



January 9, 2015

Ms. G. Cheryl Blundon
Board of Commissioners of Public Utilities
120 Torbay Road, P.O. Box 12040
St. John's, NL A1A 5B2

Dear Ms. Blundon:

Re: 2014 – Facility Association Tax and Limousine Rate Application

Enclosed please find one (1) original and twelve (12) copies of the Final Submission of the Consumer Advocate. The same will be filed electronically in due course.

As of today's date a copy of our Final Submission has been sent to Mr. Kevin Stamp, Q.C., counsel to Facility Association.

Yours very truly,

O'DEA, EARLE

A handwritten signature in blue ink, appearing to read 'TJ', is written over the printed name 'THOMAS JOHNSON, Q.C.' and the initials 'TJ/cel'.

THOMAS JOHNSON, Q.C.

TJ/cel
encl.

cc: Kevin Stamp, Q.C.
Martin, Whelan, Hennebury & Stamp

IN THE MATTER OF the
Automobile Insurance Act, RSNL 1990,
c. A-22 (the *Act*) as amended; and

IN THE MATTER OF An Application dated
March 6, 2014 by Facility Association to
The Newfoundland and Labrador Board of
Commissioners of Public Utilities seeking
approval of revised rates for Third Party
Liability Accident Benefits and Uninsured
Auto coverages for its Taxis and Limousines
class of business.

To: The Board of Commissioners of Public Utilities (the "Board")

**FINAL SUBMISSION OF THE
CONSUMER ADVOCATE**

January 9, 2015

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1 **Part I**

2 **(i) Introduction**

3
4 This Application arises as a consequence of Facility Association (the “Applicant”) filing
5 on March 6, 2014 for approval of increased rates for Third Party Liability, Accident
6 Benefits and Uninsured Automobile coverage for its Taxi and Limousine class of
7 business sold in the Province of Newfoundland and Labrador. Additionally the
8 Applicant has also requested a number of rule changes to accompany its taxi filing¹.
9 The effect of the requested rate increase would be as follows:

10
11 **Taxi and Limousine – Effective August 1, 2014 or later**

	3rd Party Liability	Accident Benefits	Uninsured Automobile
Proposed % Increase	50%	294.3%	329.3%
Proposed \$ Increase	\$1400	\$235	\$72

12
13 The purpose of the public hearing was to facilitate the hearing of relevant evidence and
14 to determine the appropriate pricing for this particular insurance product for the
15 effective period which was to be determined following the decision of the Board.

16
17 The public hearing process consisted of five (5) days of public hearings – November 5,
18 6, 7, 17 and 18 of 2014 in addition to the rate filing and pre-filed evidence which
19 included expert reports and requests for information and replies thereto.

20
21 The Consumer Advocate participated in the application review process and has
22 reviewed both the oral and documentary evidence and submits that based on the

¹ Facility Association Rate Filing Actuarial Memorandum, Section 3 – Proposed Rule Changes

1 evidence presented to the Board:

- 2 a) that a rate increase of the magnitude requested by the Applicant cannot be
3 justified;
- 4 b) that the Applicant's varying from the Board's Auto Insurance Filing
5 Guidelines ("Guidelines"), while permissible in certain circumstances is without
6 merit or necessity in the case at hand;
- 7 c) that the proposed rate increases as presented and recommended by the Board's
8 actuary Oliver Wyman is within reason particularly in light of large 2013
9 approved rate increases;
- 10 d) that insufficient evidence has been presented by the Applicant to demonstrate
11 the rate level impact of or justification for ending the owner driven discount at
12 this time.

13
14 **(ii) Intervenor Status of the Consumer Advocate**

15
16 That on the 24th day of July, 2014 the Consumer Advocate, Thomas Johnson filed with
17 the Board an Intervenor's Submission confirming that the Consumer Advocate had
18 been appointed to represent the interests of automobile insurance customers and
19 wished to participate in the hearing process. On August 21, 2014, the Consumer
20 Advocate was provided with notice that the Board had set the schedule and established
21 the rules of procedure for the hearing and confirming that the Consumer Advocate was
22 an Intervenor for purposes of the Application and Hearing process.

23
24 **(iii) Legislative Framework of the Application**

25
26 That pursuant to the existing legislative scheme, as amended, the Applicant is
27 permitted to make application for a rate increase and the Board, pursuant to the

1 provisions of the *Automobile Insurance Act*, is empowered to consider such request and
2 rule upon the justification of the same.

3
4 Section 97 of the *Insurance Companies Act* creates Facility Association while Section 98 (1)
5 and (2) set out its operating policy within the Province².

