

A.I. 8(2006)

1 **IN THE MATTER OF** the *Automobile,*
2 *Insurance Act*, R.S.N.L. 1990, c. A-22, as
3 amended (the “*Act*”)
4

5 **AND**
6

7 **IN THE MATTER OF** an application by
8 Traders General Insurance Company
9 (the “Applicant”) to implement revised rates
10 for its Private Passenger class of business.
11

12
13 On October 24, 2005, pursuant to legislative changes enacted on August 1, 2005, the Applicant
14 submitted for the Board’s review and approval a revised private passenger automobile insurance
15 rating program for use with effect from August 1, 2005.
16

17 **Legislation**
18

19 On August 1, 2005 the Government of Newfoundland and Labrador enacted legislation
20 amending the *Automobile Insurance Act* and the *Insurance Companies Act* in relation to the
21 conduct of participants in the automobile insurance industry and the regulation of rates in the
22 province. Among other things, the changes eliminated the benchmarking system of rate review
23 and approval used by the Board since inception of automobile insurance rate regulation and
24 substituted new rate review requirements.
25

26 Under the revised automobile insurance legislation, rate decreases generally take effect thirty
27 days following filing with the Board. Rate increases are subject to prior approval and in
28 connection therewith, the Board must determine, in accordance with provisions outlined in
29 regulations, if a proposed rate is “too high”. Where such a finding is made the Board is required
30 to prohibit, or vary the rates.
31

1 In arriving at a determination with respect to rate increases the Board considers the
2 documentation available with respect to the justification of the rate levels including: the
3 Applicant's projected loss experience; expenses; investment income for the company's
4 automobile insurance business for the province; and other elements considered appropriate by
5 the Board. While each of these components is, with certain exceptions, relatively easy to
6 calculate, it is the aspect of the reasonableness of each component that must be assessed by the
7 Board in determining if rates are "too high". Where the Board determines that an insurer's loss
8 experience is not relevant, inadequate or otherwise unreasonable for use in establishing rates, the
9 Board has discretion to establish the elements and information upon which the insurer shall file
10 its projected loss experience.

11
12 In addition to the new rate regulation process generally, the amended legislation also provided
13 for a one time reduction in rates. The legislation states as follows:

14
15 *"62.1 (2) Effective August 1, 2005, the rates for all types of coverage charged by an insurer for*
16 *private passenger automobile insurance as approved by the Board shall be reduced by at*
17 *least 5%.*
18 *(3) Not later than September 1, 2005, an insurer that is reducing its rates by at least 5%*
19 *shall file with the Board the rates for all types of coverage it proposes to charge for*
20 *private passenger automobile insurance."*
21

22 Where rates are not reduced by at least 5%, the legislation states:

23
24 *"(4) Notwithstanding subsection (2), an insurer may, not later than September 1, 2005, apply*
25 *to the Board for the approval of rates that have not been reduced by at least 5% and the*
26 *Board shall approve, prohibit or vary the rates proposed to be charged by the insurer."*
27

28 It is under this latter provision that the within filing has been made.

29
30 Other significant revisions affecting rates or the rating of insureds introduced with the amended
31 legislation to take effect from August 1, 2005 include:

- 32
33 a. Elimination of Age, Sex and Marital Status as rating variables;
34 b. Establishment of a new Class of Use system and definitions;
35 c. Permitting the use of the number of years licensed for rating purposes;

- d. Additions to the Prohibited Underwriting Regulations;
- e. Additions to the elements prohibited in a company's Risk Classification System;
- f. Additions to restrictions on the grounds that can be used to decline, terminate or refuse to renew coverage; and
- g. Elimination of the prohibition on group rates and group rating.

