 and 2009 were explained in significant detail in a 365-page order released on July 29, 2008. The primary reason for those increases were with respect to the Board's assessment of MH's risks, which include not only the risk of drought but risks such as future interest rate changes, foreign exchange fluctuations, capital expenditure over-runs and export contract pricing. The Board has expressed a desire to attain and sustain a debt to equity ratio of 75:25 for MH, a target established and supported by most participants to MH proceedings, past and present, as being required to mitigate against the future realization of some of the various risk factors that a utility of MH's magnitude experience.

In the related order, issued in 2008, the Board itemized 30 directives, including the seeking of an independent risk assessment, and requirements for MH to report on its risk mitigation plans. Some of the 30 directives remained outstanding and under review at March 31, 2010, and, once responded to, all are to be considered in the upcoming 2010 hearing.

On February 2, 2009, MH filed an application for a 4% rate increase effective April 1, 2009. This filing was in response to direction previously provided by the Board, which had indicated that such an increase would be granted if MH provided adequate and further justification. In an order released March 30, 2009, which followed a paper review process in which all interveners to the 2008 rate application participated, the Board rolled back the rate increase to 2.9% (which took effect April 1, 2009). While the Board remained concerned with MH's risk profile, this decision reflected the Board's concern with the economic realities facing ratepayers, brought on by the, then-underway, global recession.

In the related Order, the Board once again set out a number of directives, and repeated some of those from the 2008 Order that had yet to be brought to satisfactory conclusion. The Board, through staff and counsel, continues to follow-up on outstanding matters.

As indicated earlier, on December 1, 2009, MH filed an application seeking across-the-board 2.9% average rate increases to take effect April 1, 2010 and April 1, 2011. The 2.9% interim rate increase was granted in a split decision of the Board. The dissenting member held that MH had not proved its need for the rate increase through an appropriate and publically vetted process, and that member was of the view that no increase should be considered until the oral hearing process was fully concluded. The majority of the panel held that an interim increase was warranted given an overall desire to maintain MH's financial strength and to avoid the potential for the requirement of a large increase to "catch-up" if an interim rate increase was not granted for 2010, in 2010.

This rate will be finalized, either confirmed or amended, as a result of the oral hearing process that is now underway. In determining the revised and interim residential rates, MH was ordered to continue in its efforts to encourage conservation through inverted rates by increasing the differential between the first rate block (up to 900 kWh per month) and the second (or tail block), with one-third of the revenue requirement to be paid by the first block and two-thirds by the second tail block. In other words, customers who consume more electricity will face a higher rate increase than those that consume less.

The oral component of the present proceeding is expected to begin in September 2010 and conclude by the end of the year.

#### Risk Related Issues, and a Complaint by a New York Consultant

During 2009/10, the Board became aware of a complaint lodged by a former consultant to MH who had been engaged by MH to consider the utility's risk profile. The consultant, based in New York, filed a complaint pursuant to *The Whistleblower Act* with the Ombudsman, who initially referred the complaint to the Auditor General. Concerned that the complaint was not being dealt with in a timely manner, the consultant also placed the concerns and complaint before the Board, and made a number of confidential filings.

The consultant later applied for intervener status at the current proceeding. That application was denied following a pre-hearing conference wherein registered interveners, MH and the consultant provided their perspectives. The Board noted that the consultant did not represent any party or group of consumers other than itself. The Board possesses the reports issued (or related) to MH by the consultant, and noted that the consultant's application, if accepted, would have significant cost implications for MH's customers, thus the Board concluded that intervener status for the consultant was not in the overall public interest.

Nonetheless, the Board concluded that the hearing process would benefit from the consultant's participation (although that participation would not come in the form of an intervention). Accordingly, the Board set out an alternate process by which the consultant may provide assistance to the proceeding while protecting the consultant's

identity and intellectual property. Neither the existing accredited interveners nor MH argued for intervener status for the New York consultant.

### Diesel Rate Application

On October 5, 2006, MH applied to the Board for *ex parte* approval of proposed amendments to interim Diesel Zone rates. The application was to increase rates to meet increased operating costs since 2004, as well as to provide for gradual recovery (through rates) of a deficit that accrued while awaiting finalization of a Settlement Agreement with the Federal Department of Indian and Northern Affairs (INAC). The Board approved the application on an interim *ex parte* basis, effective January 1, 2007.

Since then, interim rates have been further adjusted, awaiting finalization of the Settlement Agreement. The Settlement Agreement includes provisions requiring federal contributions to MH operating and capital costs related to electricity service to First Nations communities served by diesel-generated electricity.

On November 16, 2009, the Board held a one-day hearing at which MH updated the Board and interveners on the progress of the agreement with INAC. While rates in the Diesel Zone continue to be insufficient, there was sufficient doubt as to the eventual terms of the INAC agreement to preclude the Board from further increasing the rates at that time. Accordingly, MH has once again been directed to file an application to amend and finalize diesel community rates and all outstanding and interim Orders related to the Diesel Zone (following finalization of the tentative Settlement Agreement with the federal government).

The application was still pending as at March 31, 2010.

### Weekly Surplus Energy Rate Settings (Ex Parte Process)

MH rates for Manitoba customers are currently primarily based on the cost of the service provided to various customer classes. Industrial customers benefit from much lower electricity rates than residential customers, as the firms within the large industry rate class do not require the use of MH's distribution assets, being served directly off transmission lines. As well, MH's Surplus Energy Program (SEP) provides large industrial customers the opportunity to purchase "excess" electricity (either generated or purchased by MH) at similar rates to those made available to export customers by way of MH's opportunity sales.

Through an *ex parte* process, the Board establishes weekly interim rates for MH's SEP; the rates are determined based on sales prices for export sales to the United States, and provide comparable rates for sales to Manitoba industry. Approximately 50% of MH's export sales are by contract; the rest are opportunity sales, which are based on current electricity market wholesale prices and the level of excess generation and transmission available to MH.

As part of its 2008 and 2009 rate applications, MH filed further information on the SEP program, requesting that the Board approve an extension of the program to March 2013. While the Board expressed concern over the low prices being obtained for electricity sold in the 11 p.m. to 7 a.m. off-peak period, the Board recognizes that the SEP price only mirrors opportunity sales export pricing, which has recently been depressed due to several factors (lower

industrial demand related to the recent recession and a warmer-than-normal winter) and, accordingly, the Board extended authorization for SEP to March 2013.

#### Rates for Manitoba Industrial Customers

A public rate hearing was held in late 2008 and early 2009, at which the Board considered an application by MH for a special rate to apply to large industrial electricity customers.

In an Order issued on July 10, 2009, the Board denied the application and provided parameters for a new Energy Intensive Industry Rate (EIIR) proposal to be developed by MH in consultation with its industrial stakeholders. While MH filed a revised application on February 12, 2010, because the stakeholder consultation process was not yet complete, the application has been held in abeyance (and is now expected to be dealt with as a component of the current proceeding in 2010).

On August 7, 2009, MH applied to the Board for approval of a temporary change to allow concessions for billing related to demand charges to General Service Large and General Service Medium customers experiencing reduced demand directly resulting from reductions in their operations caused by the global economic downturn.

By an Order issued September 4, 2009, the Board amended the application and approved a temporary deferral of a calculated portion of a customer's energy bill, with carrying costs equivalent to MH's cost of short term debt.

Subsequently, MH has requested that the deferral agreed to by the Board be converted into a concession for a quite limited number of large industrial customers that applied for the deferral, and this request will also be considered during the 2010 proceeding.

#### MH and Planned Major Capital Expenditures

MH has extensive and significant capital expenditure plans to expand and improve generation, transmission, distribution and administrative assets. While intended to enhance service and profitability, the plans will also increase MH borrowing and affect the Utility's debt:equity ratio, (increasing debt until such time a new plant is in service and additional sales develop and sufficiently contribute to retained earnings to allow the debt:equity ratio to return to the target ratio). With ever-present risks of future droughts and other potential problems, MH requires a strong balance sheet, hence the Board's ongoing focus on the Utility's debt:equity ratio and attention to rate adequacy.