6
7 *Facility Association*

8
9 97. *The unincorporated non-profit association of insurers known as the Facility*
10 *Association is continued under the name Facility Association.*

11
12 98. (1) *An insurer licensed to transact automobile insurance in the province is a member*
13 *of the association and shall be bound by the articles and by-laws of the association.*

14
15 (2) *The association shall, in its articles of association or by-laws and in terms not*
16 *inconsistent with this Act, establish a plan to be known as the Plan of Operation*

17
18 *(a) to provide automobile insurance to owners and licensed operators of*
19 *automobiles who would be unable to obtain that insurance without the Plan of*
20 *Operation; and*

21
22 *(b) to provide, in accordance with sections 45.1 to 45.21 of the Automobile*
23 *Insurance Act, payment with respect to claims for damages made by persons who*
24 *are not insured under a contract within the meaning of section 33 of the*
25 *Automobile Insurance Act and who have no other insurance or who have other*
26 *insurance that is inadequate with respect to the damages claimed,*

27
28 *and shall, in accordance with those articles of association or by-laws and this Act,*
29 *establish and implement the Plan of Operation and carry out its obligations in the*
30 *province with respect to that plan. (emphasis added)*

31

² Insurance Companies Act RSNL, c 1-10, s 97, 98

1 It is under the provisions of Section 102 of the Act that the Applicant has the authority
2 to bring before the Board a rate application.

3
4 *Rates*

5
6 102. (1) *The association shall file with the board the rates that it proposes to charge for*
7 *automobile insurance placed through the association.*

8
9 (2) *The board shall deal with a filing under subsection (1) as if it were a filing*
10 *made under subsection 49(1) of the Automobile Insurance Act.*

11
12 (3) *Subsection 49(2) and sections 51, 52, 54, 55, 56, 57 and 58 of the Automobile*
13 *Insurance Act shall apply in connection with a filing under subsection (1).*

14
15 (4) *Where the rates filed in accordance with subsection (1) or the application for*
16 *a change in rates under section 51 of the Automobile Insurance Act have been approved,*
17 *the board may investigate the rates charged for automobile insurance placed through the*
18 *association, and notwithstanding approval of those rates, may order the association to*
19 *make a change the board considers appropriate.*

20
21 (5) *A member of the association shall not, after February 1, 1986, charge rates for*
22 *automobile insurance placed through the association that have not been approved by the*
23 *board in accordance with this section.*

24
25 Pursuant to Section 49(1) of the *Automobile Insurance Act*, as referenced above, the Board
26 is empowered to approve, prohibit or vary rates³.

27
28 *Insurer to file rates*

29
30 49. (1) *An insurer shall file the rates it proposes to charge for automobile insurance with*
31 *the Board.*

³ Automobile Insurance Act RSNL, c A-22 s 102

1 (2) *The board shall, in accordance with the regulations, approve, prohibit or vary the*
2 *rates filed under subsection (1).*

3
4 Next, we must consider the Automobile Insurance Regulations under the *Automobile*
5 *Insurance Act* (Reg. 81/04). Sections 7, 8, 10 and 11 provide:

6
7 ***Appropriateness of rate***

8 7. (1) *For the purpose of subsection 49(2) of the Act, the board shall determine if a*
9 *proposed rate is too high.*

10 (2) *The board shall vary or prohibit a rate that it determines is too high.*

11 (3) *A rate approved by the board comes into effect on the date approved by the board.*

12
13 ***Appropriateness of increase***

14 8. (1) *Where a rate filed by an insurer under section 51 of the Act constitutes an*
15 *increase in a rate previously filed, the board shall determine if the proposed rate is too*
16 *high.*

17 (2) *The board shall vary or prohibit a rate that it determines is too high.*

18 (3) *A rate approved by the board comes into effect on the date approved by the board.*

19
20 ***Appropriateness of rate***

21 10. (1) *For the purpose of subsection 62.1(4) of the Act, the board shall determine if a*
22 *proposed rate is too high.*

23 (2) *The board shall vary or prohibit a rate that it determines is too high*

24
25 ***Board to assess grounds of rate increase***

26 11. (1) *For the purpose of subsections 7(1), 8(1) and 10(1), the board shall determine if*
27 *the insurer's proposed rate is in excess of that which is required or justified on the basis of*
28 *the insurer's projected loss experience, expenses and investment income for its*
29 *automobile insurance business for the province and other elements considered appropriate*
30 *by the board.*

