MANITOBA PUBLIC UTILITIES BOARD

Re: MANITOBA PUBLIC INSURANCE
2008 GENERAL RATE APPLICATION

Before Board Panel:
Graham Lane - Board Chairman
Alain Molgat - Board Member
Len Evans - Board Member

HELD AT:
Public Utilities Board
400, 330 Portage Avenue
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Pages 1077 to 1267

APPEARANCES

Walter Saranchuk, Q.C.	)Board Counsel
Candace Everard	)
Kevin McCulloch	)Manitoba Public Insurance
Raymond Oakes	)CMMG
Byron Williams	)CAC/MSOS
Nick Roberts (np)	)Manitoba Used Car Dealers
	)Association (MUCDA)
Donna Wankling	)CAA Manitoba
Michael Mager	)
Robert Dawson	)CBA/MBA
Peter Miller	)RCM/TREE

TABLE OF CONTENTS

LIST OF EXHIBITS

--- Upon commencing at 9:10 a.m.

THE CHAIRPERSON: Okay, good morning, everyone and welcome to closing statements or argument as you would have it. Though I'm sure we've all enjoyed each other's company, I'm sure also this is a day we've all looked forward to.

First of all, I believe Mr. McCulloch has some undertakings to respond to.

MR. KEVIN MCCULLOCH: Yes, Mr. Chairman, thank you. At the end of proceedings on October 10th there were five (5) undertakings left to be responded to. Those were sent over electronically last Friday.

But for the record I would like to enter these five (5) undertakings as exhibits. The first one, Undertaking Number 11 by my count is MPI Exhibit Number 23.

--- EXHIBIT NO. MPI-23: Response to Undertaking 11

MR. KEVIN MCCULLOCH: Undertaking Number 17, MPI Exhibit Number 24.

--- EXHIBIT NO. MPI-24: Response to Undertaking 17

MR. KEVIN MCCULLOCH: Undertaking Number 23, MPI Exhibit Number 25.

--- EXHIBIT NO. MPI-25: Response to Undertaking 23

MR. KEVIN MCCULLOCH: Undertaking Number 24, MPI Exhibit 26.

--- EXHIBIT NO. MPI-26: Response to Undertaking 24

MR. KEVIN MCCULLOCH: And Undertaking Number 27, MPI Exhibit Number 27.

--- EXHIBIT NO. MPI-27: Response to Undertaking 27

MR. KEVIN MCCULLOCH: So those are the five (5) exhibits to be filed and complete the undertakings of the panel. Thank you.

THE CHAIRPERSON: Thank you, Mr. McCulloch.

(BRIEF PAUSE)

THE CHAIRPERSON: Okay. I believe the order was understood between all of the parties so we'll get right into it. Ms. Everard, do you want to begin for the Board?

CLOSING COMMENTS BY MS. CANDACE EVERARD:

MS. CANDACE EVERARD: Thank you, Mr. Chairman, members of the Board, ladies and gentlemen. We have now completed the evidentiary component of the public hearing with respect to MPI's application to the Public Utilities Board for approval of its base rates and premiums charged for compulsory vehicle and driver insurance; that is, rates for service for the 2008/2009 insurance year which would take effect on March 1st, 2008.

As well, the Corporation has proposed a premium rebate of 7.75 percent of net Basic premiums for 2006/2007 of approximately $49 million. In addition, the Corporation has applied for approval of a process pursuant to which rates for the 2009/2010 and 2010/2011 insurance years would be approved without the traditional application filing and public hearing.

As Board counsel, Mr. Saranchuk and I take no position on the merits of any part of the Application by the Corporation or any of the positions taken by the other parties. Our role is to summarize the matters that this Board may wish to consider in the proceeding.

With respect to 2008/2009, the Corporation is seeking approval of rates which are based on an overall zero percent change for all premiums. Experience based rate adjustments are applied for ranging from minus 15 percent to plus 15 percent for individual classes, with the exception of mopeds and motor scooters, trailers, and off road vehicles.

For all vehicles other than motorcycles, trailers, and off road vehicles, classification offset adjustments are applied, ranging from minus 6.89 percent to plus 17.24 percent to achieve revenue neutrality from rate group adjustments.

Capping of all rate changes at 20 percent has been applied. Driver licence premiums are to remain unchanged at forty five dollars ($45). Similarly, there is no change proposed in service and transaction fees, or permit and certificate fees.

With respect to the financial results of the Corporation, the updated financial picture for 2006/2007, and 2007/2008, which were the subject of prior year rate applications, are as follows:

With respect to fiscal 2007, and this is reflected in TI-11, which is at Tab 4 of the Board's book of documents, for that particular year, Basic recorded a net income of 61.7 million, including a transfer of 13.9

million from the Immobilizer Incentive Fund, or IIF, compared to a forecasted net income of 34.7 million last year, which included a $10.7 million transfer from the IIF, an improvement of $27 million.

The change was attributed primarily to an improvement in forecasted net claims incurred of 22.6 million that was attributable to actuarial adjustments related to 2004/2005 and 2005/2006. As well, there was an improvement in forecast -- forecasted total expenses of $5.6 million, including a reduction in regulatory costs of 1.2 million.

With respect to the 2007/2008 fiscal year, the current year, the information is set out at TI-12, which is at Tab 5 of the book of documents, the Corporation is currently forecasting to have a net income of $31.4 million for rating purposes, including a $12.6 million transfer from the IIF, compared to a projected net income of $4.6 million, including an $11.1 million transfer from the IIF, or a $6.5 million loss before the transfer, forecasted in the GRA last year.

The improved experience is despite an increase in total claims costs of $10.2 million compared to last year's projection. This approximately 1.5 percent increase is due to the combined effects of higher than forecasted net claims incurred of $7 million, and higher costs associated with the Immobilizer Incentive Program of $2.4 million.

All of this was offset by an increase in investment income from that forecasted last year of $38 million.

With respect to the fiscal year ending February 2009, the projected operating results are reflected at TI-14 through TI-16, which are found at Tab 7 through 9 of the Board's book of documents.

Net income of half a million dollars is projected for fiscal 2009 after a transfer from the IIF of $12.6 million; in other words, a loss of $12.1 million before the transfer.

Total earned revenues are currently projected to be $704 million dollars compared to 681.7 million court -- currently forecasted for the current year, an increase of 22.3 million.

This year's application assumes a 2.75 percent vehicle upgrade factor for 2008/2009. This reflects the renewal of the veh -- vehicle through customer disposal of older vehicles and the purchase of newer ones.

As well, this year's application assumes a volume factor, or a growth in the number of vehicles insured of 2 percent for 2008/2009.

Service fees are expected to be 17.6 million for 2008/2009, which is an increase from the seventeen (17) -- from the amount forecasted in 2007/2008.

Total claims costs for 2008/2009, including net claims incurred, claims expenses, and road safety loss prevention expenses, are expected to increase to 711.4 million, compared to 684.1 million total claims costs forecasted for the current year, or an increase of 27.3 million.

Other expenses are projected to be 104.8 million, an increase of 4.2 million over that projected for the current year, with operating expenses to increase by approximately $1 million dollars over the current year.

The projected underwriting loss for 2008/2009 is $112.2 million while investment income is forecasted to be $100.2 million. The result is that, overall, the Basic Insurance Program is expected to have a net loss of $12 million before a $12.6 million transfer from the IIF. Net income for rating purposes is projected to be five hundred and fifty one thousand dollars ($551,000) after that transfer.

With respect to premiums in the Application at hand for 2008/2009, the average rate adjustment for each major class is as follows:

For private passenger, a decrease of 0.1 percent.

For the Commercial class, a decrease of 1.2 percent.

For the Public class, an increase of 1.2 percent.

For the Motorcycle class, an increase of 9.2 percent.

For trailers, a decrease of 4.7 percent.

For off-road vehicles, there is no change requested and, overall, there is no change requested in rates.

After consideration of insurance use and territory and capping and balancing for experience rate adjustments, the results are modelled to assess the impact of various rate and classification changes which yield the requested rate changes as follows:

Forty percent of vehicles will receive a rate decrease; most decreases are less than fifty dollars ($50). Eight percent of vehicles will receive no change in rates. Forty-six percent of vehicles will receive a rate increase, including 19 percent of vehicles which will receive a rate increase of up to twenty dollars ($20). Twenty-four percent of vehicles which will receive an increase of between twenty (20) and fifty dollars ($50); 1.8 percent of vehicles which will receive a rate increase of between fifty (50) and a hundred dollars ($100); and point seven (.7) of vehicles which will receive an increase of greater than a hundred dollars ($100).

As I indicated a moment ago, this year the Corporation is seeking approval of a multi-year rate application where the rates for the 2009/'10 and 2010/'11 fiscal years would be based on a set process yet to be fully determined. The Corporation advises that its forecasting and rating practices have reached a maturity level and financial stability whereby multi-year rate applications may be more appropriate.

The primary reasons that the Corporation has cited with respect to its multi-year rate application are financial strength, rate stability, consistency in rate-setting methodology, legislative intent, substantial -- the substantial change clause, human resources, costs, the rate stabilization reserve surplus, and other utility's multi-year applications such as Manitoba Hydro.

The Corporation projects, pursuant to its proposal, that regulatory cost savings would average six hundred and eighty-nine thousand dollars ($689,000) annually, excluding costs that may be incurred by the

Board in its review of the Corporation's filings. In addition, the estimated human resource cost savings to the Corporation is two point five (2.5) full-time equivalents; that being the staff time to prepare for and attend at the GRA Hearing. This estimated savings does not include the staff time that would be required to be spent to respond to any questions from the Board or Intervenors through the Board, with respect to the annotated application filed.

The Corporation has proposed that the following rules be utilized in the multi-year process for 2009/'10 and 2010/'11 with respect to the overall rate requirement.

Firstly, if the overall actuarial indicator is between negative 1 and positive 1 percent, the Corporation will seek no change in overall revenue. If the overall actuarial indicator is between a negative 3 and a negative 1 percent or between a positive 1 and positive 3 percent, the Corporation will modify the rates applied for in the multi-year process by the full amount of the actuarial indicator.

Thirdly, if the overall actuarial indicator is less than a negative 3 percent or greater than a positive 3 percent, the Corporation will request a hearing. Even without a revenue requirement change there is the potential for rate increases for major classes in the Order of up to 15 percent as acknowledged by the Corporation.

With respect to the determination of rebates, in the event that the Rate Stabilization Reserve or RSR is in excess of the PUB target by more than 5 percent of gross written premium, the total excess of the RSR will be rebated to customers.

The filing to be submitted by the Corporation would consist of many of the documents typically provided. A listing of the specific documents to be provided is set out in the response to PUB/MPI Question 34, asked in the second round, which is found at Tab 31 of the Board's book of documents.

In addition, the Corporation has indicated that it would file additional information if same were requested by the Board. In terms of timing, the Corporation would file its application with the Board on or before July 1st and would seek Board's -- the Board's approval of rates on or before December 1st.

The process proposed by the Corporation includes no public hearing for the two (2) years in question and the limited involvement of public interest groups, though the Corporation has stated that the process will be developed with input from the Board and the Intervenors.

During the course of the hearing this year, reference was made to a number of issues which the Board has raised in past orders which remain outstanding. These include the driver safety rating project, PIPP, bench-marking and the business process review.

As well, a number of Board recommendations from past orders have not been acted upon. These include recommendations relating to Extension in SRE, investment practices and the inter-provincial trucking subsidy.

With respect to DVL or the Driver and Vehicle Licensing Department, it is the state of affairs that same as being treated as a fourth line of business in the Corporation after the merger two (2) years ago. The funding for DVL is fixed and smaller than the cost requirements to operate it such that there is a shortfall to the Extension line of business. For 2006/2007, the cost of the operations of DVL were $31.4 million while funding was established at 20 1/2 million resulting in a shortfall of approximately $10.9 million, an increase from the $6.1 million shortfall in the previous year, 2005/2006.

The Corporation has undertaken a business process review to identify ways in which it can maximize benefits to ratepayers, vehicle registrants and driver licence holders arising from the DVL merger. Spending for the Business Process Review or PBR is approximately $39.9 million, up from a $28.8 million forecast last year. The majority of these costs, save those incurred for the driver safety rating and the PIPP infrastructure enhancement, are borne by the Extension line of business.

The Corporation is currently undertaking a process to implement a new system to replace the current Bonus/Malus system. At last year's GRA hearing, the Corporation anticipated that there would be a special hearing before the Board in May 2007 to target -- or to begin to target the implementation of the new system by August 2008 with completion by July 2009.

Since then, the Corporation has slowed the timeline on the Driver Safety Rating Project until such time as it fully understands the opinions and feelings of Manitobans regarding the rewarding of good drivers and the surcharging of high risk drivers.

The completion of the Driver Safety Rating project is now forecasted to be August of 2010. The cost of the project is estimated to be $12.8 million including a $2.5 million contingency which is an increase from the $9.1 million estimate of last year which also included a contingency though of 1.7 million.

With respect to anti-theft initiatives,

I'll speak first briefly about the WATSS or Winnipeg Auto Theft Suppression Strategy. This Strategy was started by the Provincial Auto Theft Task Force, a partnership between the Corporation, the Winnipeg Police Service and Manitoba Justice to monitor youth offenders convicted of auto theft and their compliance with court imposed conditions. It was intended as a bridging or short term strategy to dampen auto theft until the number of vehicles protected with immobilizers reached critical mass.

Originally a two (2) year funding commitment was made of eight hundred and ninety-six thousand dollars ($896,000) per year. This has been extended by one (1) year to expire in June of 2008. The annual funding paid by the Corporation directly supports the cost of fourteen (14) additional positions within Manitoba Justice.

The Corporation also contributed a one (1) time cost of sixty thousand dollars ($60,000) earmarked for the development of an information sharing process between the various stakeholders. The Corporation has indicated that going forward it will re-evaluate whether to further extend the funding of this program.

This year there has been a continuation of the Immobilizer Incentive Plan. A program to install immobilizers in vehicles prone to theft known as the most-at-risk or MAR vehicles.

The MAR list, now known as the Enhanced list, incorporates vehicles with a one (1) in sixty (60) chance of auto theft which are required to install an immobilizer, and the list has been expanded to include vehicles with a one (1) in one hundred (100) chance of being stolen which vehicles can choose to install an immobilizer. This latter group is called the voluntary group.

All of the vehicles on the MAR list are eligible for a free immobilizer from the Corporation. The Corporation has indicated that the enhanced list may be amended with experience.

As of September 1st, 2006, MAR vehicles that are brought into Manitoba must be immobilized prior to registration. Similarly, MAR vehicles stolen after September 1st, 2006, must be immobilized before they can be put back on the road.

New Manitoba legislation, which took effect on September 1st, 2007, implemented a mandatory immobilizer program pursuant to which all MAR vehicles with odds of theft in one (1) -- of one (1) in sixty (60) or greater, located in or commuting to Winnipeg, must obtain an immobilizer as a condition of the renewal of their auto insurance. This represents approximately forty-six thousand (46,000) vehicles on the MAR list.

The Immobilizer Program was funded by the Immobilizer Incentive Fund, or the IIF, with an allocation of $50 million from the Basic RSR, and has offset the cost of installations and the administration of the Immobilizer Program. It is anticipated that this fund will be fully depleted in 2009/'10. The program envisions forty thousand (40,000) installations during each year through 2011/'12.

As of the end of 2006/2007, the Corporation has reported forty thousand two hundred and twenty (40,220) immobilized vehicles, and is forecasting that total to grow to seventy-one thousand four hundred and ninety-nine (71,499) vehicles by the end of the current year, 2007/2008. Overall, the forecast is to install two hundred and fifty thousand, seven hundred and twenty-one (250,721) immobilizers.

For the year of the Application, 2008/2009, the Corporation forecasts a reduction in claims incurred from auto theft of $13.7 million to Basic, and $1.3 million to Extension. However, no allocation of the costs associated with the program were allocated to Extension. The Corporation has taken the position that prior transfers from Extension to the Basic

RSR met this requirement.

The total impact on the operating results from the program for the year of the Application, 2008/2009, is projected at a negative 4.6 million. The program is anticipated to be self-supporting, and will result in positive net income in 2010/'11, whereby the cost of the immobilizer installations in that year will be offset by forecasted claims costs reductions.

Over the life of the program, the Corporation has estimated claims incurred savings from reduced auto theft totalling $178.5 million to Basic, and $24 million of cost reduction to Extension, for the period 2005/2006 through 2013/'14.

With respect to investment income, which is a major component of the Corporation's income, same has historically offset annual underwriting losses.

The Corporation is projecting approximately $100.2 million in investment income to the Basic Insurance Division for 2008/2009. The size of the corporate portfolio for 2008/2009 is projected to be $2.2 billion, comprised of roughly 73 percent long term bonds, 24 percent in equities, 2.7 percent in cash and short term investments, and .4 of a percent in venture capital.

The yields on the portfolio range from 4.33 percent on short term investments to 4.89 percent on long term investments, and including -- and, pardon me, 6.4 percent on equities for the year of the Application, including an equity risk premium of 1.5 percent as directed by the Board in its Order 156/06.

The Department of Finance of the Province of Manitoba has authority over the Corporation's investments, though there is a joint investment committee in which the Corporation participates.

Historically, there has been some significant variability in the Corporation's projected versus its actual investment income results, which could be attributable to equity gains and losses taken versus those projected in each year.

Apparently, some securities were subsequent -- some securities sold were subsequently repurchased. The investment policy statement of the Corporation includes a guideline for realizing gains based on the level of unrealized gains relative to the book value of investments.

At present, the Corporation reports holding unrealized security gains of approximately $11 million, down from over $93 million at the last year end.

The Corporation has adopted in the current year, 2007/2008, changes in accounting standards related to the Canadian Institute of Chartered Accountants.

Specifically these are Sections 15-30 relating to comprehensive income, 30-51 relating to Equity, 38-55 relating to financial instruments and the recognition and measurement thereof, and Section 38-65, relating to hedges.

These new sections will require the Corporation to recognize unrealized gains in a new financial statement, the Statement of Comprehensive Income. The accumulated other comprehensive income is to be disclosed as a separate item within the Corporation's retained earnings. The Corporation has stated that it should not be regulated based on its comprehensive income.

Moving to the Rate Stabilization Reserve or the RSR, the stated purpose of the RSR is to protect motorists from rate increases made necessary by unexpected events and losses arising from nonrecurring events or factors like the hailstorm experience that swept through the province this summer.

The application as filed projects the balance of the Basic RSR in the millions of dollars as follows:

For 2005/2006, 173.1 million including consideration of the 37 million in the IIF and 19 million from the SRE in Extension transfers.

For 2006/2007, 161.3 million including consideration of the IIF with a discontinuance of transfers from SRE and Extension.

For 2007/2008, 131 million after a proposed $49.1 million dollar rebate and including the IIF.

For 2008/2009, 118.9 million including a consideration of the IIF.

For 2009/2010, 114.6 million, by which time the IIF is expected to be fully depleted.

For 2010/'11, 118.4 million.

And for 2011/2012, 122.8 million.

The Board's RSR target level for 2007/2008, the current year, is a range of 69 million to 105 million. At last year's application, the Corporation indicated a preference to use the minimum capital test or MCT to establish the RSR range.

The MCT is a solvency test utilized by private insurance companies which are regulated by the Office of the Superintendent of Financial Institutions or OSFI. The Corporation has indicated that the test is an industry best practice but acknowledged that it is not subject to OSFI regulation.

The Board concluded in Order 156/06 that while the MCT is a reasonable test of a private insurer's financial strength and may prove as a useful trend indicator over time, it is not to supplant the approach adopted by the Board for the Corporation.

Overall, the financial strength of the Corporation is strong, particularly given retained earnings of 46.4 million and 64.6 million in Extension and SRE, respectively, as at the end of 2006/2007. The Corporation has declined to file any forecasts of retained earnings relating to SRE and Extension. As of March 1st, 2006 the Corporation's Board authorized no more transfers of retained earnings from Extension and SRE to Basic to be made, as the PUB RSR target had been met.

It is noted that the Corporation's annual report indicated that the Board of Directors approved a one (1) time transfer of $39 million in deemed excess competitive line retained earnings on March 1st, 2007 to develop an Extension Development Fund or EDF.

The EDF is apparently to be used to defray the annual driver licensing project costs that flow through the Extension line of business. No details were provided to the Board.

The competitive lines of business have approximately $110 million in retained earnings before the transfer to the EDF, and combined with the 161.3

million in Basic retained earnings overall there was over $272.3 million in retained earnings at the end of 2006/'07.

For the current year 2007/'08, it is projected that the Basic insurance RSR will reach 180.1 million including the IIF; well in excess of the top end of the Board's RSR range for rate setting purposes. This amount does not include SRE and Extension retained earnings, nor the proposed RSR rebate proposed by the Corporation.

As previously indicated, that proposal is a $49.1 million rebate to be paid in 2008/2009 representing 7.75 percent of gross written motor vehicle premiums.

With respect to claims incurred, claims experienced rate adjustments are made by looking at historical data and projecting same into the future to determine the expected cost of claims for all of the different categories in Order to achieve revenue neutrality.

With respect to accident benefits, the actual claims incurred were 1. -- pardon me, 186.1 million in 2006/2007. They are forecasted to be 234 million in the current year, 2007/2008, and are projected to increase to 243.7 million in 2008/2009.

With respect to collision coverage, the actual claims incurred in 2006/2007 was 234.4 million, forecast to increase to 238.9 million in the current year and projected to increase to 253 million in 2008/2009.

