STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD

In re: MVP Health Plan, Inc. 2024 Small Group and Individual Group Vermont Health Connect Rate Filing SERFF Nos. MVPH-133660955 MVPH-133660956	))))))	DOCKET NOS. GMCB-004-23rr GMCB-005-23rr

<u>MVP'S POST-HEARING PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW</u>

MVP Health Plan, Inc., ("MVP") by and through Primmer Piper Eggleston & Cramer PC, submits this Post-Hearing Memorandum to the Green Mountain Care Board (the "Board"), pursuant to Board Rule 2.307(g), in support of its 2024 Vermont Exchange Rate Filings (the "Rate Filings"), requesting an average rate increase of 13.81% for the Individual Market ("IM") and 14.29% for the Small Group Market ("SG") if the Board orders the same 17% reduction on hospital budgets as it ordered in the August 4, 2022 Vermont Exchange Rate Filing Decision and Order ("2023 Decision").

The fiscal danger the Board should address in this Rate Filing is <u>not</u> limited to MVP's overall RBC. The focal danger is MVP's stand-alone Vermont business suffering multi-million dollar losses again in 2024, after suffering multi-million dollar losses over the last three years. MVP is one of only two carriers on the exchange. In its high wire balancing, the Board should recognize that MVP's business viability in Vermont is not a competing interest tipping against Vermont insureds, it is a necessity for Vermont insureds and the prudent balance the Board seeks. The Board should not ignore these losses.

<u>Findings of Fact</u>

On May 9, 2023, MVP initially proposed a 12.76% rate increase for IM and a 12.5% rate increase for SG. *MVP's May 9, 2023 Rate Filings ("Rate Filings"), at Ex. 1, p. 2; Ex. 2, p. 2;*

Christopher Pontiff Testimony ("Pontiff"), pp. 27-28. The Board's actuary Lewis & Ellis, Inc.'s ("L&E") July 5, 2023 Actuarial Memoranda ("L&E Report") provided four recommendations to the Board ("L&E Recommendations").[1] *Ex. 21, p. 19 and Ex. 22, p. 16.* MVP agrees with L&E Recommendation Nos. 1, 2 and 4.[2] *Pontiff, pp. 31-32*. MVP and L&E disagree on L&E Recommendation No. 3 (adjust silver plan CSR loads (0.3% increase for IM only)); *Pontiff, pp. 31-32; MVP's July 24, 2023 Responses to L&E Objection Letter # 10; Ex. 21, p. 19; Ex. 22 p. 16; Ex. 45; Ex. 49.*

On July 17, 2023, the Board held a hearing on the Rate Filings. L&E and MVP actuaries continue to disagree only on L&E's recommended adjustment to silver plan CSR loading which results in a 0.3% increase to the IM rate. Taking MVP's original rate requests (12.76% rate increase for IM and a 12.5% rate increase for SG), and subtracting out agreed adjustments for updated risk transfer information (L&E Recommendation No. 2 (-0.4% reduction to SG; -1.2% reduction to IM[3])) and agreed modification to trend inputs for HDHP plan designs (L&E Recommendation No. 4 (-0.2% reduction to SG; -0.2% reduction to IM)) results in a net requested increase of 11.21% for IM and 11.82% increase for SG before adjustments for Hospital Budgets. *Pontiff, pp. 34-35*

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[1] L&E provided an actuarial memorandum for each filing. Recommendations 1, 2 and 4 in the IM Actuarial Memorandum are Identical to the three Recommendations in the SG Actuarial Memorandum. MVP refers to the IM Actuarial Memorandum generally as containing the L&E Recommendations.

[2] L&E Recommendation No. 1: rates should incorporate as-submitted hospital budget request information (3.2% increase to SG; 3.4% increase to IM), *Pontiff, pp. 67-70, Exs. 21-22 and 47-48*; L&E Recommendation No. 2: that the rates should reflect updated risk transfer information (-0.4% reduction to SG; -1.2% reduction to IM), *Pontiff, pp. 34-36; Jaqueline Lee Testimony ("Lee") p. 224*; *Exs. 21-22* and, L&E Recommendation No. 4: to modify trend inputs and HDHP Plan Designs (-0.2% reduction to SG; -0.2% reduction to IM). *Pontiff, pp. 35; Lee pp 224-225; Exs. 21-22*.