Wind is an environmentally friendly, clean energy source, complementing MH hydroelectric resources, and MH has contracted to purchase electricity produced from a 99 MW wind farm operating near St. Leon. In 2008, MH let out contracts for an additional 300 MW of wind generation and indicated plans for up to 1,000 MW of wind generation over the next two decades. While a proposal for a further 300 MW development was accepted by MH, the project was subsequently reduced to 138 MW, due to financial difficulties experienced by the proponent. While wind generation has its advantages, particularly with respect to furthering environmental goals (and, hence, assisting in

export sale potential), the Board understands that investments in further wind generation (based on present day costs and the withdrawal of past federal incentives) would place, albeit limited, upward pressure on MH's overall costs and rate prospects (as and if further new wind projects are committed to).

The Wuskwatim generating station, now under construction, will provide an additional 200 MW of generation when in service, at a capital investment of approximately \$1.6 billion, including related transmission capability. MH's partner in the project is Nisichawayasihk Cree Nation, which has the opportunity to acquire up to a 33% interest in the project (the opportunity also involves loans by MH).

Other major capital investments in new generating stations are also expected, these being Keeyask and Conawapa. As well, enhancements of existing generating stations and new transmission capacity (including the planned Bipole III), are anticipated, bringing projected capital expenditures over the next ten or so years to \$20 billion or more, the largest capital investment by a Manitoba Crown corporation in history.

MH is also involved with and is developing plans for additional expenditures to improve energy efficiency and heat retention, in co-operation with its customers. Improvements in energy efficiency release generation capacity for export sales, and provide for reduced consumer bills and environmental gains, through reduced energy consumption and carbon emissions.

MH has completed the construction of its new head office in downtown Winnipeg (at a cost of approximately \$280 million). The new building was committed as a condition of MH's purchase of Winnipeg Hydro, and is allowing for the consolidation of MH administrative functions.

The Board lacks the mandate to pre-approve MH's capital expenditures, though capital expenditures are a major component of overall costs and represent the majority of rate causation. Involvement of the Board in capital expenditure approval would minimize the potential for disallowance of costs in setting rates, and would provide increased assurance to ratepayers that the utility's capital expenditures are sound. Under the previous private ownership of Centra Gas, the Board disallowed approximately \$27 million of future contract losses in the late 1990s, directly impacting the shareholder. With MH's sole shareholder being the Province, the utilitarian value of disallowance of costs for rate-setting (from a consumer perspective) is questionable, as MH's customers are also the Province's taxpayers.

There is a regulatory argument for expanding the Board's authority with respect to MH to include pre-approval of major capital expenditures (this authority exists with respect to Centra Gas operations). Such a mandate would provide an additional check and balance on capital expenditures (a primary contributor to revenue requirement and customer rates). The current situation leaves capital expenditure responsibility with MH and government, though it does result in reduced regulatory costs.

Among the 30 directives to MH of the Board's rate decision of July 2008, the Board called for MH to propose a plan for a public regulatory review of its capital program plans and its expected implications for consumer rates, if any. A proposal from MH has yet to be received, and dates for this review have, accordingly, yet to be established. The

Board continues to hold to the premise that a public review of capital development by MH is a critical component of regulatory effectiveness.

That said, in the current proceeding the Board will assess the adequacy of rates in the context of MH's current and future capital expenditure and export sales plans.

#### OMS Activities

The Board's involvement with OMS has been limited, largely due to Board resource limitations. OMS is "consensus" orientated, and it is in place to bring forward the views of 14 American state jurisdictions and Manitoba on issues related to electricity generation and transmission across state/province and national boundaries, for joint presentation to the U.S. federal regulator.

Because Manitoba has only one electrical distributor (MH), and it is a Crown Corporation assisted by government involvement, the issues addressed by OMS to-date have not required extensive Board involvement. This may change with the Board's expected new electrical reliability responsibilities (see Outlook section).

#### *ii) Centra Gas Manitoba Inc. (Centra Gas)*

Centra Gas provides natural gas to approximately 250,000 residential, commercial and institutional customers. Centra Gas was purchased by MH in 1999, and is integrated within MH's general operations. Centra Gas has no employees of its own -- operational costs are allocated to Centra Gas, subject to the Board's review.

Centra Gas primarily serves Winnipeg and southern Manitoba, as the costs of pipeline development and maintenance are very high. Approximately half of MH's customers rely on natural gas for space heating, the other half depend on electricity, propane, fuel oil and wood. With respect to this other half, electricity dominates.

Natural gas is purchased for distribution in Manitoba from continental energy markets, where price is determined by supply and demand (often affected by speculation) and is unregulated. Natural gas purchased from Western Canadian and American producers is transported to Manitoba through pipelines owned by external parties, and distributed within Manitoba through Centra Gas infrastructure. Centra's natural gas storage facilities are in Michigan, though consideration has, and is to be given, to the possibility of developing additional storage in Saskatchewan.

Commodity costs have been significantly affected by hedging activities entered into by Centra Gas, for the purpose of reducing rate volatility. Hedging involves financial derivatives entered into with counter-parties, and gains and losses on hedging form a component of Centra's overall natural gas costs that are passed through without mark-up to its customers. In a recent Order, the Board directed Centra to phase out its hedging of primary gas purchases for the customers purchasing primary gas from Centra priced on a quarterly basis. The phase-out of hedging is to be concurrent with Centra offering, on an ongoing basis, fixed price and term primary gas contracts to its customers, allowing customers to "lock-in" their primary gas requirements for one to five years.

As to its quarterly priced primary gas operations, Centra Gas amends its primary gas rates for its commodity cost experience and forecasts on a quarterly basis, reflecting on-going market fluctuations. Centra Gas recovers its costs through levies on customers, and the levies recover not only commodity and related transportation to Manitoba costs (at no mark-up), but also Centra's operating and financial costs. The Utility also is provided, through Board-approved rates, sufficient additional revenue to offset MH's costs of acquiring Centra Gas and to provide reasonable retained earnings to serve as a financial reserve.

Expansion of Centra's distribution system has been limited to small extensions since MH's acquisition, as a result of natural gas price increases experienced during the 1999 to the summer of 2008 period. Though natural gas commodity prices have since plunged (with additional supply coming on line from shale gas deposits concurrent with the onset of a serious global recession that has depressed demand), no major expansion of Centra's gas existing distribution system is currently planned.

Centra's annual net income is intended to be limited to the full recovery of costs incurred by MH, the amortization of MH's acquisition-related costs, and the development and/or maintenance of adequate surplus. Considerable attention is placed on reducing customer gas consumption through improved customer awareness and through insulation and furnace upgrades.

#### Rate and Operational Reviews

The Board holds public hearings (usually annually) into the natural gas commodity and transportation (to Manitoba) costs of Centra Gas. The hearings also consider matters such as the allocation of unaccounted for gas costs (gas purchased by Centra but not billed to customers), matters related to the purchase, transportation and storage of natural gas, and Centra's hedging actions and policy. The most recent hearing began in early 2010, with an oral hearing scheduled for April 2010. Any rate implications from that hearing will be reflected in the quarterly rate setting for May 1, 2010 rates.

Quarterly, the Board establishes Centra's primary gas rates pursuant to a Rate Setting Methodology (RSM) accepted by Centra Gas and all Interveners. The RSM determines rates based on actual and projected commodity costs, as impacted by storage and hedging. Natural gas commodity prices rose to in excess of \$15/GJ in December of 2005, following the hurricanes that curtailed production and transportation in the United States. Subsequently, upon recovery of production and transportation and a warm winter in 2005/06, market prices fell dramatically (to below \$4 at one point).

Until early July 2008, natural gas commodity prices were, again, increasing sharply, primarily driven by a virtual doubling of oil prices over the previous year. From the fall of 2008, both oil and natural gas prices, again for natural gas, plunged along with a concurrent global economic slow-down (driven in large part, at least initially, by a credit crisis originating in the United States). More recently, while oil prices have recovered sharply (though still only roughly half of the summer of 2008 peak), natural gas prices have not. A new non-conventional supply of natural gas (extraction from shale), has developed, increasing the supply of natural gas and driving down costs. The current spot rate for natural gas has once again fallen to the \$4 range, and the historic relationship between natural gas and

oil prices (with natural gas prices, GJ to barrel, normally in a range of 1/6<sup>th</sup> to 1/9<sup>th</sup>) has been, seemingly, broken.