With respect to comprehensive coverage, the actual claims incurred in 2006/'07 was 75.4 million, forecasted to decrease in the current year to 75.3 million, forecasted to increase to 76 million in 2008/2009.

With respect to property damage, the actual claims incurred in 2006/2007 were $34.6 million projected -- or pardon me, forecast to stay the same in 2007/2008 and projected to increase to 36.8 million in 2008/2009.

Public liability claims incurred were 4.3 million in 2006/2007, projected to increase to 6.2 million in 2007/2008 and to 6.4 million in 2008/2009. The total numbers for claims incurred therefore, for 2006/2007 were 534.9 million, forecasted to increase to 589.5 million in 2007/2008 and projected to increase to 615.9 million in 2008/2009.

In other words, claims incurred are projected to increase by 81 million or 15.1 percent over the next two (2) years. The majority of the increase relates to a projected increase in PIPP claims incurred by 57.5 million or 31 percent over the next two (2) years.

In past orders, the Board recommended that the Corporation develop claims handling, PIPP and other operating cost benchmarks and perform analyses comparing the Corporation's experience with that of other comparable insurers.

The Corporation began a PIPP infrastructure planning study in December 2005 at an estimated cost of just over $1.2 million. The Corporation indicated at the last GRA that the three (3) phase planning study would be completed by August 2006, at which time implementation decisions would be made.

In an update provided at this Application, the Corporation has stated that the need to make changes to the tools, training and support systems available to PIPP case managers is not urgent but is important in the long term.

The Corporation is proceeding slowly with this initiative with more focus on more pressing issues such as auto theft.

Phase 1 of the PIPP infrastructure initiative, the Insight Phase, has an objective of ensuring that any future investment in PIPP processes, systems and people are aligned with the vision and strategy for PIPP which has been completed while Phase 2 is currently in progress.

Phase 2 represents detailed planning of the initiative and the selection of a bodily injury claim system.

Phase 3, as described in the last application, represents the road map phase; the objective of which is to develop business cases for the prioritized PIPP improvement opportunities. One of the improvement opportunities includes a PIPP performance management and benchmarking framework.

The Corporation now expects the implementation of Phase 3 recommendations to start in the first quarter of the fiscal year 2008/2009 and is expected to take up to five (5) years to implement. The Corporation indicated that work would be completed by 2012/2013.

With respect to operating expenses, the operating expenses attributable to Basic have increased to 43.7 million in the current year from 38.6 million last year, and are projected to increase further to 44.7 million in the year of the Application, 2008/2009.

Staffing levels have continued to increase for the Basic line of business as set out at Tab 37 of the Board's book of documents.

The level increased from thirteen hundred and thirty one point four (1,331.4) full time equivalents as of March 1st, 2003, to fifteen hundred thirteen point five (1,513.5) full time equivalents as of March 1st, 2007. The level is forecasted to grow to one thousand five hundred and forty-seven point one (1,547.1) full time equivalents as at March 1st, 2009. Over the past number of years support staff have increased by approximately 65 percent.

The Corporation has indicated that only employees allocated 100 percent to DVL operations were removed from the table at Tab 37 of the book of documents. DVL employees are -- have been integrated throughout the Corporation, and the head count at that tab includes employees whose time is allocated among the various lines of business of the Corporation.

As referenced earlier, the Corporation is currently undertaking a business process review of the DVL operations.

With respect to the allocation of costs, the Corporation has indicated that it is allocating the correct cost to DVL. With DVL located in Extension, contrary to the Board's recommendation, no details have been provided.

Salaries are a major component of the

operating expenses of the Corporation, representing 58 percent of the total operating and claims expenses in the year of the Application, 2008/2009.

The need for a new shared service cost allocation review was an issue raised by the Board in its Order 156/06.

With respect to interprovincial trucking, there is, at present, a rate subsidization being borne by the Corporation's Basic ratepayers in favour of interprovincial truckers, with respect to injury claims costs of approximately $1.8 million per year for the last five (5) years.

A couple of comments, then, on sustainable development before I conclude my remarks.

The Corporation has filed this year a pay-as-you-drive, or PAYD Research Study, on paid programs in North America. The information indicates that in jurisdictions where pilot PAYD programs have been implemented, same have appealed to segments of the driving public.

The Corporation has indicated a willingness to review the results of the study, and has not precluded the possibility of a pilot program in the future.

In conclusion, Mr. Chairman and members of the Board, these are some of the issues that have arisen from this year's Hearing. Mr. Saranchuk and I would like to thank the Board, the Intervenors, and the MPI panel and its counsel, for the indulgence and cooperation extended during the course of this Hearing. Thank you.

THE CHAIRPERSON: Thank you, Ms. Everard.

So now we'll move on to CMMG. Mr. Oakes, are you ready to being?

CLOSING COMMENTS BY CMMG:

MR. RAYMOND OAKES: Thank you, Mr. Chairman. and my thanks again to Mr. Williams with respect to the courtesy in allowing those Intervenors with slightly shorter presentations and final arguments to proceed.

Mr. Chairman, members of the Board, in seeking to sum up this year's MPI application in a few words, I recall the solicitor who used to be with our firm that subsequently left to join MPI's burgeoning legal department, and his letters to opposing counsel often contained the description that he was shocked and dismayed. That was his trademark phrase.

I'm not sure that personally I'm shocked and dismayed, although some of the motorcyclists who receive the -- the 9.4 percent increases or, which may range, of course, up into the double digits, certainly they may be shocked and dismayed. I would think mildly surprised and more than mildly disappointed would be my characterization.

Of course, ongoing escalation of motorcycle rates don't characterize -- don't compromise (sic) a surprise any more; certainly a disappointment though. The notion of the multi-year rate application was certainly a surprise.

Motorcycle rates continue to rise. The average increase over the last ten (10) years has been substantial, rising from three hundred and ninety seven dollars ($397) to one thousand eighteen (1,018) on average, or increasing by about 2 1/2 times. There was some rate softening last year, but of course, the increase sought by the Corporation this year is still amounting to what we would consider rate shock.

Motorcycle rates continue to be less and less affordable for this important community. In addition to the raw increases, the further evidence supporting the rate problem for motorcycles. We also saw the relatively higher uptake for time payment plans for this group, as described in the responses to CMMG/MPI-1-12.1 and CMMG-1.12.2. The usage rate of the time payment plans is much higher for motorcyclists than private passenger vehicle owners; quite simply, the higher rates force them to finance their insurance.

There are a number of issues related to MPI's cost structure and the analysis of motorcycle rates which I'll discuss during this argument. CMMG's position, based on its review of these matters, is that the overall rate increase for motorcycles should be capped at the current level.

With respect to those claims and operating costs, we looked at the comparable insurers such as SGI and ICBC. Claims expenses have grown by more than double the amount in Manitoba as in Saskatchewan. In the same period claims expenses actually decreased in BC as shown in CMMG/MPI-25.1.

Operating expenses grew by 73 percent in Manitoba compared to 15 percent in Saskatchewan and a substantial decrease in BC. The total staff, excluding the amalgamated driver and vehicle licensing operations, grew by two hundred and fourteen (214) from one thousand three hundred and thirty-one point four (1,331.4) in 2003 to fifteen hundred and forty-five (1,545) total staff projected for 2008 as demonstrated in CMMG-1-28.1.

Mr. Galenzoski, of course, describes the use of indexes as a measure, and the transcript relates that at page 1308. Even though this is, perhaps, his swan-song year, and I have the greatest respect for his analysis, I think that it's in the Corporation's best interest to have its witnesses talk about an explanation of those indexes. Even though we're really talking about trend analysis and the comparison of trends and the containment of increases, one needs to look no further than the use of the CPI to see that these are trend analysis and comparison of trends.

If there were greater control over expenses, Mr. Chairman, then rates for all Manitobans would be lower.

Loss development and IBNR are inextricably tied to the rate level indication as described in the transcript at pages 977 and 978. The higher the loss development factors used in the IBNR report, the higher the rate.

During this Hearing, the CMMG was quite surprised at the degree in change to loss development for PIPP coverage. At the individual coverage level, there's a remarkably pattern -- a remarkable pattern of inconsistency.

At the overall level, what is clearly evident is the decline in total PIPP costs from 2001 as described at page 985 of the transcript. If the Corporation is consistently overestimating claims costs, the rates related to these costs are overestimated as well. This, in part, explains the ongoing rebates that have occurred. Rates have been too high and quite likely will be too high in the future.

With respect to ongoing rate escalations specific to motorcycles, the driver appears to be the -- or the causation appears to be the sporadic occurrence of large bodily injury losses. In this cross-examination, several aspects of the large loss phenomenon were probed by the Corporation.

At page 990 of the transcripts, serious losses make up about 10 percent of the loss costs for motorcycles. For other classes, the importance is much smaller.

The purpose of the averaging serious losses is to reduce rate volatility as described by the Corporation. However, on a comparative basis motorcycles are disadvantaged relative to all classes since the instability caused from large losses is greater, simply since the share of cost is greater.

If volatility reduction is a goal as described at page 991 of the transcript, the current approach to -- to applying average large losses is only a partial solution. The impact of this volatility is especially evident given the change in -- in the required rate for the class overall -- doubled to sixteen point five (16.5) this year compared to 8.4 percent last year.

The Coalition offers an alternative for consideration by the Board on that issue. Instead of averaging serious losses and applying the ten (10) year average, simply cap each serious loss at a half million dollars with the excess amounts pooled; similar to the treatment of unassigned claims and injury loss transfer amounts.

If motorcyclists have more serious accidents on a relative basis in other classes, the higher frequency will be accounted for in the rate.

The coalition is supportive of the Corporation's approach to accounting for loss transfer of collision claims costs. It remains mystified with the rationale that the actual costs can't be identified and transferred, however it accepts the current approach.

With respect to single vehicle accidents, as evident in cross-examination, the Corporation indicated it has done little to investigate the data inconsistency between Manitoba and other jurisdictions related to single vehicle accidents. The reference is the transcript at page 992.

The coalition notes the trend in the data shown in CMMG-1-64.1 has reversed with single vehicle accidents now decreasing; further, the data itself changes.

For example, as shown in the same response, single vehicle accidents as a percentage of total claims for 1998 is now reported at 41.9 percent of the total claims. When the motorcycle risk study was performed several years ago, single vehicle claims were only 22.9 percent of the total.

The change in trend and the remarkable changes in the data itself causes the CMMG to wonder how valid rates might be if the data behind them is erroneous. The Corporation did indicate as part of the PIPP allocation exercise, it had reviewed many motorcycle claims files and revised the data.

The CMMG notes it does not appear that this is an ongoing effort and the audit was not performed independently.

The CMMG is still of the view that an independent audit is needed of this data along with a better explanation of the causal difference in single vehicle frequencies amongst jurisdictions. This is particularly important to motorcyclists since single vehicle accident costs do not transfer and these costs are driving motorcycle rate increases.

Single vehicle accidents include risk

factors that are not directly controllable by motorcyclists and other vehicle owners such as collisions with livestock and wildlife. With respect to wildlife, it is hard to fathom how the motorcyclist or any other motorist could be considered at fault regardless of what the Highway Traffic Act stipulates.

With respect to collision with wildlife, the cost of the single vehicle accidents is relatively high for motorcyclists compared to other vehicle groups as shown in CMMG-1-5.3. They were slightly over nine hundred thousand dollars ($900,000) in 2006; roughly 16 percent of our costs. These are accidents which are not the fault of the motorcyclists and are a substantial contribution to motorcycle claim costs and rates.

Where the collision is with a farmer-owned livestock, the Corporation may attempt to collect from the livestock owner. However, Ms. McLaren is quite clear, shown on page 999, that it only occurs where there is a cost benefit to do so and not PIPP costs. If PIPP costs are not recovered or at least reassigned, there's a relative inequity for motorcycles, relative to groups of other vehicles.

Negligently managed livestock are likely to cause greater impact on motorcycles than vehicle owners such as trucks. If the Corporation does not recover or reassign PIPP costs, motorcycle rates are artificially inflated.

Clearly it is not their actions that resulted in the accident. If it were another vehicle that crossed the motorcyclist's path, that vehicle and its driver would be responsible.

The CMMG's view is that costs related to livestock and wildlife claims should be allocated across all classification groups in the same manner as the pool claims described at page 35 of the 2008/'09 rate making methodology.

If there are concerns with the data at the overall level, at the more refined level such as sport bikes, the data is even more questionable, as is the resulting rate indicators.

The data for sport bikes has a very low level of credibility. The use of credibility does not allay this concern that the data is weak since in MPI's formulation the complement used is the existing rate. Consequently, if the existing rate is built up over time based on inadequate data, then the applied for rate is also effected.

With respect to the assignment of motorcycles to the sport classification based on the horsepower to weight ratio, the Corporation was unable to provide any information to show why it's reflective of risks. Without this information it's difficult to accept the current classification schemes for these vehicles.

The coalition suggests to the Board the Corporation has not fulfilled its onus with respect to sport bike classifications, and consequently the rate differentials should be frozen until it has met that onus.

Credibility also remains a concern for the CMMG, simply since the Corporation uses an inconsistent approach for motorcycles versus other vehicles, as described at page 1,008 of the transcript. The CMMG suggest that the Board Order this inconsistency be eliminated in the next rate application for 2009/'10.

With respect to credibility, as described in CMMG-2-16, there are alternatives to the policy based approach used by MPI. The typical all -- alternate is to use claims costs. MPI suggests that the credibility issue was resolved with Order 148/04. However, that Order dealt only with the debate over classical versus Bowman credibility. It did not consider the basis of the credibility calculation, for example, based on policy versus claim numbers.

CMMG suggests that the Board Order the Corporation to report on the effects on individual rates of alternate approaches to the basis of the credibility calculation. The CMMG is of the view that the alternate acceptable practice of using a claims based credibility approach would be more suitable.

With respect to the rate line adjustment, the CMMG reviewed the Application of the collision relativity with the Corporation during cross-examination, as shown at pages 1,007 and 1,008 of the transcript. As applied for by the Corporation, the rate line adjustment flattens out at rate group 4 before continuing upwards. This is in part due to the amalgamation of two (2) different models for the collision rate group.

The CMMG is of the view that a more consistent approach would be to use a single model, or apply the model used for rate groups 5 through 9, to rate groups 2 through 9.

Given the inconsistency in the line, the CMMG is of the view that changes for 2008/'09 should be held in abeyance and the suggested improved formulation be applied as part of the 2009/'10 application.

The CMMG has an additional concern with that rate line adjustment as well. Mr. Palmer suggests at page 1,008 that the credibility of the PIPP data is zero percent, even though it is the largest portion of the cost. If the data is not credible, one is left to wonder how it can be used in any form for rate development for motorcycles at the rate group level.

Overall, with respect to motorcycle rates, the CMMG is of the view that the motorcycle rates should be held constant for 2008/'09. This is based on the following considerations.

The first is the demonstrated ongoing conservatism in the Corporation's approach to rate setting, especially with respect to claims loss development.

The second is the opportunity for the Corporation to better control their costs.

Third is the need to review alternate approaches to assign collision with wildlife and similar claims.

Next is the need to review alternate approaches to handling large losses from a rating perspective.

Ongoing concerns, as well, with the approach in -- approach to credibility, and the unknown potential effects of using credibility with claims counts as the basis.

The next would be continued concern with the single vehicle accident data for motorcycles, and the inconsistency of the Application of MPI's models to the rate line adjustment.

The foregoing serve as a counter-point -- point to MPI's suggestion that multi-year rate applications are appropriate. Since basically everything that needs to be discussed through the Intervenors has been discussed, and of course, that's the Corporation's perspective, therefore all that is needed is the Board's review.

The CMMG can assure this Board that it has many current issues still to review with the Corporation in this forum. As well, new issues will emerge in the future; for example, differentials by motorcycle engine displacement size.

With respect to the Corporation's argument that all of the important Intervenors have been covered, the Coalition prepared an analysis of the various rulings since 1999, highlighting the non-rate authorization issues which was fielded during the hearing process.

To suggest that the Orders and recommendations and the rulings arose simply from the Board's review does not stand up against the measure of the orders.

It shows that the number of issues that were identified by the Coalition or other Intervenors which is -- which the Board, as indicated by its ruling, must have considered having some merit.

Amongst these issues were pay-as-you-drive brought forth by TREE, loss transfer, car rental issues is brought forward by the MCTRA, inclusion of merit discounts for delivery drivers, a process proposed by MPI would thwart Intervenors and the public to bring new issues that may emerge at any time to the Board.

MPI suggested that public input could be met, perhaps, in its public review meetings. During cross-examination, it was readily apparent that this is not suitable since the public involvement of these meetings, small, hardly delves into rate related matters at the detailed level necessary to ensure the overall public interest and the interest of individual intervention groups is assured.

In this regard, the CMMG refers to the -- refers the Board to pages 1025 and 1026 of the transcript. MPI cites multi-year application approach used by Hydro and Centra Gas and MTS as examples of such an approach.

MPI's analysis of the situation and view -- in the view of CMMG is superficial and flawed. With respect to Manitoba Hydro Electric, rate adjustments typically take the form of an across-the-board increase.

There is not a range of rates ranging from increases of more than 20 percent to decreases of more than 20 percent that are typical of an MPI rate application. There are relatively few rate classes used by Hydro that receive those across-the-board increases. There are roughly fifteen (15) to twenty (20), I understand, of these rate classes used by Hydro.

Typically, a person and their neighbour receive the same percent increase in rate. Comparatively, there are about nine (9) to ten thousand (10,000) different individual rates for motorcycles in Manitoba.

Insurance classification, the rating is significantly more complex with many individual rate changes. A person and their neighbour will receive different adjustments with some going up and some going down; spawns a greater need for intense annual review.

With respect to Manitoba Hydro, Centra Gas and MTS, one (1) word summarizes the flaw in MPI's argument and that word is "choice". With respect to gas, consumers are able to choose from other competitors such as Direct Energy rather than buying from Manitoba Hydro's Centra Gas.

And they also choose to use a different energy source for heating; for example, many houses are heated by electricity; some are heated by home heating oil or propane.

When it comes to phone service, there's competition in the traditional land line service -- for example, Shaw -- so all consumers can choose from a host of cellular carriers, completely avoiding traditional landline service. With choice comes the opportunity for customers to select different service and cost options, something that is absent from MPI's coverage and pricing approach.

This ability to switch makes multi-year rates setting more reasonable in the case of gas and phone service providers. Since if you don't like your current rate or service level, you simply change.

With respect to gas, MPI also fails to consider the fundamentals of the pricing regime. Basic -- basically the price consumers pay for gas is not controlled in Manitoba. It is set through international market forces. This is unlike rates for MPI which are predominantly needed by local market issues; for example, labour costs for auto repair.

When considered in this context, MPI's rationalization, based on the so-called similar situations where multi-year rate application supply are invalid. MPI also attempts to justify multi-year rate applications as a cost saving initiative.

These cost savings are somewhat less than seven hundred thousand dollars ($700,000) annually. In cross-examine the Information Request process, we saw that the cost savings are a relatively minuscule part of the operating costs to the Corporation; less than a 10th of one percent as shown at page 610 of the transcript.

The savings the Corporation proposes in eliminating public scrutiny are less than the cost of post-retirement benefits, the healthcare benefits described in CMMG-1-26.8.

Community relations costs of 1.3 million described in CMMG-1-26.7 or the roughly 2 million in public advertising information costs as shown in CMMG-1-26.9. The latter has grown by four hundred thousand dollars ($400,000) in the last three (3) years.

The Corporation was unable to provide the costs of executive retirement allowances which also could be reduced from the excessive maximum of seventy-one (71) weeks if cost savings are the goal. The CMMG is quite disturbed the Corporation was unwilling to provide this information as shown in response to CMMG-2-13.

As shown in the response, the average executive compensation has grown by, roughly, thirty-seven thousand (37,000) since 2005. In total, with eight (8) executive, total costs have risen by about three hundred thousand dollars ($300,000) in the past four (4) years.

The Coalition heard during the cross-examination some of the expenditures on sponsorships were based -- goals not directly related to the mandate of the Corporation. As well, they heard that the cost benefit analysis were considered absent, as shown at page 1038. If cost savings are the goal of multi-year applications, these examples show many opportunities for the Corporation to reduce costs and perhaps even have greater savings without jeopardizing public scrutiny of rates.

A final part of MPI's rationale is that the PUB process takes staff away from other projects such as the DSR or the Business Process Review. If the Corporation is short of staff related to regulation and more staff can be used to improve the equity of MPI rates, the Corporation is supportive of a one (1) to two (2) person staff increase in the actuarial and related regulatory areas.

With respect to staff, it is noted that the Corporation's general counsel function has grown from seventeen (17) staff in 2003 to twenty-five (25) in 2007 and that's despite the elimination of the Tort process and the new no-fault environment.

The Corporation implies throughout the

application process in hearing that the PUB had approved the various methodologies used in the Application. The CMMG is of the view that components of the methodologies still have not been adequately reviewed and are subject to change; an example of the aforementioned issue related to credibility that I spoke about earlier this morning.

From the CMMG's perspective, what the Board has approved is the outcomes of the methodologies, not the methodologies and the assumptions within those methodologies. The CMMG has many more questions related to these assumptions and the information filed which are specific to its view and can only be handled through annual applications in hearings.

As we heard during cross-examination at page 1027 of the transcript, many vehicle owners, in addition to motorcycles, face a substantial change in rates for 2008.

