

August 30, 2011

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

Dear Minister Mackintosh:

Reference: 2010-11 Annual Report, the 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 (Board) Annual Report for the year ended March 31, 2011.

The Board's mandate is to determine the public interest with respect to regulated utilities and other entities and matters prescribed or otherwise assigned to be within the Board's set of responsibilities. With respect to utilities, which include the Basic component of Manitoba Public Insurance's operations, 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, those based on prudent expenditures, but also providing for the financial health of the regulated utilities. Upon application, either initiated by a regulated entity or as directed to be filed by the Board, the Board sets rates and terms of service following a review of the entity's financial, general and environmental operations. The Board may approve, vary or deny applications brought before it, while providing recommendations and commentary.

The Board's regulatory jurisdiction currently includes three of the Province's major Crown Corporations, as well as privately owned natural gas and propane distributors, and, with the exception of the Manitoba Water Services Board (rates set by that body are subject to appeal to this Board) and limited oversight with respect to the City of Winnipeg (while the City may set rates as it chooses, the Board's general oversight mandate is intact), 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 is the appeal body for service disconnection decisions taken by Manitoba Hydro and its subsidiary, Centra Gas, where the customer is serviced with both electricity and natural gas; municipal water and sewer utilities; and the gas and propane distribution utilities Swan Valley Gas Corporation and Stitco Utilities Man Ltd. The Board is also the appeal body for 911 service licence refusals, rate decisions taken by the Manitoba Water Services Board 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 amended the Board's role with respect to setting maximum rates for payday loans; now, the Board acts as an advisor to government and is expected to review rates on a triennial basis. The Board continues to have the responsibility of setting the maximum rate or charges for the cashing of government cheques.

During the year ended March 31, 2011, the Board held public hearings with respect to Manitoba Hydro, Centra Gas, Manitoba Public Insurance, municipally and privately owned water and sewer utilities, and heard 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 various entities subject to the Board's jurisdiction. 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 and other public utilities and entities.

As at March 31, 2011, and currently, there were five 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 its Executive Director Hollis Singh. The Board is assisted by a roster of experienced professional Board advisors (legal, accounting, actuarial and engineering). All involved are dedicated to providing Manitoba and its residents with effective and efficient regulatory service with respect to matters within the jurisdiction of the Board.

Sincerely,



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

Le 30 août 2011

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

Objet : Rapport annuel 2010-11 de la 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 2011.

Le mandat de la Régie consiste à déterminer l'intérêt public relativement aux services publics réglementés et aux entités et questions prévues par règlement ou autrement qui relèvent de ses responsabilités. En ce qui concerne les services publics, qui comprennent l'assurance de base de la Société d'assurance publique du Manitoba, 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, en fonction de pratiques de dépenses prudentes, mais aussi par le maintien de la santé financière des services publics visés par règlement. Sur demande, introduite par une entité réglementée ou ordonnée par la Régie, la Régie établit des tarifs et des modalités de service, après examen des activités financières, générales et environnementales de l'entité. La Régie peut approuver, modifier ou rejeter les demandes qui lui sont présentées, et elle peut transmettre des recommandations et des commentaires.

Les compétences actuelles de la Régie en matière de réglementation s'appliquent : à trois des principales sociétés de la Couronne de la Province; aux distributeurs privés de gaz naturel et de propane; aux services d'eau et d'égouts municipaux, à l'exception de la Commission des services d'approvisionnement en eau du Manitoba (les tarifs établis par la Commission peuvent faire l'objet d'un appel devant la Régie) et d'une capacité de surveillance limitée à l'égard de la Ville de Winnipeg (bien que la Ville puisse établir les tarifs qu'elle juge appropriés, le mandat de la Régie en matière de surveillance générale est intact). 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.

La Régie entend les appels interjetés par rapport aux décisions d'Hydro Manitoba et de sa filiale, Centra Gas, concernant les interruptions de service lorsqu'un abonné est approvisionné à la fois en électricité et en gaz naturel; aux services d'eau et d'égouts municipaux; aux services publics de distribution de gaz naturel et de propane de Swan Valley Gas Corporation et de Stittco Utilities Man. Ltd. Elle entend également les appels relatifs aux refus de permis de centre 911, aux décisions tarifaires de la Commission des services d'approvisionnement en eau du Manitoba, 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 n'appartenant pas à la Ville de Winnipeg à tarif fixe ainsi que les ententes passées entre ces exploitants et la Ville de Winnipeg.

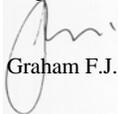
Le gouvernement a modifié le rôle de la Régie concernant l'établissement des tarifs maximums admissibles pour l'encaissement de prêts de dépannage; cette dernière joue à présent un rôle de conseillère du gouvernement et devrait examiner les taux maximums tous les trois ans. Elle continue d'être responsable de l'établissement du taux et des frais maximums relatifs à l'encaissement des chèques du gouvernement.

Durant l'exercice qui s'est terminé le 31 mars 2011, 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 elle a entendu des appels de décisions du Conseil routier concernant l'accès routier. Elle a aussi procédé à des audiences publiques et à des études *ex parte* de dossiers relativement à des demandes, tarifaires ou autres, présentées par diverses entités soumises à sa compétence. À la suite de ces travaux, la Régie a fixé des tarifs et ordonné des modalités de service, elle a apporté des modifications à des barèmes de taux et à des processus connexes, et elle a fait des recommandations au gouvernement, à des sociétés de la Couronne, à des organismes municipaux ou autres de services publics et à d'autres entités.

Actuellement, comme au 31 mars 2011, la Régie compte cinq 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. Hollis Singh. Elle bénéficie également de l'aide de 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 de la compétence de la Régie.

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

Le président,



Graham F.J. Lane

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Chairman's Report

Review of Board Proceedings For the Year Ended March 31, 2011

1. INTRODUCTION

The Public Utilities Board (Board) approves and sets rates, oversees pipeline safety, and oversees such other matters as are either prescribed by legislation or otherwise assigned. In its decisions, the Board is expected to determine the public interest, this with respect to entities and matters regulated or overseen by the Board. Rates set by the Board are to reflect prudent expenditures and provide for both fairly-treated consumers and financially-viable regulated entities. With the enactment of *The Sustainable Development Act* (proclaimed in 1998), the public interest was expanded to include energy efficiency and conservation.