31 (2) *The board shall in its determination under subsection (1) ensure that the projected*
32 *loss experience takes into account the insurer's loss experience in the province where that*
33 *experience is relevant, adequate or otherwise reasonable for use in establishing rates.*

1 (3) *Where the board determines that an insurer's loss experience in the province is not*
2 *relevant, inadequate or otherwise unreasonable for use in establishing rates, the board*
3 *shall determine the elements and information upon which an insurer shall file its*
4 *projected loss experience with the board.*

5
6 **(iv) History of the Matter**

7
8 The matter arose as a result of a March 6, 2014 application by Facility Association for
9 revision of its rates for Taxis and Limousines in the Province of Newfoundland and
10 Labrador. The particulars of the request for an increase in rates were such that Third
11 Party Liability would increase by an additional 50%; Accident Benefits would increase
12 by 294.3% and Uninsured Automobile would increase by 329.3%. The cumulative
13 monetary impact of such rate increases would be a minimum additional premium
14 increase of some \$1,707.00.

15
16 In addition to the aforementioned rate increases, the Applicant had put forth a number
17 of proposed rule changes which may also have an impact on rates. Some of the
18 proposed rule changes were as follows⁴:

- 19
20 • Offering \$2,000,000 liability and up to \$5,000,000 where required for a contract of
21 work;
- 22 • Increasing the available limit for physical damage coverage to \$1,000,000;
- 23 • Changes to the definition of convictions;
- 24 • Removing all perils and replacing it with collision and comprehensive;
- 25 • Minor amendments to the minimum deductible tables to provide for lower limits
26 and where there have been 5 or more losses;
- 27 • Adding requirements for valid vehicle registrations to verify ownership and for

1 branded vehicles;

- 2 • Eliminating the discount for owner driven taxis;
- 3 • Amending U.S. exposure surcharge to apply when vehicles are driven outside
- 4 Atlantic jurisdictions;
- 5 • Including requirement for imported and right hand drive vehicles under
- 6 Homemade/Reconstructed Vehicles.

7
8 The March 6, 2014 rate filing application is the second such request by the Applicant in
9 fourteen (14) months, the previous request having been granted without a public
10 hearing and effective August 1, 2013, which approved the following rate increases:
11 Third Party Liability 50%; Accident Benefits 100%; and Uninsured Automobile 100%.
12 This approval saw a cumulative minimum additional premium increase of \$1,252.00
13 take effect some seven (7) months prior to the within filing.

14 15 **Part II – The Hearing Process**

16 17 **(i) Pre-Hearing Filing and Public Comments**

18
19 The Applicant filed its Rate Application dated March 6, 2014 which included in
20 addition to its Actuarial Report, the Applicant's Actuarial Memorandum and
21 supporting rate indicators and exhibits. Following the exchange of numerous
22 questions and responses as between the Applicant and the Board's actuaries, Oliver
23 Wyman, the Board's actuaries filed their detailed report dated May 16, 2014. Over the
24 course of the subsequent five (5) months there were further Requests for Information
25 filed and responded to. During the period of April 8, 2014 to July 24, 2014 there were
26 approximately fourteen (14) public comments received by the Board in respect of the

⁴ Public Utilities Act RSNL 1990 c P.-47

1 matter with one such submission containing a petition. In addition to the written
2 submissions, the Board received two (2) oral presentations, one from Mr. Doug
3 McCarthy, former General Manager and Treasurer of Co-op Taxi in St. John's and the
4 second from Mr. Todd Edmunds, owner and operator of Star Taxi located in Corner
5 Brook. All public comments and oral presentations were directed against the proposed
6 rate increase.

7

8 **(ii) Witnesses for Facility Association**

9

10 The Applicant called one witness, Mr. Shawn Doherty, Senior Vice-President of
11 Actuarial Services and the Chief Financial Officer with Facility Association. Mr.
12 Doherty is responsible for the provision of actuarial services, the management of
13 external actuarial services and for the accounting and finance side of operations. While
14 having 25 years' experience in the actuarial profession, he commenced employment
15 with the Applicant in December of 2010.

16

17 **(iii) The Board's Actuary**

18

19 The Board Hearing Counsel called one witness, Ms. Paula Elliott who is a principal
20 actuary with the actuarial consulting firm of Oliver Wyman. Ms. Elliott has some 32
21 years of combined experience in the insurance company management field as well as
22 actuarial financial reporting.

23

24 **Part III – Issues Identified**

25

26 (i) Is there a justifiable requirement for an additional increase in rates for Facility
27 Association for its Taxi and Limousine services as established by the Board on August 1,

1 2013?