The multi-year applications for 2009/'10 and 2010/'11 provide no information as to the rate of changes for individual vehicle owners. Without this information, how will individual owners, either represented individually or through groups such as CMMG or CAC, receive a fair hearing of concerns that they may have with those rates? The approach proposed by MPI eliminates those important constituents from the process.

In summary, Mr. Chairman, the Corporation has not made a case for multi-year rate applications. The position of the CMMG is that such an approach is detrimental to the public interest and the CMMG requests the Board to rule against that.

As part of the proposed multi-year process, the Corporation suggests there should be trigger points for the release of excess RSR. Aside from the concern that rates must be too high if multi-year releases are occurring, the CMMG has several concerns with their reserves.

First, reserves outside of the RSR continue to grow. The PFAD grew -- grew by $96 million from 2002/'03 to 2006/'07 as shown at page 977 of the transcript. Other financial reserves excluding unearned premiums also grew by $71 million in the same time period, as shown in CMMG-1-48.1.

The concern of the CMMG is that within acceptable and actuarial accounting limits, the Corporation has room to increase reserves outside the reserves required for the RSR. In a multi-year application, the weight of the Intervenors would not be brought onto that matter. This would allow for a buildup of the reserves outside the RSR and inhibit the release of rebates.

With respect to reporting, it is curious to the CMMG that the Corporation hangs on to a methodology that has not been approved. In financial reporting, it shows the Basic RSR as not meeting target, even though it exceeds the regulatory requirement. The Corporation provides irrelevant material to the process in this regard.

The DCAT report at a cost of forty thousand dollars ($40,000) is not a relevant input to the proceedings. Perhaps the resources used for these endeavours could be put to use in the DSR study, or in motorcycle safety programming.

CMMG notes that the excess of RSR above target was about $78 million, or 11 percent of premiums as at the end of May 2007, as described at page 981 of the transcript.

At the end of August, the excess was even greater with Basic having $191 million in retained earnings, plus 26.7 million in the Immobilizer Incentive Fund, as described at page 256. The Corporate total was $352.3 million. In the view of the CMMG, a 10 percent rebate in excess of 10 percent is in Order for 2007/'08.

CMMG's position is that it would be preferable if the Corporation's rates were not too high to begin with. However, as the conservatism and rates itself is a risk mit -- mitigation approach, it is not adverse to continued rebates. CMMG's position is size and disposition of rebates should be determined by the Board annually, with input from the Intervenors in the form of the existing process.

A variety of matters related to Board Order 156/06 are still a concern to the CMMG. At a customer service level, the Coalition is surprised that the Corporation has done little to provide assistance to motorcyclists in declaring the value of their motorcycle at the broker's office, as shown at page 1,047 of the transcript.

As we heard last year, and again this year, the cor -- consequence may be either undercoverage for the motorcycle in the event of an accident, or overpayment of the premium. The Corporation has not fulfilled the requirement of this Order in spite of having electronic databases that it could provide to the brokers.

The coalition seeks the ongoing support of the Board in this matter, hopefully with the Corporation fulfilling its obligations soon.

As users provided by the Corporation's special risk Extension division, either an Order to ex -- acquire extended income replacement benefits, or for comprehensive coverage, the Corporation is unhappy that excess funds for that division are being diverted to long haul trucker education. The amount of this diversion of funds seems unknown since, in its press release, the Corporation suggested it was five (5) million, yet in filings it provided with this application, as referenced in CMMG-2.11-3, the total cost is 8.15 million.

The Corporation notes that the subsidy is on top of the subsidy already received by the interprovincial trucking industry, as the industry does not pay premiums for PIPP coverage.

With respect to the latter, one of the justification the Corporation makes for the free ride for truckers is that they're often engaged in business outside of Manitoba. Similarly, there may be other business that operate vehicles outside Manitoba for a considerable part of the year, yet reside in Manitoba; for example, a travelling salesperson, whose territory includes Thunder Bay to Calgary. Their vehicle may have most of its exposure outside Manitoba similar to long haul trucks, but this benefit is not extended to those type of businesses.

MPI suggested through the driver's licence premium that the cost it claims based on the CMMG's recollection of nearly $5 million, is partially funded.

This is the first time MPI suggested that PIPP is directly tied to the driver's licence. If so, MPI should be compelled to define accurately using actuarial and statistic technics, the appropriate premium that should be paid on the driver's licence in keeping with its approach to the vehicle premium.

The inequity in this regard continues. The CMMG provide -- believes MIP should be strongly compelled to eliminate the subsidy to the trucking industry, or implement the requirements of last year's Order.

In spite of avoiding responses in certain cases, the Corporation consistently provides information related to those Extension lines of businesses where it holds a monopoly position in the market. Obviously, the release of this information doesn't affect the Corporation's position in the market.

Some examples are: the total staff as filed in TI.9; capital expenditures shown in TI.10; expenses shown in the response to CAC/MSOS-1-3; Extension in SRE retained earnings shown in PUB-1.3; the waiver of deductibles where Extension coverage is purchased as shown in PUB-1-50; rate comparison as filed in response to CMMG-1-8.1.

As a monopolist for Extension coverages

for motorcycles, the Corporation continues to put motorcyclists in a high-risk position due to the lack of coverage under lay-up policies; extended third party coverage is not available.

For retirees or motorcyclists who lay their vehicle ups, if another vehicle collides with their vehicle while it is laid-up, that coverage is also not available.

With respect to motorcycle pleasure use, the Corporation continues to set rates at 10 percent lower than the all purpose rates. As we heard in previous years in cross-examination, the 10 percent differential was selected on the basis of the pleasure compared to all purpose use for private passenger vehicles at the time the new class was established. Using this basis, based on the response to CMMG-1-21.1, the differential could easily be more than 20 percent. Accordingly, the CMMG requests the differential be increased.

With respect to the driver safety rating, while willing to accept the Corporation's representation, it will make a special application for that new program. The CMMG is concerned with the delay that has occurred to date. The Coalition sees the new plan as an important opportunity for the Corporation to be innovative in its solutions.

With respect to overall customer service satisfaction levels, the Corporation reported in response to CMMG-1-52.1 that it does not have data specific to motorcyclists. The suggestion of the Coalition to the Board is that the Corporation refine its data collection procedure allowing for satisfaction levels to be measured by broad types of vehicles; for example, motorcyclists, ORVs, commercial trucking.

The level of satisfaction for these groups may be substantially different than for the overall pool of vehicles. The Coalition notes the Corporation does have the ability to query the public in some detail about their views of motorcycle risks shown in CMMG-2-17.

Motorcyclists are also the owners of other vehicles. On average, motorcyclists have 1.3 other vehicles; such, the CMMG has a significant interest in rate and classification adjustments for private passenger and other vehicles.

The inconsistency in comprehensive coverage, which is not provided automatically as part of the motorcycle policy, it is included as part of the typical passenger vehicle policy, may be problematic for some motorcyclists who assume that the coverage is consistent.

The Coalition is of the view the Corporation has two (2) options related to that matter. First, it could cover comprehensive losses on motorcycles under the Basic plan. Alternately, it could prepare a consumer study for review for the 2008 hearings that confirms that motorcyclists are aware of the difference in coverage.

Motorcyclists also own vehicles that are affected by the Immobilizer Incentive Program. CMMG has several suggestions that may help strengthen the Program.

The first relates to the add-on charges when the immobilizer is installed and there are examples of that: the new battery identified in PUB-1-51, key fobs, remote starters. The Coalition suggests MPI include those within the amounts it funds. And then the most-at-risk vehicles, we suggest that there are some anomalies in the data related to my questions on the Yukon Suburban.

The Coalition suggests then, in those situations, twins or related vehicles would be added to the MAR list.

Warranty. We believe the immobilizer installation is also an issue, particularly as the program winds down around 2010 or 2011. We know that from the Hearing that approximately 1 to 2 percent of the owners will have problems post-installation.

And not expectedly, one (1) of the affects of hardening vehicles against theft has been the rise in vandalism and attempted theft claims over the last year's as shown in CMMG-1-4.8.

The Coalition understands the situation for total theft, attempted theft and vandalism claims the owner is responsible for the Basic deductible and so in that case, the victim then is being penalized.

We also had some questions relative to whether that's going to result in other criminal activity if they can't find vehicles to steal such as carjacking, home invasions. The Corporation is very indignant, indicating that they'd worked with the police and the people in the know in terms of theft, and so they were able to rule out those kind of consequences -- unintended consequences.

However, that's completely at odds with the data that they provided relative to the rise in vandalism and attempted theft claims to date.

The Coalition has an upgrade in the -- has an interest in the upgrade in vintaging process for passenger vehicles and light trucks. It's our view that the -- as a price of a vehicle -- the accident benefit rate group would increase and the vehicle price relationship to the accident benefits doesn't make any sense.

As clear from the example in CMMG-1-61.6 that price is driving the increase in rate groups, while vehicle prices have risen by about seven thousand dollars ($7,000) or 25 percent. At the same time there's no increase in the maximum insured value range, forcing consumers to buy Extension coverage in many cases.

With respect to the price effect in the CLEAR model and as related to declared values, the Corp -- the Coalition is of the view that the Board should compel the Corporation to file a justification for its current approach to assigning accident benefit rate groups related to the maximum insured value as part of its 2009/'10 application.

The lack of activity related to motorcycle road safety is a significant concern for the CMMG. If motorcycling is truly a riskier activity compared to other types of motoring, then one would expect the Corporation would be spending a higher amount of its safety programming budget for motorcycling than other types of travel. The Corporation seems to spend proportionately less.

As part of the cross-examination process, the Coalition outlined a number of safety programming initiatives from the National Agenda for Motorcycle Safety. As shown at pages 940 to 952 of the transcript, the Corporation has not considered many of those initiatives.

The CMMG requests the Board order the Corporation to prepare a thorough review of each of the initiatives in the guide and provide a report describing each initiative, their decision whether or not to implement that initiative, the reasons for their decision and implementation dates as part of next year's rate application.

A brief summary, Mr. Chairman, with respect to the MPI's 2008/'09 rate proposal, the Corporation's of the view, based on the reasons described, that the rate requirement is too high due to conservatism in the estimating process. As well there's the potential for MPI to reduce its operating costs.

With respect to the rebate the CMMG is of the view a rebate in excess of 10 percent is warranted.

You have our thoughts as well on the multi-year rate application. We do not believe such an approach is in the public interest for the multiple reasons we gave.

Outstanding matters, as an overall principle the Coalition is of the view that when a recommendation or Order is made by this Board that it should be adequately vetted and deliberated upon by the Board and this public forum.

Consequently, all matters should be responded to by the Corporation either in the form of implementing the recommendation or Order or providing a detailed written submission in the subsequent application as to the barriers to implementing the recommendation or Order, at which time it would be again potentially open for a public review.

The onus would be on the Corporation to convince the Intervenors and Board as the need to change the recommendation or Order. Until the process is complete, the recommendation or Order should stand as a requirement for the Corporation.

At this time, the Coalition has a keen interest in MPI implementing two (2) specific recommendations.

The first is the matter of the regulation of the Extension lines of business. Motorcycles are important users of the products for those lines, particularly Extension Comprehensive and Lay-up, and those -- we've heard throughout that those are, in essence, monopolies leaving the Coalition and other Manitobans who are dependant on these products with little consumer protection, and in many cases, products that are not sufficient.

Again with respect to the MPI multi-year forecast, over the last number of years MPI has produced financial statements for the rate application process that have proved to be conservative when tested against the actual final results. A key source of the conservatism has been understating investment income, as well as with respect to claims forecasts.

The CMMG has some comments relative to environmental matters, that there should be a greater consideration of the environmental risk in the MPI risk rating plan. There are alternatives. The pay-as-you-drive certainly is an alternative. There's such other methods as environmental effects into the assignment of rate group, or in making rating adjustments at the classification level.

In terms of priorities, from the CMMG's perspective, the top priorities are increasing work on road safety, with a focus on motorcycles, an improved monitoring of operational costs and driver safety rating.

The Coalition wishes to thank the Board, the other Intervenors, and the Corporation in its participation, and look forward to many years of annual participation in these hearings.

THE CHAIRPERSON: Thank you, Mr. Oakes.

Before we move on to Mr. Dawson, we'll have our break now. Thank you.

--- Upon recessing at 10:29 a.m.

--- Upon resuming at 10:46 a.m.

THE CHAIRPERSON: Okay, Mr. Dawson...?

CLOSING COMMENTS BY CBA/MBA:

MR. ROBERT DAWSON: Thank you, Mr. Chairman. It's the position of my client that the applicant, MPI, has ignored an Order of this Board that dates back to 2004, relating to the cla -- to the development of claim benchmarks. And we submit that at least two (2) submissions flow from this failure to comply with the Board's directive.

First, the failure undermines those who would challenge the way in which MPI handles the claims of victims of personal injury.

And secondly, it disentitles MPI from seeking a multi-year rate application.

I'll deal with those in turn, and I'll start by way of reminding the Board that on the 3rd of December, 2004, an Order was made that MPI develop claim benchmarks, then compare those benchmarks with its own claims experience and that of other no-fault jurisdictions and agencies and file a summary of those findings with the Board.

And that Board Order was of course Number 148/04, and the specific Order appears at page 93 of that Order.

My client submits that this Board then recognized, and indeed I'll suggest continues to recognize, that benchmarking is a useful management practice.

Benchmarking enables both the applicant and this Board to formulate informed views on cost controls. The comparison of the applicat -- applicant's operations to establish benchmarks, and the comparison of other appropriate insurers to such benchmarks, would help underlying areas where the applicant could improve its service to Manitobans.

At one end, the results of such a study could show indeed that MPI has brought its operations well in line with established benchmarks, and that there really is no substantial room for improvement.

That essentially would deal with many of the complaints that at least my client has asserted over the years.

At the other end, deficiencies could arise and be identified as a result of such a benchmarking study, and that would in turn help this Board to curb unnecessary expenses and make other orders and recommendations.

Of course, the Board appreciates that there is a significant number of Manitobans who question the way in which MPI handles claims, especially those arising out of personal injuries sustained as a result of the operation of a motor vehicle.

When I had first assumed conduct of the Manitoba Bar Association's regular intervention before this Board, some four (4) hearings ago now, my client instructed me to examine closely the way in which such claims were being handled. The record will show that through extensive Information Eequests over the years, the Bar Association compelled the production of information ranging from the training of adjusters to the way in which MPI's medical experts were instructed to assess personal injuries.

Beginning at page 1169 of the transcript for the 2005 GRA, I went through a number of points with Mr. Bedard and Ms. McLaren principally. Although MPI's position in closing argument was to dismiss the validity of the concerns that were expressed through cross-examination, I suggest that, at the very least, one must agree that the evidence gave a reasonable person grounds to consider that MPI, at least, might be handling personal injury claims in a different way than it then was.

At page 61 of its 2004 reasons for decision, the Board summarized the submission of the Manitoba Bar Association noting that:

> "The MBA had urged [and I quote] the Board to direct MPI to undertake a comparative study of the handling of personal injury claims by the WCB."
> End of quote.

The Order's summary of the MBA's position that year noted concerns of what the MBA had described as MPI's, unnecessarily adversarial, handling of personal injury claims and the unfamiliarity of most claimants with the general principles of proving an insurance claim. In short, the MBA had expressed a concern about what it had described as deficiencies in the way that MPI handles personal injury claims.

Of course, underlying this concern is the reality that where a claim is wrongly denied or reduced, a claimant is effectively deprived of benefits to which that person has a statutory right and, indeed, also a contractual right. More relevant to the proceedings before this Board such a mishandling of a personal injury claim means that although collected pursuant to premiums that this Board sets and on the premise that the applicant will use those revenues pursuant to its legislative framework, revenues are in those circumstances not being applied in the way that the applicant has represented to this Board that they are and will be used.

A benchmark study would be directly relevant and helpful in the assessment of the MBA's submission. First, and I am mindful of the fact as MPI often notes, that there is a distinction between a benchmarking study which focuses upon cost controls and other forms of analysis that might look at the way in which MPI handles personal injury claims. So cost handling and cost controls are not the same thing, I concede, but for the reasons that I'll soon get to, I'm going to suggest there is a close and intimate connection between those two (2).

I return, then, to the notion of how a benchmark study might be directly relevant and helpful. First, of course, a comparison between actual and best practices could show that MPI's cost controls in the area of personal injury claims are excessive, thus supporting the express concerns of the Bar Association over the way in which the applicant handles personal injury claims.

Secondly, a comparison between actual and best practices could further support the submission that where a claim is wrongly denied or reduced, the result is surplus revenue contrary to the legislative framework that governs the applicant's operations, and also contrary to the representations that the applicant makes to this Board when seeking approval of rates.

Of course, the results of such a study could also have the effect of supporting the rebuttal that MPI has mounted to the negative submissions made about the way in which it handles personal injury claims.

Yet, despite its relevance and indeed importance as we all know, MPI did not file the ordered benchmarked study in 2005 and this omission prompted this Board on November 14th, 2005 to remind MPI of its outstanding obligation.

At page 47 of Board Order 150/05, the Board's 7th recommendation borrows from the original Order but changes the wording stating that MPI should and I quote:

> "Develop claims handling PIPP and other operating cost benchmarks, perform analyses comparing MPI experience with

that of other comparable insurers and file a report with the Board at the next GRA proving the findings." End quote.

When MPI again failed to file the benchmark study as part of its 2007 rate application, that is last year's rate application, the MBA again pressed the applicant for an explanation.

In our first round Information Requests, we saw production of the IBM contract for the roadmap, as it's being called, of the study. And then we went on to cross-examine Mr. Bedard about that roadmap and the eventual study which appears at the transcript of last year's Rate Application Hearing, beginning at page 1027 line 18.

During that exchange, Mr. Bedard provided the description of the benefit of benchmarks. At page 1028 line 17 of last year's transcript, he talked about quote:

"Allowing the system to provide you with data in terms of how you're performing, in terms of the frequency and duration of treatments, length of income replacement based on injury type, the demographics of the type of

claimants you're dealing with allowing
you to have more data in which to
understand your business, understand
what the drivers are and ultimately
understand what your cost implications
are." End of quote.

Perhaps as a result of that exchange this Board last year gave yet another reminder to the applicant in its Board Order 150/06 of November 20th, 2006. The Board set out as its 3rd recommendation at page 85 that MPI, and I quote:

"Develop claims handling, PIPP and
operating cost benchmarks and perform
analyses trending developments and
comparing MPI experience with that of
other comparable assurances."

And of course, that brings us to the current year where MPI has again not filed the benchmark study that this Board ordered in 2004.

Through my cross-examination of Ms. McLaren, we have the admission of the president of the Manitoba Public Insurance Corporation at page 899, line 5, of this year's transcript that she agrees with the proposition that where the Public Utilities Board makes an Order, as opposed to a recommendation, in its reasons for decision, that Order is binding and dictates the actions of the applicant.

Board counsel and other Intervenors have pressed and, indeed I know, will press the applicant about past orders and recommendations, but my client wishes to focus especially upon that one (1) specific ignored Order that dates back to 2004.

And it's for that reason that I asked Ms. McLaren, at page 897 of this year's transcript, to report on the work or lack of work that the applicant has completed on the ordered benchmark study.

At line 8 of page 897 she explained that quote:

"We have not started to collect and report on our data or the data from other no-fault insurers to compare the result of the measure."

She then added at line 11 of page 897 that quote:

"The measures themselves have been described as best we know about them a year ago." End quote.

Referring, I think, to the IBM roadmap study about which I had cross-examined Mr. Bedard during the GRA 2006.

And so a whole year apparently could go by without making progress useful to this Board's oversight of MPI. Rather tellingly, I remember Mr. Bedard speaking last year, at page 1026 of the transcript starting at line 22, about the usefulness and indeed the elusiveness of conducting and implementing benchmarks. He said that, quote:

> "Creating benchmarks, establishing them and monitoring our own business and comparing it with other organizations of like programs, it's been around for a long time. It's much easier to articulate than to do."

Such words will worry onlookers, in the catch phrase of the day, it will instill perhaps shock and dismay causing such onlookers to worry or wonder if benchmarking has essentially become, shall we say, the term paper that gets assigned in October only to find that it still sits unfinished in December on the night before the assignment is due and, indeed, we now know well after the deadline for its submission.

We know, from the evidence, that part of the problem is the Applicant's unnecessary insistence that it should broaden the benchmarking study beyond what this Board has required. Indeed, the Board will recall that during the 2007 GRA at page 1032 of the transcript at line 13, Ms. McLaren agreed with me that I suggested that, quote:

"The work that MPI has been doing goes far beyond what the Board has ordered MPI to do." End quote.

Apart from the earlier expressed business and regulatory reasons that would urge compliance with the 2004 Order and result in filing a benchmark study, there are less, shall we say, financial considerations.

Indeed, every year before this Board there are presentations from ordinary Manitobans that critically point to the handling of their personal injury claims.

For example, in this year's proceedings one (1) presenter, whose testimony appears at page 219 of this year's transcript, recounted her own experience with MPI after her daughter had suffered a devastating injury.

While surely, as I've said before, there is a distinction between claims handling and claims costs, and while it is to be admitted that benchmarking focuses upon costs and their control, I submit that there is a connection and we find that connection especially in the presentation that appeared before us this year.