Filing Instructions

On July 29, 2005, following the announced changes to the automobile insurance product and changes to the method of rate regulation, the Board issued new Filing Instructions to industry participants. These Filing Instructions detailed the requirements arising from the new legislation and in particular the changes to the information requirements respecting rate filings. Extracts from the Filing Instructions providing definitions of the two types of filing categories appear below:

“3.1 CATEGORY - 1

3.1.1 Category 1 - Definition

An insurer is considered to have made a Category 1 filing where:

- a) In the case of private passenger rates filed in accordance with s.62.1, filed and adjusted base rates for every coverage are reduced by at least 5% and there is no increase to any rate for any coverage for any insured;*
- b) In the case of private passenger rates other than those filed in accordance with s.62.1, there is no increase to any rate for any coverage for any insured; or*
- c) In the case of commercial or miscellaneous vehicle rates there is no increase to any rate for any coverage for any insured.*

Any filings not meeting this requirement will be considered a Category 2 filing.

1
2 **3.2 CATEGORY 2- GENERAL FILING**

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4 **3.2.1 Category 2 - Definition**

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6 *Where a rate filing contemplates changes to base rates less than the 5% mandated by*
7 *legislation on September 1, 2005 or in any other case an increase in a rate for any*
8 *coverage for any insured, the filing will be considered a Category 2 filing.”*
9

10 As part of the Filing Instructions the Board also issued a guidance document which sets out
11 details as to how the filing is to be made and the standards to be applied. Specifically, insurers
12 were advised:

13
14 *“Insurers should have reference to the Category 2 Rate Application Guidance Document which is*
15 *attached to these Filing Guidelines as Appendix A. Insurers should note that this document sets*
16 *out guidance on completion requirements and various assumptions for such parameters as the*
17 *trend factor, loss development factors, credibility, ROE, ROI and premium to surplus ratio. To*
18 *the extent that insurers vary from the Category 2 Rate Application Guidance Document they will*
19 *be required to provide complete justification for consideration by the Board. Insurers should*
20 *note that the Board may have reference to advice from its consultants or may hold a hearing to*
21 *consider these proposals.”*
22

23 While an Applicant may utilize factors at variance with those set out in the filing guidelines, it is
24 required to provide compelling information to assist in the Board’s assessment of these factors.
25 It is in the context of the foregoing that the within application is reviewed.

26
27 **The Application**

28
29 On October 24, 2005 the Applicant submitted to the Board for consideration a detailed filing of
30 private passenger automobile insurance rates. A copy of the filing was forwarded to the Board’s
31 actuarial consultants, Mercer Oliver Wyman (MOW) for their review and report. Throughout
32 the ensuing weeks various information requests were issued by MOW to the Applicant and
33 responses received such that it was not until December 9, 2005 that a final filing was considered
34 to have been made and MOW could complete its review and issue its report.

35
36 The filing proposed a schedule of rates based on a Return on Equity (ROE) of 12.5%, a Return
37 on Investment (ROI) of 3.7% and a Premium to Surplus Ratio of 2:1. These parameters, as well

1 as the assumptions made by the Applicant in connection with other factors considered in the rate
 2 making process, are reflected in the indications and the proposed rate changes shown below:

Traders		
Coverage	Company Indications	Company Proposal
Third Party Liability	1.4%	0.0%
Accident Benefits	-2.7%	-5.0%
Collision	-16.0%	-12.5%
Comprehensive	-29.0%	-25.0%
All Perils	-4.4%	-16.7%
Specified Perils	-0.4%	0.0%
Uninsured Motorist	-0.7%	0.0%
Total	-5.4%	-5.4%

4
 5 Where a person who is insured with the Applicant would upon renewal experience an increase as
 6 a result of changes flowing from this application or the amended legislation, the Applicant
 7 proposes to cap rate increases at 0% on a vehicle basis. This may result in a revenue shortfall as
 8 these insureds may pay less than they otherwise should pay. The Applicant has adjusted the
 9 proposed Third Party Liability rates to recover the shortfall in premium associated with capping.