[3] Each year, MVP runs a "carrier calculation" to check L&E's math in the L&E Report against its own data. *Ex. 45*. L&E calculated a -1.3% reduction to IM. MVP calculated a -1.2% reduction. *Ex. 45*. L&E concurs with MVP's calculation of a -1.2% reduction. *Lee, p. 231*.

and 75; Exs. 45 and 49. L&E did not quantify its recommended adjustment for Hospital Budgets or adjustment to silver plan CSR loading. *Pontiff, pp. 35 and 75; Exs. 45 and 49.* MVP calculated that the combined resulting impact due to the modified trend inputs, updated risk transfer and the Hospital Budget information results in a 14.98% increase for IM and a 15.39% increase for SG. *Pontiff, p. 79; Ex. 49*. If the Board orders a reduction of 17% on hospital budgets as it did in the prior year the increases MVP seeks this year results in a total increase to the rates of 13.81% for IM (which does not include the 0.3% L&E silver plan CSR load adjustment) and 14.29% for SG. *Id*.

1. <u>Continued Multi-Million Dollar Losses In MVP's Vermont Business Unit Are Not Sustainable</u>. MVP has taken unsustainable multi-million dollar losses over the last three years exacerbated by reductions to MVP's proposed rates—as quantified in the following table:

MVP - VT Historical Rate Cut Summary										
	MVP Proposed CTR	Overall Cuts Proposed by L&E	Additional Overall Cuts by Board	Total Allowed Premium by Board	Losses		L&E Cut Impact	Additional Board Cut Impact	Total Dollar Impact of Rate Cut	Losses Without Cuts
2023 Small Group Market	1.50%	-1.24%	-1.65%	$171.3M	-$11.6M	1	-$2.1M	-$2.8M	-$5M	-$6.6M
2023 Individual Market	1.50%	-1.25%	-1.64%	$144.8M	-$2.7M	2	-$1.8M	-$2.4M	-$4.2M	$1.5M
2022 Small Group Market	1.50%	-2.64%	-0.82%	$143.5M	-$11.8M		-$3.8M	-$1.2M	-$5M	-$6.8M
2022 Individual Market	1.50%	-2.41%	-0.79%	$110.6M	-$10.4M		-$2.7M	-$0.9M	-$3.5M	-$6.9M
2021 Combined Market	1.50%	-1.30%	-1.30%	$253.8M	-$23.1M		-$3.3M	-$3.3M	-$6.6M	-$16.5M
2020 Combined Market	1.50%	0.00%	-0.50%	$240.9M	$17M		$0M	-$1.2M	-$1.2M	$18.2M
2019 Combined Market	2.00%	0.00%	-1.69%	$181.9M	-$1.8M		$0M	-$3.1M	-$3.1M	$1.2M
2019-2022 Total				$930.7M	-$30.2M		-$9.8M	-$9.6M	-$19.4M	-$10.8M
2019-2023 Total				$1.2B	-$44.5M		-$13.7M	-$14.8M	-$28.5M	-$15.9M

Ex. 46.[4] Continued losses in SG and IM are not sustainable. *Pontiff, p. 86.*

Ms. Lee agreed that for any business, substantial losses for two or three years running would be very concerning. *Lee p. 236.* Specifically, L&E agreed that long-term negative profits for MVP are not sustainable. *Lee, p. 233.*

[4] Losses in 2023 are projected as of January 2023.