The Board is comprised of an appointed full-time Chairman and roster of part-time members, ably assisted by staff and Board advisors. The Board is a quasi-judicial administrative tribunal making 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, when required, direct intervention; its processes involve enquiry, research, consultation, careful deliberation and public dissemination of decisions and notices of upcoming processes.

Major Board responsibilities, as at March 31, 2011, 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 fees; and
 - d. water and sewer utilities.
2. 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. municipal customers of the Manitoba Water Services Board (which may object to the rates established by that body);
 - d. consumers disconnected from natural gas service, and customers disconnected from electrical service where their residence is heated by natural gas provided by Centra Gas Manitoba Inc.; and
 - e. customers of private 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/or licensing operators of fixed fare transportation services pursuant to agreements with the City of Winnipeg (pursuant to *The City of Winnipeg Charter Act*).

The Board is a member of the Manitoba Council of Chairs of Administrative Tribunals, the Canadian Association of Members of Public Utility Tribunals, and the Canadian Automobile (insurance) Rate Regulators. Canadian and Manitoba regulatory practices and related matters are discussed and professional development provided through the 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 providing oversight with respect to the generation and transmission of electricity. OMS was formed in 2004 and exists to provide a co-ordinated view of electrical transmission issues among American states within its “footprint” and Manitoba. Manitoba participates in the Midwest Independent System Operators (MISO) marketplace, in which

Manitoba Hydro operates as both a seller and purchaser of wholesale electricity.

The year reported on was, as usual, a very busy one for the Board. During the period April 1, 2010 to March 31, 2011, the Board issued 163 Orders and 174 licences (2010 - 177 Orders and 205 licences), and attended to a host of other matters. (Orders carry the weight of a legal decision, and are binding on regulated entities.)

During the fiscal year ending March 31, 2011, the Board expended \$1.301 million in direct costs (2009/10 - \$1.292 million), including approximately \$191,000 on natural gas pipeline safety. As well, the Board directed regulated entities to pay \$3.529 million (2009/10 - \$2.586 million) to meet Board advisor and intervener costs related to Board proceedings. The Board meets its direct costs through levies on regulated entities. Regulated entities also bear their direct costs of participating in Board proceedings.

Taking into account all costs either incurred directly or directed by the Board, overall regulatory costs for the fiscal year ending March 31, 2011 approximated \$4.8 million (2009/10 - \$3.9 million), this 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 in excess of \$4 billion (thus, regulatory costs account for 1/10th of 1% of revenue generated).

Most entities regulated by the Board are monopolies, though some of those monopolies also operate in competitive markets. Some operators are privately or co-operatively owned. The Board's responsibilities and decisions affect virtually every Manitoba resident, business and organization.

2. OVERVIEW OF BOARD PROCESSES

Regulated entities make application to the Board when seeking amended rates or, in some cases, an operational or structural change. When large entities are involved, or a proposed rate change is considered to be either 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, as in the case of smaller utilities or issues

judged to be of a less technical or sensitive 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 Inc., Manitoba Public Insurance, some municipal water and sewer proceedings, and with 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 usually 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, interveners and the Board retain counsel and often employ expert witnesses. Witnesses provide sworn testimony, and such testimony supports, opposes or provides options with respect to matters before the Board. Interventions are intended to assist the Board in understanding the issues involved and in reaching decisions (by presenting views and providing useful information for the public interest).

While it has been historically rare for interveners to participate formally in water and sewer hearings, this has occurred recently due to ever-increasing costs, changed accounting standards affecting utility costs and rates, and the importance of water and sewer service delivery (with more stringent standards for water quality being imposed by government). Generally, the Board refrains from its own use of counsel and advisors in the case of water and sewer utilities, this in the interest of cost constraint.

Prior to a Board hearing, with the exception of *ex parte* hearings which take place in camera, a public notice is issued. Notices advise of upcoming hearings and inform consumers and other parties of the opportunity to participate, and also advise of 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 Notice of Decision.

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. While the Rules were not amended during the year under review, the Board did formalize its internal conflict of interest guidelines for its members. Board decisions may be appealed to either the Board itself, by a motion to review 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 participated in or attended by interveners and the general public. Such proceedings are denoted as *ex parte* hearings. As with all of its decisions, reasons supporting *ex parte* decisions are made 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 2010/11, while there were no requests for leave filed with the Court of Appeal (one has been filed subsequent to the year under review), the Board placed a stated case before the Manitoba Court of Appeal. The case concerns the Board's mandate with respect to Manitoba Public Insurance – a decision is pending.

As previously noted, and in an effort to restrain regulatory costs, the Board often reaches its decisions by way of a public paper review. These processes generally occur when relatively smaller utilities, such as Swan Valley Gas Corporation, Stittco Utilities Man Ltd., or smaller 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 prefers to sit in panels of three members, particularly for applications heard by way of public oral hearing. Recently, with the roster of part-time members down to five, the Board has heard significant applications with a panel of only two Board members. Board members are assigned to at least one major area of responsibility – electricity, natural gas, auto-insurance, water and sewer, etc.

While past practice has been for Board members to also regularly meet as a committee of the whole and discuss matters pertaining to Board operations and establish and/or amend general Board policies, this has become increasingly difficult due to the number of member vacancies on the Board. With the remaining part-time members now having to absorb a greater file-load, their time for face-to-face meetings is challenged. Where decisions of the overall Board are required, the Board now tends to rely on electronic exchanges. All Board members are kept up-to-date on regulatory developments through meetings and electronic communications.

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 of approximately 6,600.

MH is very important to the Province, through the provision of required electricity and natural gas, by furthering economic and sustainable development, by building First Nations' relationships, and by its annual contributions to the Province's Consolidated Fund (water rentals, capital tax, payroll tax, debt guarantee levies, income taxes on employee and agent income, spin-off corporate and other taxes, and the Utility's annual net income). The net income of all Crown agencies (which include MH and MPI) are consolidated within the Province's overall accounts in determining the Province's overall surplus or deficit each year.

The Province borrows to meet MH's financial requirements, and MH debt represents approximately one-third of the provincial government's overall borrowings. MH's plans for future major new generation, transmission and other capital expenditures approximate \$20 billion, and it is expected that substantial new borrowings will be required and guaranteed by the Province.