10

11 The Applicant proposes to offer the following discounts:

12

Discounts	%	Coverages
Multi Vehicle	10%	Third Party Liability, Collision, Accident Benefits and Uninsured Auto - All Classes
Age (55-74)	10%	All Coverages and All Classes
Age (75-79)	5%	All Coverages and All Classes
Multi Policy	5%	All Coverages and All Classes
Full Package	5%	Third Party Liability, Accident Benefits, Collision, Comprehensive, Specified Perils, All Perils - All Classes
Short Commute	10%	Third Party Liability, Collision, Collision portion of All Perils, Accident Benefits and Uninsured Auto – Class 02 only
University	50%	Third Party Liability, Collision - Class 05
Preferred Driver	10%	All Coverages; Classes 01, 02, 03, and 07

13

14 The proposed discounts are consistent with those previously approved by the Board. The
 15 discounts relate to the risk, are not subjective or arbitrary and are otherwise in accordance with

1 the legislative provisions. In addition the impact of the discounts has been appropriately
2 reflected in the rate filing, as reviewed by MOW.

3

4 The Applicant proposes Class of Use definitions that vary slightly from those established by the
5 Superintendent of Insurance. MOW finds that the proposed Class of Use definitions are similar
6 to the Superintendent of Insurance's recently revised Statistical Plan and concludes that the
7 selected class differentials are reasonable.

8

9 **Detailed Analysis**

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11 In its review of rate filings the Board is mandated to prohibit or vary a rate which it determines is
12 "too high". The Board makes this determination following a thorough review of all information
13 submitted by the Applicant and careful consideration of the reports and findings of its expert
14 consultants. In exercising its jurisdiction the Board reviews the base rates for each coverage and
15 a determination is made as to whether or not they are "too high". That is to say, the review is on
16 a coverage by coverage basis. This is consistent with the amended legislation and is in keeping
17 with the historical practice of the Board which was adopted to avoid the cross subsidization of
18 rates between coverages. Allowing the establishment of a rate for one coverage lower than is
19 justified and permitting a rate for another coverage to be higher than is justified by the actuarial
20 and other evidence would result in rates which are not reflective of costs and, depending on the
21 coverage chosen, may cause some insureds to pay more than actuarially justified.

22

23 After reviewing the filing, the Board notes that the recovery of costs associated with the capping
24 proposed by the Applicant may result in the costs associated with a shortfall in premium on a
25 variety of coverages for the capped customers being recovered in the premiums collected from
26 other customers on other coverages. This may be considered to be cross-subsidization and
27 contrary to the established policy of the Board. The legislative provisions allow an insurer to
28 charge less to an insured than would otherwise be charged as a result of certain legislative
29 changes but does not permit an insurer to charge more than is actuarially justified for any
30 coverages.

1 As identified in the Board's detailed Filing Instructions, the Applicant is required to provide
 2 justification of any rate increases. Where the Applicant does not utilize the specific parameters
 3 set out in the filing guidelines the Applicant is required to provide the Board with sound
 4 reasoning and justification for the deviation. For example, in connection with ROI, the
 5 guidelines provide the Board's acceptable range of factors but state, "*The Board will consider*
 6 *other return on investment assumptions or calculations; however, full rationale for any*
 7 *deviations must be provided, based on recently available 2004 financial data.*" Similar cautions
 8 and directions are provided in connection with the remaining guideline factors and assumptions,
 9 where appropriate.

11 Actuarial

13 On January 10, 2006 the Board received the findings of the actuarial consultants. With respect to
 14 assumptions made in the determination of rates, these are matters of actuarial judgment and are
 15 reviewed in the context of reasonableness. MOW reviewed the assumptions made by the
 16 Applicant. In their report, the actuaries did not take exception to the actuarial assumptions used
 17 by the Applicant in its rate level indication development.

19 These findings are provided in the table below:

Traders	Company	Company	MOW
Coverage	Indications	Proposal	Indications
Third Party Liability	1.4%	0.0%	-0.3%
Accident Benefits	-2.7%	-5.0%	-3.7%
Collision	-16.0%	-12.5%	-17.9%
Comprehensive	-29.0%	-25.0%	-31.5%
All Perils	-4.4%	-16.7%	-5.3%
Specified Perils	-0.4%	0.0%	-0.5%
Uninsured Motorist	-0.7%	0.0%	-1.1%
Total	-5.4%	-5.4%	-7.1%