MVP has lost $30.2 million on its Vermont book of business from 2019-2022 and projects a $14.3 million loss for 2023. *Pontiff, pp. 42-44; Ex. 12; Ex 46*. Over the last five years, cuts based on L&E recommendations which MVP did not agree resulted in a -$9.8 million impact (-$13.7 million projected). *Id.* The additional cuts ordered by the board resulted in a -$9.6 million impact (-$14.8 million projected). *Id.* The total dollar impact of rate cuts over those years is -$19.4 million through 2022, and -$28.5 million projecting out to the end of 2023. *Pontiff, pp. 42-44; Ex. 46*. Continuing losses in Vermont are not sustainable. *Pontiff, pp. 42-44; Ex. 12; Ex. 46.* Each of the markets MVP serves (New York and Vermont) must be self-sustaining and are expected to contribute to a healthy overall reserve level. *Id*. Markets that do not meet that expectation due to circumstances outside of MVP's control will be re-evaluated. *Pontiff, pp. 42-44; Ex. 12; Ex. 46.*

Healthy reserves allow MVP to continue to take risk, innovate and reinvest to the benefit of MVP's members. *Pontiff, pp. 42-44; Ex. 12.*The Vermont Department of Financial Regulation ("DFR") and L&E both agree with MVP's 2024 proposed 1.5% CTR[5], and that MVP's proposed CTR supports MVP solvency. *Jesse Lussier Testimony ("Lussier"), pp. 206-207; Exs. 18-19 and 21-22.* MVP's 2024 proposed 1.5% CTR would not result in an inadequate rate after amendment to the proposed rate increases based on the agreed-on L&E recommendations and adjustments for the Hospital Budgets. *Pontiff, p. 83-84; Lee, pp. 228-229; Lussier, p. 2056; Ex. 1, p. 16; Ex. 2, p. 16; Ex. 21, pp. 17-19; Ex. 22, pp. 13-16.*

As a "reasonableness check," L&E reviewed rate filings nationwide and the 359 Qualified Health Plan (combined individual and small group) filings submitted in 2023. *Ex. 21, p. 18; Ex. 22, p. 14*. MVP's proposed CTR approximately places it in the 23rd percentile for all 2023 QHP filings and is lower than the national average. *Lee, p. 243; Ex. 21, p. 18; Ex. 22, p. 14*. The 2023

[5] MVP's proposed CTR does not include a bad debt component. *Pontiff, p. 55; Lee, pp. 241-242*.

projected federal loss ratio for MVP using this CTR is 92.7% for IM and 93% for SG, significantly higher than the 80% statutory minimum, meaning that 92.7-93 cents on every premium dollar will go back to paying claims. *Pontiff, pp. 166-167; Ex. 21, p. 3; Ex. 22, p. 14*. MVP runs lean as a company and is not overcharging Vermonters. *Ex. 21, p. 16; Ex. 22, p. 13*. "It therefore appears that MVP manages and limits administrative costs better than the typical health plan nationally." *Id.* In light of this "reasonableness check", L&E agreed that "a higher CTR could be justified". *Exs. 21, p. 18; Ex. 22, p. 15*.

Every year, MVP sets CTR at a level that will protect insurer solvency for *that year* without being excessive or inadequate. *Pontiff, pp. 65; 80-81*. MVP does not attempt to "catch-up" based on losses in a previous year. *Pontiff, pp.* 73-74. Nevertheless, when premium and claim costs do not align, the continued resulting losses exacerbated by cuts to CTR year over year threaten continued carrier viability in Vermont and the Board should not cut CTR for 2023. *Pontiff, pp. 70-73; Lee, pp. 195-96; Lussier, pp. 157*.

2. <u>Any Modification To MVP's Proposed Rate Increases Based On Hospital Budgets Should Be *Consistent* With Approved Hospital Budgets</u>. MVP's rate increases should align with actual Hospital Budgets. *Pontiff, pp. 66-67 and 79; Lee, pp. 222-223; Ex. 21, pp. 5-6 and 19; Ex. 22, pp. 5-6 and 16*. "We are simply trying to best align the trends in the rate filing with the trends that the hospitals have proposed . . ..". *Pontiff, p. 66.* The Board should be consistent in setting any Hospital Budget figure in this rate review and the Hospital Budgets hearing (including any mid-year adjustments to Hospital Budgets), the closer the alignments, the better.