Following a decade of no rate increases, the Board has approved the following overall rate

increases for MH:

| Effective date | Approved |
|-----------------------|-----------------|
| 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% |
| April 1, 2011* | 2.00% |
| *Interim | |

Notwithstanding these increases, which, since 2004, exceed CPI increases, the Board understands that MH's rates are the lowest in North America, particularly with respect to the rates for industrial large-volume customers.

The low level of the Utility's rates, compared to other North American utilities, is assisted by the average age of generation and transmission assets (the last completed major generation project was Limestone, completed early in the 1990s), the fixed-cost nature of hydro-generation plants, and MH's practice, accepted by Generally Accepted Accounting Principles (GAAP), to defer and/or capitalize expenditures related to its future capital asset development plans. As new major capital assets come into service, rate levels are expected to increase. In fact, MH currently projects required rate increases for every projected future year (out twenty years).

From 2004, the Board has indicated particular concerns as to MH's risks. The basis for the increases granted for 2008 and 2009, which were explained in significant detail in a 365-page Order released on July 29, 2008, and interim rate increases since approved were based in part on the Board's concerns with respect to MH's risk profile.

One of the primary reasons for the aggregate total of rate increases since 2004 has been 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 forecast over-runs and lower than expected export prices. The Board has not only 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 and experience face, but suggested that the ratio itself may be subject to question given the level of capital

expenditures and new borrowings now contemplated.

In a related Order, issued in 2008, the Board made 30 directives, including seeking an independent risk assessment and requirements for MH to report on its risk mitigation plans. Some of the 30 directives still remained outstanding as at March 31, 2011, three years later, and were expected to be responded to in the 2011 hearing. That hearing began on January 5, 2011 and concluded July 7, 2011 – the Order to arise out of that hearing has yet to be issued.

On February 2, 2009, MH filed an application for approval of a 4% rate increase, to be effective April 1, 2009. In an Order released March 30, 2009, following a paper review process in which all interveners to the 2008 Rate Application participated, the Board approved a smaller rate increase of 2.9% (which took effect April 1, 2009). While the Board remained concerned with MH's risk profile, the decision also reflected the Board's awareness of the economic realities then facing ratepayers, brought about by the then-underway recession. In the Order the Board, once again, set out a number of directives repeating some of those from the 2008 Order that had yet to be brought to a satisfactory conclusion. The Board, through staff and counsel, continued to follow-up on outstanding matters.

With respect to MH's Rate Application of December 1, 2009 (which requested an average 2.9% rate increase for both fiscal 2010/11 and 2011/12), the Board provided MH interim rate increases of 2.9% (excepting for Area and Roadway Lighting), effective April 1, 2010 and 2.0% effective April 1, 2011 (again, excepting Area and Roadway Lighting).

Recognizing that the hearing process, which has involved an in-depth review of MH's risks, would extend well into the 2011 year, and in order to protect MH's capital structure (by maintaining a reasonable ratio of debt to retained earnings), the Board approved the interim increases, with finalization to follow the conclusion of the hearing.

The April 1, 2010 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. Nonetheless, the majority of the panel held that an interim increase was warranted to avoid the potential for the requirement of a large increase to "catch-up" if an interim rate increase was not granted. This rate will also be finalized as a result of the hearing process that has just concluded. The hearing was complicated by the allegations of a whistleblower (NYC), and by MH's slowness in

responding to the Board's directives for information (in fact, some of the information had still not been filed when the public phase of the hearing concluded on July 7, 2011).

Diesel Rate Application

Four remote and northern communities remain "off grid" (not connected to the transmission grid and reliant on diesel generated electricity). Diesel generation results in high service costs (involving significant subsidization by the federal and provincial governments and Manitoba Hydro's grid customers), environmental issues and less than adequate electricity service to the residential and other customers of MH located in these communities.

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 fuel and operating costs since 2004, as well as to provide for gradual recovery (through rates) of a deficit that has accrued while awaiting finalization of a Settlement Agreement involving the Federal Department of Indian and Northern Affairs (INAC). 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. 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. 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 was once again 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).

An extensive oral hearing was held during the September to December 2010 period, and involved as interveners INAC, Manitoba Keewatinowi Okimakanak Inc., and Consumers' Association of Canada (Manitoba) Inc./Manitoba Society of Seniors (CAC/MSOS). Resulting from the hearing, the Board, finding that the present service continued to be inadequate and excessively costly to the community, reduced the tail-block rate for residential and other small consumers and indicated an intention to further reduce the tail-block rate for those consumers to grid rate levels

over time, and, also, made two major recommendations:

1. that, either through INAC and/or MH, and with the agreement and cooperation of the affected First Nations, each and all of the housing stock in the four communities be reviewed, and a comprehensive inventory of deficiencies be developed towards a goal of upgrading or replacing the housing stock so that Demand Side Management (DSM) measures to reduce electricity consumption and heating bills (from what they would otherwise be, or be expected to be), can be effectively employed; and
2. that the existing Electricity Service Limitations in the Diesel Zone be removed by way of connecting the communities to the transmission grid; and, concurrently, upgrading First Nations' Housing Stock.

The Board concluded that the establishment of just and reasonable rates would be best represented by grid rates for all Residential and non-government General Service consumption, with no restriction as to heating electrically.

Rates were approved to be charged in the Diesel Zone communities of Barren Lands First Nation and Brochet, Northlands Denesuline First Nation (Lac Brochet); Sayisi Dene First Nation (Tadoule Lake); and Shamattawa First Nation (Shamattawa) effective January 1, 2011 to December 31, 2011.

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

MH rates for Manitoba customers are primarily based on the cost of the service provided to various customer classes. In setting rates, the Board also considers environmental, general economic and other factors.

Industrial customers benefit from much lower electricity rates than residential customers, both in absolute terms and also relative to the “discount” from average Canadian electricity prices enjoyed by all customer classes, 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. Opportunity export sales prices have fallen significantly since the onset of the recession in 2008, reduced

growth in industrial demand, and the advent of commercial production natural gas from shale deposits.

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 and, accordingly, the Board extended authorization for SEP to March 2013.

Rates for Manitoba Industrial Customers

At a public rate hearing held in late 2008 and early 2009, the Board considered an application by MH for a special rate to apply to a portion of future electricity demand by new and expanding large industrial electricity customers. MH expressed the concern, accepted by the Board, that a new industrial customer, or a significant expansion of an existing industrial customer, could drive up domestic electric demand and rates, as industrial rates are well below the marginal cost of new generation and transmission.