Since the diversion of gas and oil commodity prices, the cost of heating by natural gas, particularly if a high-efficiency furnace is in place, has become sharply lower than space heating by electricity. At the peak of natural gas prices, space heating by electricity was less expensive than by natural gas, raising the risk that conversions from gas space heating to electric space heating would add more demand pressure on electric generation. That risk has abated.

Centra's hedging of its primary gas purchases, which saved its customers tens of millions of dollars during the natural gas commodity price climb in 2005, cost its customers the same or more as natural gas commodity prices retreated. With the North American oil and natural gas market, wherein American experience looms larger than Canadian when it comes to affecting pricing, and where speculation has come to play a large role, significant natural gas price fluctuation can be expected, again, at some point.

On a bi-annual basis, Centra files a General Rate Application (GRA) requesting revised non-primary rates for all of its customers. The next such filing is expected for early 2011

In October of 2009, Centra filed, for approval, a proposed revised Derivatives Hedging Policy. In December 2009, after providing due consideration to Centra's proposal, the Board directed a phase-out of Centra's hedging of primary gas supply for consumers receiving "system gas" from Centra. The directive was in accordance with prior findings of the Board, and also consistent with submissions of the Consumers' Association of Canada and the Manitoba Society of Seniors (a major intervener representing consumers in Centra applications).

#### Franchise Agreements

*The Public Utilities Board Act* provides that a franchise granted to any owner of a public utility by a municipality is subject to the approval of the Board. The authority to grant or refuse a franchise to sell gas, or to directly purchase gas or revoke an existing franchise to sell gas, or to directly purchase gas within the Province, is within the mandate of the Board. Accordingly, Centra applies to the Board for approval, renewal or extension of franchise agreements.

During the period under review, no such applications were received.

#### Service Disconnection

The Board has broad responsibilities with respect to the provision of natural gas in the Province, and as one of its mandates, the Board oversees Centra's service disconnections. Manitoba has a cold winter climate, and heat is critical to human health and welfare, particularly during the period from October through May. The Board concerns itself with ensuring that Centra's economic concerns (the Utility expects payment of its bills), valid as they may be, do not trump concern over the safety of adults and children living in properties heated by natural gas.

Recently, the Board and Centra concluded an effort to develop a process intended to reduce natural gas service disconnections as well as MH/Centra's bad debt and collection costs. The Board approved a new disconnection

policy that allows MH to place an electricity load limiter (which restricts electrical service) in cases where customer bill delinquency exists. The new approach provides for the Board's oversight of disconnections of both electric and natural gas service when natural gas service is in place. The new approach balances MH's need to collect its accounts (to restrict its bad debt losses) with the need of customers for assured space heating source during Manitoba winters. As is often said, the "proof is in the pudding", and in this case the proof of the benefits of the new arrangement between the Board and MH/Centra is evident (if not startling). The ability for MH to utilize electricity load limiters in cases of natural gas bill delinquency has motivated delinquent customers to make payment arrangements with MH/Centra and avoid what had often been a cycle of service disconnections and service reconnections.

The number of residential annual gas disconnections has declined dramatically from a range of 5,000 to 9,000 to 45 in 2009 (even the annual disconnection of electrical service has decreased, from 3,474 in 2008 to 2,642 in 2009), saving MH/Centra bad debt and collection costs and customers the anxiety and other ramifications that arise out of service disconnection.

The result of the cooperative arrangement between MH/Centra and the Board can be considered nothing short of representing a resounding success. Credit for this arrangement rests with both MH personnel and the Board's Associate Secretary Hollis Singh.

#### Gas Safety

As previously stated, the Board is charged with the responsibility for overseeing natural gas and propane pipeline safety in the Province under *The Gas Pipe Line Act*. Not having engineers on staff, the Board utilizes the services of an engineering advisor, Energy Consultants International Inc. (ECI), to assist in monitoring safety on the Board's behalf.

During 2007/08, a long-standing effort to place more direct safety responsibility with Centra Gas concluded. During 2008/09, the Board and Centra arrived at a mutually-agreeable plan and the Board has delegated some of its direct gas safety oversight responsibilities to Centra, reducing the need for involvement by the Board's engineering advisors. Concurrently, and as a condition of the delegation, Centra Gas has implemented a Quality Assurance Program, including extensive auditing.

The Board now relies on the new safety program (quarterly reporting, annual audits and other measures) to ensure that natural gas safety matters are properly and timely managed by Centra. Transition to the new approach has taken approximately two years, and the Board's involvement, with costs for Centra's customers through rates, reduced.

Board and Centra staff meet quarterly, and the meetings review events and consider emerging issues.

#### ***iii) Stittco Utilities Man Ltd. (Stittco)***

Since the early 1960s, Stittco has provided pipeline propane gas to customers (now less than 1,000) in Thompson, Snow Lake and Flin Flon.

Stittco filed a general rate application with the Board in July 2008, requesting an increase of approximately 27% for consumers. The Board handled the application by way of a paper review process, posing a number of questions to which Stittco fully responded. The Consumers' Association of Canada (Manitoba) Inc. and Manitoba Society of Seniors, which had intervened at a Stittco hearing in 2006, also intervened.

On October 15, 2008, the Board, cognizant of the significantly high propane prices extant in the market at the time, granted Stittco an interim 10% rate increase, pending completion of its review of the submission, including the interrogatories and the responses. The Board also confirmed the use of a quarterly rate setting process, not unlike that in place for Centra Gas, to adjust rates regularly (thereby mitigating against the unnecessary build-up of a propane purchase price variance account). Commodity costs are passed on to customers without mark-up with price variances accumulated to be billed or repaid to customers over time. The inaugural use of this process occurred for the February 1, 2009 rate adjustments.

By Order No. 45/09 issued on April 24, 2009, the Board released its decision on the GRA. The non-commodity costs base, which Stittco had estimated in its July 2008 application, was reduced by approximately 11%. At that time, the commodity costs of propane, which is passed on to customers without mark-up, also decreased substantially from the previous quarter. The effects of the changes in pricing were also reflected in the May 1, 2009 quarterly rate setting, which resulted in an overall decrease in rates of some 27%.

Since that time, propane gas costs have continued to fluctuate, with the effects reflected in rates on a quarterly basis. The propane commodity price on March 2010 was only 62% of the January 2010 price. The effect of these fluctuations is mitigated somewhat for the consumer by the quarterly rate setting process and the steadily rising non-commodity costs of Stittco (non-commodity costs rise in part due to general inflation and also due to a declining customer base).

During 2007/08, the Board became aware of structures, mainly garages, having been constructed over underground pipelines in Thompson, a practice in violation of CSA standards, one that created a potential for gas accumulation and explosion in the event of a leak. Stittco was directed to identify and notify all customers with structures that had to be moved or the propane service disconnected. Stittco supplied the material but held the customer responsible for the cost of relocation and any site remediation required. In some cases, the customer chose to disconnect service, leaving Stittco to bear the cost. The last of these situations was resolved during the 2009-10 fiscal year, and all properties served by Stittco are now in compliance with CSA gas safety standards.

***iv) Swan Valley Gas Corporation (SVGC)***

SVGC is a wholly owned subsidiary of SaskEnergy Incorporated. SVGC acquired natural gas distribution franchise rights for the Swan Valley region of Manitoba on July 4, 2000. At that time, the Board directed that SVGC be regulated under a "least cost regulation" approach, a regulatory model involving less direct Board oversight based on paper-based hearing processes rather than oral hearings. This was intended to restrain regulatory costs that are passed on to customers through rates.

Similar to the approach taken with Centra Gas and Stittco, SVGC does not “mark-up” its natural gas commodity and transportation costs, which are passed on to customers through rates at cost, upon Board approval. These costs include SVGC’s actual natural gas commodity costs and, as well, costs related to the transport of gas to SVGC at the Many Islands Pipeline metering station located in Manitoba.