2

3 (ii) If a rate increase is justifiable, at what level should such rates be set and which
4 actuarial approach and assumptions should be utilized to best reflect the increase
5 required?

6

7 **Part IV - Argument**

8

9 **(i) The Position of the Board's Actuaries – Oliver Wyman**

10

11 There is a very large difference between the Applicant's position and that of Oliver
12 Wyman. At page 20 of their May 16, 2014 report, Oliver Wyman indicated that it
13 found Facility Association's proposed overall rate level change of +56.7% (for TPL, AB
14 and VA) *"to be higher than we calculate based on other assumptions we find to be reasonable
15 and the Board's Guidelines."*

16

17 The report goes on to conclude that while increases were justified, the overall rate level
18 of change should be in the order of 21.5%.

19

20 Table 9 of Oliver Wyman Report (reproduced below) highlights the dramatic difference
21 between Facility Association and Oliver Wyman:

22

Table 9

Coverage	FA's Assumptions Indications	FA's Proposed Changes	Board's Guideline Indications ROI at 2.8%
TPL	+75.4%	+50.0%	+19.8%
Accidental Benefits	+307.6%	+294.3%	+125.4%
Uninsured Auto	+343.8%	+329.3%	+132.8%
Independently Rated Coverages	+81.7%	+56.7%	+21.5%

23

1 At the hearing, Ms. Elliott stated that details revealed during the request for
2 information process would cause her to adjust her overall rate level estimate of the rate
3 level required down by about an additional one percent. (Transcript, November 17,
4 2014, p. 3)

5
6 **(ii) Actuarial Judgment**

7
8 The Consumer Advocate submits that a central theme in this hearing and indeed a
9 central reason for the differences between the estimates of rate level need offered by
10 Oliver Wyman and Facility Association involves the exercise of “actuarial judgment”.
11 Actuarial analysis is not an exact science; it calls for the application of actuarial
12 judgment.

13
14 Mr. Doherty acknowledged (Transcript, November 6, 2014, p. 133-134) the following
15 would be matters of the exercise of actuarial judgment:

- 16
17 1. the selection of loss trend rates;
18 2. whether to reflect seasonality;
19 3. whether to exclude certain historical data points;
20 4. whether to give less weight to certain data points than others;
21 5. the number of years of history chosen to be analyzed.

22
23 It is quite clear from the foregoing list of matters subject to actuarial judgment that by
24 necessity and logic, the exercise of actuarial judgment is of fundamental importance in
25 the automobile insurance rate making process. Mr. Doherty did not take the position
26 that Oliver Wyman’s work was unreasonable; rather his position was that he would do
27 it differently. Nor did he identify anything in the Oliver Wyman Report or analysis

1 that was contrary to actuarial standards of practice. (Transcript, November 6, 2014, p.
2 118)

3
4 **(iii) Key Areas of Difference**

5
6 With this background and context in place, we turn to key areas where there are
7 differences between Oliver Wyman and Facility Association:

- 8
9 1. Commercial Vehicle Loss Trend Rates
10 2. Standard of Full Credibility
11 3. Rate Inadequacy in the Complement of Credibility
12

13 **(a) Commercial Vehicle Loss Trend Rates**
14

15 The Facility Association filing uses selected trend rates to adjust historical losses from
16 the experience period underlying the rate change, to the point during which the
17 proposed rates will be in effect. The PUB establishes trend rates to be used for this
18 purpose⁵. An insurer may use the PUB trend rates in its filing without providing any
19 supporting analysis. An insurer opting to use trend rates other than the
20 PUB-approved must provide *“satisfactory data supporting their chosen factors and rationale*
21 *why their selected factors are more appropriate for use by the insurer.”*
22

23 Facility Association opted to select its own trend rates for its 2014 Taxi filing based on
24 exponential curve fits to Newfoundland and Labrador Non-Private Passenger historical
25 experience through December, 2012. This is the same data on which the

⁵ See DIRECTIVE A.I. 2013-02, Revised Loss Trends and Development Factors Private Passenger Automobiles and Commercial Automobiles.