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, and because the stakeholder consultation process was not yet complete, the application has been held in abeyance. Consultation continues as at the date of this report, with a revised application still on hold.

On August 7, 2009, in the midst of the recession, 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 recession).

By an Order issued September 4, 2009, the Board amended the Utility's application and approved a temporary deferral of payments otherwise required on a calculated portion of a customer's energy bill, with interest to be charged at a rate equivalent to MH's cost of short term debt.

Subsequently, MH requested that the payment deferral agreed to by the Board be converted into an outright forgiveness, a concession, for a quite limited number of large industrial customers that applied for the deferral. This matter is under consideration within the current proceeding; a decision on the matter will be included in the upcoming Order.

Electrical Reliability

Pending proclamation of 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. During 2010, the Board was required to deal with one such violation.

A Board Order issued in late 2010 upheld a \$25,000 fine, as proposed by the Midwest Reliability Organization and uncontested by MH. The fine was deposited in escrow pending finalization of the reliability legislation.

MH and Planned Major Capital Expenditures

MH has significant capital expenditure plans, which include the building of three new generation stations and a major new transmission line (Bipole 3). The first of the three new generation stations, Wuskwatim Generation Station, is expected to begin operations in MH's 2011/12 fiscal year.

While projected by MH to enhance service reliability and profitability, the plans will also increase MH borrowing and, hence, affect the Utility's debt:equity ratio (increasing debt until such time a new plant is in service and profitable; additional sales develop to increase retained earnings to allow the debt:equity ratio to return to the target 75:25 debt:equity ratio).

With ever-present risks of future droughts and other potential problems (currency fluctuations, interest rate changes, updates to construction cost forecasts, the lingering effect of the recession affecting demand and export pricing, and shale gas production reducing export pricing as well) that could negatively impact on the Utility's future profitability, the Board has accepted that MH requires a "strong" balance sheet, hence the Board's on-going focus on the Utility's debt:equity

ratio and rate adequacy.

Wind is considered an environmentally friendly, clean energy source, complementing MH hydro-electric resources, and MH is purchasing electricity produced from a 99 MW wind farm operating near St. Leon (a recent announcement indicated that the St. Leon development is to be expanded by 16 MW). 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 to be developed 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 the bankruptcy of the original proponent. A contract was entered into with a new firm, which is developing the project assisted by a significant loan from MH.

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) will place, albeit limited, upward pressure on MH's overall costs and rate prospects (as, or if, further new wind projects are committed to).

The Wuskwatim generating station, expected to be in service before the end of MH's 2011/12 fiscal year as previously indicated, is to provide an additional 200 MW of generation at a capital investment of approximately \$1.6 billion, including related transmission capability. MH's prospective partner in the project is Nisichawayasihk Cree Nation (NCN), which has the opportunity to acquire up to a 33% interest in the project (MH is to lend the vast majority of the investment required of NCN to NCN, and to provide NCN further loans as may be necessary for NCN to meet its own loan obligations during the earlier years of Wuskwatim operations, which are expected to produce losses).

Other major capital investments in new generating stations are also expected by MH and the Province, 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, and including "normal" capital expenditures, to \$20 billion or more (if expended 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 are anticipated to provide for reduced consumer bills and environmental gains through reduced energy consumption and carbon emissions.

MH completed and occupied 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. With this "mandate deficiency", the Board is left to consider the projected new expenditures in establishing MH's rates.

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 Manitoba Inc., 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 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.

The legislation governing the Board's oversight of MH may be interpreted as to provide the Board the authority to approve MH's export prices as well as domestic rates. The Board may not seek to exercise that authority in the instance that the Province holds an expected thorough review of MH's major capital development plans -- a review to encompass not only environmental approvals but also economic matters, and to occur prior to giving the Utility final approval to proceed with its plans.

Again, 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. Neither a proposal from MH nor a plan of government has been received, and dates for this review have, accordingly, yet to be established. The Board continues to hold to the premise that a thorough and independent public review of MH's capital development plan, a review that would best consider alternative development plans (to include a "no build for export" option – one focused on the Manitoba market and load requirements; diversifying generation by the construction of a natural gas combined cycle plant that might allow for deferral of Bipole 3 and Keeyask; and, a plan having Conawapa being built ahead of Keeyask), by MH is a critical component of regulatory effectiveness.

That said, in the recent proceeding the Board assessed the adequacy of rates in the context of MH's current and future capital expenditure and export sales plans. The results of the deliberation will be contained in an Order expected to be released after the close of final arguments in July.

OMS Activities

The Board's involvement with OMS has been limited, largely due to Board resource limitations.

OMS is "consensus" orientated, in place to bring forward the views of member 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 is changing with the Board's new electrical reliability responsibilities (see Outlook section).

ii) Centra Gas Manitoba Inc. (Centra)

Centra distributes natural gas to approximately 250,000 residential, commercial and institutional customers. Centra was purchased (from a private firm by MH in 1999) and has been integrated within MH's general operations. Centra has no employees of its own -- operational costs are allocated to Centra subject to the Board's review.

Centra primarily serves Winnipeg and southern Manitoba, as the costs of pipeline development

and maintenance are very high and population density and industrial requirements are of paramount importance with respect to the economics of natural gas distribution. Approximately half of MH's customers (primarily resident in Winnipeg) rely on natural gas for space heating, the other half depend on electricity (with most of these not having gas heat as an option), 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 infrastructure. Centra's natural gas storage facilities are in Michigan, though consideration has been given to the possibility of developing additional storage in Saskatchewan.

Commodity costs were significantly affected by hedging activities entered into by Centra, the hedging transacted 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 2009 Order, the Board directed Centra to phase out hedging primary gas purchases for the customers purchasing primary gas from Centra priced on a quarterly basis, such phase-out is to be completed by August 2011. The phase-out of hedging has been 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 amends its primary gas rates for its commodity cost experience and forecasts on a quarterly basis, reflecting on-going market fluctuations. Centra 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 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, and population and industry density. 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 recession that has depressed industrial demand), no major expansion of Centra's 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. 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.

A hearing was held in April of 2010 to review Centra's Cost of Gas Application. Subsequently, the Board issued three Orders in relation to its findings, recommendations and directives.