On August 28, 2009, SVGC filed a rate application seeking approval of a one year Agreement between SVGC and its largest customer, Louisiana Pacific (LP), covering, initially, the year ending December 31, 2009. SVGC also sought decreased gas consumption rates, revised Purchase Gas Variance Account (PGVA) riders, and increased delivery charges for each customer class ( to be effective for all natural gas consumed on or after November 1, 2009); and revised Terms and Conditions of Service. LP ceased use of natural gas and has made an application to the government to allow it to burn by-products of its forestry operation in lieu of using natural gas for wood-drying; the loss of LP as a customer would affect the rates charged SVGC’s other customers, and could threaten the economic viability of SVGC’s natural gas service. LP’s application to “leave” natural gas is currently under review by the Clean Environment Commission.

The 2009 rate application proposed overall rate decreases ranging from 8.9% for the residential class to 33.2% for the institutional class. The application also requested removal of the requirement for a stand-alone annual external financial audit for SVGC. The Board approved the application on October 29, 2009, following a paper review process.

#### v) *Natural Gas Brokers*

Licensed natural gas brokers offer consumers a fixed-price alternative to Centra’s quarterly cost-based commodity billings. While the Board licenses brokers, broker contracts are unregulated and prices are market-driven. The Board supervises the sales activities of brokers through a Code of Conduct, and has the authority to cancel a retail contract.

Two retail residential market orientated brokers operated in Manitoba since the mid 1990s, following natural gas deregulation. Generally, retail brokers market through door-to-door consumer contact. Currently, the one remaining active residential marketer (contracts are still in place with a marketer that has ceased seeking new residential contracts) represents less than 15% of Centra Gas’ overall residential connections.

In addition to overseeing the terms under which Centra Gas distributes primary gas for brokers to their customers, and establishing and monitoring the Code of Conduct that governs the brokers’ marketing to consumers, the Board intervenes and investigates with respect to complaints from broker customers. Rarely has the Board had to hold a public hearing to resolve a customer complaint; generally the Board is able to facilitate a reasonable outcome through discussions between the broker and the customer.

As reported earlier, the Board reviewed the relationship of the brokers to the natural gas market in Manitoba at its fall 2007 Centra Gas hearing, and subsequently revised the marketing rules to allow telephone and internet sales. As indicated above, one of the two residential brokers has left the Manitoba marketplace, though its exit has been offset

in part by Centra's participation in the retail fixed-price fixed-term market.

*vi) Manitoba Public Insurance (MPI)*

Manitoba Public Insurance was established in 1971 as the monopoly provider of basic motor vehicle insurance. Currently, the annual revenue of MPI exceeds \$800 million and its asset base approaches \$2.5 billion. MPI insures approximately 700,000 drivers and 900,000 vehicles. With respect to the Personal Injury Protection Plan (PIPP), which provides accident benefit coverage, all Manitobans have coverage, whether drivers or not, and whether in Manitoba or anywhere else in Canada or the United States.

The objectives for the Crown Corporation were established in the enacting legislation, and have been pursued since. Over the years, substantial changes have occurred. The most significant change took place in 1994 when Basic plan benefits were changed to reflect a total "no-fault" environment for accident benefits. Other major changes include:

- a) the introduction of a Bonus/Malus system in 1988 to reward good drivers and provide penalties for poor experience;
- b) this program was replaced by a Driver Safety Rating program (the subject of a 2009 Board hearing), with the Board's decision released May 28, 2009;
- c) the sale of the general property insurance segment to the private sector in 1989;
- d) the introduction of a no fault retirement benefit in the late 1990s;
- e) the transfer of DVL (driver and vehicle registration and driver conduct regulation) responsibilities to MPI from the Province in 2004;
- f) changes in 2006 to the allocation of the cost of claims to reflect the no fault nature of the program; and
- g) the 2009 introduction of substantial benefit improvements for accident victims with catastrophic injuries.

The investment portfolio increased substantially following the adoption of total no fault, and now, despite the market downturn that accompanied the global recession, its value at market value exceeds \$2 billion, providing an important source of revenue to restrain premium levels, as well providing a source of investment capital for Manitoba municipalities, schools, hospitals and the provincial government. MPI's premiums are among the lowest in Canada while benefits (excluding consideration of pain and suffering - no longer being compensable under the no-fault design) and coverage are reported to be among the most generous.

Over the past decade, the Board has directed MPI to rebate premiums in excess of \$240 million to MPI's Basic premium ratepayers. During the same period, rates have remained stable. In Canada, only the four public automobile insurers (MPI in Manitoba, ICBC in British Columbia, SGI in Saskatchewan and SAAQ in Quebec) have been able to maintain rate stability, with MPI in Manitoba leading the way with rebates.

On December 4, 2009, the Board approved MPI's application for 2009/10 premiums, which represented no overall increase over those approved in the previous year for basic compulsory vehicle insurance.

Unlike the situations of the Board's other regulated utilities, MPI's rates are in force only for a particular insurance year; this means an annual rate hearing is required. Given that new vehicles join the fleet each year and the experience on existing vehicles is constantly changing, annual hearings continue, though the Board continues to explore ways to reduce duplication and improve regulatory efficiency.

Items raised in the past that are likely to continue to be a focus of the annual hearings include premium refund potential, the continuing impact of the DVL acquisition and related matters, and MPI's investment practices.

As well, the Board has recommended to MPI and the government that MPI's competitive lines of business (Extension and SRE), be made subject to broad general oversight by the Board (the Board has not sought the mandate to set Extension or SRE rates, but has sought access to overall information related to MPI's overall operations). In past Orders, the Board has provided MPI with a number of recommendations related to matters ranging from the use of Extension and SRE profits, the investment of MPI's unpaid Claims Provision and retained earnings, and the placement of the DVL functions within MPI's corporate structure.

During the hearing leading up to the decision on 2010-11 rates, the Manitoba Bar Association filed a Motion asking the Board to compel MPI to answer a material number of questions that MPI had deemed not germane to Basic Compulsory Insurance. This emphasized a long-standing debate over the Board's jurisdiction. The Board's view is that it should have access to any and all information about the entire Corporation. MPI has maintained that the Board's jurisdiction is limited to matters dealing with Basic Compulsory Insurance. All interveners at that hearing shared the view of the Board on this matter, and the Board has decided to seek the Manitoba Court of Appeal's interpretation of existing legislation with respect to the Board's jurisdiction, towards enhancing its ability to inquire about MPI operations as a whole. A filing was made in the Court of Appeal in April 2010.

The Board will likely continue to pursue broadening its regulatory mandate in the interest of public disclosure and open and transparent processes, in light of the fact that MPI has a virtual monopoly in the Extension line of business (with 90% or more of the market).

The Board remains committed to sustainable development and will continue to explore the implications of environmental principles being applied in MPI premium setting. While MPI indicated that it was willing to consider related initiatives, it advised it would only undertake to do so for rate-setting purposes if directed by government. The Board recommended that MPI actively seek such direction in time for its 2011-12 rate application, which will be heard by the Board this fall.

#### ***vii) Water and Sewer Utilities***

The Board has regulatory rate and financial responsibilities for Manitoba's 218 municipal water and/or sewer utilities, as well as approximately another 100 water cooperatives and six privately owned water utilities. The Board is developing approaches to each group, to maximize effective regulation on a least-cost regulatory basis (taking into account the Board's limited human resources). In respect of cost considerations, 30 rate reviews were conducted in 2009/10 as compared to 46 in 2008/09. Only seven, of the 30 reviews (nine in 2008/09) involved oral hearings with

the remainder handled through a paper-based process.

In 2007, the Board declared all water cooperatives and several privately owned water utilities to be public utilities (to be regulated by the Board). Information requests were sent to each utility, indicating the Board's determination to exercise its regulatory mandate. Recognizing that many of these utilities have very small customer bases and annual revenue requirements, the Board implemented a "complaints based process" to constrain regulatory costs.

Most of these utilities are able to introduce rate changes by simply notifying their customers and providing the Board with financial information in support of the rate changes. To March 31, 2010, the majority of these newly regulated utilities have cooperated and provided the Board with the information sought. The Board is examining its options with respect to incidents of non-compliance.