29 The MOW indications are based on the Board's guideline factors for ROE, ROI and Premium to
 30 Surplus Ratio.

1 Cost of Capital

2

3 The Category 2 Rate Application Guidance Document set out the parameters regarding ROE,
4 ROI and Premium to Surplus Ratio as follows:

5

6 “Return on Equity

7

8 ▪ *In Order No. A.I. 1 (2005), after hearing from several experts relating to profit margin, the Board
9 determined a return on equity and premium to surplus ratio for use under the benchmark system
10 which, as the result of legislative changes, is no longer in use. Nevertheless, the Board accepts
11 the determination in Order No. A.I. 1 (2005) as the most comprehensive recent consideration of
12 the appropriate return on equity and premium to surplus ratio for rate making purposes for
13 automobile insurers in Newfoundland & Labrador. Therefore, the Board accepts as reasonable
14 for use in rate filings a target after-tax Return on Equity of 10.0% and a premium to surplus ratio
15 of 2.25.*

16 ▪ *Other return on equity or premium to surplus assumptions or calculations will be considered, but
17 rationale for any deviations must be provided and the Company must provide a comparison of the
18 assumptions or calculations with those made by the Company in preparing filed rate level
19 indications for other coverages and lines of business in Newfoundland & Labrador as well other
20 provinces.*

21 Return on Investments

22 ▪ *The Board also considered the appropriate return on investments for ratemaking purposes for
23 automobile insurers in Newfoundland and Labrador in Order No. A.I. 1 (2005). The Board
24 accepted that “...setting ROI based on levels of risk and commensurate returns relative to the
25 actual investment profile of Canadian automobile insurers is most appropriate,” but noted the
26 lack of available information to assist in this determination. In light of the lack of information
27 and the changed regulatory environment, the Board will not set out a target return on investment
28 for rate making purposes, but expects that the return on investment will be in the range identified
29 by the Board in Order No. A.I. 1 (2005) of 5.4%-7.04%.*

30 ▪ *The Board will consider other return on investment assumptions or calculations; however, full
31 rationale for any deviations must be provided, based on recently available 2004 financial data.”*

32

33 The Applicant’s proposals reflect a Premium to Surplus Ratio of 2 to 1 rather than the 2.25 to 1
34 as set out in the filing guidelines. The support provided for this alternate assumption is a
35 statement in relation to the experience under the minimum capital test used by the Office of the
36 Superintendent of Financial Institutions (OSFI) to monitor the health of certain insurers. The
37 Applicant did not provide supporting professional opinion or supporting financial information as
38 sought by the filing guidelines and requests for information.

1 The filing was reviewed by the Board's cost of capital and economic consultants, National
2 Economic Research Associates (NERA), as relates to the ROE and ROI inputs. During this
3 review information requests and responses were exchanged with the Applicant. NERA's report,
4 dated March 13, 2006, details the pertinent aspects of these exchanges and summarizes the
5 position stated by the Applicant in support of the requested ROE and ROI and NERA's
6 consideration thereof.

7
8 The Applicant states that the shareholders expect an ROE of 15% and further that the proposed
9 ROE of 12.5% is consistent with the standard they have used and received approval for in other
10 provinces. The Applicant also cites some testimony of experts appearing before the Board at its
11 recent hearing in relation to cost of capital. The Applicant did not provide expert opinion expert
12 not already considered by the Board or substantive evidence found persuasive in other
13 jurisdictions, nor did the Applicant provide a justification for the statement that shareholders
14 expect an ROE of 15%. In relation to ROI, NERA notes that the Applicant did not provide the
15 necessary information in relation to the investment portfolio.

16
17 NERA's final report findings are as follows:

18
19 *ROE – "Traders General has not provided sufficient evidence to support its request for a higher*
20 *ROE than set out in the filing guidelines."*

21
22 *ROI – "Traders General's requested ROI is not justified. Based on the proxy investment portfolio,*
23 *NERA's calculated ROI for Traders General is 4.89%."*

24
25 A copy of the MOW report and the NERA report was forwarded to the Applicant for comment.
26 The Applicant initially provided commentary and additional information but later withdrew this
27 information and commentary.

