

DECISION

**NSUARB-INS-10-702
2010 NSUARB 154**

NOVA SCOTIA UTILITY AND REVIEW BOARD

IN THE MATTER OF THE INSURANCE ACT

- and -

IN THE MATTER OF AN APPLICATION by **ECONOMICAL MUTUAL INSURANCE COMPANY** with respect to proposed changes to the effective date of its Commercial Rate Group Tables

BEFORE: Roberta J. Clarke, Q.C., Member

APPLICANT: **ECONOMICAL MUTUAL INSURANCE COMPANY**

FINAL SUBMISSIONS: July 12, 2010

DECISION DATE: **July 22, 2010**

DECISION: **Application is not approved. The Company is ordered to refund any premiums overcharged.**

I INTRODUCTION

[1] On January 12, 2010, Economical Mutual Insurance Company (“Economical” or the “Company”) filed an application with the Nova Scotia Utility and Review Board (the “Board”) for approval of proposed changes to its Commercial Rate Group Tables (the “Application”).

[2] The Application was submitted in accordance with the Board’s Rate Filing Requirements for Automobile Insurance - Section 155G *Changes to Commercial Rate Group Tables*. Revised rating profiles were submitted to the Board on January 27, 2010, as a result of errors noted.

[3] The Company proposed February 15, 2010, as the effective date for the proposed changes to its Commercial Rate Group Tables for both new business and renewal business.

[4] The Board issued its Decision on February 3, 2010, approving the Application.

[5] On April 13, 2010, upon review of the Company’s manual update, filed subsequent to the Decision, Board staff noted and brought to the attention of the Company, that the effective date for renewals was stated to be April 15, 2010, rather than the approved date of February 15, 2010. Having received no response, Board staff followed up with the Company on May 26, 2010.

[6] The Company, by letter dated May 28, 2010, acknowledged the discrepancy and advised that incorrect effective dates for renewal business had been included in the

Application and the manual update. It advised that the effective date should have been, and requested that the renewal effective date be amended to, May 1, 2010.

[7] On July 12, 2010, in a complete response to a request from Board staff made on June 22, 2010, the Company advised that during the period between February 15, 2010 and May 1, 2010, there were 77 policies renewed which were either under- or overcharged as a result. The total amount undercharged was just under 10% of the amount overcharged.

II ISSUE

[8] Should the proposed change to the effective date for renewal business for the Commercial Rate Group Tables be approved?

III ANALYSIS

[9] The Board views the request to amend the effective date for renewal business at this time, i.e., after both its Order on the original Application and after the proposed amended date of May 1, 2010, as a request for retroactive ratemaking or approval. While the Board understands that the number of policies affected is small and the amounts involved are relatively low on a per policy basis, the Board is not prepared to approve the request for amendment. To do otherwise would be unprecedented and contrary to the requirements of the *Insurance Act and Regulations*. Nor would it be just and reasonable.

[10] The Board notes that on June 24, 2010, the Company advised that the IAO Table I contained errors. The Company proposed to correct its Rate Group Table effective July 1, 2010, for new business and August 15, 2010, for renewal business. It also proposed to retroactively correct and refund the overcharged premiums, despite the fact that the average refund would be very small.

[11] By letter dated July 5, 2010, the Board approved the Company's proposed course of action regarding the corrected Table.

[12] The Board considers that a similar correction of overcharged premiums resulting from the Company's error in the effective date for renewal business is appropriate. The Board suggests that the Company may wish to consider whether it is appropriate to seek additional payment in the policies which were undercharged as a result of the Company's error.

IV FINDINGS

[13] The Board finds that it would not be just and reasonable to amend the effective date for renewal business from February 15, 2010, as ordered by the Board, to May 1, 2010, as requested by the Company. Therefore, the request is not approved.

[14] The Board finds that it is just and reasonable that the Company should refund premium adjustments to those of its policy holders who were overcharged during the relevant period.

[15] An Order will issue accordingly.

DATED at Halifax, Nova Scotia, this 22nd day of July, 2010.

Roberta J. Clarke