Included in the list of 33 water utility cooperatives is the Pembina Valley Water Cooperative (PVWC), a large public utility distributing wholesale water to 18 member municipalities as well as four non-member customers, serving in total approximately 50,000 households, businesses and institutional customers. PVWC filed an application and the Board held a public hearing with respect to PVWC's application, to which no objections were filed. The Board set rates by way of an Order issued in September 2009.

Through its Order, the Board provided the 18 member municipalities authority to 'pass through' PVWC increases without making an application to the Board. In March 2010, an amending rate Order was issued establishing a new customer class to PVWC's rate schedule, providing for a 'rate rider' to address any delinquent payments from its wholesale customers.

The consideration of complex rate applications calling for large increases has led to increasingly well-attended public hearings, many outside Winnipeg. While rates have increased substantially, further rate pressure is evident. Nutrient removal from sewage is a major issue yet to be managed, along with the continuation of a trend to metering consumption and upgrading facilities to meet industrial and residential needs. As well, many utilities have inadequate reserves, which will place increased rate pressure on customers as infrastructure needs are addressed.

In dealing with rate and deficit issues for water and sewer utilities, the Board is increasingly mindful of the implications of *The Sustainable Development Act*, not only for nutrient removal, but also with respect to conservation of water, and longstanding municipal water rate schedules that allow for decreased rates with higher volumes. The Board encourages utilities to review their rates regularly and to assess the implications of collapsing multiple rate step schedules to fewer steps or one rate for all water consumption. The Board is aware, however, that the provision of less costly water remains an incentive and attraction for industry, and is in turn an economic development incentive to the industry seeking to locate in specific communities or areas.

The Board issued 33 orders granting approval for recovery of actual, budgeted and anticipated deficits in a municipal utility. Other miscellaneous orders include two orders granting intervener status for participation in water and sewer hearings, one order denying a request for intervener status, one disconnect order, one discontinuance of a bulk water standpipe, and one order to merge a number of separate utilities into one pending the completion of a

newly-constructed water treatment plant.

Efforts are also being made to cooperate with other agencies with respect to the approach to be taken to major infrastructure capital upgrade requirements. The Board participated in a Treasury Board-led initiative to develop a coordinated government process to deal with this issue. A major objective is to better ensure that priority setting is fair, especially important given Manitoba's large infrastructure deficit. The outcome of the review remains pending.

The Board is cognizant of the effects on municipalities with the implementation of Public Sector Accounting Board (PSAB) accounting standards requiring utilities to adopt generally accepted accounting practices in 2009-10, which will include a requirement for amortization accounting. The Board issued a general Order in June 2009 outlining the Board's requirements to the PSAB accounting standards, and to provide assistance to those preparing rate studies with the transition to the new accounting standards. The Board's website includes these new requirements and a selection of forms for use by all utilities in developing the utility rates. Further, the Board hosted eight workshops (one in Dauphin, two in Brandon and five in Winnipeg) for interested and affected parties, including municipal auditors, to assist in the understanding of the transition issues.

The Board noted that at the 2009 Association of Manitoba Municipalities' (AMM) annual meeting, similar to a resolution placed before the 2008 meeting, a motion was passed recommending that the Board's oversight of water and sewer utilities as a regulatory body be amended to that of an advisory body. In the ongoing spirit of cooperative consultation, the Board continues to collaborate with the AMM towards ensuring compliance with the Board and provincial directives, and to update regulatory practices for water and sewer utilities. The Board also meets with members of the AMM executive to discuss matters of joint interest.

During 2009, the Board released two major orders, one, as noted earlier, defining the requirements for utilities when preparing rate studies as a result of PSAB and the other amending the standard practices for utility disconnection. Both releases were preceded by a consultation with both the AMM and the Manitoba Municipal Administrators' Association.

#### ***viii) Cemeteries and Related Matters***

The Board was encouraged by an initial commitment from Consumer Affairs to proceed with the long anticipated review of the legislation under the Board's purview related to bereavement; this includes *The Cemeteries Act* and *The Prearranged Funeral Services Act*. The Department has offered some human resource assistance to gather information for the Board, once a plan has been developed on how to proceed with a review. The plan is to include proposed short term regulatory changes, as well as long term legislative changes.

Insofar as the legislative construct affecting the Board, much of the governing legislation was enacted many decades ago, and circumstances have changed. The regulation of the field has not kept pace with developments, and is not comprehensive. There are significant areas of operation currently without regulatory oversight. In particular, the Board has noted problems with unregulated cemeteries (not-for-profit, municipal and faith-based facilities), with the low level of balances in perpetual care trust accounts, and the magnitude of funds held in trust. Perpetual care trust

funds are inadequate for the purpose intended.

The trend in the funeral and cemetery industry now favours cremation over burial, with a reported 60% utilizing cremation services. Ongoing inflation and reduced investment income expectations have (over a lengthy period of time) resulted in perpetual care accounts producing annual investment income inadequate to provide the contracted-for services. The Board has noted that private cemeteries are being generally maintained (through subsidies provided by the owners' other lines of business) as a marketing mechanism. Aging infrastructure, declining populations in some locations, declining church membership for some denominations, and ongoing migration to larger population centres have resulted in challenges with respect to currently-unregulated, faith-based and municipal cemeteries.

While current legislation requires regulated cemeteries and crematoriums to seek approval from the Board for price changes, the Board lacks the jurisdiction and resources to assure it of the merits of some changes. Price control is largely left to the marketplace; at "time of need", the degree of market research carried out by grieving families is questionable.

The Board introduced filing fees in 2007, primarily to recover its processing costs, but also to encourage more rigour in the licensing process for private cemeteries and crematoriums.

The Board has noted other problems as well. The proceeds from the sale of cemetery services (when sold on a pre-need basis) are neither required to be, nor are they, placed into trust accounts. The services and goods purchased are provided upon the need arising (for example, the provision of a plot and marker after the death of the person). However, for-profit private cemeteries are expected to set aside a portion of the funds received for a lot or niche in a perpetual care trust fund. Transactions within perpetual care trust accounts are regularly audited by the Board.

Generally speaking, the Board attempts to meet its mandate with respect to the bereavement industry through paper reviews and consultation, though hearings involving complainants have occurred. The Board also hears appeals related to the actions of funeral homes, cemeteries and crematoriums. These appeals relate to the sale of prearranged funerals and the cost of a cemetery plot. In 2009, the Board launched three investigations with respect to allegations of misappropriated funds for prearranged funeral services. Two of the investigations remain open and the third investigation has been closed. The more significant of the two issues is reported below.

#### Russell Funeral Homes

In July 2009, the Board was advised that Russell Funeral Homes (RFH), then licensed pursuant to *The Prearranged Funeral Services Act* (PFSA), was to change hands. In the prospective purchaser's review, irregularities suggested monies had been accepted by RFH, some of which had not been placed in trust, nor were they used to purchase an insurance policy. Evidence was provided to both the Board and the RCMP.

The Board placed advertisements in local papers in Beausejour and the surrounding communities requesting people to come forward if they had paid money to RFH and had not yet received services.

In October 2009, the Board issued an Order suspending RFH's licence. The Board also issued an Order to Pay, which was based on an initial calculation of funds paid to RFH that were not placed in trust as required by law, and registered the Order as a lien on property in the name of RFH and/ or its owners. The Board contacted persons that placed funds with Russell to advise them that RFH was no longer in business.

In December 2009 and with new information, a second Order to Pay was issued and subsequently registered as a lien on the properties. During this time, the Steinbach Credit Union (SCU), the mortgage holder, and RFH's lawyer, had continued to negotiate arrangements for the prospective purchaser to remain at RFH, without success. SCU began mortgage proceedings and RFH went onto the real estate market.

In January 2010, the prospective purchaser vacated RFH premises. Without a firm on site to provide services, the Board contacted the Manitoba Funeral Services Association (MFSA), asking its members to consider the situation and offer a solution. Six of its members agreed to honour contracts entered into by RFH should service be required ahead of recovery of funds that were to be placed in trust. A letter was sent to all the affected former clients of RFH, providing advice and direction.

The Board continues the investigation, in cooperation with the RCMP.