In the first of these Orders, the Board approved Centra's non-gas rate changes subject to Centra adjusting the interest charged on common assets and inventory for 2009/10 and 2010/11, and to Centra recalculating the 2010/11 sales and transportation rates. The second Order established the rates based on the adjustments filed by Centra. In the third Order, the Board dealt with matters of gas supply and storage, including disclosure of information, and established a process going forward to deal with these matters. In the third Order, the Board also dealt with the affordable energy initiative, specifically for low-income households, re-emphasizing its direction to do more in this regard. The Board also confirmed its direction to eliminate hedging practices, and its expectation that Centra would continue to offer 1, 3 and 5 year fixed price programs for people wanting to lock in their natural gas supply unit cost.

On January 21, 2011, Centra filed its Cost of Gas Application for 2011/12. Following a pre-hearing conference, the Board determined that this application would be dealt with by a paper-based process and established a schedule and timetable for the orderly exchange of information. The application resulted in an Order that was issued early in the 2011/12 fiscal year.

Quarterly, the Board establishes Centra's primary gas rates pursuant to a Rate Setting Methodology (RSM) accepted by Centra 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 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).

Then, until early July 2008, natural gas commodity prices again increased sharply, primarily driven by a virtual doubling of oil prices over the previous year. But, from the fall of 2008, both oil and natural gas prices 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 continues to hover in the \$4 range, and the historic relationship between natural gas and oil prices (with natural gas prices normally in a range of 1/6th to 1/9th) was 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 late 2011.

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, fiscal 2010/11, no applications were received. Applications for new and extended franchises are expected for 2011/12.

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.

In February 2008, 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 an assured space heating source during Manitoba winters. The results have been startling.

The number of residential annual gas disconnections has declined dramatically from a range of 5,000 to 9,000 to 39 in 2010 (even the annual disconnection of electrical service has decreased, from 3,474 in 2008 to 2185 in 2010); saving MH/Centra bad debt and collection costs and customers the anxiety and other ramifications that arise out of service disconnection.

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 until recently, the Board has utilized 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 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 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. Board and Centra staff meet quarterly, to discuss the safety program, 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 applied in June of 2010 for an increase in non-commodity rates. Stittco revised their application on September 10, 2010. Non-commodity costs include costs incurred by Stittco for the distribution of propane. Non-commodity costs are reviewed annually, with allowed costs then recovered in rates through a basic monthly charge and delivery charges based on customer consumption.

The application was reviewed in a paper-based process involving a series of interrogatories filed with and responded to by Stittco. The Board approved a 2.2% increase in non-commodity costs, which represents a 9.7% increase in distribution rates. The majority of non-commodity costs are collected through distribution rates which are based on consumption volumes. With lower projected propane consumption volumes, combined with the approved increase in non-commodity costs, there is a resulting larger percentage increase in charges to distribution rates.

Propane gas costs continue to fluctuate, with the effects reflected in rates on a quarterly basis. The propane commodity price represents about 2/3rds of the price charged to customers. The effect of these fluctuations is mitigated somewhat for the consumer by the quarterly rate setting process.

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 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 September 10, 2010, SVGC applied for approval of decreased gas commodity consumption charges (from \$5.178/GJ to \$4.369/GJ) and the establishment of a PGVA rate rider refund of \$0.253/GJ.

Using the paper review process, the Board approved SVGC’s application. The effect of the approval was a 3 cent per cubic metre reduction in gas consumption charges from existing rates for all customer classes, or about 13%. The revised rates became effective November 1, 2010.

v) Natural Gas Brokers

Licensed natural gas brokers offer consumers a fixed-rate option as an alternative to Centra’s regulated quarterly cost-based Primary Gas Rate. While the Board licenses brokers, broker contracts are unregulated and Primary Gas 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 brokers operated in Manitoba since the mid-1990s, following natural gas deregulation. Generally, retail brokers market through door-to-door consumer contact or through the internet. There are currently two residential retail brokers actively pursuing the residential market. A third retail broker is no longer pursuing residential customers but is honoring existing contracts. Private retail gas brokers represent approximately 15% of all residential gas customers.

In addition to overseeing the terms under which Centra 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.

In December 2010, the Board undertook an initiative to review the various directives, rules, policies and procedures that govern the sale of non-system Primary Gas in Manitoba.

The Board's decision to undertake this review stems from concerns that some of these rules, policies and procedures may be inaccurate or confusing to customers, since Centra now offers both a regulated primary gas option (where rates are approved quarterly by the Board) and fixed-price fixed-term primary gas contracts (the latter "in competition" with private brokers). Centra began offering fixed-price fixed-term contracts in February 2009.

The review will also examine options to better regulate the marketing of fixed-rate natural gas contracts to better protect and educate consumers in their choice of natural gas supply options. This review is expected to be completed by the fall of 2011.

vi) Manitoba Public Insurance (MPI)

MPI 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 \$3 billion. MPI insures approximately 770,000 drivers and 990,000 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 the accident occurs in Manitoba or anywhere else in either 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 (this program was replaced by a Driver Safety Rating program, the subject of a 2009 Board hearing and decision);
- b) the sale of the general property insurance segment to the private sector in 1989;
- c) the introduction of a no-fault retirement benefit in the late 1990s;
- d) the transfer of DVL (driver and vehicle registration and driver conduct regulation) responsibilities to MPI from the Province in 2004;
- e) changes in 2006 and 2010 to the allocation of the cost of claims to better reflect the no-fault nature of the program;
- f) the 2009 and 2010 substantial benefit improvements for accident victims with catastrophic injuries; and
- g) the 2010 implementation of the driver rating system replacing the Bonus/ Malus system mentioned in a) above.

The investment portfolio increased substantially, as expected, following the adoption of total no-fault; its market value exceeds \$2 billion, providing an important source of revenue to restrain premium levels as well as 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 \$600 million to MPI’s Basic premium ratepayers. During the same period, rates have remained stable, with decreases in recent years. 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.

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 Board's 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 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 and the Court heard arguments in January 2011. Their decision has not been released as at the date of this report.

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. At the fall 2010 hearing, the Board was disappointed by what appeared to be a lack of commitment by MPI to pursue this potential, and reiterated its recommendation.

On December 8, 2010, the Board approved MPI's application for 2011/12 premiums, which represented an overall 4% decrease from those approved in the previous year for basic compulsory vehicle insurance. In that Order, the Board also directed a 10% premium rebate be given to customers to reflect an accumulation of retained earnings which exceeded the top of the Board's prescribed range.