On July 10, 2023, L&E served MVP with Objection Letter No. 9 requesting a calculation of the impact on the rates based on the then-available FY2024 hospital budget submissions, and a calculation of the impact of a 17% Board reduction to the hospital budget submissions this year. [6] On July 13, 2023, MVP responded to L&E Objection Letter No. 9 that based on the current hospital budget submissions, for IM the increase would be 3.4% and, that a 17% Board reduction would reduce the increase to 2.4%. *Ex. 47.* For SG, MVP responded that the increase would be 3.2% and, that a 17% Board reduction would reduce the increase to 2.2%. *Ex. 48.* However, MVP qualified in its response to L&E Objection Letter No. 9, and in the Hearing, that this year, unlike prior years, charge masters were not provided and documentation provided by hospitals was inconsistent with the narratives included in the budget submissions, so MVP's calculations are subject to change if better or more complete information from the hospitals becomes available. *Exs. 48-49; Pontiff, p. 67.* The Board's decision should be based on the information before it and maximize consistency. *2018 Vermont Health Connect Rate Filing Decision, SERFF No.* MVPH-131034103, pp. 8-9 (emphasis added). L&E agreed with MVP's calculation at the Hearing accounting for the proposed Hospital Budgets. *Lee, pp. 178-79; Ex. 49.* This year MVP is requesting an average rate increase of 13.81% for IM and 14.29% for SG. Those numbers already incorporate a 17% reduction on hospital budgets. *Pontiff, p. 79; Ex. 49.* If the Board does not reduce Hospital Budgets this year, then MVP's average requested rate increase is 14.98% for IM and 15.39% for SG.[7]

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[6] Last year, the Board ordered MVP to assume that the Board would reduce the rates requested by Vermont Hospitals by 17% from their FY2023 budget proposals. *2023 Decision at p. 18.*

[7] On July 26, 2023, L&E served MVP with Objection Letter No. 11 ("Objection Letter No. 11") asking MVP to recalculate the impact of hospital budgets on the requested rates based on a table of charge increases for GMCB hospitals provided by L&E. MVP responded to Objection Letter No. 11 on July 27, 2023 and the impact to the rates based on the L&E-provided table results in a 14.49% increase for IM and 14.92% for SG.

3. <u>MVP Offered Substantial Evidence That It Is Lowering Costs, Promoting Quality Care, Access, And Affordability In This Rate Filing, And The Board Should Not Reduce The Proposed Rate Increases On Any Of These Bases</u>. MVP has taken significant steps to contain costs and address affordability, access, and quality of care. MVP's broad suite of initiatives and programs include, access to a nationwide network of providers, promotion of primary care, member guidance towards high quality and lower cost options as well as available subsidies, and telehealth and telemedicine support. *Exs. 1-17; 23; 45-49; Pontiff, pp. 19-199 and 289-292; Pontiff (Confidential Hearing Transcript), pp. 5-44; MVP's July 24, 2023 Responses to L&E Objection Letter # 10; MVP's July 27, 2022 Responses Post-Hearing Board Questions.* Arbitrary cuts on non-actuarial grounds increase the sustainability risk. See § 1, *supra*.

<u>Conclusions of Law</u>

1. Health insurance rates in Vermont must be approved before they are implemented. 8 V.S.A. § 4062(a) and § 5104(a). The Board is empowered to approve, modify, or disapprove requests for health insurance rates. 18 V.S.A. § 9375(b)(6); 8 V.S.A. § 4062(a). MVP bears the burden of demonstrating that its rates satisfy the statutory criteria. *Board Rule 2.104(c)*. The Board must consider changes in health care delivery, changes in payment methods and amounts, DFR's solvency analysis, and other issues at the discretion of the Board. *Board Rule 2.401*. The Board shall modify or disapprove a rate request only if it is unjust, unfair, inequitable, misleading, or contrary to law, or if the rates are excessive, inadequate or unfairly discriminatory, fail to protect the insurer's solvency, or fail to meet the standards of affordability, promotion of quality care, and promotion of access. 8 V.S.A. §§ 5104(a) and 4062(a)(2)-(3); *Board Rule 2.000*. Each piece of evidence in the record could apply to one, multiple, or all of these statutory criteria. All of the statutory criteria are interrelated.