#### **4. HIGHWAY TRAFFIC BOARD**

As previously indicated, the Board hears appeals of decisions of the Highway Traffic Board pursuant to *The Highways Protection Act*. Appeals generally deal with access to provincial highways by way of driveways and the placement of signs, particularly electronic signage, adjacent to Manitoba highways. Appellants have included local landowners, businesses and the Department of Manitoba Infrastructure and Transportation (MIT).

Generally, in determining these matters, the Board visits the site and holds a public hearing in the area. Board decisions follow an assessment of the facts of the situation and the hearing of positions advanced by the parties to the matter. The Board's decision criteria include fairness and safety.

During the 2009/10 year, the Board received four appeals. Two decisions were handed down, including an appeal carried over from the previous year, 2008. Three appeals were still pending a hearing and resolution as of March 31, 2010.

#### **5. THE EMERGENCY 911 PUBLIC SAFETY ANSWERING POINT ACT**

During 2005/06, *The Emergency 911 Safety Answering Point Act* was enacted; it assigns the appeals process to the Board. Applicants for 911 service provision who are refused licensing are now able to appeal denial to the Board. To date, no appeals have been filed.

## **6. CITY OF WINNIPEG CHARTER ACT (Passenger Transport)**

*The City of Winnipeg Charter Act* provides that, where the City signs an agreement providing for an operator to transport customers for a fixed fee within the City of Winnipeg, the agreement must be approved by the Board. The Board must also approve the operator, who or which then becomes subject to ongoing Board oversight. Historically, the Board has had to deal with relatively few of these agreements, which have been limited to transport services for children and the elderly.

In 2006, the City entered into an agreement with Avion Services Corporation (Avion), at the time a wholly-owned subsidiary of the Winnipeg Airports Authority (WAA), to provide a shuttle service from the Winnipeg Airport. Avion filed its application with the Board in February 2007. In providing its approval, City Council recommended that the Board hold a public hearing given significant public interest.

Avion originally filed an application in 2006, only to withdraw it in 2007. Subsequently, Avion renewed its application in May 2008. Unicity Taxi and Duffy's Taxi (UDT) intervened in the process.

UDT's counsel filed a motion challenging the Board's jurisdiction on the basis that the agreement between the City and Avion did not constitute a proper agreement, and the Board ruled against UDT. As previously indicated, UDT filed an application in the court of Appeal, seeking leave to appeal on the basis that the Board did not have jurisdiction. With the Court indicating that the motion was premature, the hearing proceeded in July 2009, concluding in August 2009.

The Board conditionally approved the Shuttle service, with a number of conditions including the requirement for Avion filing certain information and providing certain assurances on or before April 1, 2010. The approval was also given with the understanding that Avion was a wholly owned subsidiary of the Winnipeg Airport Authority, and if that were to change the Board would need to be pre-notified for approval for Avion to continue to operate a shuttle service.

In late March 2010, the Board became aware of a change in the ownership of Avion, not contemplated during the hearing. Further, the filings required of Avion as a pre-condition to operating the service were not filed as required by April 1, 2010.

The Board continues to correspond with all parties, to ascertain the status of the shuttle service proposal.

## **7. THE CONSUMER PROTECTION ACT**

The provincial government introduced legislation in the spring of 2006, assigning to the Board the authority to set the maximum rates chargeable for payday loans and for cashing government cheques. The legislation was passed in June 2006 and the Board held hearings in 2007 and 2008, before setting the maximum fees which legislation required it to establish.

In 2009, the government introduced legislation that changed the Board's role in setting maximum rates for payday loans. The Board was now to act as an advisor to government, with government to set the maximum fees for the industry by regulation.

#### Maximum Fees for Cashing Government Cheques

Hearings on cheque cashing were held in Thompson, Brandon and Winnipeg. The Consumers' Association of Canada (Manitoba) Inc. and the Manitoba Society of Seniors (CAC/ MSOS) intervened in the Winnipeg hearings, as did Money Mart and the Northwest Company, two major players in cheque cashing. The hearing concluded in April 2007 and the Board issued its decision in May 2007; the decision placed caps on fees and made a number of recommendations to government intended to provide increased consumer protection.

The rates are subject to review every three years. The next mandated review is therefore expected for April and May 2010.

#### Maximum Fees for Payday Loans

In April 2008, the Board released Order 39/08 setting the maximum rates for payday loans. The Order followed a public process of eight months, including 25 Board hearing days during which innumerable exhibits were filed, extensive cross-examination of witnesses took place and arguments were presented. The payday loan industry was represented, with two major firms and others present and active throughout the proceeding.

The maximums set by the Board were lower than some extant in the industry. In its Order, the Board specifically noted that under the new maximums it was likely that only efficient payday firms could be operated economically. The maximums set by the Board are similar to those of the average American state, and higher than some. In Canada, the province of Quebec (through a maximum annual interest provision of 35%) effectively bars payday lenders, as do a number of American states.

One of the industry participants, the Canadian Payday Loan Association (CPLA), filed a request for the Board to review and vary its Order on three matters. The Board agreed in part with CPLA and varied its Order. Another industry participant, Cash Store Financial, sought leave to appeal to the Manitoba Court of Appeal; its application for leave to appeal was granted. That leave to appeal was rendered moot by government action in May 2009, with the tabling of legislation to embed maximum payday loan rates in regulation (employing the Board as an advisor). The Board supported the government's action, with the view that, otherwise, protection for consumers in the form of the establishment of maximum rates for payday loans could be delayed by a potentially lengthy court process, and that by government proceeding to set the maximum rate through regulation, vulnerable consumers would be protected.

## **8. BOARD ADMINISTRATION**

### Board's Rules of Practice and Procedure

The Board operates pursuant to legislation and its Rules of Practice and Procedure (Rules). The Rules provide assurance and guidance to regulated utilities, registered interveners, Members of the Legislative Assembly, government and other interested parties with respect to the manner by which the Board manages its public and *ex parte* processes. The Rules had been operative in draft form for over a decade. The Board formally adopted its revised Rules in June 2006, following a process that involved circulating the draft Rules to interested parties. Subsequent to adoption, the Board published the Rules in the Manitoba Gazette and posted them on the Board's website.

Among other things, the Rules set out the Board's criteria for awarding costs to interveners. The Board has full discretion with respect to the award of costs, and exercises that authority to restrain regulatory costs while enabling public participation in Board hearing processes.

### Staffing and Staff Development

December 31, 2009 marked the retirement of Gerald Barron, a long-time staff member. Mr. Barron had served the Board and the public interest in various capacities, including a lengthy period of time as executive director and secretary.

While the Board will miss Mr. Barron's experience and expertise, it benefited from Government's previous succession-planning approval for a full-time person to "shadow" Mr. Barron for approximately two years. Ms. Kristine Shields was able to move into Mr. Barron's position, thus ensuring continuity of service, especially to water and sewer utilities across the Province.

The Board is now planning for the retirement of its current Executive Director, Gerry Gaudreau, CMA, and is seeking a replacement to begin with a similar succession-planning approach.

### Operational Improvements

Beginning in 2004, the Board embarked on a process intended to increase the effectiveness of its regulatory effort, restrain regulatory costs and allow it to meet increased workloads without substantial increases in staff and advisor resources. Since then, the overall cost of regulation has been reduced while the timeliness of Order issuance improved. As well, the Board's directions to water and sewer utilities have been enhanced by the provision of background and detailed rationale for all decisions, and the Board now regularly holds public hearings of municipal water and sewer rate applications outside Winnipeg.

Regulatory reform requires flexibility, and based on legal advice, the Board sought and obtained agreement from government to remove the requirement that the appointment of its advisors be by means of Order-in-Council authority. The Board now makes its own advisor appointments, under its own authority as provided in *The Public Utilities Board Act*.

The Board continues to explore ways and means to improve regulatory cost effectiveness, public awareness and consumer involvement.

## **9. *OUTLOOK FOR 2010-11 AND RECOMMENDATIONS***

### Electric Reliability

Following the 2003 eastern blackout, the American and Canadian governments acted to better assure electric reliability, particularly with respect to interconnected systems. These systems cross the Canada/United States border, and the American regulator (Canadian representatives are on the agency's board), the Federal Energy Regulatory Commission (FERC), has been and is in the process of being provided authority to establish and manage protocols governing electric reliability.

