OTA Submission

Ontario Trucking Association

Submission to the Workplace Safety & Insurance Board (WSIB)

Rate Framework Modernization Consultation

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The Ontario Trucking Association (OTA)

The Ontario Trucking Association (OTA) was founded in 1926 and is the responsible voice of trucking in Ontario. Reflecting the size and importance of the Ontario marketplace, OTA is one of the largest trucking associations in North America and is considered by government and the media to be one of the most effective and dedicated trade associations in the province. Our members include everyone from the smallest family-owned company to the largest publically-traded conglomerates, who together are responsible for moving the lion's share of the goods Ontario businesses and consumers rely upon. OTA is the only trucking association in the province to represent all segments of the industry including for-hire, private and intermodal carriers along with couriers and suppliers.

OTA has also been at the forefront of innovative WSI policy reform for more than 30 years. In 1985, OTA was one of the first trade associations to recognize the important prevention and reemployment potential of experience rating. OTA worked with the Board to voluntarily bring the trucking industry under the NEER plan commencing in 1986, and thereafter led the way towards significant NEER design enhancements.

Today, the majority of OTA's members report to the WSIB under the General Trucking Rate Group (RG) 570, which in 2015 saw a premium rate of $6.72. In addition, many members also report under other RGs, including Warehousing (RG 560 – 2015 premium rate $4.43) and Ground Freight Forwarding (RG 958 – 2015 premium rate $0.38).

With annual insurable earnings in excess of $4.3 billion, RG 570 makes up more than 50% of the entire Class E - Transportation payroll and contributes $294 million annually in premiums. This makes RG 570 one of the largest rate groups in the entire workplace safety and insurance (WSI) system. Furthermore, while contributing premiums at one of the highest rates, General Trucking's (RG 570) lost-time injury rate has declined by 30% since 2008, reflecting our industry's commitment to continuous safety improvement.

Introduction

First and foremost, the Ontario Trucking Association (OTA) would like to recognize the achievements the Workplace Safety and Insurance Board (WSIB) has made over the past years, including the progress that has been made to date addressing the WSIB's unfunded liability. OTA also appreciates the considerable amount of effort the WSIB has put forth as part of the Rate Framework Review (RFR), including the industriousness of the Board's staff.

In OTA's submission to the WSIB in 2013, following the release of Douglas Stanley's discussion paper, one of the central themes communicated was that the current employer classification system and rate setting process were not in need of drastic overhaul. Instead, OTA suggested a number of measures that could be undertaken by the WSIB, which do not require or warrant major overhaul, yet nonetheless address weaknesses within the current rate setting framework. By implementing these procedural changes and improving WSIB administration of current policies, OTA maintained that significant improvements could still be made to employer classification, rate setting and experience rating without fundamental change to the system. And while OTA still believes that all of the points made in its 2013 submission remain relevant today, OTA does recognize that many of the core concepts enshrined in the proposed rate framework (RF) share consistencies with OTA positions.

With this in mind, while there is also a cautious optimism that elements of the proposal could promote greater equity within the system, overall OTA and its members still have significant concerns with the rate framework as it stands. As such, at this point in time, OTA cannot fully support or fully oppose the proposed rate framework. OTA does however believe the proposed rate framework warrants continued study and consideration by both the WSIB and the Ontario trucking industry.

Consultations

To date the consultation process has been very much deadline focused which has presented challenges for OTA and no doubt other stakeholders. This is not a comment on the earnestness of the Board's staff engaged in consultations, rather the overall approach. OTA would like to see additional analysis take place, especially at the company level, to help OTA and the Ontario trucking industry better understand the impact of the proposed rate framework. Along these lines, we are reminded of the consultation facilitated by the Board that dealt with the introduction of the NEER plan to the trucking sector. At the time, OTA helped lead the way on the introduction of NEER and at OTA's Annual Convention in 1985, to engage with our members, the Board replicated at the firm level the effect of the NEER plan on individual companies. Every company present was able to see the impacts of the proposed plan. This type of information would also be appropriate in the discussion on the proposed rate framework.

Classification

In the WSIB's initial proposal as presented in WSIB RFR Paper 3, it was suggested that 22 classes would be adopted with the vast majority of OTA's membership falling within Class K – Transportation and Warehousing. However, in August the Consultation

Secretariat posted their Risk Disparity Analysis which examines the proposed classification structure and suggests a possible expansion of the number of industry classes from 22 to 32 which in turn would see Class K split into Class K1 and K2. At this point, OTA is not in a positon to comment on what this change could mean with General trucking moving from Class K with a class rate of $4.64 to Class K-1 with a class rate of $6.74. As a starting point, OTA requires the same information set out in the Rate Framework Modernization presentation on RG 570, General Trucking, page 7, for the new classes K-1 and K-2. Furthermore, while OTA does not see an inherent need for strict adherence to NAICS (and is of the view that the current grid works), at a minimum, further consultations are needed with the ability to propose and assess the impacts of other "what if" suggestions, such as the establishment of another K Group tier for NAICS 4841, General Freight Trucking.