As that presenter spoke, it became clear to those listening that she felt that MPI was depriving her daughter of benefits to which she thought her daughter was entitled. Now putting aside whether or not her conclusions as to entitlement are correct, the presenter, nonetheless, pointed in support of her allegation to what, I suggest, may be properly characterized as a series of cost controls.

There was the question, for example, of whether or not it was justified to pay the cost of a tutor for someone whose head injury might, shall we speak in the harshest possible terms, cause any learning to be quickly forgotten.

Although, in more general terms, the Bar Association has over the years pointed to the operations of MPI and suggested the way in which it handles personal injury claims reflects a preference to control costs over serve claimants.

I point also to this year's transcript where I sought to confirm that in my conversation with Ms. McLaren, starting at page 909, line 5. There, she confirmed that since 2004, when I had first asked Mr. Bedard about it, the handling of personal injury claims really has not changed significantly.

And over the years, the Bar Association has asserted that any wrongful denial or deduction of benefits is a breach of the Applicant's statutory obligation and, of course, that too is hardly a controversial statement which is why MPI has always accepted that premise and this year is no different, and we find the admission at page 915, line 23 of the transcript.

Given that benchmarks are as an objective a standard as possible by which to measure the performance of an organization and by which to test the validity of assertions, such as advanced by my client, and given how vital it is that benefits should actually be paid in the way and amounts to which claimants are entitled, the Bar Association submits that the need for the benchmark study as ordered in 2004 continues.

And so what should we do? Well, it's not my client's function to usurp the role of Board counsel and advise the Board on available options to enforce its judgment or its Order. Instead, I propose to suggest a less confrontational course of action. It is certainly our submission that the benchmark study is indeed useful.

It's our further submission that because it addresses cost controls relating to, among other things, personal injury claims, such a study can go a long way towards demonstrating or, it's conceded, negating arguments that such claims are mishandled as a result of inappropriate cost considerations.

And so one approach to tacking the benchmark study is simply to break it down into manageable components. As it presently stands, the benchmark study, by the admission of MPI itself, goes beyond what this Board is asking. It also tries to compare MPI to other insurers, even where, as Mr. Bedard told us la -- during last year's GRA at page 1029, line 7, most other insurers do not even have the data that would be needed to conduct a comparative bench marking study.

Fortunately, Ms. McLaren's answer to my question at page 1035, line 3 of last year's transcript gives us the solution. She says, and I quote:

"I think the most important consideration for Manitoba Public Insurance is benchmarking itself against its past experience. I think that this is the first thing that would certainly be our priority." End of quote.

She goes on, of course, to assert the usefulness of also comparing MPI to other insurers, but the key that I wish to emphasize to this Board is that she acknowledges that the benchmark study is divisible, and she identifies in a helpful way, the highest priority of that study to be MPI's ability to compare itself and its own performance against best practice benchmarks.

On that same page of last year's transcript at line 1, Ms. McLaren reminds us that the benchmarking process, quote:

"Will be an iterative process that will be building through time."

And I submit that here is a further helpful solution. Benchmarking can apparently be an overwhelming project even for a corporation with the financial and manpower resources of MPI.

But if this study were to focus, at least initially, upon MPI's internal operations instead of looking to comparable insurers, and if everyone, including the Intervenors, such as my client, understood that these benchmarks may evolve over time instead of being perfectly established from beginning, it becomes possible that this benchmarking program might move forward in compliance with the Board's Order from 2004.

Otherwise, to return to the words of Mr. Bedard:

"Benchmarking has been around for a long time and we all fear that it might be with us for a lot longer time yet to come."

And so my client submits that the appropriate disposition is this Board's inclusion in its reasons for decision this year of a three (3) part direction to the applicant that first -- and in the words of the original Order set out in Board Order 148/04 at page 93:

"MPI develop claim benchmarks for duration, frequency and cost."

Secondly, that:

"MPI compare those benchmarks with its own experience."

And thirdly:

"File a summary of those benchmarks with the Board at the next general rate application."

My client further submits that this Board include a further direction that would separate out the comparison of benchmarks with other no-fault jurisdictions and agencies, because this seems to be a significant problem to overcome.

That brings us to the issue of how to express these directions, namely as orders or recommendations. Assuming this Board accepts the premise that benchmarking is an important, if not essential practice that would help the Board and indeed all Manitobans, in the testing of the effectiveness and appropriateness of MPI cost controls, my client urges the Board to frame its first direction to the applicant in the form of an Order, not a mere recommendation.

That is, Order the applicant to develop benchmarks on the very limited and focussed topics of duration; frequency and cost of claims; Order a comparison of MPI's own experience to those benchmarks, and Order the filing a sum -- of a summary of those benchmarks at the next GRA.

The second directive on comparative benchmarking might, at least at this stage, take the form of a recommendation.

Of course, this Board surely appreciates the distinction between an Order and a recommendation, and I submit that the applicant correctly interprets the law when, at page 898, line 20 of this year's transcript, Ms. McLaren agreed with my statement of the proposition that, quote:

> "Where a recommendation is made by the Board, it has no compulsive effect. It is merely a suggestion that the applicant may or may not choose to follow."

End of quote.

Only an Order would address the failure of MPI to comply with past directions of this Board, and only an Order gives this Board, and indeed Intervenors such as my client, the foundation in future on which to stand when later seeking enforcement.

Moreover, given this Board's original decision to make the benchmark study a subject of the 2004 Order, these should be no -- there -- there's -- rather there should be no reluctance to reassert this directive in the form of an Order.

The benchmark study touches upon so many of the concerns that Manitobans have about MPI and claims costs. Its conclusions would truly validate, or indeed negate, the allegations that cost control pressures inappropriately deny or reduce benefits to which Manitobans are entitled.

While the benchmark study focuses on operational issues like claims costs, the reality is that it has a crossover effect upon questions about claims handling, and that has been the subject that the Manitoba Bar Association has pressed on behalf of all Manitobans since I assumed conduct of its intervention before this Board.

While certainly no fault might still be

thought by many to be no good, it is not a war to be fought, in my view, in this particular theatre. However, this Board does take an interest, and continues to take an interest, in the way in which the applicant disburses premiums to its claimants.

While the Manitoban Bar Association is, therefore, the logical Intervenor to press MPI, especially on its failure to comply with that particular Order of this Board, my client's interests in the benchmarking study -- or, more precisely, the failure of MPI to file a benchmarking study -- prompts questions about the applicant's proposal to adopt a multi-year rate application process.

My client takes no position on multi-year rate applications in general, but it certainly does concede that it is within the jurisdiction of this Board to grant such an application.

Indeed, there are compelling reasons that favour such an approach. It would reassure the applicant about how its short and mid-term plans will unfold. It allows an applicant to focus upon fulfilling its legislative mandate instead of justifying its past actions under public scrutiny of a rate application.

And, of course, as the applicant here has stated, it offers economies to the applicant, saving it the cost of filing a general rate application and then responding to matters that arise out of that application.

At the same time, as is certainly obvious, there are indeed benefits to the filing of an annual application.

First, the operations and viability of an insurer depend very much upon uncontrollable situ -- circumstances that necessarily vary and change over time. And such variations and changes would logically increase beyond predictable ranges as the amount of time increases into the future.

Proposed triggers, such as those that the applicant has set out that would require the applicant to submit to direct oversight by this Board in the interim, do not necessarily address most of those sorts of uncontrollable circumstances.

The second benefit of an annual application is especially relevant to the operation of a monopoly enterprise because new issues, and especially fresh political policy considerations, may arise over time that prompt a review of the status quo.

Thirdly, and possibly the most obvious if not most important, an annual application presents a framework by Manito -- by -- a framework by which Manitobans might test the way in which this statutory

Corporation is operating.

Every year we see ordinary individuals who come to this Board to tell their story as presenters. Some might cynically dismiss these presentations as irrelevant to the rate setting process.

But it is obvious from the attention and compassion that this Board extends to such individuals year after year that the Board well understands the involvement of regular Manitobans to be part of the hearing process.

In addition, the annual application process invites more involved participation by Intervenors, a participation that as my learned friend Mr. Oakes has earlier said, is not available in the context of mere public consultations.

While some Intervenors are regular, others simply come and go as issues or concerns arise. The intervention process allows parties to test the filed application and even broaden the issues that the applicant had intended to address.

On my own client's behalf, for example, Information Requests were filed last year about the way in which driver licensing information is used and shared beyond the Corporation.

And this year there were questions about its arbitration process. Now none of these issues eventually figured prominently into the overall hearing process, but I'll submit that privacy concerns and transparency of process are important and they come to light only because of the involvement of Intervenors such as the Manitoba Bar Association.

While the applicant would have this Board pay attention to the financial costs of such hearings, I point out -- or rather I point to the Undertaking 18 that MPI gave in response to the questions by Board counsel which sets out how MPI gives away all -- well hundreds of thousands of dollars each year in community event sponsorship.

And perhaps flippantly I simply note that for less money than it gave away to sponsor a golf tournament or two (2) an Intervenor can be funded to review MPI's application, test its assumptions, come at issues from a particular angle of some interest or expertise and, I'll suggest, assist this Board in the oversight and evaluation of the applicant's rate proposal.

While these might be compelling reasons that support the annual application process there is, in this particular circumstance, a more fundamental reason to reject the proposed multi-year rate application. And that returns us to the benchmark study.

This applica -- applicant rather, has year after year failed to comply with an Order of this Board, an Order which the president of this applicant acknowledges to be binding upon the Corporation.

While this year's application gives my client and, indeed, Board counsel and the other Intervenors an opportunity to press MPI about its outstanding obligations owed to this Board through Orders of past years, my client expresses concern that if the multi-year rate application were approved, it likely would be three (3) years before we would return to the subject.

I submit that where a regulated monopoly has consistently failed to comply with the directives of the Tribunal to which the legislature has delegated oversight responsibility, that monopoly is simply not appropriately entitled to an exercise of this Board's discretion in the approval of a multi-year rate application.

For this reason as well as for the general public policy considerations expressed earlier, my client asks this Board to reject MPI's multi-year rate application.

Turning from those substantive issues to my concluding remarks, I can conc -- indicate to the Board that, pursuant to its rules of procedure, I'm indicating that my client intends to make an application for an award of costs.

I can also advise the Board that it is with genuine appreciation that the Manitoba Bar Association thanks the Board for allowing it to intervene in these proceedings. My client appears here not to benefit its own members, but rather to promote the fair administration of justice which benefits all Manitobans.

We do not seek to advance any particular or partisan view, but rather try to offer the Board a broader public policy approach to the issues that present themselves in the course of the rate application.

And my client trusts that the Board finds its participation useful. As always, I thank the Board for its preparation and attention. My thanks also to Board staff and Board counsel for their guidance; to MPI and its witness panel for their courtesy and cooperation; and to My Learned Friend, especially Mr. Williams, with whom, as in past years, I've collaborated in Order to avoid duplication of efforts in these proceedings.

Failing any questions, that concludes my client's submission.

THE CHAIRPERSON: Thank you, Mr. Dawson.

I am aware that Mr. Williams' final -- concluding statements will take some time. So I'm wondering, in the interest of process, if some of the others perhaps don't have such long submissions, I'm wondering, Ms. Wankling, does the CAA have anything to...

Well, there's a suggestion. What about you, Professor Miller? Are you...

DR. PETER MILLER: I've got about fifteen (15) or twenty (20) minutes.

THE CHAIRPERSON: Then why don't we move along with you now then? Thank you.

So we'll -- we'll proceed now with RCM/TREE, which is Dr. Miller.

DR. PETER MILLER: Thank you very much. I guess that's my brief that's being distributed there.

THE CHAIRPERSON: Yes, we have it.

DR. PETER MILLER: I did e-mail it in last night.

THE CHAIRPERSON: If you want, sir, you could either go through it entirely or we can put it on the record and you can just deal with highlights. It's up to you.

CLOSING COMMENTS BY RCM/TREE:

(WRITTEN SUBMISSIONS)

First I wish to apologize to the PUB, to MPI and to the other participants that I was unable to participate in the oral proceedings, other than to file a written opening comment and to present in person these closing comments. I was simply too overwhelmed with other commitments to prepare a proper cross-examination. I have, however, had a cursory look at the PAYD study released shortly before these proceedings and have read the transcripts.

RCM and TREE, as indicated in my opening remarks on October 3rd, have intervened a number of times before the PUB on the premise that gas, electricity, and insurance rates and policies should reflect the public interest as defined by principles of sustainability and justice. In previous proceedings we have argued that there is a strong prima facie case that the addition of a distance-based rating factor, or Pay As You Drive insurance, would promote both these principles better than the present system.

Both the PUB and MPI have indicated that they recognize the applicability of Manitoba's Sustainable Development Act to MPI, and both have acknowledged the urgency of addressing climate change mitigation.

In Order 156/06, the PUB requested MPI to gather information and examine approaches to Pay As You Drive (PAYD) insurance options

"along with other initiatives to enhance sustainable development objectives."

The Board further observed:

"Transportation emissions are a major contribution to overall greenhouse gas (GHG) emissions and a recognized danger to the environment. With a monopoly motor vehicle insurer, Manitoba has an opportunity to utilize the premium system as well as a new Driver Safety Rating program to encourage reduced discretionary driving, and the choice of vehicle.

The SDA requires all public bodies to pursue environmental objectives; MPI and the Public Utilities Board, though a Crown Corporation and a quasi judicial administrative tribunal, respectively, are among that number. (Order 156/06, p. 75)

In July 2007, MPI initiated research on these matters, which is reported in their PAYD study submitted at the end of August. MPI has also indicated, in last year's hearing, that they find a tension or conflict between the original MPI mandate to make affordable vehicle insurance accessible to all Manitobans and the demand management called for in Guideline 1 of Schedule B of the Sustainable Development Act. MPI indicated a willingness to work with stakeholders and the province to identify appropriate roles for the corporation in support of sustainability and GHG mitigation. To this end, Ms. McLaren undertook to contact the Centre for Sustainable Transportation (CST) at the University of Winnipeg to convene a workshop group

> "to discuss potential roles for MPI in addressing sustainability issues in general and climate change issues in particular in the transportation sector."

Although the initial contact between Ms. McLaren and the Centre has occurred, the working group has yet to be convened.

In his closing remarks last Wednesday, the Chairman asked the parties to consider a number of items. Three of these were (a) consideration of outstanding directions or recommendations made by the Board in previous orders; (b) the question whether the environmental impacts related to motor vehicles should be taken into account in rate setting; and (c) what should be MPI's priorities in its unfinished business?

My brief response to these points is that the issue of identifying MPI's role in addressing environmental impacts related to motor vehicles, is quite unresolved and a pressing priority that has been deferred for too long. My hope is that the working group process can generate specific recommendations that meet MPI's requirement that they stem from provincial government consultation. Some of those recommendations may in turn lead to further review by the PUB at next year's proceeding.

But that raises the question of whether, with the initiation of a multi-year application process, there would even be a proceeding next year. Our position is that either there should be a proceeding next year as long as the Board's sustainable development and other directives have not been addressed or that the Board pre-approve at this point the implementation of one or more pilot projects or other recommendations arising from the yet-to-be-convened working group on sustainability measures. Indeed I would hope that PUB staff be able to participate in the working group to keep abreast of the process and remind the group of the PUB's interest in these matters.

Let me point out that the PAYD study released at the end of August was released too late to allow for a proper discovery process or to be the subject of expert testimony, so its consideration is very much unfinished business.

It is encouraging that a review of these issues has begun, but since it was pushed off for a year after last year's GRA, a number of the points we raised then continue to be pertinent now and are restated, with some commentary, below.

1. MPI is obviously conflicted in trying to reconcile its historical mandate with emerging climate change policies and the encompassing requirements under the Sustainable Development Act. The Manitoba Public Insurance Corporation Act and the Public Utilities Board Act are not the only applicable pieces of legislation. A broad vision of the public good is provided through the Sustainable Development Act. We submit that the SDA itself constitutes the clear instruction from the Province that MPI says is lacking. In particular we have emphasized Guideline 1 of Schedule B of the Sustainable Development Act, which calls for demand management with appropriate pricing and incentives and ful-cost accounting to inform decision-making.

A premise of the multi-year application is that, through previous hearings and Board Orders, a consistent set of principles and methods have been developed that will continue to be applied into the future. The problem with this premise is that whatever consistency there is was achieved without the consideration of Guideline 1 of the SDA and through successive postponements of the Board's instructions to investigate the issue. It is a narrow consistency based on a pre-SDA mandate and should not be allowed to continue unchallenged into the future.

2. There is a need to improve MPI's database, research and policy deliberations to address sustainability issues. In particular, MPI should augment its collection of mileage data at the time of annual vehicle registration and claims.

3. We acknowledge that MPI's PAYD Study has provided a survey of implemented Pay-As-You-Drive systems that is helpful in identifying some of their different attributes. Note, though, that actuarial data was unavailable for this study. The absence of data from other sources underlines the importance of MPI augmenting its own database and analysis as well as seeking access to other insurers' data and research.

4. We also acknowledge that MPI has

undertaken some research into transportation elasticities relative to price changes in gasoline. the conclusion is overstates, however, when it moves from the technical definition of an inelastic response (the percent decrease in consumption is less than the percent increase in price, i.e., not hugely responsive) to

> "Manitobans have not been responsive to gasoline price increases..." (p.4).

This means that pricing, by itself, is not a single magic bullet and that other factors, such as those identified in the analysis, may also be operative trending in a different direction.

5. MPI should investigate distance and risk relationships. Again, this would require an augmentation and analysis of the MPI database. In the past, MPI has stressed the legal obstacles, but if mileage readings were recorded for every claim, not just write-offs, and reported for the annual vehicle registration, there would be no need for any kind of new law for that. MPI's information brochure to the public indicates that the Corporation gathers information for various purposes including the development of future rate policies. This would be in line with that.

6. The implications of ful cost accounting need to be taken up by MPI as a framework for

decision-making. What are the social and environmental costs of vehicle use and how can MPI policies contribute to their mitigation?

7. MPI should do more to identify or brand itself as a corporation subject to the Sustainable Development Act.

8. MPI should develop educational messages that promote sustainable development in the transportation sector. Some of these messages, e.g., leave your car at home and take a bus, not only reduce GHG but relieve traffic congestion and opportunities for accidents, which helps MPI with its claims and helps the medical system by reducing its caseload.

MPI has gone a good distance in promoting sustainable practices within its own operations, but still has a ways to go in its public role. Whether through further recommendations or orders or other means, the PUB should offer MPI every encouragement and guidance to proceed down this path.

(WRITTEN SUBMISSION CONCLUDED)

DR. PETER MILLER: Well, I'll -- it's -- it’s fairly short. I'll maybe just -- just highlight it.

And no doubt you're wondering who this

stranger is before you, and I do have to apologize that other commitments simply overwhelm me. I could not prepare appropriate cross-examination and so on.

So I've had the benefit of what -- what occurred here by reviewing the transcripts and had a -- a brief look at the Pay-As-You-Drive Study.

Our interventions in this and the Utilities, Centra Gas and Electricity, have been based on the principles of sustainability and justice. And we believe that these principles should guide policy and rates.

And so that's -- that's the perspective that we have been pursuing in a -- in a number of these interventions. And I've made a detailed argument for the appropriateness of pay-as-you-drive in previous hearings.

The PUB and MPI both acknowledge the Sustainable Development Act applies to them and both acknowledge the urgency of addressing climate change issues. So at that level of principle there doesn't seem to be an argument.

Order 156/06, the PUB requested the MPI to gather information, examine approaches to pay-as-you-drive and I'm going to quote their observations in connection with that:

"Transportation emissions are a major

contribution to overall greenhouse gas emissions and a recognized danger to the environment.

With a monopoly motor vehicle insurer, Manitoba has an opportunity to utilize the premium system as well as a new driver safe -- safety rating program to encourage, reduce discretionary driving and the choice of vehicle.

The SDA requires all public bodies to pursue environmental objectives. MPI and the Public Utilities Board or Crown Corporation - a quasi judicial administrative tribunal, respectively - are among that number."

And I think I -- I -- we have before us the -- the survey of Pay-As-You-Drive plus some studies related to some of the related issues of elasticities.

But Ms. McLaren last year indicated that it wasn't primarily technical issues that led her to balk at introducing it. It was policy issues.

And -- and so to address that side of -- of the concern, she agreed to contact the Centre of Sustainable Transportation at the University of Winnipeg to convene a working group that would include Provincial officials to look at this material, look at the issues, look at the policy questions, as well as the data, presumably, and come up with a set of recommendations.

So that has been initiated in the sense that the contact was made, but the meeting hasn't been called. I saw an agenda over the summer proposed by CSD which would have had about three (3) or four (4) meetings con -- completed by this time, but that hasn't happened yet. And of course, during this process no one is available.

So I'm looking forward to that, as the altern -- alternative forum that we said we preferred during the pre-hearing conference, and we're looking for what might come out of that.

If it has to do with some new rating scheme, then presumably the PUB might wish to review that. And this relates to the -- the multi-year application question again. And Mr. Oakes referred to that, that the pay-as-you-drive has not been resolved.

So unless the PUB is prepared to pre-approve going ahead with pilots or other initiatives, from a practical standpoint, I -- I would accept that. That's up to the -- the PUB whether it cares to do that.

I -- I think the time is not right, because of the unfinished business, for multi-year applications. The premise for a multi-year application is that all the Basic issues have been resolved and that we have a coherent, consistent methodology and -- and scheme for insurance.