To protect Canadian and Manitoba sovereignty, while allowing FERC's oversight to produce increased reliability, legislation was introduced and passed in 2009, which would appoint the Board as Manitoba's electric reliability regulator. Proclamation awaits the preparation and introduction of related regulations. With the proclamation of the legislation, the Board would work co-operatively with Manitoba Hydro, OMS, MISO and FERC to best ensure safe and reliable electricity interchanges with American utilities.

Pending proclamation of that legislation and related regulations, an Order-in-Council has been passed which appoints the Board as the adjudicator for any alleged violation of electrical reliability standards, such authority being granted under section 107 of the Board's Act.

### Board Cost Recovery and Fee Structure

The Board will continue to explore different models to achieve cost recovery. With respect to some service areas, fees have not been amended for many years and the Board's costs of its oversight are not met by recoveries through current fee schedules.

### Regulatory Scope

The City of Winnipeg has been exploring the potential for the City's water and sewer utility to be placed under the Board's oversight. The Board had previously recommended this to government, and will now await the results of deliberations by the City and the Province. In the interim, Board staff are meeting with representatives from the City to help define and clarify the regulatory environment that such a change would involve.

The Board is closely monitoring the regulatory model being sought by the City, and the extent that the proposed oversight would allow the Board to delve into rate-related matters, especially capital spending.

With the extension of the Board's oversight to include cooperative and privately owned water and sewer utilities, the Board looks forward to an increased involvement in water utility regulation for the benefit of ratepayers and society.

### Recommendations to Government

The Board relies on public policy, as established through legislation, regulations and stated government policy. In cases where public policy has not been established by the legislature or the government of-the-day, the Board may set policy. In such cases, public policy set by the Board is subject to amendment, which may come as a result of legislation, regulation or stated government policy. The Board's jurisdiction is finite and defined, and there are areas where the Board cannot establish policy even in the absence of legislation, regulation or stated government policy. In some cases, while there may be neither extant legislation nor regulation nor stated government policy, and the matter at issue is within the Board's jurisdiction, the Board may choose not to set policy. In some such cases, the Board may choose to bring the matter to the attention of government by way of comment and/or suggestion within a Board Order.

The Board has brought the following significant matters to the attention of government since 2004:

- the aforementioned exemption of the City of Winnipeg from the Board's jurisdiction with respect to water and sewer utilities:

*the Board has suggested, now supported by the Mayor of the City of Winnipeg, that it may be in the public interest to extend the Board's jurisdiction to include the water and sewer utility of the City, the only municipal body exempt at this time;*

- the current exemption of the Manitoba Water Services Board (MWSB) from the Board's rate-setting jurisdiction with respect to water and sewer utility rates; MWSB sets water and sewer rates for utility assets owned by the MWSB, and these rates affect municipalities otherwise subject to the water and sewer rate-setting jurisdiction of the Board:

*the Board is of the view that all water and sewer utilities in the Province should be subject to its jurisdiction;*

- MPI has held that MPI's Extension, DVL and Special Risk Extension (SRE) divisions are outside of the Board's jurisdiction, unlike MPI's Basic Autopac operations:

*the Board is of the view that present legislation is sufficient to require MPI to provide the Board with responses to the Board's inquiries with respect to MPI's overall operation, and has opined that the extension of the Board's oversight over MPI to include all of its operations would be in the public interest;*

- MPI's long-distance trucking industry has been subsidized by basic ratepayers through the non-inclusion of accident benefit costs in the development of inter-provincial truck premiums, a decision made by the government:

*the Board has recommended that either MPI be compensated for the annual subsidy by government, or MPI transfer funds from SRE annual profits to the Basic program to meet the costs;*

- MH's capital expenditures are not subject to the approval of the Board, unlike the situation with respect to Centra Gas; the Board has opined that as MH's capital expenditures have and are expected to be valued in the billions of dollars and as the amortization and financing costs associated with capital expenditures are a large component of MH's annual revenue requirement:

*the Board's jurisdiction would best extend to the approval of MH's capital expenditures ahead of actual construction or purchase;*

Some, none or all of these recommendations may or may not be implemented, the decision or action being either within the jurisdiction of government or dependent on a future decision by the Manitoba Court of Appeal.

Along with providing regulated utilities and other operations with directions pursuant to the Board's jurisdiction, the Board also provides recommendations and suggestions. The Board often takes this approach to provide the utilities an opportunity to consider matters ahead of detailed examination at a public hearing proceeding. Recommendations provided to utilities are published within Board Orders, and may be read by accessing Board Orders on the Board's website.

## **10. CONCLUSION AND ACKNOWLEDGEMENTS**

The Board's website may be found at [www.pub.gov.mb.ca](http://www.pub.gov.mb.ca). Through the website, the public can monitor the Board's activities and obtain decisions of the Board and Notices of significant issues before the Board.

The Board's jurisdiction is not contained only within *The Public Utilities Board Act*; provisions of *The Crown Corporations and Public Review and Accountability Act* and *The Manitoba Hydro Act* also relate to the Board. As well, there are other statutes, such as the City of Winnipeg Charter that provide the Board with mandates. At some point, it may be worthwhile to consolidate the Board's mandate within one Act, to assist with the public's understanding of the Board's mandate.

With respect to that mandate, the utilities that the Board has oversight over are also governed or overseen, in whole or in part, by others. These include the Legislature, Ministers Responsible, the boards of directors for the agencies, Crown Corporations Council, Clean Environment Commission, the Auditor General, the Manitoba Water Services Board, Conservation Manitoba, etc. While the Board is cognizant of the significant roles played by the other parties, this does not reduce the statutory mandates provided to the Public Utilities Board.

The Board's calendar for 2009/10 was diverse, challenging and rewarding. The positive improvements in natural gas disconnections and in regulatory relations with the Association of Manitoba Municipalities, the Manitoba Municipal Administrators' Association and the Pembina Valley Water Cooperative were all rewarding results for the Board. Dealing with aspects of a complaint filed with the Ombudsman by the New York Consultant has been challenging, especially in light of the requirements for identity protection. The Board is committed to ensuring that the concerns and allegations raised, as such as may pertain to MH's risk management practices and future rate

requirements, will be appropriately taken into account in the Board's 2010 MH proceeding.

I want to thank the other Members of the Board, Board Advisors, and Board Staff for their dedication to the work of The Public Utilities Board and its public interest mandate.

We are ever mindful of the public's reliance on the Board for thorough and careful thought related to the matters that come before us; a fair hearing remains critically important. The Board has a long history of fulfilling this objective, and it remains the goal of the Board into the future.

Respectfully submitted,

Graham F.J. Lane, CA

April 30, 2010

## STATUTORY RESPONSIBILITIES

The Board is an independent quasi-judicial administrative tribunal operating pursuant to *The Public Utilities Board Act* (“the Act”). The Act was enacted in 1959, though the Board has regulated similar public services under other legislation since 1912.

During the fiscal year under review, the Board was responsible for the regulation of public utilities as defined under the Act; namely: Centra Gas Manitoba Inc. (a wholly owned subsidiary of Manitoba Hydro), Stittco Utilities Man Ltd., Swan Valley Gas Corporation, and municipal water and sewer utilities in the Province, with the exception of the City of Winnipeg’s utility and those operated by the Manitoba Water Services Board.

Pursuant to *The Crown Corporations and Public Review and Accountability Act*, the Board regulates the premiums charged by Manitoba Public Insurance for compulsory auto insurance, related premiums charged on drivers’ licences and other fees, as well as Manitoba Hydro’s electricity rates. While the Board reviews the financial performance and forecasts of Manitoba Hydro, it does not have authority over the utility’s capital expenditure decisions.

Other enactments assigning regulatory or adjudicative responsibilities to the Board are:

*The Greater Winnipeg Gas Distribution Act*  
*The Gas Allocation Act*  
*The Prearranged Funeral Services Act*  
*The Cemeteries Act*  
*The City of Winnipeg Act* (passenger carrier agreements)  
*The Manitoba Water Services Board Act* (Appeals)  
*The Highways Protection Act* (Appeals)  
*The Emergency 911 Public Safety Answering Point Act* (Appeals)  
*The Consumer Protection Act*  
*The Municipal Act*

The Board is also responsible for the administration of *The Gas Pipe Line Act*, and, pursuant to that legislation, authorizes construction and operation of all gas pipelines in Manitoba. The Board’s primary concern in exercising these responsibilities is public safety.