Subsequent to that Order, in March 2011, the Board received additional information from MPI indicating that, as a result of actuarial adjustments, and after providing for the actuarial cost of a further enhancement of benefits to those catastrophically injured, MPI's retained earnings for basic compulsory insurance would be some \$250 million greater than had been anticipated when they filed their 2010 application.

Consequently, the Board issued a revised Order on March 31, 2011 directing that the rebate be increased from the 10% earlier ordered, to 45%. Rebate cheques totalling approximately \$320 million were issued in the spring of 2011. Subsequently, the Board varied the direction, providing for additional rebates aggregating \$16 million to policyholders judged to have had received too little in the first distribution.

vii) Water and Sewer Utilities

The Board has regulatory rate and financial responsibilities for Manitoba's water and/or sewer utilities. At the end of the 2011 fiscal year, there were 258 active water and/or sewer utility files: 220 municipal utilities, 35 water cooperatives and four privately owned water utilities. As well there are a number of campgrounds that fall under the Board's jurisdiction. The Board has developed 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, 20 rate reviews were conducted in 2010/11 as compared to 30 in

2009/10. Only eight of the 20 reviews (seven in 2009/10) 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 continue to be sent to each utility as the Board becomes aware of them, 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, 2011, all but one of these regulated utilities have cooperated and, with the exception of campground operations, have provided the Board with the information sought.

The consideration of complex rate applications calling for significant 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 (declining block rates). 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. In these cases, the Board is also aware of provision in its Act which suggest that the affected utility should be made whole by an assessment on the municipal general operations, usually by a special levy.

During the year, the Board issued 65 water and sewer related Orders -- nine Orders granted approval for recovery of actual, budgeted and anticipated deficits in various municipal utilities, 31 Orders gave interim approval for revised rates, 21 Orders granted final rate approval, and four miscellaneous Orders including one which established the Thompson water and sewer utility.

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 the GAAP in 2009, 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 continues to experience difficulty obtaining 2009 financial statements.

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. Despite meetings with members of the AMM executive to discuss matters of joint interest, this issue remains of concern.

viii) Cemeteries and Related Matters

Legislative Review

The Board conducted an extensive consultation process with respect to two of the Acts for which it is responsible, *The Cemeteries Act (CA)* and *The Prearranged Funeral Services Act (PFSA)*.

The Board was fortunate enough to be able to engage the assistance of an intern from one of the government's development programs. Her assistance was invaluable in being able to follow through on this major undertaking.

Two Board members, namely Dr. Kathi Avery Kinew and Ms. Susan Proven led the team, which included the intern and the Executive Director of the Board. Staff researched related legislative provisions and practices in neighbouring jurisdictions and across North America. An extensive consultation questionnaire was developed and made publicly available on the Board's website. Invitations to respond were then sent to targeted groups as well as to the public via advertisements. Responses to the questionnaire were then tabulated and analysed.

In addition, four public consultation sessions were held, one in each of Winnipeg, Thompson, Brandon and Swan River. The review panel thus attempted to provide an opportunity to a large segment of Manitoba, although most of the attendees were members of the funeral industry.

Information gleaned from both the questionnaire responses and the public sessions were then synthesized into a series of recommendations made to the Minister for major revamping of both Acts. To-date, there has been significant progress in amendments to the PFSA. The Board is optimistic that appropriate changes will be introduced into the legislature shortly, and that subsequently, further work will proceed with respect to the CA.

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 the legislation is not sufficiently 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. On-going 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.

The Board has noted other problems as well. The proceeds from sales of cemetery services (when sold on a pre-need basis) are not required to be 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.

Russell Funeral Homes

In July 2009, the Board was advised that Russell Funeral Homes (RFH), then-licensed pursuant to the PFSA, was to change hands. In the prospective purchaser's review, irregularities surfaced that suggested monies had been accepted by RFH but neither placed in trust nor used to purchase an insurance policy. Evidence developed by the Board was provided to 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.

The Steinbach Credit Union (SCU), the mortgage holder of RFH's properties, and RFH's lawyer continued to negotiate arrangements for a prospective purchaser to remain at RFH, but without success. SCU began mortgage proceedings and RFH's properties were subsequently sold.

The Board was able to recover in excess of 80% of the funds paid to RFH by clients but not deposited into trust and, as of the end of the 2010/11 fiscal year, expected to make partial refunds to those who were affected.

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 2010/11 year, the Board received five appeals. Three decisions were handed down, including two appeals carried over from the previous year, 2009. Four appeals were still pending a hearing and resolution as of March 31, 2011.

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 the 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 dealt 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 WAA, and if that were to change the Board would need to be pre-notified for approval for Avion to continue the 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 has determined that the application is now null and void. Should Avion's new owners contemplate proceeding with a shuttle service, it will constitute a new application and require a new filing and hearing.

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.

Payday Loans

Following the Board's hearing and subsequent Order establishing maximum rates, the Canadian Payday Loan Association (CPLA) sought a Review and Vary from the Board and a firm from the industry sought leave to appeal from the Manitoba Court of Appeal. The Board rejected most of the requests of the CPLA but the Court of Appeal granted leave to appeal to the firm on some of the grounds set out by the firm.

In 2009, the government introduced legislation that changed the Board's role in setting maximum rates for payday loans. This made the Board's Order and the case before the Court of Appeal moot. The Board then acted as an advisor to government, and government set maximum fees for the industry by regulation.

The Board was pleased to see that government had proceeded to enact regulations, bringing regulatory control to the industry effective October 1, 2010. Although not all of the Board's recommendations were adopted in the final regulation, the legislation represents a significant improvement for those in the unfortunate economic position of having to use a payday loan service.

Maximum Fees for Cashing Government Cheques

Hearings on cheque cashing were held in Thompson, Brandon and Winnipeg in 2006 and 2007. 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. Thus, the Board reviewed the rates in the spring of 2010 via a paper process. The Board then issued an Order on May 12, 2010 reaffirming the rates approved in 2007.

8. BOARD ADMINISTRATION

Board's Rules of Practice and Procedure

The Board operates pursuant to not only legislation but also 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, which had been operative in draft form for over a decade, were formally adopted 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.

Board Members

The Act makes provision for a complement of 8 part-time Board members plus the full-time Chairman. The Board has not had a complete roster for several years, and, during 2010/11, another part-time member resigned to meet other challenges, reducing the part-time membership to 5 members.