But that is, I submit, is too narrow a consistency. It was -- it's a pre-Sustainable Development Act consistency. It doesn't include, specifically, the instructions of Guideline 1 in Schedule B of the Sustainable Development Act to work appropriate incentives in -- in the light of full cost accounting.

And so I -- I don't think that the current set of methods should be permitted to continue unchallenged into the future.

I'll leave it to the Board as to how to -- how to handle that issue, but the -- the premise is one that we would challenge.

The Pay-As-You-Drive Study came out, I think, August 31st, at the very end of the summer and too late for the discovery process or -- or to have any expert review. And so that in itself is -- is unfinished business. I'm hoping that this working group can have a look at it, and -- and make use of it.

So because the issue has been pushed off two (2) years, many of the conclusions that I -- I drew last year are still appropriate. And my concluding remarks lists them there, and I think I'll just let you put that into the record, the -- the various issues that I think are outstanding. Thank you very much.

Thanks for conceding the time.

THE CHAIRPERSON: Thank you, Professor Miller. We'll enter into the record your written brief.

DR. PETER MILLER: Thanks.

THE CHAIRPERSON: Is CAA prepared to proceed at this point?

MS. DONNA WANKLING: Yes, Mr. -- yes, Mr. Chairman, we are.

THE CHAIRPERSON: Then please go ahead. Thank you.

CLOSING COMMENTS BY CAA:

MS. DONNA WANKLING: Good morning, Mr. Chairman, members of the Board, ladies and gentlemen. My name is Donna Wankling and with me this morning is Mike Mager, President of CAA Manitoba.

With regard to the 2008/2009 rates, CAA acknowledges that we do not have the expertise to fully and completely analyse the proposed '08/'09 rates. So as in the past fifteen (15) years, we will leave this issue to the Public Utilities Board and its expert advisors.

However, we do have a comment relating to the rebate issue. While we don't believe that ratepayers will be unhappy about getting money back from MPI, CAA is aware that some motorists may have a difficult time understanding why they continue to overpay through the premium process only to get a rebate later.

And this isn't the first time that we've been in this situation. Now the immediate reaction to that statement may be that the Corporation cannot predict how any given year rolls out, weather related factors, the number and severity of claims experienced and investment returns impact the financial bottom line in any given year.

But the rebate situation surely reminds us of the income tax process. Many would consider their income tax returns as a bonus but others of us consider that we've overpaid and the Government has used our money without paying us the interest. Why are we overpaying in the first place?

On the issue of immobilizers, CAA sat and listened at length to the discussion on how well immobilizers are already solving the auto theft problem. In fact, MPI witnesses indicated that over the next several years they expect the immobilizers to fully solve the auto theft problem.

As a supplier of one (1) of the two (2)

approved immobilizers, CAA fully recognizes that the immobilizer is a very important part of the auto theft problem but it is not the total solution.

In fact, over several days of testimony we listened as it was pointed out that thefts have decreased but theft attempts are skyrocketing. Our concern is that we are on the cusp of an impending explosion of vandalism arising from the attempted thefts that will offset any gains made to eliminate the actual theft problem. Our understanding is that vehicle owners pay the full deductible of vandalism claims. As we've sat here and listened to the whole issue of auto theft as it relates to the installation of immobilizers, the thought occurs to CAA that although we are perhaps solving one (1) aspect of auto theft, we may in fact be masking the entire problem.

By this we mean that as we bring down the total number of vehicles available for easy theft as we immobilize them, what is going to be hit in its stead? Certainly we've talked about vandalism increasing but perhaps carjackings, house break-ins, etcetera will be, no doubt, increasing because of our success in minimizing actual car thefts.

We've heard MPI witnesses suggest that after we've immobilized all the most-at-risk vehicles, quote:

"Thieves will give up." end quote.

CAA believes that they will turn their attention to other things rather than give up. Our concern is that all of us in this room, namely the Public Utilities Board, its advisors, MPI and all of us that are intervening have a larger societal obligation to insist on proper interventions to bring about proper societal change.

This means that people beyond this room, namely Government and the Justice System, need to be part of the solution and we, collectively, need to hold their feet to the fire to accomplish this.

At the present time we are taking them off the hook by some of the things that motorists are being double taxed on. For example, when MPI participates in paying for a Crown prosecutor and other functions in the justice system and when they fund police departments in Winnipeg, more that Brandon, the RCMP and the Dakota Ojibway service, the motorist is in fact paying twice; once through their general tax payment and again through their Autopac fees. Why? What was to have been a startup cost for any of the police issues has now taken on the appearance of permanent funding.

On the issue of MPI's funding of the --

for the Immobilizer Program, we were astounded to hear MPI suggest that Extension has more than paid their fair share of the costs of immobilization. They suggest that the transfer from Extension Surplus to RSR was monies that prepaid Extension's portion of the Immobilizer Program, CAA finds this incomprehensible because this transfer occurred before the Immobilizer Program was completely ruled out.

On the issue of retained earnings, CAA has consistently pointed out that the Extension portion of MPI's business is not a competitive line anymore and should be under the auspices of this Public Utilities Board.

MPI acknowledged during these hearings, in a very casual way, that 90 percent of Basic insurers in this Province utilize MPI for Extension coverage. By any Basic textbook or 101 course, this constitutes a monopoly.

Monopolistic utilizations of MPI's products were supposedly under the purview of the Public Utilities Board as set out by the Government when creating the mandate for this Board to watch over MPI. If at that time Extension coverage was not as monopolistic as it is now and was therefore excluded, it certainly is not the case today.

Any earnings of Extension products would be impossible without Basic policies being written by MPI and the ability to so easily put Extension into effect through their Autopac online programming paid for by Basic insurers. Clearly, the issue of Extension earnings and buildup of reserves in the Extension area needs to be changed. We intend to follow up on this issue.

On the issue of PIPP. Back when the Government moved MPI into a no-fault system, CAA opposed the change. We were concerned that ultimately some claimants would in fact be hurt by this move. Over the years since then, CAA has monitored the continuing increase in PIPP costs and notes that these costs are not abating.

More importantly than this, CAA originally was concerned with claimants being unable to understand their rights totally with the need to rely on MPI staff. The actual case brought forth by the single mother on the first day of this hearing reminded CAA of the reason why we opposed no-fault in the first place. Whereas the rights of the now paraplegic daughter are by law covered, the actual policy set out by MPI may not be properly serving her.

This case completely and totally reminded CAA why we opposed the PIPP program and we add our concern to that of other Intervenors about getting the PIPP Review done and not put off again.

The integration of DDVL into MPI operations has created a significant example of transparency problems. The absorption of staff into MPI operations cannot be fully followed because MPI says they are now doing different functions than before and so the full cost of these employees are no longer attributed to DDVL only.

Following this explanation, CAA asks the question of why then has the total number of employees increased as significantly as it has? Again, because the cost of DDVL is being charged to Extension and all of us at these hearings are not allowed to follow the money. The transparency of the transfer of employees is compromised.

With regard to the multi-year application, CAA submits that MPI stands for Manitoba Public Insurance. By moving towards a multi-year process, it removes the public from any of these proceedings. CAA has heard MPI indicate that the public participation would be facilitated at their information sessions; these information sessions would replace this PUB Hearing. But in answer to Mr. Oakes, Ms. McLaren indicated that the number of people attending those information sessions is typically minimal and is comprised of people who have a specific problem with the adjudication of some part of their claim, much like those people attending this Hearing in the afternoon on the first day. So in essence, the public part of any of these rate hearings is removed if we proceed to a multi-year process.

As we've stated, CAA has participated in these hearings for many years. When we first became part of this process, MPI's financial capabilities were at the point of bankruptcy and MPI needed all of us to help build up their income, their reserves, and their ability to operate on a long-term basis.

CAA, along with others sitting as Intervenors today, became part of the solution to the extent that we agreed to be overbilled by 2 percent per year in Order to build up reserves and the ability to continue to operate. Along the way we participated fully; at times, differing with others on items such as funding, extensive computerization and other projects. The net result out of all of this is that MPI is now overflowing with riches.

In CAA's opinion, it is at this particular time that transparency of rate-making and the requirement of the Public Utilities Board to oversee this process is critical. We would not wish to see a repeat of the intention of MPI to fund universities, as an example, with motorists' money. Nor do we want to see history repeated by having a negative financial situation arise as happened when we first became involved.

MPI's reason for putting forth a multi-year application at this time is based on the fact that when earnings and operating results are as positive and predictable as they claim, under the Legislation they are allowed to ask for a multi-year process. MPI puts forth the argument that there is considerable savings to be made in a number of ways; namely, financial and people.

When questioned in detail about this, the financial savings of one tenth (1/10th) of 1 percent of total billed premiums and two and a half (2 1/2) people out of the total MPI workforce is hardly a solid reason to proceed at the expense of public participation.

Mr. Chairman, in our opening remarks, CAA stated that we appreciated the opportunity to participate in this public transparent process.

We've noted that during our time at these hearings, we've witnessed how dramatic the fluctuations can be within a twelve (12) month timeframe, when the reality of what has transpired has been significantly different than the predictions initially set forward.

The opportunity for all stakeholders to

meet in this public forum for the purpose of discussing auto insurance rate -- rates set by the MPI monopoly is a critical component. The very fact that Manitoba's automobile insurance is a monopoly demands this.

We have no other choice but MPI. We have no ability to vote with our wallet by going to another insurer if we don't like decisions made in the absence of this Board.

The prospect of a multi-year process is akin to drawing a curtain around MPI. What is currently an open process, open to public scrutiny, suddenly becomes more opaque with little or no opportunity for questions, dialogue, or debate.

CAA believes that a multi-year process for Manitoba Public Insurance is wrong, and we do not support it.

With regard to Board Orders and recommendations, similar to other Intervenors, CAA believes that abiding by Board Orders and its recommendations is incumbent on MPI. In CAA's view, recommendations should be either followed or the reasoning for not doing so explained fully by MPI.

To not follow this as a principle is in effect having MPI question the PUB process, triggering a CAA memory of MPI's attitude towards the Public Utilities

Board process some fifteen (15) to sixteen (16) years ago.

In closing, CAA would like to thank the Public Utilities Board, their advisors, our fellow Intervenors, and finally the MPI witnesses. In particular, we'd like to acknowledge Barry Galenzoski, who over the years has added significant value to these hearings. We wish you well, Barry, on your retirement, while at the same time we recognize that MPI and Manitoba are losing a VIP when it comes to auto insurance.

Mr. Chairman, this concludes CAA's comments.

THE CHAIRPERSON: Thank you, Ms. Wankling. We appreciate it.

Now, I don't see Mr. Roberts from MUCDA here, so I think what we'll do, Mr. Williams, if you don't mind, we'll take our lunch break now, come back at 1:00, and then you can proceed uninterrupted.

MR. BYRON WILLIAMS: That's fine, Mr. Chairman. I'm certainly prepared to go at 12:30 if it assists the Board. We have some other obligations in terms of the Pay Day Lending proceeding, but we can go at 1:00 if -- if you desire as well.

THE CHAIRPERSON: What's your view, Mr. McCulloch?

MR. KEVIN MCCULLOCH: Well, Mr. Chairman, at some point, I'm going to need time to prepare some responses to comments made by the Intervenors to date. We either do it now, or we do it later. I don't know how long a presentation Mr. Williams is planning.

THE CHAIRPERSON: Can you give us an idea, Mr. Williams?

MR. BYRON WILLIAMS: I'm guessing about an hour and a half to upwards of that.

THE CHAIRPERSON: Well, why don't we come back then at -- have a short lunch. Come back at 12:30, and then we can have a break and give you a half an hour to make any adjustments that you want to make. How's that?

MR. KEVIN MCCULLOCH: I think that should work fine. Thank you.

THE CHAIRPERSON: Okay. We'll come back at 12:30. Thanks to everyone.

--- Upon recessing at 11:44 a.m.

--- Upon resuming at 1:34 p.m.

THE CHAIRPERSON: Okay, Mr. Williams, any time you are ready.

CLOSING COMMENTS BY CAC/MSOS:

MR. BYRON WILLIAMS: Thank you and good afternoon, Chairman -- Mr. Chairman, and Board Members. Just of the Board's assistance -- first of all, I should note that Ms. Desorcy was here for much of the morning. She had to leave to teach a class at -- at the university, so she bids a fond adieu to the PUB proceedings for this year relating to MPI. I think she'll be back in short order on Payday Lending, though.

Just for the Board's assistance, as well, there are -- and, of course, you don't need to refer to it, but to assist you in following the argument, there are five (5) CAC/MSOS exhibits I may be referring to.

One is the pretty green book, CAC/MSOS Number 3, also CAC/MSOS Number 8, Number 9, Number 10, and Number 12. And just to assist the Board, as well, in terms of the subjects that I'm proposing to cover this afternoon, I'll start with the multi-year plan. I'll move into operating and administrative costs and then into PIPP, road safety, auto theft, issues of cross subsidy, the driver safety rating, and then provide some recommendations in terms of the revenue requirement and the RSR rebate, as well as addressing some issues which the -- the Board posed in the last day of the hearing.

As I move from each section -- for example when I leave the section relating to the multi-year plan, I'll make some recommendations on behalf of my clients, at that point in time.

And just to start off, by way of hopefully relatively brief intro, as the Chairman and the Board may be aware, this year we're celebrating the 25th anniversary of the Public Interest Law Centre. And it was initiated way back in 1982 under then Attorney General, Mr. Roland Penner. The Legislature, at the time, expressly amended the Legal Aid Act to allow the Public Interest Law Centre to represent public interest groups, and expressly included in there was a reference to consumer groups.

And as you may or may not be aware, one (1) of the very first clients our office ever represented, and we still have the honour of doing so today, was The Consumers' Association of Canada, the Manitoba branch. And as a review of past Board orders would make evident, the Public Interest Law Centre and CAC have been there for many of the battles over the past two and half (2 1/2) decades with regard to telecom issues, Hydro issues, in the early days, natural gas issues, as well.

And the Public Interest Law Centre in CAC were there in those dark early days when public interest groups, Intervenors, were reviewed by at least some parties to regulatory proceedings as interlopers, as mere busybodies in those early years, who added very little to the regulatory process, except additional costs.

And the Public Interest Law Centre and CAC were there in those dark early days when interested parties, public interest groups, were denied participant funding. And PILC, on behalf of CAC and other consumer groups led the battle in Court and in regulatory proceedings before the Public Utilities Board to -- to bring interested parties, public interest groups, to their rightful place be -- they would submit anyways, before Public Utilities Board, via the participant funding mechanism.

And way back in 1984, after many years of effort, the Public Utilities Board amended its process, its procedures, to allow for the -- the awarding of costs awards to interested parties, public interest groups.

Over time the Consumer coli -- Coalition that CAC initiated was added to and expanded to include our friends at minu -- Manitoba Society of Seniors. And my current clients in this proceeding, CAC/MSOS, like to think that over the past 25 years most individuals in this room would concede the pollo -- public interest groups have made a significant contribution to the regulatory debate in matters relating to Hydro, natural gas, and particularly MPI.

Now, I haven't been before the Public Utilities Board for as long as My Friend, Mr. Kruk, or My Friend, Mr. Galenzoski, or perhaps My Friend, Mr. Saranchuk, but I have been here a long time. And I'd like to -- and I'd like to just summarise for the Board some of the many contributions that I would suggest of public interest groups such as CAC/MSOS, CAA, CMMG, the Manitoba Bar Association, and TREE have played.

And in my client's respectful submission, these public interest groups have played a critical role in stimulating debate and pushing corporate and regulatory decision making on issues such as, for example, the diversification of the Corporation's investment strategy.

I remember the lonely days in the early 1990s when a CAC/MSOS witness argued for a much more di -- diversified portfolio so that MPI did not continue to lose out on opportunities in the equities market; issues such as risk analysis and the RSR rebate.

And I remember when Mr. John Todd on behalf of CAC/MSOS, first mentioned the idea of a rate rebate. Mr. Oakes' clients have been important in issue -- raising issues relating to more equitable treatment of motorcyclists, including the Great Loss Transfer Debate. And consumer groups such as CAC/MSOS and CAA have been at the forefront, even in this decade, in fighting efforts by the Corporation to budget for a loss in revenue applications have been brought before this Board.

Likewise, CAA and CAC/MSOS argued for more rapid implementation of clear, notwithstanding the pain that it caused to some classification sales. CAC has been long offering a voice in terms of road safety and CAA in terms of auto theft. And of course, there's the tremendous contributions of Dr. Miller in terms of sustainability and issues relating to pay-as-you-drive and other issues.

So, my clients would argue that on balance, consumer involvement in the regulatory process has done a tremendous service for all Manitoba driv -- drivers and for the public interest.

And a -- my clients also recognise that this positive contribution that consumers have made would not have been possible without the buy-in of the Corporation and the buy-in of the Public Utilities Board and its advisors.

And my clients see, in other venues, a growing recognition of the value that public interest groups can make to informed regulatory debate. They see the recommendations of this Board with regard to Centra Gas, where Centra has been recommended to it, that it consult with CAC/MSOS on issues such as demand side management, consumer education, bill formatting, and survey and focus groups.

And they see it the efforts of other public-owned insurers across western Canada. They see the recent initiative by Saskatchewan -- SGI referenced at page 70 -- 764 of the transcript, the customer council initiative.

They see as well the efforts by ICBC for increased consultation with stakeholders in terms of rate design. Again, that's referenced at page 764 of the transcript.

And that is why my clients are so perplexed and so disappointed that MPI, without even consulting with consumer groups, has brought forward its multi-year application process, the likely consequence of which will be to effectively shut public interest groups and consumers out of the regulatory decision-making process in 2009/2010 and 2010/2011 -- even in circumstances as extreme as where the Corporation is seeking a $20 million rate increase or in circumstances where major classes could be facing rate increases of as much as 15 percent.

And it's been covered today, but perhaps it’s important before going any further to make it clear exactly what the Board is being asked to approve by the multi-year application of MPI.

MPI has confirmed that this is a multi-year process it's seeking approval for, not a multi-year application. The only application before the Board and for consumers that they're being asked to passed judgment on is for the '08/'09 year.

The Board and consumers are not being asked to pass judgment on or to offer advice on forecast costs for '09/'10. They're not being asked to approve forecast costs for 2010/2011.

And unless that one single digit, that actuarially -- that actual indicator is greater than 3 percent, my client’s submission is that the MPI proposal is for consumers to be essentially shut out of the regulatory process in '09/'10 and 2010/2011.

Now you may suggest that the language I use is too strong, but take a look if you would -- and you don't need to refer to it now -- but the Corporation's responses to CAC/MSOS second round 22, and second round 25 found at the PUB book of documents at Tabs 35 and 36.

What does MPI suggest is a primary vehicle for consumer input in those years 2009/2010, 2010/2011? Public information meetings. And then look at the bizarre suggestion made by the Corporation in the course of this proceeding at page 620 that the Board perhaps could be the intermediary between the Intervenors and ourselves in those years.

The logic of the MPI application -- the proposal as CAC/MSOS understand -- it is that for the 2009/2010 year the 2010/2011 year there would be a rate application. There would be costs the PUB would be forecast -- asked to sit in judgment on -- on. There would be significant changes to the proposed rates for the major classes and for the thousands of classification cells.

But unless the actual indicator was greater than 3 percent the PUB would be asked to sit in lonely judgment without the benefit of a public hearing, without the benefit of cross-examination, and without the benefit of the input of public interest groups.

As Board counsel, Mr. Saranchuk, eloquently suggested at page 623 of the transcript the essential thrust of the multi-year process proposed by MPI is that the Public Utilities Board appears to be requested to fulfill its mandate and act in the public interest without participation of the public interest groups.

My client struggled to get at the essential thrust of the MPI application, their opening statement. They may look to retain Mr. Saranchuk in the future because I think he did a better job of it than I might of.

Well does is make sense? Does it make sense for MPI to shut public interest groups out of the regulatory decision making process for those two (2) years? On behalf of CAC/MSOS we will respectfully suggest that it does not.

We -- and first of all we'll suggest that MPI cannot rely upon regulatory pre -- the regulatory precedence of telecom, Natural Gas or Hydro to justify its position. And we will also make it clear that the costs of the MPI process far outweigh the less than compelling benefits that they've offered to date. As a starting point, we would ask this Board to recall that there is a key distinction between Public Auto Insurance customers and oth -- and other customers.

And that distinction is that it is simply not practical to employ a multi-year rate application for MPI. Although my clients do not necessarily endorse the practice, they concede that with a utility like Manitoba Hydro, it is possible to have a multi-year Rate

Application.

We can be fairly confident that the cost being forecasted -- to the forecasted projected years can be reasonably tested. We can also be reasonably con -- confident in the Hydro sense that even if there are changes from year to year in the cost allocation between respective classes, of which there's only nine (9) or ten (10), those changes will not rou -- result in unconscionable rate impacts if deferred for a year.

There's a zone of reasonableness when we look at Manitoba Hydro Rate Applications. And the -- the volatility of cost allocations between classes is much less than the volatility that would occur when you look at the thousands of classification cells promoted and administered by Manitoba Public Insurance.

And MPI concedes this, in their response, the first run interrogatory, the PUB Number 64, and in response to cross-examination at pages 635 and 636 of the transcript. It concedes it is not realistic po -- realistically possible for the Corporation to file a two (2) year GRA because of the material movement due to rate group and rate line adjustments.

And as Mr. Palmer observed, there is a necessity to adjust rates on an annual basis to ensure the integrity of the classification system. As Mr.