1 Board-approved trend rates in place at the time of the Application are based.
2 However, as shown in the following table, the Facility Association trend rates are
3 significantly higher than the PUB-approved trend rates, which lead to much higher rate
4 change indications:
5

6 **Loss Cost Trend Selections**

	FA	PUB-Approved
Bodily Injury	4.4%	-1.5%
Property Damage	2.4%	0.0%
Accident Benefits	7.6%	1.0%

7
8 There is a difference in the Facility Association and PUB trend rate analysis in that the
9 PUB-approved trend rates are based on analysis of historical indemnity plus expense,
10 while the Facility Association trend rates are based on historical indemnity loss only.
11 Facility Association states in its filing, *"We believe that it is reasonable to suspect trend*
12 *models selected on the indemnity plus expenses could be significantly different than indemnity*
13 *alone,"* however the filing does not provide any evidence to support Facility
14 Association's suspicion. Oliver Wyman's report (at p. 20) concluded that this
15 difference in treatment does not appear to have a material impact in the loss trend rates.
16 The Consumer Advocate submits that the difference between the Facility Association
17 and PUB trend rates is primarily due to differences in the judgmental selection of the
18 historical data points underlying the Facility Association vs. the PUB exponential curve
19 fits, rather than to the inclusion or exclusion of expense dollars.
20

21 The Consumer Advocate's position is that the intent of the Board's periodic directives is
22 to allow the use of non-PUB-approved trend rates in cases where the insurer can
23 demonstrate that its experience suggests trends that are significantly different from the

1 PUB's approved trends. However the Facility Association trend rates are based on
2 essentially the same experience data as the benchmark trend rates and the differences
3 between the PUB and Facility Association trend rates are due primarily to differences in
4 actuarial judgment rather than to differences in the historical experience.

5
6 Therefore, the Consumer Advocate submits that Facility Association has not
7 justifiability demonstrated its use of non-approved trend rates and the Consumer
8 Advocate submits that Facility Association should be required to use the Board's
9 approved trend rates in calculating its Taxi and Limousine rate changes.

10
11 In fact, as confirmed by the evidence of Mr. Doherty, Facility Association did not give
12 consideration to using the Board's approved trend rates at all; nor did they ask Oliver
13 Wyman for any of its background work leading up to the trend rates approved in A.I
14 2013-02. Furthermore, Facility Association did not make any inquiries of any insurers
15 in the province as regards the use and utilization of the Board's approved trend rates.
16 (Transcript, November 6, 2014, p. 116-119) Mr. Doherty stated that he had no
17 familiarity with the process that the Board follows every six months to approve trend
18 rates. (Transcript, November 7, 2014, p. 67)

19
20 In assessing the actuarial judgment of Facility Association in this filing, the Consumer
21 Advocate is struck by the fact that the Facility Association's approach to determining a
22 loss trend rate does not appear to take into consideration the fact that the parties to this
23 Application are dealing with exceedingly challenging experience data. Ms. Elliott
24 observed that the taxi data is very limited and very volatile. (Transcript, November 17,
25 2014, p. 5) She observed that uncertainty is further added because Facility Association
26 is using commercial vehicle experience data (which does not include taxi experience)
27 and using that commercial data to determine loss trend rates which are then applied to

1 taxi experience. (Transcript, November 17, 2014, p. 9) Ms. Elliott testified that, "*Here*
2 *with this commercial data in Newfoundland it is the most challenging data that we look at. Of*
3 *all the reviews for lost trend rates, it is the most challenging. It is the most limited data.*"
4 (Transcript, November 17, 2014, p. 177)

5
6 Notably, Facility Association did not consider the Newfoundland and Labrador
7 commercial vehicles' experience to even be usable to determine the bodily injury
8 severity trend in its 2013 Taxi filing, stating that, "*no satisfactory statistically significant*
9 *model could be found based on commercial vehicles' data, so the private passenger selected bodily*
10 *injury severity trend model was adopted.*" (Transcript, November 6, 2014, p. 109-111)

11
12 Despite this state of affairs, the Facility Association bases its trend selection on a single
13 calculation over a 8 ½ year period – precisely the period from the second half of 2004 to
14 the end of 2012. As Ms. Elliott explains:

15
16 *Well, our difference is that we do look at the ten years ending December 2012. We look*
17 *at it ending June 2012. We look at the five years under two alternatives. So we look at*
18 *alternatives, and when we look at those alternatives, we see that the very different*
19 *calculated trend rates present themselves. So that's what's different. FA is presenting*
20 *one calculation with this eight-and-a-half-year period that they are using, and that's the*
21 *number that they're picking. We're saying when you have different time periods,*
22 *different exclusions, you get very different numbers, and we need to take this uncertainty*
23 *of the data into consideration in our selection. That's the difference.*

24 Ref: Transcript, November 17, 2014, p. 131-132

25
26 Ms. Elliott explained that Oliver Wyman's approach is to try to find a balance between
27 being responsive and stable (Transcript, November 17, 2014, p. 133). For instance, on
28 the exclusion of data points, a matter of actuarial judgment, Ms. Elliott explains:

1
2 *Well, I think in this case, wondering if a sample ten data points would have two outliers.*
3 *I think what you really want to think about in presenting trend rates that you think are*
4 *absolutely right and we're not taking that position that's why we have a variety of looks*
5 *at that data, how credible is this data that we're looking at? And the data is not very*
6 *credible, this commercial data that we're reviewing. So, I don't think the issue is that we*
7 *have ten data points and we've looked at, you know, was there a high point here and a low*
8 *point and what do we get when we exclude these extremes and what's the value? If you*
9 *want to talk about how good is that, really, the issue is how good is this data for*
10 *determining a trend rate? And that's what we're saying, there's considerable*
11 *uncertainty in the data. We think that by excluding the high and the low points it's*
12 *helping to give a more stable measurement of the trend rate.*

13 Ref: Transcript, November 17, 2014, p. 175

14
15 The Facility Association's approach depends upon a certainty that a distinct trend
16 started in the second half of 2004. Mr. Doherty stated, *"I think I can see something that*
17 *perhaps other people aren't seeing, but I still believe that there are two different periods that are*
18 *reflective of trends in this loss cost data."* (Transcript, November 5, 2014, p. 100) Mr.
19 Doherty continues, *". . . we did bifurcate into pre and post 2004, and we assume that it's*
20 *because of reform."* (Transcript, November 5, 2014, p. 103) Notably, in Facility
21 Association's 2013 filing, Facility Association did not include a parameter in its
22 regression model for the August 2004 auto insurance reforms. (Oliver Wyman Report
23 of May, 2014, p. 12) In 2013, Facility Association did not consider the reform variable
24 to be statistically significant. (Transcript, November 7, 2014, p. 103) Furthermore, in
25 Facility Association's 2013 filing, Facility Association selected its past severity trend rate
26 based on its estimate of private passenger industry experience over the eleven (11) year
27 period from 2001 to 2011. (Transcript, November 7, 2014, p. 7)

28
29 Mr. Doherty admitted that there is a lot of process variance and that his model

1 *“struggled with the fitting process”.* (Transcript, November 7, 2014, p. 116-117) Ms.
2 Elliott, in commenting upon the fits stated, *“I don’t accept the description that any of these*
3 *fits with this commercial data are superior, great, good - - any word, adjective you’d like to use.*
4 *The data is very difficult to work with.”* (Transcript, November 17, 2014, p. 52)

5
6 In the Consumer Advocate’s submission, Oliver Wyman has rightly stated in its report
7 that the *“FA does not appear to fully consider that the Industry loss cost trend rate has varied*
8 *over time and that the measured loss cost trend is quite different if different measurement periods*
9 *are considered.”* (Oliver Wyman Report, p. 13) In the circumstances of the data
10 involved in this case, the Consumer Advocate concurs with the approach of Oliver
11 Wyman stated as follows in its report:

12
13 *We believe that this variability and uncertainty in loss trend rates supports an approach*
14 *to select loss trend rates that consider several alternative measurement periods.*

15
16 With respect to Mr. Doherty for the Facility Association, the Consumer Advocate
17 submits that this approach of Oliver Wyman is more reasonable and responsive to the
18 data limitations and extreme variability in this case. The Consumer Advocate
19 recommends that the Board utilize the approach of Oliver Wyman over that of Facility
20 Association.

21
22 Beyond the fact that Oliver Wyman’s approach is more responsive to the variability and
23 data limitations, its approach while giving rise to a sizable increase will not be as large a
24 rate shock as the Facility Association’s approach. On the heels of the large increase just
25 approved effective August of 2013, the Facility Association’s proposal will be too much,
26 too fast for insureds to absorb – particularly given the fact that taxi insurance rates had
27 not changed for about twenty (20) years prior to the August, 2013 increase.

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(b) Standard of Full Credibility

Another area of difference is the selected standard of full credibility. The selected standard of full credibility determines the extent to which the rate change indication based on the latest Facility Association Taxi experience is allowed to stand on its own without reference to another indication (referred to here as the “complement of credibility”).

In its prior (2013) Taxi rate filing, Facility Association used a standard of full credibility of 5,410 claims. In its current filing, Facility Association reduced the standard of full credibility to 3,246 claims. In the case of the 2014 Facility Association filing, reducing the standard of full credibility had the effect of increasing the rate change indication by about 7%. (Transcript, November 6, 2014, p. 142) There is no “correct” standard of full credibility. It is a judgmental selection by the rate analyst. Mr. Doherty acknowledged that the use of the full credibility of 5,410 claims as used in 2013 would also be acceptable actuarial judgment in this application. (Transcript, November 6, 2014, p. 142) The Consumer Advocate does not believe that Facility Association should have elected to decrease its full credibility standard, and thus increase its rate change indications at a time when taxi drivers and owners are already struggling to absorb the 2013 Facility Association rate increases.