The utilities regulated by the Board have annual revenues approximating \$4 billion, and serve and affect virtually every Manitoba resident and business.

## BOARD MEMBERS AND STAFF

### Members of the Board:

Graham Lane CA, Chairman  
Robert Mayer, Q.C., Vice-Chair  
Dr. Leonard Evans, LL.D.  
Monica Girouard, C.G.A.  
Eric Jorgensen  
Dr. Kathi Avery Kinew  
Susan Proven, P.H.Ec.

### Staff Members:

#### Officers:

Gerald A. Gaudreau, C.M.A., Executive Director and Secretary  
Hollis Singh, BA (Econ), Associate Secretary  
Kristine Shields, Associate Secretary

#### Administrative Staff:

Brenda Bresch, Office Manager  
Debra Feuer, Secretary to the Chairman  
Robyn Erlenmayer, Administrative Secretary

The Chairman is a full-time appointment of the Lieutenant Governor in Council; the other Board members are part-time appointments. Public hearings of the Board are advertised, and applications made by sewer and water utilities where public hearings are not heard are made known to those affected, and Board decisions are communicated to the public. Decisions arising out of *ex parte* hearings are shared with the affected utilities and interveners, and posted on the Board's website. All Board decisions are available to the public, and are posted on the Board's website. Board members comprise the membership of panels that hear and subsequently decide upon the rate applications and other matters brought before the Board. Board members, staff and advisors are governed by conflict of interest guidelines, to ensure those appearing before the Board receive unbiased and independent judgements. Board decisions may be appealed to the courts, and applications may be made to the Board requesting that the Board reconsider a decision. The Board has adopted Rules of Practice and Procedure, which are made known and are available to consumers, utilities and other interested parties.

The Board relies upon expert advisors from the fields of accounting, actuarial science, engineering and law; the roster of advisors includes:

Accounting	Cathcart Advisors Inc.
Actuarial Science	Eckler Partners LLP
Engineering	Energy Consultants International Inc. and L.A.B. Consulting Ltd.
Law	Fillmore Riley LLP and Pitblado LLP

**SUMMARY OF BOARD ACTIVITIES**

**ORDERS ISSUED**

	<b><u>2009/10</u></b>		<b><u>2008/09</u></b>	
<b>Regulated Industry Orders:</b>				
Water and Sewer Utilities				
Applications for amended rates	30		46	
Applications to address deficits	35		13	
General matters, late payment fees	<u>5</u>	70	<u>9</u>	68
Manitoba Hydro				
Electricity operations	67		63	
Centra Gas Manitoba	<u>10</u>	77	<u>15</u>	78
Natural Gas and Propane Utilities and Pipelines				
Swan Valley Gas Corporation (consumer rates)		1		1
Stittco Utilities Man Ltd.		4		2
TransCanada Calibrations (safety audit)				
Other Natural Gas				
Service Disconnection		1		-
General matters, Code of Conduct (brokers)				-
Manitoba Public Insurance Corporation		11		7
Highways Protection Act		2		6
Fees for cashing Government Cheques				
Maximum Charges for Payday Loans				8
The Cemeteries Act		3		1
The Prearranged Funeral Services Act		3		
Avion		<u>5</u>		<u>1</u>
Total number of Orders issued		<u>177</u>		<u>172</u>

Note: Copies of the decisions of The Public Utilities Board of Manitoba are available from the Board's office upon request, and are posted on the Board's website ([www.pub.gov.mb.ca](http://www.pub.gov.mb.ca)). The Orders indicated above include Orders related to applications for costs by interveners to the Board's process.

**SUMMARY OF BOARD ACTIVITIES**

**LICENCES ISSUED**

	<b>2009/10</b>	<b>2008/09</b>	
<b>Direct Purchase of Natural Gas</b>			
Brokers	<b>10</b>		<b>11</b>
<b>The Cemeteries Act</b>			
Cemeteries, renewal	11	11	
Initial licensing			
Columbariums	19	19	
Initial licensing	1		
Mausoleums	5	5	
Crematories	17	18	
Sales- Owners	11	11	
Agents	106	86	
Agent Transfer	<u>1</u>	<u>2</u>	<b>152</b>
<b>The Prearranged Funeral Services Act</b>			
Renewal	24	25	
Initial licensing			<u>25</u>
<b>Total licenses issued</b>	<b><u>205</u></b>		<b><u>188</u></b>

In addition, the Board receives notice of price changes from cemeteries, crematoriums and with respect to pre-arranged funerals.

**FINANCIAL INFORMATION**  
**Fiscal Year Ended March 31, 2010**

	(\$000'S)			
	<u>2009/2010</u>		<u>2008/2009</u>	
<b>Levies, Direct and Indirect</b>				
General Board Levies on Manitoba Hydro with respect to:				
a) electricity;	319		326	
b) gas operations	<u>579</u>	898	<u>641</u>	967
Costs of Board Advisors, paid by Manitoba Hydro:				
a) electricity;	1,010		963	
b) gas operations	<u>519</u>	1,529	<u>284</u>	1,247
Costs of Interveners, paid by Manitoba Hydro:				
a) electricity;	109		325	
b) gas operations	<u>194</u>	<u>303</u>	<u>25</u>	<u>350</u>
Aggregate Board levies on Manitoba Hydro consolidated				
		2,730		2564
Levies on Manitoba Public Insurance Corporation (MPI), with respect to:				
General Board Levies on MPI	312		312	
Costs of Board Advisors, paid by MPI	589		362	
Costs of Interveners, paid by MPI	<u>165</u>		<u>100</u>	
Aggregate Board levies on MPI		1,066		774
Levies on				
Avion	52		12	
Stittco Utilities Man Ltd.	8		5	
Swan Valley Gas Corporation	2		4	
Water & Sewer Utilities	50		44	
Fees related to cemetery and funeral related activities	34		30	
Natural Gas Brokers	8		7	
Government (cheque cashing and payday loans)*	<u>2</u>	<u>156</u>	<u>120</u>	<u>222</u>
		<u>\$3,952</u>		<u>\$3,560</u>
<b>Board Expenditures, Direct and Indirect</b>				
<b>Direct costs of the Board</b>				
Salaries & per diems	\$823		\$740	
Rate regulation and safety related costs	247		270	
Cheque cashing & payday loan hearings*			83	
General overheads (rent, technology, utilities, etc)	<u>222</u>	<u>\$1,292</u>	<u>233</u>	<u>\$1,326</u>
Board Advisor costs billed to regulated entities		2,118		1,609
Intervener costs billed to regulated entities		<u>468</u>		<u>450</u>
<b>Aggregate costs related to Board operations</b>		<u>\$3,878</u>		<u>\$3,385</u>

\* Expenses include professional advisory services and intervener cost awards.

**FINANCIAL INFORMATION (cont'd)**  
**Fiscal Year Ended March 31, 2010**

Revenue and expenses related to Board operations and Board decisions are recorded in the accounts of the Consolidated Fund of the Province of Manitoba and the utilities regulated by the Board. The Board incurs costs to its own account, and recovers these costs through statutory levies against Manitoba Hydro, Centra Gas, Manitoba Public Insurance and Stittco Utilities Man Ltd. and fees charged to other regulated utilities. The Board directs the utilities to pay the costs of Board advisors and, upon a Board Order awarding costs, all or a portion of the costs incurred by interveners to its hearings.

Costs and revenues reported do not include costs incurred by the regulated utilities for their own direct costs associated with Board regulatory processes. Such costs include salaries and benefits, notice expenditures, consultants and overheads.

The Board's direct costs remained relatively stable in 2009/10. However, the levies on utilities and other parties were nearly \$400,000 more than the previous year. This is attributed to:

- costs related to the special hearing conducted on Driver Safety Rating (MPI);
- a general rate application hearing for Centra Gas, where none was held in the previous year; and
- the hearing of an application by Avion Services with respect to a proposed airport shuttle service.