Palmer confirmed, clear rate groups are updated annually as vehicles age and as loss experience is recorded.

As Mr. Palmer confirmed, by not adjusting rates on an annual basis and requiring a two (2) year adjustment, that could result in large rate dislocations or rate shocks. Put another way, as confirmed by Mr. Palmer at pages 640 and 641 of the transcript, unlike Manitoba Hydro, the major classes within Manitoba Public Insurance do not have a postage stamp rate.

In contrast to less than the ten (10) rate groups Manitoba Hydro -- of Manitoba Hydro which may have differentially indicated rates, within Manitoba Public Insurance there are lit -- literally thousands of classification cells with a different actuarially indicated rate and with the strong likelihood that the relationship and the individual rate between these classification cells will change on a year-to-year basis.

I want to take a -- a moment to look at different regulatory models relating to telecom or natural gas and hydro, not as an endorsement of those models, but to make the point that what those models offer to consumers are far superior to what the Manitoba Public Insurance multi-year Application offers to consumers.

And we would note that in -- that MPI in its media backgrounder, that's at Volume I of the Application, seem to be saying that its multi-year process was bringing its rate setting process in line with that of electricity, natural gas distribution, and local telephone services.

But we were glad to hear Ms. McLaren reject this point at page 660 of the transcript, lines 18 to 20, when she said:

"I would not say it all, but this is the Corporation's perspective with respect to the multi-year Rate Application."

Because the fact is clear that the multi-year proposal advance by M -- MPI is not in the least comparable to the CRTC price cap regime or the regulatory regimes of Centra Gas or Manitoba Hydro. In my -- my opening statement on behalf of my clients, I made the suggestion that MPI was making a tortured analogy between its multi-year rate process and the regulatory environment experienced by ratepayers of MTS, Hydro, and Centra.

I've carefully reflected upon the words and I believe the phrase, "tortured analogy" was an understatement. In the respectful view of CAC/MSOS, the multi-year process envisioned by MPI bears no relationship to these other models. It's but a frail, impoverished shadow of the productivity, accountability and savings offered to consumers under the price cap model; or the productivity, accountability, and transparency of the models employed with regard to Centra and Hydro.

Let's take a look at telecom. And if the Board is interested, the -- an excellent summary of the telecom price cap regime appears in CAC/MSOS Exhibit Number 3, the pretty green book at Tab 6. And a starting point is to recognize that the telecom regulatory regime is a regime unlike any other; unlike the cost of service model for MPI and Manitoba Hydro, unlike the traditional model for Centra of rate base -- rate of return.

The telecom model is a PBR model, a Performance Based Regulation. The -- in which ratepayers and com -- regulated companies are offered the light hand, a lighter hand of regulation in return for guaranteed productivity serv - savings put directly back into the pockets of consumers.

And again, the -- a nice summary of this model can be found in the excerpt from telecom decision CRTC 202-34, and I won't drag you through it in burden -- burdensome detail. But it's important to understand first of all the environment in which price caps is bought -- brought into place; a much more competitive environment then under the MPI model; viciously competitive in the long distance side, even in the ear -- in the mid 1990's. And when price caps were brought in in 1997, we were just on the cusp of a major breakthrough on the local side; convergence between telephone and cable, cellular as well.

And at least as importantly, or perhaps more importantly, there's tremendou -- has been in the past two (2) decades, tremendous technological breakthroughs in the telecom industry. And they have created tremendous opportunities for productivity savings, such that the core element of the price cap model, in sharp contrast to the MPI proposal, was that the central trade off for reduced regulation was, in the first years of the model, a 4.5 percent productivity offset, and in 2 -- in 2002, a 3.5 productivity offset.

What does that mean? Well it means that if inflation was rising at 2 percent, on an overall basis, consumers were guaranteed a 2.5 percent reduction in rates. I didn't go through the price cap model in any great detail with MPI, because it's quite clear that despite the analogies that it attempted to draw, it was very unfamiliar with it.

But I'd ask you for just a minute to look at Roman Numeral II, the second page of the -- of the -- of Tab 6 of this -- or the second page of the Executive Summary of the price cap decision. And again, you can refer to it later, but when you look -- look there, you'll see this is what consumers were offered in addition to a 4.5 percent productivity offset.

The fourth paragraph, starting with fourth, they were offered quality of service mechanisms which provided a rebate if there was a poor quality of service. Going down another line, they were offer -- the CRTC maintained the authority to pro -- approve and designate service improvement capital plans.

And if you go down to the second to the last bullet on that -- on that page, you'll see the tremendous protection provided to Basic residential customers. The -- the sub-basket for residential customers was subject to constraint of inflation, less a prod -- productivity offset. And no specific service could -- could have an increase in a rate element greater than 5 percent a year. Tremendous protection, far superior to the protection offered under the -- the MPI proposal.

So when you look at the telecom option, the price cap, the performance based option, guaranteed product op -- off -- offsets in the pockets of consumers, rebates for per quality service, Basic service restrictions on price growth; far superior to that offered by MPI, and still the regulator maintained approval over capital expenditures.

And it's just clear that MPI is not comparable in terms of their proposal. First of all it doesn't exist in -- in a competitive world. Consumers don't have the choice of going elsewhere, as made evidently clear by Mr. Oakes this morning.

And more importantly, it's clear that there's no productivity offset being offered to consumers by Manitoba Public Insurance. There's no productivity guarantee, for example, assuming that inflation is 2.5 percent, that overall rates will decrease by 2 percent.

There's no guarantee of an overall rate reduction in exchange for de -- denying consumers a voice in the regulatory process. In fact, MPI indicated that it -- it was not interested in the -- the Public Utilities Board imposing limits on it in terms of capital expenditures or OM&A expenditures.

There's no rebates offered under MPI for poor quality service and there's no 3 percent cap -- or excuse me, 5 percent cap. CAC/MSOS doesn't endorse performance-based regulation for MPI, but they do wish to make the point that the price cap regime is a far superior model to consumers compared to what MPI is offering.

My clients want to turn for just a few seconds, as well, to natural gas, which as the Board knows, is historically based upon rate base of return. Just again -- and some of these points have been made previously -- when you look at natural gas, you're looking at seven (7) or so major classes plus a couple of interruptibles.

You're looking, very importantly, at a quarterly review of the primary gas product, which accounts for about 70 percent of the costs. You're looking in terms of distribution and transfer -- trans -- transportation, at Centra being obliged still to justify all its plant expenditures and the Board retaining the authority to disallow capital expenditures from the rate base.

By contrast, MPI has thousands of classification sales, they don't have the quarterly review, and the level of scrutiny -- we would respectfully suggest -- is far less intense in terms of capital expenditures.

In terms of Hydro, again, just moving quickly to that subject, again, leaving aside diesel, there's certainly less than ten (10) major classes in

Manitoba Hydro. And think about what opportunity consumers have in a Manitoba Hydro general rate application. And I understand that we -- we have one (1) coming up quite soon.

In a multi-year application they have the opportunity to test the forecast cost for each year. They, in the course of that proceeding, will be aware of the actual rate increases that the Company is proposing for each of those years in that public process and be able to challenge that.

They will be able to challenge the Company's allocations of costs and revenues between classes, with regard to each year, in a Manitoba Hydro general rate application.

And I think it's safe to say, at least for the -- the time that I've been around, that it would unheard of for Manitoba Hydro to have a 1 percent or 2 percent or 3 percent rate increase without a public process involving Intervenors.

Even the conditional interim rate increases in 2005, flowing from the PUB's decision in 2004, in those proceedings Manitoba Hydro was subject to additional filing requirements.

They were subject to consumer-written comments, and those proceedings were tested with consumers having a meaningful involvement. And if you're looking for a reference for that, although the PUB will be aware -- well aware of that, that's in Tab 7 of the CAC/MSOS book of documents.

It's been talked about briefly, but I -- I want to turn -- and I'm -- I'm going to summarize on this point in just one second, but I want to turn to the subject of the RSR rebate for a second.

As CAA and also CMMG have noted, the RSR rebate is evidence of consumers in the past paying too much. And under the multi-year rate application proposed by MPI it's clear -- and this appears at page 652 to 655 to the -- of the transcript -- that in 2010, 2011 the Corporation could have as much as $36 million too much of consumers' money in its rate stabilization reserve and not be obliged to provide a rebate.

$36 million -- an average rebate of between forty (40) and forty-one dollars ($41) and no rebate -- and as far as I can tell, no proposal to pay interest to consumers in terms of the rebate that should -- should have been pay -- paid.

So, clearly the MPI proposal does not offer the productivity tradeoffs for less regulation offered under the price cap regime. It lacks a transparency and efficiency and the regulatory tools which could be applied to Centra and Hydro.

Well is there something else on offer? What if anything else has the Corporation offered in exchange for the denial of a voice to consumer groups?

Well, we know that cost savings are minimal and that they're overstated. Even the Corporation admits that the direct savings will be less than seven hundred thousand dollars ($700,000) and at cross-examination at page 656 of the transcript, we concluded, we confirmed that that would be less than eighty (80) cents per vehicle. And the Corporation also conceded to Mr. Saranchuk under cross-examination that they're probably overstated these cost savings.

We also know that the incremental staff reductions are minimal. Two point five (2.5) positions over a employ -- EFT equivalent -- population in the range of fifteen hundred (1,500), fifteen hundred fifty-eight (1,558) for the year 2010/2011 less than two tenths (2/10) of 1 per cent, and the reference for that is page 658 of the transcript. And we know that the Corporation doesn't even contemplate the PUB imposing spending limits on OMNA or capital expenditures.

So is this a tradeoff consumers would buy? Would consumers be prepared to lose the right to test by interrogatory, cross-examination, and expert evidence a

$20 million revenue requirement raising rates for some classes by 15 percent and raising rates for some classification cells by 20 per cent?

Would they be prepared to trade that in exchange for cost savings of eighty cents ($.80) a vehicle? Would consumers be prepared to lose the right to test the merits of an RSR rebate averaging forty (40) forty-one dollars ($41) per consumer for eighty cents ($.80) per -- forty (40) to forty-one dollars ($41) per vehicle for eighty cents ($.80) per vehicle?

In my clients submission, if you pose this question to consumers, if you told them the company was not proposing OMNA caps, not proposing caps in capital expenditures, but was seeking to shut consumers out of a process that have served them, well, I suspect that the first answer from most consumers would be no, I won't trade away accountability. I won't trade away transparency. I won't trade away my chance for a forty dollar ($40) rebate per vehicle just to save eighty (80) cents.

MPI suggests that the -- the PUB should look at how stable its rates have been and look at how mature its forecasts and rating practices have been as well. But how credible are the MPI claims of rate stability?

Ms. McLaren said, under oath at page 605 of the transcript, it's entirely plausible by the end of the year or in '08 or in 2010, significant events could compromise our ability to provide rate stability. The MPI position on this point seems quite inconsistent and consumers aren't prepared to trust the Corporation's definition of rate stability. They remember twice in this past decade where MPI has come in seeking and projecting a budget -- a budgeted loss and that's not the kind of rate stability that consumers are prepared to leave in the trust or entrust to MPI.

In terms of the maturity of the Corporation's forecast, one has only to look at the PIPP results over the past nine (9) years and I believe those are summarized in CAC/MSOS Exhibit Number 9 to challenge that assertion. And I'll talk about that a bit later when we get to PIPP.

Or, look at the variance in claims in -- incurred over the past decade, and we went over that discussion at page 844 of the transcript. The smallest variance in terms of claims incurred was way back in 2000/ 2001, a $3 million variance or a 0.2 per cent variance. The biggest absolute dollar variance was quite recent, 2004/'05, a $48 million variance. So is that sign of a mature forecasting procedure? When it comes to the big stuff, when it comes to PIPP, or claims incurred, there's nothing to suggest that MPI has got the forecasting business sewn up. And I believe Mr. -- Mr. Palmer, was quite candid about that on a number of occasions in this -- in this proceeding.

In terms of the rating practices of the Corporation, we would just note the -- the cross-examination of the Corporation by Board counsel.

When issues were -- were at least raised in terms of whether the fleet rebate process was actuarially indicated, concerns have been raised about driver premiums, as well as a Bonus/Malus System not being actuarially indicated. So again, there's much to be done in those areas as well.

Now, one (1) of the -- the last arguments that MPI has made in this proceeding on -- in terms of the need to reduce its regulatory burden is that it needs less consumer involvement because it needs more time to spend on driver safety rating, on PIPP, and on the service centres.

And to be quite frank, CAC/MSOS simply don't accept that argument. And just to explore that subject a little bit, I went over with Ms. McLaren at pages 677 and 678 of the transcript the juggling act that major Crowns such Manitoba Hydro have to go through.

Look at what Manitoba Hydro has done over the past few years, and I may be regretting my words at the Hydro General Rate Application, but we should be fair. They've handled two (2) major acquisitions, Centra and Winnipeg Hydro. They've been involved in heavy competition in the export market.

They have a imi -- initiated a multi-billion -- or a billion-dollar capital project being Wuskwatim. They're in high-level planning of two (2) other multi-billion dollar projects being Keeyask and Conawapa.

And on an annual basis -- and MPI confirmed this between pages 677 and 678 of the transcript -- they have to handle hundreds of millions of dollar of capital expenditures; at the same time, embark upon complex negotiations with Manitoba First Nations in terms of Hydro development; be involved in significant private public ventures, such as Wind; initiate major conservation programs, such as DSM.

And we would respectfully suggest that their regulatory agenda involving appearances before the Public Utilities Board, the Clean Environment Commission, and major regulators in the United States in Minnesota is -- is significant.

Now, it's true that Hydro may be two (2) or three (3) times larger, in terms of revenues and staff, than MPI. But in the respectful view of CAC/MSOS, given the relative size, it's clear that Hydro is juggling at least as much and probably more than MPI, as MPI's facing challenges such the integration of DVL and its $50 million Immobilizer Program.

CAC/MSOS would also point out that to the extent that MPI has felt time pressure or burden as a result of the regulatory bro -- process, some of this pressure is a function of its own choices. MPI certainly was within its rights to do so, but on -- over how many years have we spent debating the -- the relative virtues of the MCT versus the risk analysis approved by the PUB?

How much time have we spent in this proceeding on the multi-year application instead of on other issues such as driver safety or PIPP? Moreover, to the extent that MPI has felt time challenged, why hasn't it sought the advice of others?

Why doesn't it look to the example of Manitoba Hydro, which delegates much of its regulatory agenda to it very competent staff below the VP level? When was the last time we saw the CEO of Hydro at a major regulatory proceeding?

Why hasn't MPI sought the advice of consumers of Board advisors on a way to make the regulatory process work better? Why don't we talk about ways to make the findings more helpful, more transparent, and perhaps make the process more efficient?

Why hasn't MPI used the device of technical hearings, not as a way to avoid public hearings, but as a way to streamline the process?

For example, could we not use technolo -- technical hearings to address complex background issues such as forecasting without requiring the entire retinue -- retinue of the MPI panel to be there?

The bottom line from the perspective of CAC/MSOS is that the current regulatory model has worked well and in the public interest, it has helped the Corporation, it's helped rate -- ratepayers, and it's helped the province.

And public participation has been a key part of the current regulatory model. On behalf of CAC/MSOS, we would urge the -- the MPI -- or the PUB Board not to accept this proposal. Specifically CAC/MSOS have three (3) recommendations for the Board.

First of all, as you might have guessed by now, they're recommending that the PUB reject the multi-year rate process proposed by MPI and endorse continued consumer participation in the regulatory process on an annual basis.

Secondly, while CAC/MSOS are of the firm view that the current regulatory procedures serve the public well, they recommend that MPI be invited to meet with interested parties and board advisors to discuss ways in which the regulatory process can be more transparent, more accessible, and more efficient. Issues to be considered could include minimum filing requirements, what should be deleted, what should be added; for example, from the consumer pro -- perspective can we make the trend analysis more useful?

Another issue to be discussed would be the merits of a more focussed technical -- technical conference on key hearing issues in terms of assisting and understanding of the issues and reducing hearing time. A third issue which we think would suggest should be on the agenda is ways in which we can better use the experience of other insurance crowns. And we note that there's a much more data in the public domain as a result of greater regulation of ICBC and the filing by SGI in its -- before its recommender if not regulator this spring.

The -- the third recommendation and CA -- CAC/MSOS is looking at doing this by itself, but certainly that the Public Utilities Board or MPI consider co-hosting a 'Without Prejudice' forum for regulators, crown monopoly insurers, consumer groups, and other stakeholders on matters of mutual concern in public insurance, investment policy, road safety, auto theft, long term bodily injury claims, and sustainability.

In recent months my clients and myself have been in contact with consumer groups in Saskatchewan, in British Columbia. We found there's a lot to learn; that we don't have a monopoly on wisdom and it's -- it's an idea that we've been thinking whose time has come.

Mr. Chairman, I'm moving on to the subject of operating and administrative costs. Ms. Everard and Mr. Oakes stole some of my thun -- thunder on these points, but I will summarize a little bit of this. Certainly Ms. Everard noted in -- in her opening state -- statement a trend of increases in operating expenses in the projection and forecast years and also in past years a significant growth in staffing littles -- levels with the figure she cited being support staff growing by some 65 percent.

Now before turning to the kind of a high level analysis of the question of operating and administrative costs, it might be helpful to remind ourselves that it's the Corporation which bears the onus, in terms of establishing the reasonableness and prudency of its expenditures. It is the Corporation that must satisfy the Board that its forecast future costs are reasonable.

And so before addressing aspects of the Corporation's application including PIPP, road safety, and express cross subsidies that are readily apparent, CAC/MSOS believe it might be helpful to take a step back and look at the big picture, because it is the contention of CAC/MSOS that when we look at the recent cost experience of MPI, when we look at its forecasts and projections, when we compare its experience to that of other industry players including Centra Gas and SGI -- other regulated entities, excuse me, and perhaps most importantly, when we look at the corporate attitude as -- as expressed during cross-examination, ast a high level on a prima facie basis, it is not clear that the Corporation has established the reasonableness of its rate application.

And perhaps the starting point of our discussion, we should turn back to the discussion that the Chairman had with MPI at page 703 of the transcript with regard to P -- with regard to Exhibit Number 16, I believe it's a MPI exhibit which shows the, but it may be a PUB exper -- exhibit, excuse me, which shows the growth of staff under PIPP.

And in discussing this table at page 703, the Chairman suggested, and the suggestion was not refuted by MPI, that between 1994 and 2007, MPI had seen a rise in support staff of about 65 percent and of claims personnel of about 30 percent. In fairness, MPI, while admitting it had not done any sort of detailed analysis about the growth of staff, did note the increasing complexity of the world it operated in as a partial rationale, a partial explanation, for this relatively rapid growth.

But certainly MPI does not exist on an island. There are other public insurers like SGI and they are -- would surely be subject to many of the same cost pressures.

And that's where the Corporation's response to PUB Pre-Ask Number 4, which performs a trend analysis for MPI excluding DVL, becomes so interesting because when you turn to chart 7 of that analysis, when you look at the index with regard to total costs, and that's at page 744 of the transcript, one sees a sharp divergence between the fairly comparable index of total cost between SGI and MPI in 2000, and that was conceded by Mr. Kramer at page 744, and a quite significant difference as conceded or acknowledged by Mr. Kramer in 2007.

The numbers in terms of the ratio were fairly close in 2000, but a sharp dis -- divergence in the last seven (7) years. Now, the Corporation's stock answer to that sort of Crown to Crown comparison, and we're going to miss him, was given by Mr. Galenzoski.

When he spoke with Ms. Everard on Thursday, of October the 4th, he argued that the indice only showed relative changes, not an absolute value, and he also argued that while Crowns are most comparable, they are not easily comparable. And CAC/MSOS are prepared to concede that any such comparison was probably pretty problematic back in the late 1990s, especially before ICBC became much more heavily regulated.

But as Mr. Galenzoski conceded at page 733 of the transcript, there's a much greater information on the public record than there has been in the past with regard to Crown corporations like ICBC and -- and SGI.

So we decided through the device of CAC/MSOS Exhibit Number 6, which was that comparison of administrative costs per vehicle, per insured vehicle between MPI and SGI, we decided to address what appeared to be the other major concern of Mr. Galenzoski in terms of the trend analysis; the -- the fact that it only showed changes in -- relative changes, rather than absolute values.

And when you look at the front page of CAC/MSOS Exhibit Number 6, if you look at the SGI measure of total administrative costs per vehicle, which is the device that MPI uses in its claim forecast books, you see a significant gap between SGI and MPI in 2005, and an even wider one (1) partially explained by the immobilizer Program in 2006.

And just for those who don't have that table in front of them, the administrative cost per vehicle insured for SGI is calculated by CAC/MSOS were ninety-eight dollars ($98) in the 2005 year, as compared to a range between a hundred and sixteen (116) and a hundred and twenty dollars ($120) per insured vehicle as calculated for MPI, and the next year, so that -- about a twenty-two dollar ($22) difference at the maximum. The next year the maximum difference was about twenty-eight dollars ($28) per insured vehicle.

MR. KEVIN MCCULLOCH: Excuse me, Mr. Chairman, I don't want to interrupt Mr. Williams, but he referred to an exhibit number that I can't seem to coordinate. My --

MR. BYRON WILLIAMS: I misspoke, Mr. McCulloch, it should be CAC/MSOS ex -- Exhibit Number 8.

MR. KEVIN MCCULLOCH: Thank you.

MR. BYRON WILLIAMS: And feel free to

interrupt when I misspeak in that way. And I apologise for that, Mr. Chairman.