Mr. Eric Jorgensen, whom was a key member of the Board's MPI panel, will be sorely missed. The Board extends its gratitude to Mr. Jorgensen for his invaluable insights and contributions and wishes him every success. Government is proceeding to appoint additional part-time members to bring the member roster up to a level that will prove more helpful in scheduling and holding hearings.

Staffing and Staff Development

December 31, 2010 marked the retirement of Mr. Gerry Gaudreau, CMA, Board Secretary and Executive Director. Mr. Gaudreau served the Board from 2005 through to his retirement, and before that as the Province's Comptroller. His contributions to the Board's operations were invaluable, he was a dedicated public servant and was and is thanked for his conscientiousness and diligence.

An established succession plan saw the installation of Mr. Hollis Singh, long-time Associate Secretary, into the position of Board Secretary and Executive Director to replace Mr. Gaudreau. Concurrently, the Board was fortunate to be able to recruit a successor to Mr. Singh, namely Mr. Kurt Simonsen. Mr. Simonsen is a professional engineer and brings to the Board and the parties

it serves valuable knowledge and experience with both industry and government, as well as a passion for the public interest.

The Board was assisted for a 6-month period by an intern, Jacqueline Cassel-Vernon, Her dedicated assistance in the bereavement legislation review was acknowledged earlier in this report and is reiterated here.

Operational Improvements

Beginning in 2004, the Board embarked on a process intended to increase the effectiveness of its regulatory effort. While working to restrain regulatory costs, dealing with increased workloads without increases in staff, its overall focus has been on strengthening and preserving the well-being of the public.

Since then, the timeliness of Order issuance has been improved and the Board's directions, especially to water and sewer utilities, have been enhanced by the provision of background and detailed rationale for all decisions. 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 2011-12 AND RECOMMENDATIONS

Manitoba Hydro (Electricity Service)

The Board expects to issue a comprehensive Order with respect to MH's rates and risk management practices in the summer of 2011.

A former consultant of MH, which became a "whistleblower" making numerous and serious allegations of misconduct and error by the Utility, raised considerable controversy, if not doubt, as to the soundness of the Utility, and the Board's Order, which follows an extensive review and

public hearing, should provide some assurance to the public.

Manitoba Hydro plans a “decade of investment” which would include the construction of major new generation and transmission assets and the taking on of a large amount of additional debt, supported by new electricity export and import contracts with American counterparties; this “preferred development plan” has implications for rates, and the Board’s Order will address these matters.

The Board expects to finalize past Orders with respect to four remote northern First Nations communities that are provided electricity through diesel generation; the Board awaits receipt of a Settlement Agreement between the First Nations, MH and INAC. The electricity service provided these communities is sub-standard, and the Board will pursue its efforts of past interim Orders towards improving the service at a reasonable and just cost to the communities’ residents.

Electric Reliability

Following the 2003 North American eastern blackout, 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 will work co-operatively with MH, OMS, MISO and FERC to best ensure safe and reliable electricity interchanges with American utilities.

As stated in an earlier section of this report, 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.

Centra

Centra's arrangements for the purchase, storage and transportation of natural gas will expire in 2013, and Centra is involved in the consideration of current arrangements with the intent of potentially making changes and entering into new contracts. The Board is involved in the oversight of this process, and has involved interveners as well, this due to the importance of the matter to Manitobans reliant upon natural gas service through Centra.

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 rates charged by the City's water and sewer utility to be set by the Board. The Board has previously recommended legislative amendments to this effect, and awaits the results of deliberations by the City and the Province.

In the interim, Board staff and counsel have met 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. Other provisions of *The Public Utilities Board Act* allow the Board to review the financial situation and operations of the City's utilities, though not set rates; the Board expects to hold a public hearing and undertake such a review.

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. In all instances, the Board has the protection of the public interest at the forefront of its actions.

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 the setting of water and sewer rates:

the Board has suggested, 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 setting of water and sewer rates for the City, the only municipal body exempt of Board rate setting 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 does serve as the appeal body for municipalities seeking relief or amendment of MWSB's rates:

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; while continuing to maintain its non-partisan relationship, the Board was pleased to see a bill introduced into the legislature echoing this position;

- 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 non-Basic earnings to the Basic program to meet the costs; more recently in 2010, the Board denied these cost for Basic rate setting purposes, a decision for which MPI sought a Review and Vary by the Board, an application that was denied by the Board – MPI is currently seeking leave to appeal the Board's decision to the Manitoba Court of Appeal;

- MH's capital expenditures are not subject to the approval of the Board, unlike the situation with respect to Centra; the Board has opined that as MH's capital expenditures 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 be implemented, the decision or action being either within the jurisdiction of government or dependent on future decisions 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. Through the website, the public can monitor the Board's activities and review decisions and Notices of significant issues issued or 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 Municipal Act*, *The Highway Protection Act* and *The City of Winnipeg Charter Act* that provide the Board with mandates. At some point, it may be worthwhile to consolidate the Board's responsibilities and authority within one Act, to assist with the public's understanding of the Board's mandate.

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

The Board's calendar for 2010/11 was once again diverse, challenging and rewarding, although somewhat dominated for this past year by the Board's review of MH's electricity rates and its risk management profile and practices. Having a public hearing that thoroughly considered MH's risks, after many years of Board-expressed concern, was a valuable accomplishment for the public interest. Notwithstanding the Court's ruling, yet to come, on the breadth of the Board's jurisdiction over MPI, the support the Board received from Interveners on the matter was also rewarding.

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. The Board has a long history of fulfilling this objective, and it remains the goal of the Board into the future.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Graham F.J. Lane', written over a light blue rectangular background.

Graham F.J. Lane, C.A.
August 30, 2011

STATUTORY RESPONSIBILITIES

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

During the fiscal year under review, the Board was responsible for the regulation of entities and 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.

Pursuant to *The Crown Corporations and Public Review and Accountability Act*, the Board sets premiums and fees charged by Manitoba Public Insurance for compulsory auto insurance and Manitoba Hydro's electricity rates. While the Board reviews and takes into consideration the financial performance and forecasts of Manitoba Hydro in establishing fair and reasonable rates based on prudent expenditures, it does not approve the Utility's capital expenditures.

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 entities and public utilities regulated by the Board have annual revenues in excess of \$4 billion, and which serve and affect virtually every Manitoba resident, commercial enterprise and institution.