Predominant Business Activity

WSIB RFR Paper 3 sets out that the Board seeks to abandon multiple classifications and instead will classify individual employers based on the predominant business activity. In this, predominant is defined as the business activity "that represents the largest percentage of the employer's annual insurable earnings". As it currently stands, OTA believes the full impact of this is not fully understood by either the Board's administration or the employers it will affect. As just one example, the proposal would eradicate the long-sought and hard-fought separate rate group for ground-freight forwarders (WSIB Policy Freight Brokers/Forwarders (Ground Freight) Amendments/08, Document No. I-958-03). The principal reason OTA aggressively pursued this change was to promote a fairer premium rate commensurate with the insurance risk for freight-forwarders.

OTA requests that the predominant business activity proposition be studied further as OTA is convinced that the Board lacks a full appreciation of the implications of this policy both for the Ontario trucking industry and beyond.

Temporary Employment Agencies (TEAs)

As it currently stands, for *other* than trucking, temporary employment agencies (TEAs) are often classified differently from their client employers because their classification is based on their business activity and not the business activity of their client employers.

For trucking, the "Supply of Drivers and Helpers" (Classification Unit E-570-11) is excluded from the "Supply of Non-clerical Labour", RG 929. OTA supports the proposal that TEAs and their client employers would need to be classified in the same class in order to mitigate premium cost avoidance issues.

Long Latency Occupational Disease (LLOD)

OTA agrees with continuing to assign the costs of Long Latency Occupational Diseases (LLOD) claims as a collective cost at the class level. For a variety of reasons, the trucking industry has historically had a much higher turnover rate when compared to other industries and has among the oldest workforces in the country. As a result, having LLOD costs fall directly to an individual employer may not be practical, or representative of that specific employer's health and safety programs.

Second Injury Enhancement Fund (SIEF)

During the 2010/11 Funding Review consultation exercise, the FR non-aligned experts clearly advocated that the issue of SIEF should be left to the stakeholders. Employers feel comfortable with the current situation while to OTA's knowledge workers are not vocal on the topic. Furthermore, in its July 2015 RFR Update, the WSIB suggests that "some form of cost relief is required". For this, OTA believes that the current form of the SIEF remain in place, unaltered.

Surcharges

WSIB RFR Paper 3 introduces the idea of surcharges over-and-above the normal risk band movement proposals. At this point, OTA finds this discussion to be premature. OTA believes that any discussion on the need for surcharges should be deferred until RFR has been operational for at least five (5) years, at which point a review of this proposal could take place. On the question of the adaption of Workwell to address this, we are opposed. Instead, we suggest in instances where continued poor performance can be demonstrated (which RFR Paper 3 suggests is at most 1,600 firms), the responsible safety association could be informed and used to help remedy the root problem.

Unfunded Liability (UFL)

It is required by legislation that the WSIB meet prescribed sufficiency ratios by certain dates. The first target is 60 per cent on or before December 31, 2017, then 80 per cent on or before December 31, 2022, and, 100 per cent on or before December 31, 2027. Towards these ends, the WSIB has made considerable progress in addressing its UFL, so much so, when reviewing the WSIB's Sufficiency Plan Update publicly released in September 2015, it is evident that the Board is well ahead of schedule. At this point, it is reasonable to conservatively project that the retirement of the UFL could be achieved by 2020 if not earlier. This creates an opportunity to link the retirement of the UFL to RFR transition, and in so doing, many transition pitfalls could be mitigated. For example, as shown in the Rate Framework Modernization presentation on RG 570, with a UFL of zero General Trucking's (RG 570) target rate is $3.66. With this, the transition from an old system to a new system is eased while other concerns present today would be mitigated or resolved. We respectfully appeal to the Board to continue to focusing on Job 1 – the financial integrity of the system. Once the system has reached and maintained 100% funding, attention and resources can more easily be re-focused towards other objectives.

Conclusion

RG 570 makes up more than 50% of the entire Class E - Transportation payroll and contributes $294 million annually in premiums. This makes RG 570 one of the largest rate groups in the workplace safety and insurance (WSI) system. In turn, employer classification, rate setting and experience rating are key components of WSIB's rate setting framework which have significant impacts on Ontario's trucking industry. For this reason, OTA believes that the goal to study how a more equitable system could be designed is a worthy pursuit. With that being said, it is important that this does not come at the cost of considerations for improvements to the current system. Through improved

WSIB administration and management of existing policies and programs, gains can also be achieved in each of the policy areas without system redesign. OTA encourages the WSIB to not lose sight of areas where relatively simple administrative changes could have big impacts on the trucking industry, such as improving the transparency of NEER and overall claims management processes. Thus, while the examination of how a new system could be designed is justified, it should not distract attention and resources from addressing current problems present within the WSIB that impact employers on a daily basis.