Now, when we looked at that comparison in CAC/MSOS Exhibit Number 8, Mr. Galenzoski was only too happy to point out that part of the gap between SGI and MPI could be explained by the relatively higher commission paid by MPI.

Mr. Chairman, just if you're looking, it's not found in the green book. It's a separate exhibit. You have it, okay. As I was saying, part of the explanation does lay in the higher premiums -- excuse me, the higher commissions paid by MPI than SGI, but of course, that argument cuts both ways because the premium tax in Saskatchewan is much higher than in Manitoba.

And as Mr. Galenzoski candidly admitted at page 741 of the transcript. He said:

> "I could give you the number, i.e., for the premium pr -- tax, but it would make it look too good for you."

But he was generous enough to give that number for the premium tax in 2006 and showed that the figure for SGI at thr -- a bit over thirty dollars ($30) per unit was significantly higher than the figure for MPI at only eighteen dollars ($18) a unit.

So, yes, there are numbers that go both

ways in terms of that comparison. But I would invite the Board to take the 2005 numbers of SGI -- pre big expenditures on immobilizers by MPI -- insert the 2005/'06 MPI numbers for commissions and for premium taxes, and you will still get a clear indication that SGI costs per vehicle insured are significantly lower than those of MPI.

And play around a little bit with those numbers, and play around with the vehicle numbers if you must, and you'll get an indication that tends to work in the SGI favour.

Again, this is just a benchmark, another cause for concern along with substantial long-term growth in staff and a relatively higher growth in total costs.

But this Application is about the future costs of MPI. What do we know about the future costs of MPI? And again, Ms. Everard talked about a litt -- this to at least some degree this morning.

We know that inflation is about -- projected to be about 2.5 percent. We also know, based upon page 747 and 748 of the transcript, that operating expenses are projected to grow in the range of 6 percent annually from 38.629 million in '06/'07 to in excess of 51 million in 2011/2012. And MPI can -- can confirm that 6 percent was accurate at pages 747 and 748 of the transcript.

We know that compensation costs are rising faster than inflation, and you can look to pages 749 to 750 of the transcript for evidence of that.

In the -- in the '07/'08 year throughout -- out to '08/'09 a 4.16 percent growth, a 3.98 percent growth the next year. Again, a 4. -- percent growth the next year and a 4.3 percent growth projected between 2010/2011 and 2011/2012.

We also know that in contrast to the projection for capital expenditures, the overall capital expenditure, not just Basic, but as Mr. Galenzoski pointed out, the overall capital expenditures for 2007/'08 are projected to grow quite rapidly.

They were forecast -- or projected last year to be about $15.76 million. They're now forecast to be 28.7 million, as the Corporation confirmed at pages 750 and 751 of the transcript, an 84.5 percent increase. And this has been touched upon briefly.

I would just confirm, as well, that we know -- and this is confirmed at page sev -- 847 of the transcript -- that forecast capital expenditures have been higher than actuals for every year between 2002/'03 and 2006/'07.

And at pages 848 and 849 of the

transcript, for those same years we've confirmed that the projected cumulative amortization has exceeded the actual accumulative amortization over this period.

So there you have it, perhaps not succinctly, but at a high level. You have past trends that show signs of cause for concern, you have unfavourable comparisons with SGI, and you have unfair -- unfavourable future forecast as compared to inflation, all raising -- which raises doubts about the reasonableness and necessity of the forecast future costs of MPI.

Last point I want to make before moving to my recommendations in this area is to make reference to the Corporation's attitude in terms of this issues as -- as expressed at pages 736 to 738 of the transcript.

And I guess before moving there, I just want to talk very briefly about the value that a measure that operating, maintenance and administrative costs per unit can offer to regulators. And perhaps the best example of that is in the CAC/MSOS book of documents.

There's an excerpt from a Centr -- Centra Gas proceeding at Tab 5. This -- the book 3, the green book, and it's page 28 of that document, there's a summary of how Centra uses the measure -- and that's at page 28, at Tab 5 of -- and it's PUB Decision 9907.

But there's a summary of how Centra Gas uses the measure of OM&A per customer. And Centra measures itself with this -- using this tool. It looks at its growth in terms of OM&A per customer between 1998 to forecast 2008/'09 and finds an increase of 5 percent over ten (10) years.

On a constant dollar basis, it finds a substantial decline. And it concludes that there's a productivity-related cost reduction embedded in their costs -- in these costs.

In the respectful view of CAC/MSOS, this single page offers insight into how such a simple measure -- OM&A per unit -- can be used to monitor the Corporation against itself, to see how the Corporation is performing in terms of cost growth as compared to inflation.

In the respectful view of CAC/MSOS, this is a useful tool that offers important insight both as a measure against oneself and as a measure against others. Now of course, Ms. McLaren disagrees with me, and she does so at pages 736 and 737 of the transcript.

And I suggested to her that using a benchmark such as this, OM&A per unit, had -- had some potential to benefit the Corporation in terms of using this as an internal measure for your own Corporation.

And at page 736 she was not prepared to say the Corporation does see value in using these measures as internal targets or goals.

At page 737 I came to the conclusion that she must have misunderstood me, so I again suggested that there's some value in using these measures internally over time to measure how the Corporation is doing in terms of cost growth.

Ms. McLaren again disagreed with me at page 737 indicating, "But I'm not sure there's much value in anything other than the way we use it today."

I'd invite the Board to read carefully that discussion at pages 736 to 738 of the transcript. You see, in our respectful view, an absolute disinclination by the Corporation to use what is standard practice in the regulation of other utilities -- the measuring unit of OM&A per customer.

CAC/MSOS do agree with Ms. McLaren, Mr. Galenzoski, and Mr. Palmer that it's important to compare rates between utilities. They also believe it's important to look at quality of service indicat -- quality of service indicators.

Where they disagree is on the importance of using key trends, such as claims per claims personnel, policies or supports, or administrative costs per vehicle.

And in the respectful view of CAC/MSOS, while MPI customers demand high quality, affordable service, they also have a right to know that the -- the Corporation is being best -- well managed in terms of the efficiency, because every dollar wasted is a dollar less in consumers' pockets.

With this in mind, CAC/MSOS make the following recommendations in terms of administrative costs. First of all is that the Public Utilities Board express concern with cost growth at or above the rate of inflation.

Secondly, that MPI be directed to file annual comparisons of administrative costs per claim, operating costs per policy, and total administrative costs per vehicle, including comparisons with ICBC, SGI and a variance explanation.

CAC/MSOS would note that MPI offers within its trend analysis operating cost per policy and total admis -- and admin costs per claim, but to their knowledge they don't do an express comparison with ICBC and SGI.

And they also note that the total admin cost per vehicle is in the claims forecast book, but it's not -- there's not an express comparison with other utilities.

CAC/MSOS would also recommend that the PUB reduce the approved capital forecast in recognition of a past practice of excess padding, excess cushioning, and -- within capital costs.

Mr. Chairman, I'm -- I'm moving to the subject of PIPP. If I might stand down for just two minutes and just catch my breath for a second?

THE CHAIRPERSON: Okay, we'll take a five minute break.

--- Upon recessing at 1:32 p.m.

--- Upon resuming at 1:40 p.m.

THE CHAIRPERSON: Okay, Mr, Williams...?

MR. BYRON WILLIAMS: Thank you. Into the subject of PIPP, and I was struck by a discussion between the -- the Chair and Ms. McLaren at page 895 of the transcript, and the suggestion was made to MPI that, with respect to the administration of PIPP, they had owed a duty to do its best for its clients, but that it also was a duty not to expend benefits any longer than necessary.

And it was argued that it -- that was both for the benefit of claimants and for the benefit of policy holders and premium levels.

And in the respectful view of CAC/MSOS, this discussion captured the essential elements of the costs of service model. MPI is to provide quality and appropriate services such as PIPP, charging no more and no less than a suf -- efficient service provider of PIPP would provide.

And in reviewing the past three (3) Board Orders relating to PIPP -- and those are found, and Mr. McCulloch will correct me if I have my PUB -- my exhibit reference wrong, in CAC/MSOS Exhibit Number 9 -- it struck me as readily apparent from an -- in reviewing these Board Orders, that the Board has had some discomfort with the question of whether MPI has met its onus of establishing that the premiums related to PIPP are no higher and no lower than the effective and fair treatment a management should provide.

And Mr. Dawson spoke at length about Board Order 148/04, as well as Board Order 155/05, so I'll -- I'll skip my planned commentary on those Board Orders.

But I do want to draw the -- the Board's attention to some of the discussion which appears with regard to Board Order 156/06 under the summary of findings at page 38 and 39. And this is at the third-last page of the exhibit, about a third of the way down the page:

"The Board finds benchmarks for PIPP are important and are strongly supported by the Board as means of better assuring value for money, cost effectiveness, and good customer service."

Going on to the next page, on the second -- second paragraph, there's a reference to the Barrons Report at pages 68 and 69. And at the end of that paragraph the Board goes:

"While the Barron Report provides a degree of comfort, benchmarks and analysis to guide PIPP management are still necessary."

And then drawing your attention to the bottom of this page, and these -- these are some critical paragraphs, and these are excerpts from the Decision at pages 79 and 80:

"Each year MPI expends over $200 million in direct PIPP claimants. With IBNR and PFAD provisions, PIPP represents the largest component [et cetera], of MPI's unpaid claims liability. PIPP accounts for the largest share of the indicated premium rate for vehicles each year. Overall MPI expends or provides to expend in the future over $600 million. This is a considerable amount of money, money with a common origin, the premium of policy holders.

For many reasons MPI should develop the benchmarks called for in those Orders. Without benchmarks it is difficult to be fully assured that MPI is handling and managing claims in an effective fashion, that MPI's general operations are as reasonably cost-effective as they should be and as comparable as possible with the best experience found in other jurisdictions.

Without that assurance, there will always be an element of doubt as to whether the current premium levels are higher or lower than effective and fair treatment a management should provide."

In the respectful view of CAC/MSOS, the doubt expressed by the Board in previous decisions, in particular the most -- its most recent decision, have only been given further weight, further credence in this proceeding.

In particular they've been given further credence by concerning trends in terms of PIPP and further credence by the Corporation's failure, after twelve (12) or (13) years of experience with the program, to implement Basic tools of program management and analysis.

And they've been given further credence by the Corporation's excessive delay and by the failure of the Corporation to respond to the Board's findings, recommendations, and as Mr. Dawson pointed out, its orders.

Our clients see concerning trends in PIPP since 2001. And these are documented in PUB Exhibit Number 14, and there's a discussion regarding this at pages 592 to 597 of the transcript.

Of course, one (1) concern relates to the rapid grown in whiplash crane -- claims. Now that growth is perhaps somewhat overstated through the use of change in reporting, but it's quite clear that it's there. And it's reflected more importantly by the relatively high levels of serious claims, including fatalities.

My clients are also concerned by the enduring high varia -- high variability between forecasts -- between projections, forecasts, and actuals within

PIPP, suggesting that the Corporation still does not have a strong handle on its experience. And again, the best example of that is set out starkly in CAC/MSOS Exhibit Number 9.

And those forecasts go either way. We see a $42 million positive variance in 2003/'04 and you see the very next year a negative variance of 51.865 million -- variances as large as 22 percent positive, 25 percent negative in recent years.

My clients also note with grave concern the Corporation's failure, thirteen (13) years in the PIPP, to equip itself with fundamental and Basic tools for program analysis and management, such as the ICD-9 code, which MPI is now tentatively exploring.

Another such tool that comes to mind are the Official Disability Guidelines employed by ICBC and rapidly rolled out in the last two (2) years in response to their bodily injury crisis.

With regard to the ICD-9 codes, CAC/MSOS note that there does not appear to be any dispute that employing these codes will assist the Corporation. At pages 856 of the transcript, Ms. McLaren says,

> "It's important to move to such a system of categorization."

At page -- later on in that same

discussion she says that

> "the -- the Corporation's expectation in terms of these codes..."

and this is a couple of pages further on in the transcript,

> "...would be that it would inform understanding as to the likely evolution of certain kinds of injuries and may in fact improve our ability to work with the claimants to have better outcomes."

But when asked about the status of the ICD-9 codes within the Corporation, when asked whether case managers today are presumably employing these codes, the Corporation's honest answer, at pages 857 and 858, was:

> "I'm honestly not sure of the extent to which that may be happening today from an operational perspective. It's not something that is institutionalized within the management of the PIPP Program in any way, shape, or form."

A key tool acknowledged by all to be important, thirteen (13) years into the program, not institutionalized.

We provided, for the assistance of CA -- of MPI and -- and the -- those parties in the room also an excerpt from a BCUC proceeding go -- discussing the criteria of the Official Disability Guidelines that ICBC is so rapidly rone -- rolled out over the last two (2) years.

And MPI concern -- confirmed during cross-examination -- and these are my words, not theirs, but this is the conclusion I draw from that cross-examination -- that the objectives of the ODG are strikingly similar to those purportedly being advanced by MPI.

At page 861 we talked about what the ODG can do. And we're not suggesting this particular mechanism, but we're saying that there -- the objectives are strikingly similar. Page 861:

> "They provide information about disability duration norms from actual experience data."

At page 862:

> "They han -- enhance a timely and appropriate return to work."

At page 862 and 863:

> "They can be used for benchmarking against national norms."

At page 863:

"They give insight into procedure
disability durations within the
diagnosis.

Yet MPI admits, at page 865, that it's had no discussion with ICBC about the rollout of the ODG. How has it worked? How are case managers and medical practitioners responding to it? Is this an experience that MPI can learn from?

One would have expected that a Corporation with a $200 million program on an annual basis; a Corporation dedicated to the balance between service and efficiency, would have made some inquiries about this important initiative in British Columbia.

And Mr. Dawson spoke of this next point at length, so I'll try not to -- to the same degree, but from the perspective of CAC/MSOS, perhaps what was most striking about the PIPP discussions in this proceeding was not necessarily the delay in the ongoing PIPP Architecture Plan, but what was most striking is what the Corporation has not done over the past three (3) or four (4) years.

As confirmed at page 896, it has not performed a comparison of PIPP with other no-fault jurisdictions. Indeed, it has not started to collect and report on our data or the data from other no-fault insurers to compare the results. That's at page 897.

As confirmed at page 870, it has not retained an external disability management specialist to review the handling of long-term claims. There's no mercers in the picture.

And, it's confirmed at page 867, it has not undertaken the unruly paper project promised by Mr. Bedard back in 2004. That project just has not happened.

So what we have in terms of PIPP is delay, the failure to incorporate important architecture, important management tools, and we also have the prom -- promise from the Corporation -- and this is at page 880 of the transcript -- that there will be no benefit from the PIPP review until beyond 210/211.

And my clients are certainly concerned about the failure to respond to past Board Orders as well as recommendations, as well as the apparent lack of urgency that the Corporation has displayed on this project.

And I think the -- the language Ms. McLaren used -- and I -- I'm going off of memory -- was something to the effect of well there's nothing burning. There may not be anything burning, but this is something of incredible importance to ratepayers, to -- to claimants, and it's something that thirteen (13) years into the program we would expect the Corporation to be in a different situation.

A last point, Mr. Chairman, and it's a -- a small one, and you don't need to turn to it now. But at your leisure, I'd suggest that the Chairman and members of the Board turn to CAC/MSOS Exhibit Number 12 which is an excerpt from the BC Public U -- UC proceedings into ICBC or Public Insurance in -- in British Columbia.

And buried at the back of that Exhibit -- Attachment E -- is a report prepared by ICBC in terms of bodily injury claims review initiatives. And it's a eight (8) or nine (9) page report that looks on the -- the task that's been assigned to the Corporation, the result or outcome, and the completion or anticipated completion date. And it's a report that we'd recommend to the Boards consideration because, in the respectful view of CAC/MSOS, this is how reporting should be done to a Board of Directors or to a regulator.

The information should not have to be drawn from the Corporation incrementally through the proceeding. This is a tremendous example of how to set out what the tasks are, what the results or outcomes are, and the completed or anticipated completion date. And it's a reporting tool that we'd recommend to MPI for their conclusion -- or for their consideration.

One final comment before moving to -- to the recommendations of CAC/MSOS in this area relates to the IBM report. CAC/MSOS in -- in an honest effort to assist MPI in making their case in this area requested that report. There was a subsequent request for a redacted report; MPI has declined to -- to do so.

We think this report would have been helpful in understanding, in a more fulsome way, how the Corporation is approaching the PIPP issue. We think it would have added to the insight of Intervenors and of the Board. Ultimately, in the respectful view of CAC/MSOS, if the regulator was expressing doubts as to whether the current premium levels are higher or -- or lower than efficient and fair treatment and management should provide in 2006, in the view of my clients, these doubts could only have been exacerbated by these proceedings.

Accordingly, in terms of the recommendations, CAC would recommend, first of all, that the PUB expressly find that MPI has not met its onus of establishing that the costs incurred in the delivery of no-fault benefits, both claims incurred and claims costs, are reasonably and prudently incurred.

Secondly, that MPI be directed to file the IBM report in its entirety with the PUB and a redacted version, in terms of future possible contracts with interested parties prior to at the time of its next Rate Application.

Third -- and I think CAC/MSOS have been asking for this since 2004 -- that PIPP -- that PIPP MPI prepare and file an independent external review of PIPP management of long-term claims by an expert firm such as Mer -- Mercer's offering a critical analysis of the strengths and weaknesses of the current claims handling process.

And fourth, that MPI be directed to file, in a format similar to that found in the excerpt from IC -- CB --- ICBC report found at CAC/MSOS Number 12, an update of the PIPP Architecture Project including core elements, timetables, deliverables, and costs along with the 2009/2020 Rate Application.

In terms of road safety, Mr. Chairman, we're -- we're turning there now. The Board will be aware that this is a matter of longstanding concern to my clients. Usually we lead off hearings with cross-examination of road safety. We didn't in this Hearing, but it's not to suggest that it's of any less importance in this proceeding.

And it's important, not just because it's a key pocketbook issue for my clients; more fundamentally they see accident prevention road safety programming by MPI as a key vehicle to mitigate the tragic social and economic costs of fatalities and serious injuries.

My clients recognize that on issues such as road safety and loss prevention, MPI does not offer the entire solution. It cannot offer one-stop shopping. However, CAC/MSOS were of the firm view that MPI is in the position to be the preemin -- preeminent player in road safety and accident prevention.

Given a bus -- in circum -- given that a business case can be -- often be made for prudent road safety expenditures. I have to say, leaving last year proceedings, my clients felt some encouragement. They were pleased to see MPI making some progress in terms of developing costing metrics relating to impaired driving, occupant restraint, and unsafe speed.

They were pleased to see the request of the Public Utilities Board for an independent review of accident prevention. And, while they may have quibbled over the forecast with regard to the IIP, they're also pleased to see what they consider to be an attitudinal change by MPI with the Corporation exhibiting an increased willingness to go beyond its traditional educational role where a business case could be made.

However, in the respectful view of

CAC/MSOS, the current road safety and loss prevention environment, with the exception of auto theft, is more bleak in terms of this year's proceeding than last year's. In part, my clients have come to that conclusion because they have better information about the tragic social and economic consequences of imprudent behaviour such as not wearing a seatbelt and other -- and impaired driving.

In part, they consider the situation more bleak because of the failure by MPI to use critical tools in its progr -- in its possession in terms of program evaluation and resource allocation. And it's a more bleak picture in their view, in part, because of the Corporation's apparent unwillingness to invest in key areas of loss prevention, road safety, such as impaired driving and occupant restraint.

Just dealing with the first point, which is the tragic social and economic costs of impaired driving. And this hear -- excuse me, the tragic social and economic costs of imprudent behaviour of vehicle occupants.

In this hearing -- and we found this out at page 786 to 787 of the transcript -- we learned that for the period between 2000 and 2005, in terms of fatalities associated with unbelted vehicle occupants, the proportion of fatality injured occupants, not belted in passenger cars and vans, was 55 percent. And in light trucks, SUV's and vans, was 71 percent.

We heard -- and we thank the Corporation for its prompt response for this inf -- to this request -- that in 2006 -- and this appears at page 715 of the transcript -- forty-one (41) of the ninety-six (96) fatalities, excluding motorcyclists, pedestrians and cycl -- cyclists, involved situations where occupant restraints were not used.

Forty-one (41) unbelted fatalities, or about 42 percent of the -- the total. And thirty-seven (37) of those 41; those individuals who died, who in many cases need not have died, died in rural Manitoba. And that's at page 1054 of the transcript.

We also found out -- and this is confirmed at page 808 of the transcript -- that Manitoba is currently, in the most recent survey, below the Canadian average in terms of rural seatbelt use.

So, clearly, here's an is -- the issue of occupant restraint is more pronounced in rural Manitoba; certainly in terms of comparison to elsewhere in Canada, and in terms of the tragic costs and consequences.

We also learned -- and this is confirmed at page 785 of the transcript -- that the estimated total costs of unbelted occupants in vehicles, to MPI, is in the range of $23 million dollars. And that the average cost for an unbelted occupant in terms of an accident is about -- between three (3) and four (4) times as high as for an occupant who is belted.

In terms of impaired driving -- and I won't spend as much on this information because it was before the Board previously -- at page 781 we learned that there's twelve (12) fatalities, on average, a year in the years between 2000 and 2002.

And there's a terrible economic toll; between $30 and $35 million dollars disproportionately in the area of bodily injury. And that's confirmed at pages 779 and 782 of the transcript.