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.
Dr. Kathi Avery Kinew
Susan Proven, P.H.Ec.

Staff Members:

Officers:

Hollis M. Singh, BA (Econ), Executive Director and Secretary
Kristine Shields, Associate Secretary
Kurt Simonsen, P.Eng, 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; 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 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, this to ensure those appearing before the Board receive unbiased and independent judgements. Board decisions may be appealed to the courts, and, ahead of that, 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 LAB Consulting Ltd. |
| Law | Fillmore Riley LLP and Pitblado LLP |

SUMMARY OF BOARD ACTIVITIES

ORDERS ISSUED

| | <u>2010/11</u> | | <u>2009/10</u> | |
|-------------------------------------------------|----------------|------------|----------------|------------|
| Regulated Industry Orders: | | | | |
| Water and Sewer Utilities | | | | |
| Applications for amended rates | 53 | | 30 | |
| Applications to address deficits | 9 | | 35 | |
| General matters, late payment fees | <u>3</u> | 65 | <u>5</u> | 70 |
| Manitoba Hydro | | | | |
| Electricity operations | 65 | | 67 | |
| Centra Gas Manitoba | <u>12</u> | 77 | <u>10</u> | 77 |
| Natural Gas and Propane Utilities and Pipelines | | | | |
| Swan Valley Gas Corporation (consumer rates) | | 1 | | 1 |
| Stittco Utilities Man Ltd. | | 4 | | 4 |
| Other Natural Gas | | | | |
| Service Disconnection | | - | | 1 |
| General matters, Code of Conduct (brokers) | | - | | |
| Manitoba Public Insurance Corporation | | 10 | | 11 |
| Highways Protection Act | | 3 | | 2 |
| Fees for cashing Government Cheques | | 1 | | |
| Maximum Charges for Payday Loans | | - | | |
| The Cemeteries Act | | 2 | | 3 |
| The Prearranged Funeral Services Act | | | | 3 |
| Avion | | - | | <u>5</u> |
| Total number of Orders issued | | <u>163</u> | | <u>177</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). The Orders indicated above include Orders related to applications for costs by interveners to the Board's process.

SUMMARY OF BOARD ACTIVITIES

LICENCES ISSUED

| | 2010/11 | | 2009/10 | |
|---------------------------------------------|----------|-------------------|----------|-------------------|
| Direct Purchase of Natural Gas | | | | |
| Brokers | | 10 | | 10 |
| The Cemeteries Act | | | | |
| Cemeteries, renewal | 11 | | 11 | |
| Initial licensing | | | | |
| Columbariums | 20 | | 19 | |
| Initial licensing | 1 | | 1 | |
| Mausoleums | 5 | | 5 | |
| Crematories | 19 | | 17 | |
| Sales- Owners | 11 | | 11 | |
| Agents | 72 | | 106 | |
| Agent Transfer | <u>1</u> | 140 | <u>1</u> | 171 |
| The Prearranged Funeral Services Act | | | | |
| Renewal | 24 | | 24 | |
| Initial licensing | | <u>24</u> | | <u>24</u> |
| Total licenses issued | | <u>174</u> | | <u>205</u> |

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

FINANCIAL INFORMATION
Fiscal Year Ended March 31, 2011

| | (\$000's) | | | |
|-------------------------------------------------------------------------|----------------|----------------|------------------|----------------|
| | <u>2010/11</u> | | <u>2009/2010</u> | |
| Levies, Direct and Indirect | | | | |
| General Board levies on Manitoba Hydro with respect to: | | | | |
| a) electricity; | 323 | | 319 | |
| b) gas operations | <u>553</u> | 876 | <u>579</u> | 898 |
| Costs of Board advisors, paid by Manitoba Hydro: | | | | |
| a) electricity; | 2,390 | | 1,010 | |
| b) gas operations | <u>199</u> | 2,589 | <u>519</u> | 1,529 |
| Costs of interveners, paid by Manitoba Hydro: | | | | |
| a) electricity; | 112 | | 109 | |
| b) gas operations | <u>70</u> | <u>182</u> | <u>194</u> | <u>303</u> |
| Aggregate Board levies on Manitoba Hydro consolidated | | 3,647 | | 2,730 |
| Levies on Manitoba Public Insurance Corporation (MPI), with respect to: | | | | |
| General Board levies on MPI | 312 | | 312 | |
| Costs of Board advisors, paid by MPI | 487 | | 589 | |
| Costs of interveners, paid by MPI | <u>271</u> | | <u>165</u> | |
| Aggregate Board levies on MPI | | 1,070 | | 1,066 |
| Levies on | | | | |
| Avion | - | | 52 | |
| Stittco Utilities Man Ltd. | 3 | | 8 | |
| Swan Valley Gas Corporation | 2 | | 2 | |
| Water & Sewer Utilities | 52 | | 50 | |
| Fees related to cemetery and funeral related activities | 29 | | 34 | |
| Natural Gas Brokers | 6 | | 8 | |
| Government (cheque cashing and payday loans)* | - | <u>92</u> | <u>2</u> | <u>156</u> |
| | | <u>\$4,809</u> | | <u>\$3,952</u> |
| Board Expenditures, Direct and Indirect | | | | |
| Direct costs of the Board | | | | |
| Salaries & per diems | \$830 | | \$823 | |
| Rate regulation and safety related costs | 191 | | 247 | |
| General overheads (rent, technology, utilities, etc) | <u>280</u> | <u>\$1,301</u> | <u>222</u> | <u>\$1,292</u> |
| Board Advisor costs billed to regulated entities | | 3,076 | | 2,118 |
| Intervener costs billed to regulated entities | | <u>453</u> | | <u>468</u> |
| Aggregate costs related to Board operations | | <u>\$4,830</u> | | <u>\$3,878</u> |

* Expenses include professional advisory services and intervener cost awards.

FINANCIAL INFORMATION (cont'd)
Fiscal Year Ended March 31, 2011

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 entities 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 Inc., Manitoba Public Insurance, Stittco Utilities Man Ltd., and fees charged to other regulated utilities. The Board directs regulated entities 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 total direct and indirect costs increased from \$3,952 in 2009/10 to \$4,809 in 2010/11, largely because of additional advisor costs involved in the risk management review and General Rate Application hearing undertaken with respect to Manitoba Hydro. All other costs remained relatively stable.