(c) Rate Inadequacy in the Complement of Credibility

The standard of full credibility determines how much weight is given to the current Facility Association loss experience in the rate change indication. The remainder of the credibility is assigned to the complement of credibility. The purpose of weighting the

1 Facility Association rate indication with the complement of credibility is to recognize
2 that the current Facility Association loss experience is not sufficient by itself to produce
3 a credible projection of future losses. It may also serve to limit the size of rate changes
4 from one filing to the next.

5
6 Common selections for the complement of credibility might be the current rate (no rate
7 change), or one year of trend, or a rate change indication based on a wider geographical
8 area. For its complement of credibility, Facility Association chose one year of trend,
9 plus the inadequacy in the current rates implied by the rate change indication in Facility
10 Association's 2013 Taxi rate filing. The Consumer Advocate submits that this is an
11 inappropriate basis for the complement of credibility because the 2013 Facility
12 Association-indicated rate change was not approved by the Board and is significantly
13 higher than the 2013 rate change that was calculated by the Board's actuary. In her
14 testimony, the Board's actuary stated, "*so in the prior filing, we had done our analysis and*
15 *we estimated the rate indication for FA could support a +50 percent change. FA proposed a +50*
16 *percent increase, and the Board approved a +50 percent increase, so in our view there was no rate*
17 *inadequacy.*" (Transcript, November 17, 2014, p. 58)

18
19 Therefore, the Consumer Advocate submits that Facility Association should be directed
20 to recalculate the complement of credibility underlying its rate change indications,
21 excluding the Facility Association-estimated inadequacy in the approved 2013 rates.

22
23 Mr. Doherty acknowledged that if Facility Association's "rate inadequacy" provision
24 alone was removed and all other Facility Association rate proposals were accepted, the
25 indicated rate level change would decline by about 24% on an overall basis. Mr.
26 Doherty also acknowledged that the Nova Scotia Board in its 22 September, 2014
27 decision rejected Facility Association's request to permit it to adjust for rate level

1 inadequacy in its complement of credibility. (Transcript, November 6, 2014, p. 155-157;
2 Information Exhibit #3 – Decision 2014 NSUARB 156)

3
4 **(iv) Other Issues**

5
6 **(a) Expense Provision**

7
8 Oliver Wyman’s report at p. 22 addressed the Facility Association’s assumed total
9 expense provision. Oliver Wyman observed that part of the total expense provision of
10 23.6% is the Facility Association’s contractual arrangement with its servicing carriers
11 that allows for a 10% (1% + 9%) variable expense provision for underwriting and
12 processing. A further 6% is for commissions. Oliver Wyman stated:

13
14 *Hence, if FA’s current average premium for (TPL, AB, and US) of \$2,928 increases as*
15 *proposed to \$4,626, its servicing carriers will receive an average increase of \$170 (from*
16 *\$293 to \$463) per Taxi for underwriting and processing. Similarly, with FA’s*
17 *contractual arrangement of 6% commission expense, its average commission for TPL,*
18 *AB, and UA combined will increase from \$176 to \$278 per Taxi.*

19
20 *Although we find the expense provision is accurately included in the calculation of the*
21 *rate level change need presented by FA based on the contractual arrangement with the*
22 *servicing carriers, given the actual the average allowance per Taxi proposed (\$463 to*
23 *process and underwrite, and \$278 for commissions), the Board may wish to confirm the*
24 *reasonableness of these amounts.* (emphasis added)

25
26 Mr. Doherty stated that whether the current service carrier compensation model is fair
27 or reasonable is under the purview of the Superintendent of Insurance of
28 Newfoundland and Labrador who must approve Facility Association’s Plan of
29 Operation. The current Plan of Operation filed as Undertaking 8, would appear to

1 indicate that neither Newfoundland and Labrador nor Alberta have approved the 10%
2 reimbursement for both allocated and unallocated claims expenses. At section 2(b) at
3 p. 15, it states:

4
5 *(b) For claims expenses, both allocated and unallocated, the following percentage of*
6 *earned premiums:*

7 . . .