2. MVP's proposed rate increases are adequate and not excessive because they provide for and do not exceed the rates needed to provide for all expected costs, including health benefits, health benefit settlement expenses, marketing and administrative expenses, and the cost of capital for the benefit year. *Pontiff, pp. 83-84.* MVP's proposed rate increases are not unfairly discriminatory because they do not result in premium differences among the insured within similar risk categories that are not permissible under applicable law, or do not reasonably correspond to differences in expected costs. *Pontiff, p. 84*. The proposed premiums are reasonable relative to the benefits that are included in the Rate Filings, and will maintain minimum solvency requirements in 2023. *Pontiff, pp. 82-86; Lussier, pp. 202-203 and 206; Ex. 18, p. 2; Ex. 19, p. 2.* Based on the Rate Filings and all the other evidence submitted at the Hearing, including testimony, the rates are not unjust, inequitable, misleading, nor contrary to Vermont law because they are actuarially sound and fairly charge a premium for services covered, and are reasonable based on the data that MVP and L&E analyzed. *Pontiff, pp. 82-86.*

3. The Board must consider affordability, promotion of quality care and access to care in a "fair, predictable, transparent, [and] sustainable" manner. *In re MVP Health Ins. Co.*, 203 Vt. 274, 284 (2016); *2021 Vermont Health Connect Rate Filing Decision, SERFF No. MVPH-*132371260, p. 15 ("[r]elated to the affordability criterion in the Board's rate review process is the expectation that MVP provide benefits and services at minimum cost under efficient and economical management. *See 8 V.S.A. §§ 4513(c), 4584(c), 5104(b)*."). MVP's rate filings and other evidence produced at the Hearing support a conclusion that MVP's rates meet the standard of affordability. *Pontiff, p.* 83. MVP has established that a rate increase of 13.81% for IM and 14.29% for the Small Group Market ("SG"), if the Board orders a 17% reduction on hospital budgets, are actuarially sound. If the Board modifies the proposed rates, that decision should be

based on evidence in the record, satisfy *all* statutory criteria, and result in a balanced rate. *In re MVP Health Ins. Co.*, 203 VT at 286. A reduction on non-actuarial grounds may result in an inadequate, unsustainable rate. *Pontiff, pp. 60 and 86; see Lee. p. 237.*

4. The Board should consider the analysis and opinion of DFR in making its solvency determination. 8 V.S.A. §4062(a)(3). This year DFR concurred that MVP's original and revised proposed rate increases are adequate to protect MVP's solvency. *Pontiff, pp. 82-86; Lussier, pp. 202-203 and 206; Ex. 18, p. 2; Ex. 19, p. 2.* L&E agreed that the rates as revised were not inadequate or excessive in light of the proposed Hospital Budgets. *Lee, pp. 229-230.*

5. Based on all of the evidence, which was substantial, the Board should accept L&E Recommendations 1-2 and 4; and find that MVP has met its burden of proving that the Rate Filings, with a 13.81% increase for IM[8] and a 14.29% increase for SG after the 17% reduction on hospital budgets, meet all of the statutory criteria. 8 V.S.A. §§ 4062(a); 5104(a); and, 18 V.S.A. § 9375(b); *Exs. 1-17; 23; 45-49; Pontiff, pp. 19-199 and 289-292; Pontiff (Confidential Hearing Transcript), pp. 5-44; Lussier, pp. 204-215 and 279-280; Lee, pp. 215-277; MVP's July 24, 2023 Responses to L&E Objection Letter # 10; MVP's July 27, 2022 Responses Post-Hearing Board Questions.* If the Board does not reduce Hospital Budgets this year, then MVP's average requested rate increase is 14.98% for IM and 15.39% for SG. *Ex. 49*. Ensuring that any cut the hospitals receive at the Hospital Budget hearings is not less than any Hospital Budget cut the Board adopts here will help align rates with costs.

CONCLUSION

As a matter of fact, the current trend of MVP multi-million dollar losses is not sustainable. As a matter of prudence, the Board should not ignore this risk as it considers this rate filing.

[8] Does not include L&E's recommended 0.3% CSR load increase for IM.

Dated: July 28, 2023

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CERTIFICATE OF SERVICE

I, Ryan M. Long, hereby certify that I have served a copy of ***MVP's Post-Hearing Proposed Findings Of Fact And Conclusions Of Law*** via e-mail upon the following:

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