And we know, as well, from page 813 of the transcript, that Manitoba is still above the national average in terms of fatalities, per billion kilometre travelled, and injuries.

So that's the cost; the consequences. What's caused my clients concern with regards to this Proceeding in particular is the failure by the Corporation to use key tools for the purposes for which they're intended.

And I draw your attention to last year's Board Order by the Public Utilities Board, which is at

Tab 10 of CAC/MSOS Exhibit No. 3. That's an excerpt from Board Order 156/06.

And, at page 74 of that decision, the Public Utilities Board was speaking about the fact that MPI has developed an estimate of the annual claims cost associated with impaired driving and -- but is -- and is developing similar estimates for speeding and lack of use of restraints.

The Board finds by developing such cost estimates, MPI will be able to establish benchmarks to compare against experience as it amends it programs, including new opportunities now available through its assumption of DBL.

MPI should move ahead with such analysis as they are likely to prove useful in future amendments to its road safety program -- programming. And, again, at page 85, there was also a recommendation to do an independent review of the current accident prevention programs.

And we found out over the past couple of years that MPI has performed two (2) such studies; a 2004 study in terms of impaired driving, a 2006 study in terms of occupant restraint. But in the cour -- and we also found when we looked at the impaired driving study, that the people preparing that study were saying, This is what you can use it for. Develop an economic measure, a baseline for evaluation of programming.

Use it in the allocation of counter measurement -- of countermeasure resources. But in the course of the -- our discussion during this Hearing, we found that MPI is not using these metrics -- these measures -- for program evaluation. That's at page 789 and 790 of the transcript.

And it's not currently using these measures for resource allocation. The question posed to the Corporation at page 791 was: Do the impaired driving and occupant restraint studies play a role in allocating resources? And at page 79 -- 791 the answer was: They have not yet.

And when one looks at the Corporation's response on this point -- and this begins at page 792 of the transcript -- you can see that, in terms of using these important tools, there's not much immediate prospect in terms of the Corporation planning to use them.

There was talk about really needing significant integration and alignment, and we need a better understanding of this works with -- with other -- other matters and that the results were much too preliminary.

And my clients found, to their horror, that not until the completion of the second iteration of these studies -- somewhere between 208 and 213 -- does the Corporation really plan to -- to use them or even, excuse me, I've -- I've miss spoke here.

There was no promise by the Corporation that it would use them for -- for tools as Basic as resource allocation. And the message my clients took from this is that not until 2013, or so, did the Corporation really intend to do so. Now if we've misunderstood the Corporation, we'd be happy to be corrected.

My clients were also disappointed to know -- and that's at page 795 of the transcript -- that there's been no independent review of the current accident prevention program. Of particular concern to my clients has been what they consider to be the minimal res -- response by the Corporation to critical social problems such as the failure to use occupant restraint and impaired driving.

Think of occupant restraint, the $23 million problem, forty-one (41) fatalities in 2006 associated with unbelted vehicle occupants. The Corporation's support in terms of initiatives in this area are quite modest. Between 2004 and '05 and 2011 and

'12 the annual budget ranges between one hundred and ninety-one thousand (191,000) and three hundred and forty thousand (340,000).

Think of impaired driving, the thirty (30) to $35 million problem, a figure quite comparable in terms of direct costs to auto theft -- the twelve (12) fatalities per year.

And what are the Corporation's projected expenditures -- actual and projected -- between 2004/'05 and ranging out to 2011/2012? Somewhere between three hundred and seventy thousand (370,000) and four hundred and sixty thousand (460,000), and that's at page 798 of the transcript.

And my clients also found -- and this is at page 804 and 805 of the transcript -- that expenditures in impaired driving and occupant restraint were actually less than forecast in '06/'07. Now, in fairness, the Corporation has indicated that it plans to increase its com -- commitment to the Road Watch Program in -- in the current year, although that figure will be at a range of less than one hundred thousand dollars ($100,000).

The -- the final concern my clients wish to express in this area is an inconsistency they see in the position taken by the Corporation in terms of loss prevention and road safety. And this appears at page 789 of the transcript.

MPI is engaged in education awareness. MPI is not in the engineering business. We're not in the enforcement business. Well, with respect, my clients beg to differ.

Look at the annual spending; spending in excess of $12 billion -- it's 12 billion, excuse me -- in excess of $12 million related to the installation of forty thousand (40,000) immobilizers annually.

Look at the over eight hundred thousand dollars ($800,000) devoted to prosecution, fingerprinting, and associated activities in terms of auto theft.

Look at the seven hundred thousand dollars ($700,000), approximately, associated with WATSS, W-A-T-S-S. MPI is spending millions annually on loss prevention programs, funding engineering or solutions for vehicles, funding probation services, funding finger -- fingerprint teams, funding Crown prosecutors.

When we look at the -- the current loss prevention road safety budget, my clients would suggest that well over one half (1/2) of those expenditures are not related to education and awareness. MPI has crossed the road safety rubicon over the last couple years.

Given this reality, given the massive social and economical costs, my clients have to ask why such a frail, why such a passive, why such an unambitious response to pressing social issues such as occupant restraint and impaired driving?

How do we reconcile pain so much for an important issue, which is auto theft, and committing so little for impaired driving or occupant restraint. Not to say that auto theft is not a critical issue, and it's certainly merited an aggressive response to a program such as WATSS. But clearly impaired driving, occupant restraint, should be higher priorities in the ker -- Corporation is currently demonstrating in its current and projected expenditures on road safety.

Not in an imprudent fashion; not suggesting that MPI owns ownership of the entire issue, but in a measured responsible way built upon good business cases. MPI is not just in the education and awareness business anymore in terms of loss prevention and road safety.

They have passed -- as -- as I said before, they've crossed the rubicon. Accordingly, CAC/MSOS would recommend that the PUB find that MPI has not met its onus in demonstrating that the cost expended on road safety are reasonably and prudently incurred, and note, in particular, the failure by MPI to file the independent review of road safety.

CAC/MSOS would recommend that M -- would ask the PUB to recommend that MPI begin to employ its costing methodology in resource allocation and, to the degree possible, program evaluation.

CAC/MSOS would also propose that the PUB recommend that MPI consider the business case for expanding support for enforcement activities related to occupant restraint and impaired driving. And, of course, included in that consideration should be the risk of moral hazard, the risk that it will be assuming the -- the role of other state actors.

Mr. Chairman and members of the Board, there's been a lot of discussion on auto theft in this proceeding. I'm not going to take a lot of the Board's time on this area, hopefully about eight (8) to ten (10) minutes of it.

Just in terms of the past position of CAC/MSOS, they've consistently argued that there is a good and clear business case for WATSS; W-A-T-S-S. They've also argued in the past that the Corporation's expectations for the Immobilizer Program were, at times, over optimistic based upon what CAC/MSOS considered to be a flawed initial business case.

In terms of the auto theft issue as a whole, CAC/MSOS would -- would venture a few observations. No doubt it's a serious issue. We're looking at direct cost to the Corporation in the range of 34 million, two (2) to three (3) fatalities estimated on an annual basis.

They would also observe from their view -- and they might even be a little more optimistic than Mr. Palmer; he suggested it was a bad news -- improving news scenario. The -- CAC would agree with that. It was bad news in '06/'07 in terms of our expectations with that program, but there certainly is better news, almost good news, in terms of '07/'08, and hopefully that will continue.

Now, we have to disagree with CAA on one (1) matter, and I hate to disagree with My Friends from CAA in this area. But as I understand the evidence of the Corporation -- I'm certainly subject to correction -- I understood Ms. McLaren to say, on Friday, October the 5th, that most of the savings for the 2007/2008 year, to date, can be attributed to WATSS. And she made the point that there's still a fifty/fifty (50/50) chance of venturing across a non-immobilized vehicle in Winnipeg.

And my clients certainly concur with that statement, and they note that the Corporation suggests its had a very handsome payback in terms of WATSS and the clients concur. They accept that there's been a significant benefit from that program and they applaud the Corporation for -- for encouraging this program.

With regard to the Immobilizer Incentive Program, my clients note the rapid pace of the immobilization in '07/'08 and they see that as a positive sign. They also note the evidence of the Corporation, at page 831 of the transcript, that there is not currently a business case for expanding the most-at-risk list. And CAC/MSOS concur with that, and they would respectfully caution both MPI and the PUB about further full funding of -- of other vehicles.

CAC/MSOS do note that there's -- in the years 2008/'09 and 2009/2010, there's going to be a lot of attrition in terms of immobilized vehicles from the market; over seven thousand (7,000) vehicles in 2008/'09 and over eleven thousand (11,000) in 2009/2010 projected, with the vast majority of those being fully funded vehicles.

I think it was established, and the Corporation's been frank about this, that the big impact of the Immobilizer Program is on total theft with some partial impact expected a partial theft.

CAC/MSOS do note that even with the

anticipated development of the Immobilizer Program, the Corporation is still projecting some pretty big numbers in terms of total theft out in 2011/2012, in the range of 14 million annually.

And they are also projecting -- and this is at page 818 of the transcript -- that in terms of the attempted theft figure, those numbers are likely to remain relatively high, in the $8 to $9 million range, again, out to 2011/2012. And in my clients' view, those numbers are still far too high.

My -- my clients also understand -- and this is from the Corporation at page 834 -- that no other jurisdiction is apparently employing an IIP Program, at least to the extent that MPI is. So this suggests to my clients that as we -- we look out beyond 2011/2012, that there are other jurisdictions with serious theft problems, which might be arriving at different solutions in terms of trying to address the -- the total-theft and attempted-theft issue.

And so my clients would suggest that -- that the Corporation may want to look elsewhere. Now the Corporation didn't seem to agree with my submission on this point. But we'd note for the Board's information -- at page 835 of the transcript -- that ICBC has seen quite a significant reduction in total thefts since 2003.

They're at a high of twenty-five thousand (25,000) in that year. They're down to about seventeen thousand (17,000) -- still far too high -- in 2006.

And my understanding from Ms. McLaren is that they use a much more targeted IIP Program, but also a variety of other measures. And we certainly would -- would suggest that there may be something to be learned from these other jurisdictions.

The -- the final point that my clients note with concern is that the Extension Program is anticipated to benefit significantly from the IIP without, in current or future years, being asked to contribute to the IIP. And we don't accept the Corporation's rationale for -- for this cross-subsidy of Extension. Other parties have addressed it in a more fulsome way than time permits me today. But our understanding is that the -- the projected benefits to the Corporation Extension Branch from the IIP are in the range of 21 million between '05/'06 and 2013/2014.

So from -- in terms of recommendations; CAC/MSOS would recommend that the PUB acknowledge the success of WATSS in controlling claims costs in '07/'08.

That MPI be directed to explore and report on anti-theft initiatives in other jurisdictions, particularly ICBC and SGI, with a future review in theft costs. And also that, in terms of the -- to the extent that there are costs being incurred by the Basic Program with regard to IIP, for which the benefit is being reser -- received from the Extension Program, CAC/MSOS would be -- would recommend that this -- that the PUB not take those costs into account in setting the revenue requirement for Manitoba Public Insurance, and if Manitoba Public Insurance wishes to recover those additional costs, that they seek them from Extension.

There's one other cross-subsidy issue raised, and I think Board Counsel may have addressed it in some of her comments; certainly Mr. Oakes, and I believe, CAA did as well. CAC/MSOS were probably quiet on this last year when they should not have been -- their concern with the -- the subsidy for interprovincial trucking in the range of 1.8 million annually, which has been going on for some time. And they would recommend, again, that to the extent that the Basic Program is bearing those costs, those costs be excluded from the revenue requirement.

Driver Safety Rating. Going back to the days of Mr. Zacharias, this is -- the review of the Bonus/Malus Program has been often requested, often promised and, to date, not delivered. And we note that is a theme that runs through this -- this proceeding.

It's not just the DSR that's been delayed.

We would submit that the road safety economic metrics have been delayed. We would submit, certainly, that the PIPP review has been delayed, as well. And in terms of driver safety rating, we acknowledge that the Corporation, we're sure, had good intentions.

At page 581, Mr. Palmer said:

> "We still had intended to be faster than we had -- we had been."

We would note though that the delay does not seem to be for technological reasons, and we believe that this was confirmed by Mr. Palmer at 890. And he noted on that page, as well, that:

> "We haven't got the plan set in Order to fully cost it out."

CAC/MSOS note with some concern the rise in the projected costs for this program as noted by Board Counsel, in that -- from around 9 million to 12 million. They also note that -- at page 880, and I believe it's 887, but about there anyways, my me -- handwriting's getting more messy.

There was some concern in terms of -- for the '07/'08 year -- what the Corporation actually was exc -- intending to plan -- planning to spend. There was an initial estimate of 4.9 million and then another of 3.6 million. And then, in that discussion, the Corporation appeared to initially back away from the 3.6 million and then re-- rededicate itself to that figure.

So there appears to be some ongoing uncertainty with the DSR Program, a program that my clients believe is fundamentally important, which -- but which is moving, certainly from their perspective, slower than they would have liked.

From -- my clients certainly will express their regret at the delay that MPI has occasioned on -- on this file. We'd recommend that the PUB confirm its expectation that a Hearing in this matter be heard by no later than the -- than midway through the 2009 year.

And also that the PUB recommend that the Corporation consult with and seek the input of interested parties prior to filing the revised Bonus/Malus proposal.

Just coming to the end of the -- my submissions, Mr. Chairman; three (3) or four (4) specific areas to cover in terms of the revenue requirement of the Corporation. CAC/MSOS have expressed some concerns with the existence of cross-subsidization from the Basic Program to Extension as well as to long-haul truckers.

They made the argument, they hope persuasively, that the Corporation has failed to alleviate the doubts about its efficient and effective management of PIPP and of road safety. Other parties, including CAC/MSOS, have made the point that there's considerable conservatism or cushion in the MPI Application.

And so CAC/MSOS are going to recommend to the Board that it reduce the Corporation's revenue request by 1 percent with the objective of promoting efficiency and reminding Manitoba Public Insurance of its obligation to prove its case.

In terms of the RSR rebate, the -- CAC/MSOS know the figure might arguably be higher than 49.1 million, but their -- in -- in terms of their position, they -- they fell that the figure of 49.1 million is an appropriate balance between protecting future rate stability and also not unduly punishing consumers by keeping too much of their money in the Corporation's pocket.

So, in terms of the 49.1 million dollar figure, that's one (1) that they would endorse, recognizing that some may argue for a higher figure.

The -- the Corp -- the Board asked a number of questions at page 1074 and 1075 of the transcript. I've attempted to answer many of them, but there's at least three (3) that I -- that I have not to date.

Perhaps one (1) of the most con -- critical and most challenging relates to question number 6: Whether the environmental impacts related to motor vehicles should be taken into account in rate setting for individual vehicle groups or major classes.

And I -- as a starting point, and as CAC/MSOS urge -- have urged me to make this as a starting point, they certainly -- it's a Basic consumer right to a safe and healthy environment and that's a -- that principle animates the approach of CAC/MSOS to -- to all proceedings.

In terms of the issue of taking environmental impacts into account in -- in terms of rate setting for individual groups and -- and -- or major classes; CAC/MSOS do want to -- I don't know if these are concerns, but they -- they do want to offer some perspective on this -- this issue.

Presumably, if one wanted to take environmental principles into account, one could certainly look at the amount that people drive in terms of kilometres driven.

Another approach one might take would be to look at the fuel efficiency of the vehicle they chose, although that -- that seems fairly far from -- from insurance principles.

In terms of these two (2) possible approaches, CAC/MSOS do want to point out that there may be -- the -- let's say -- if we looked at the issue, for example, of how efficient a vehicle was in terms of fuel efficiency, an approach such as that might unduly punish people who -- who drive older cheaper cars.

Those people tend to -- to be of lower income, so there may be some lower income or below average income ramifications of that type of approach. In terms of the issue of perhaps taking a harder more intensive look at the relationship between kilometres driven; certainly that's a -- from the perspective CAC/MSOS -- a more defensible principle.

They would point out though that such an approach, if not carefully considered, might have an undue and harsh impact upon those who live in rural Manitoba might have -- and on -- on families, for example, who are busy shuttling their children from event to event. So that -- that's a concern that CAC/MSOS wish to put on the record.

They also -- also wish to express the concern that there are barriers in terms of achieving a more sustainable environment and that there are barriers that consumers experience in terms of being able to drive less kilometres in adequate public transit systems -- certainly one (1) faced by many seniors.

So, what -- what CAC/MSOS wish to rema -- argue before the Board that it's important for the consumers to have options before monetary disincentives are put in place. They want to reenforce the significance they -- they put on this issue, but they think we should be working with a carrot first, rather than a stick.

That's my clients talking. They did ask me to al -- also provide you with a legal analysis in terms of some of the -- the factors you -- you make take into account. So, whether you want it or not, you'll get the -- the benefit of my informed, or somewhat informed, legal opinion about the -- the Sustainable Development Act.

And I've got a four (4) page memo which I won't run through with you; please -- please don't worry about that. It's clear, in reviewing the Sustainable Development Act, that cer -- that it applies to Crown Corporations. And it's certainly clear that a Crown Corporation such as Manitoba Public Insurance is bound by Section 13 and Section 14 of the Sustainable Development Act.

They require -- Section 13 requires the

Crown Corporation to prepare a Corporate Sustainable Development Code of Practice. Section 14 speaks to the establishment of financial management and procur -- procurement guidelines.

Dr. Miller, in -- in his discussion of the Sustainable Development Act, also makes reference to the guidelines captured in a -- the -- in an attachment to the Sustainable Development Act.

And with the plain and ordinary reading of the legislation, I'm certainly not persuaded that those guidelines apply to Manitoba Public Insurance, that may well be a flaw in the legislation, it may not have been the legislative intent. So the view of CAC/MSOS, certainly as expressed by me, is that Sections 13 and 14 apply.

In terms of the -- the guidelines found in the attachment, it's not clear and in fact CAC/MSOS would argue that they're not -- they're not directly applicable by virtue of the sustainable development act.

As a final note on this point, I would note that under the Crown Corporations Act, the Board is certainly open to it to take other factors into account and certainly, in looking at the overall public interest issues of sustainability, are something that are open to the Board to consider.

A couple of other questions posed by the Board: question number 5 was whether the Board should continue to take into account the retained earnings of SRE and Extension. And, certainly, CAC/MSOS believe very strongly that the Board should. The Corporation is very closely integrated trying to, as we've -- and certainly the economic benefits for Extension and, to a lesser extent arguably, SRE flow directly from the strength of the Corporation and Basic.

In terms of priorities, certainly CAC/MSOS know that -- note that investment matters -- the Corporation will have a report prepared by that by the end of the next -- of the current fiscal year, so that's something that they would suggest should be high on the regulatory agenda going into the next rate application.

From my clients perspective, while the bed may not be burning in terms of PIPP, it's such an important program and there's -- there's so many indications that more could be done and should be done more quickly, that that should be something that is near the top of the Board's agenda.

And, as well, from my clients perspective, the issue of loss prevention and road safety, when you think of some where -- in the range of forty (40) people dying in terms of occupant restraint -- not wearing seatbelts -- that's of course a -- a tremendous concern for my client.

So that should be a -- a priority from my clients perspective, again, provided that there's a strong business case to be made.

And I promised Mr. Galenzoski I would do this, so just in -- in concluding -- and we often do this in -- in proceedings. It's a -- perhaps maybe it's not necessarily a totally adversarial process, but that is part of the -- the debate in -- in these Hearings. I do have some nice things that I -- I should of perhaps said about MPI sooner.

Certainly, from a consumer perspective, one-stop shopping for a consumer to be able to go in and license his vehicle -- his or her vehicle and -- and register it on one (1) occasion is certainly a -- a benefit that I think Manitoba consumers have come to appreciate in the past year, and they certainly commend the Corporation for that.

The use of -- I'll -- I'll call them treatment metrics; for example, in terms of chiropractic treatments which the Board spoke of -- that's a positive sign in terms of the management of the PIPP program that my clients heartily commend.

They also want to note that generally

customer service standards are quite high with this Corporation. Number 17's a problem. Hopefully it won't be a problem next year. And next year we probably will explore how these standards may be amended over time, but, generally, the results are -- from a consumer perspective are -- are quite positive.

Finally, Mr. Chairman and members of the Board, as -- as my clients reflect upon this proceeding, we think of so much that is yet to be done in terms of Manitoba Public Insurance in the public accessible transparent regulatory process, road safety, PIPP investment, issues of sustainability.

My clients concur with Dr. Miller that we should be debating these issues -- these issues sooner rather than later. And it's been a tremendous pleasure, as usual, to appear before the Board. Subject to questions, I will merely state that my clients will be submitting a cost application, and thank the Board for its patience.

Thank you.

THE CHAIRPERSON: Thank you, Mr. Williams. Mr. McCulloch, would you like to have a bit of time to consolidate your thoughts before we start?

MR. KEVIN MCCULLOCH: Mr. Chairman, I'll need at least the half hour that was talked about earlier in these proceedings.

THE CHAIRPERSON: Okay, well why don't you let Mr. Saranchuk know when you're ready to begin again, okay.

MR. KEVIN MCCULLOCH: Thank you, sir.

THE CHAIRPERSON: Mr. McCulloch, just so you're aware, I mean, the Board's quite prepared to take your submission another day. It is your preference.

--- Upon adjourning at 2:35 p.m.

Certified Correct,

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Rolanda Lokey, Ms.