8 *Alberta and Newfoundland and Labrador*

9 *[amendment effective when approved]* 10% (emphasis added)

10
11 It is, in any event, difficult to accept the proposition that a servicing carrier should be
12 entitled to receive more for claims expenses solely because of a premium increase. Mr.
13 Doherty agreed that the formula is meant to be a proxy for fair and reasonable
14 compensation for these services. (Transcript, November 7, 2014, p. 36) The difficulty
15 is that in order to be confident that the proxy is producing fair and reasonable results, it
16 would be necessary to know the actual expenses incurred. That information is not
17 available.

18
19 Ms. Elliott in her testimony suggested that Facility Association take the initiative to
20 review the costs for underwriting, claims handling and commissions to explore ways to
21 bring down the premium. (Transcript, November 17, 2014, p. 65) The Consumer
22 Advocate agrees with this suggestion and would recommend that the Board
23 recommend this be done in its Order prior to Facility Association's next rate filing in
24 this province.

25
26 **(b) Removal of Owner Driven Discount**

27
28 Facility Association is proposing to remove the Owner Driven Discount in this filing.

1 (see section 5, page 1 of Application) At p. E-10 of its filing the current Rates Notes
2 state:

3
4 ***1. Owner Driven Taxis***

5 *Where the application indicates the taxi, for taxi purposes, is solely driven by the*
6 *applicant or spouse (or in the case of multiple ownership by one specific owner), a 10%*
7 *premium reduction shall be applied to each coverage. Family members may also drive*
8 *the vehicle solely for pleasure purposes.*

9
10 According to Undertaking 9, the owner/operator discount has been in place in the
11 province for at least fifteen (15) years. That undertaking states that Facility
12 Association's Rates and Rules Committee completed a review of the current Facility
13 Association rating manual and it was agreed that Facility Association, due to its
14 position of market of last resort, should remove all discounts.

15
16 Mr. Doherty could not state how many insureds would lose the discount currently in
17 place. (Transcript, November 7, 2014, p. 42)

18
19 Mr. Doherty believes that there is a risk-based basis to differentiate between vehicles
20 that are owner-driven versus employee or contractor driven. (Transcript, November 7,
21 2014, p. 42) The Consumer Advocate would concur with that view.

22
23 In the absence of knowing how many insureds would be affected by the loss of this
24 long-standing, apparently risk-based discount, the Consumer Advocate would submit
25 that it should not be permitted.

26
27 Facility Association is practically the only insurance option for taxis in this jurisdiction.
28 Keeping the discount in place will not attract Facility Association more business – it

1 already has it all.

2
3 Finally, while Facility Association is a “last resort”, it should not follow that therefore
4 its insureds should be deprived of risk-based differentiation such as owner driven
5 discounts.

6
7 **(c) Territorial Differentiation**

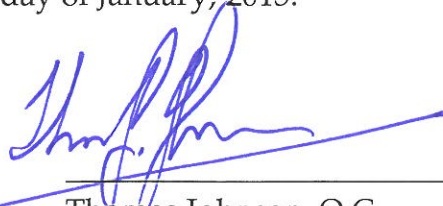
8
9 While not a matter for which Facility association is seeking changes in this Application,
10 it certainly does appear to be the case that there are marked differences in the reported
11 pure loss ratios in territories 005 and 006 (Bonavista/Burin and Labrador) and territories
12 004 and 007 (Avalon and Rest of Island). (See PUB-FA-16 and PUB-FA-18)

13
14 Currently, Facility Association taxi rates for the optional physical damage coverages are
15 derived by application of a multiplicative factor to premise derived based on private
16 passenger rates, and as such are subject to separate base rates for the statistical
17 territories. (PUB-FA-18) However, Facility Association does not differentiate base
18 rates for third party liability. Facility Association would not be opposed to such a
19 distinction as long as the overall rate level is achieved. Presently, the only jurisdictions
20 where Facility Association has different taxi base rates by territory are Alberta and
21 Ontario. Yukon, NWT, Nunavut, Nova Scotia, New Brunswick, Newfoundland and
22 Labrador and PEI do not have different base rates by territory. (Undertaking No. 8)

23
24 Nonetheless, there does appear to be concern about the level of subsidization in favour
25 of taxi insureds on the Avalon and the rest of the Island by insureds in Labrador and
26 Bonavista/Burin. In Facility Association’s next taxi rate filing, the Consumer Advocate
27 would recommend that Facility Association provide together with its normal filing an

1 alternative for the consideration of the Board which takes into account the experience in
2 the territories.

ALL OF WHICH IS RESPECTFULLY SUBMITTED AND DATED at St. John's, in the
Province of Newfoundland and Labrador, this 9th day of January, 2015.



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