28

1 **Findings**

2

3 The Board has reviewed the application, the supporting material, responses to information
4 requests, consultants' reports and all other information relevant to this rate filing. The proposed
5 Class of Use definitions are similar to those set out by the Superintendent of Insurance and are
6 acceptable by the Board. As well the associated differentials were found by MOW to be
7 reasonable.

8

9 The Applicant's proposed discount program is consistent with previous filings, the legislative
10 provisions and has been determined to be reasonable in the context of the rate filing. However,
11 the recovery of the shortfall in premium associated with the capping of rate increases as
12 proposed by the Applicant is not consistent with the policy of the Board or legislative provisions.
13 While the proposed capping may minimize rate impacts arising out of this application for some
14 insureds, recovery of the revenue shortfall may mean that remaining insureds pay the associated
15 costs on a variety of coverages. Therefore the Board will not approve the inclusion in rates of
16 the revenue shortfall arising from the capping proposal.

17

18 Based on the review of the available information in connection with this rate filing the actuarial
19 assumptions in the Applicant's rate proposals are reasonably supported by the available
20 information.

21

22 In connection with the cost of capital analysis the Board notes that the filing guideline factors for
23 ROE, ROI and Premium to Surplus Ratio were based on the recent order of the Board issued
24 following a comprehensive hearing with expert testimony. Proposals incorporating alternate
25 factors for ROE, ROI and Premium to Surplus Ratio are approved when fully supported. In the
26 context of the supporting materials the Board makes the following determinations in relation to
27 these factors.

28

- 29
- 30 • In connection with the Applicant's proposed ROE of 12.5%, the Board finds that the
31 Applicant has not fully supported the proposal. The Applicant did not provide sufficient
financial information or expert opinion to support the proposed ROE. NERA determined

1 that insufficient evidence was provided to support an ROE higher than 10%. The Board
2 finds that the Applicant has not provided sound rationale or additional compelling
3 evidence to support the use of an ROE other than 10%.

- 4
- 5 • In connection with the Applicant's proposed ROI of 3.7%, the Applicant has not
6 provided the necessary information to support the requested ROI. NERA, after a full
7 review of the available information, constructed a proxy investment portfolio and
8 calculated an ROI of 4.89% for the Applicant. Based on all available information the
9 Board accepts 4.89% as a reasonable ROI for the Applicant.
- 10
- 11 • The filing guidelines set out a 2.25 to 1 Premium to Surplus Ratio as reasonable. The
12 Applicant proposes a ratio of 2 to 1 without providing support for the figure. The Board
13 will not accept the proposed Premium to Surplus Ratio and will instead require the use of
14 2.25 to 1 as reasonable and appropriate in the circumstances.

15

16 **Costs**

17

18 As set out in the Filing Instructions, pursuant to section 57 of the *Automobile Insurance Act* and
19 section 90 of the *Public Utilities Act*, the Applicant will be required to pay the costs of the Board
20 associated with this application.

21

22 **IT IS THEREFORE ORDERED THAT:**

- 23
- 24 1. The proposed rates are prohibited.
- 25
- 26 2. The Applicant shall file with the Board revised rate indications reflecting the findings of
27 the Board which specifically include an ROE of 10%, an ROI of 4.89%, a Premium to
28 Surplus Ratio of 2.25 to 1, and the exclusion from rates of any revenue shortfall arising
29 from the proposed capping program.

- 1 3. The Applicant shall submit for the approval of the Board a revised rate proposal, setting
2 out the effective dates, which for each coverage shall be no more than the indications
3 filed with the Board in accordance with this Order.
4
- 5 4. The proposed discount program is approved.
6
- 7 5. The proposed Class of Use definitions are accepted for use.
8
- 9 6. The Applicant shall pay all the expenses of the Board arising from this application.
10

DATED at St. John's, Newfoundland and Labrador, this 30th day of March 2006.

Robert Noseworthy
Chair & Chief Executive Officer

Darlene Whalen, P.Eng.
Vice-Chair

G. Cheryl Blundon
Board Secretary