MANITOBA PUBLIC UTILITIES BOARD

Re: MANITOBA PUBLIC INSURANCE COMPANY
GENERAL RATE APPLICATION
FOR 2009/10 INSURANCE YEAR

Before Board Panel:
Graham Lane - Board Chairman
Eric Jorgensen - Board Member
Alain Molgat - Board Member

HELD AT:
Public Utilities Board
400, 330 Portage Avenue
Winnipeg, Manitoba
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Pages 1421 to 1586

APPEARANCES

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--- Upon commencing at 9:05 a.m.

THE CHAIRPERSON: Okay. Good morning, everyone. I am sure as all the parties understand, we are doing closing arguments in two (2) phases today, the Board and the Intervenors, and on October the 16th, MPI. We start this morning at 9:00; we start at 9:00 again on October the 16th. I believe that is the understanding.

So, with no further adieu, we will begin. Ms. Everard, for the Board.

MR. KEVIN MCCULLOCH: Mr. Chairman, if I might --

THE CHAIRPERSON: Of course.

MR. KEVIN MCCULLOCH: As is my wont, Ms. McLaren has asked me to explain to the Board that she had a meeting at the Legislature this morning and isn't able to be here but she did want that on the record. Otherwise, she would have been here to hear closing arguments.

THE CHAIRPERSON: Oh, very good. That is fine.

Ms. Everard...?

CLOSING SUBMISSIONS 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 this public hearing, with respect to MPI's application to the Public Utilities Board for the approval of its base rates and premiums charged for compulsory vehicle and driver insurance. That is the rates for service for the 2009/'10 insurance year which will take effect on March 1st, 2009.

As Board counsel, Mr. Saranchuk and I take no position on the merits of any part of the application filed 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 2009/2010, the Corporation is seeking approval of rates which are based on an overall 1 percent decrease 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 14.3 percent to plus 7.2 percent, to achieve revenue neutrality from rate group adjustments.

All adjustments are subject to an overriding cap of 20 percent as set out in Board Order 148/04 with the exception of mopeds, motor scooters, trailers, off-road vehicles, antique vehicles and drive-aways, regarding which capping for rate changes has been established at 25 percent as per Board Order 156/06.

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 2007/'08 and 2008/'09 which were the subject of prior years' rate applications are as follows:

With respect to the fiscal year ending in 2008, as reflected TI.11, which is at Tab 3 of the Board's book of documents, Basic realized a net income of $84.3 million, including a transfer of $15.2 million from the Immobilizer Incentive Fund or IIF. Basic's net income prior to this transfer was $69 million.

The net income of $84.3 million is compared to a projected net income of $31.4 million last year, which included a $12.6 million transfer from the IIF and 18.8 million in net income before that transfer. In other words, there was an improvement of some $52.9

million in net income over that projected last year.

This change was attributable primarily to an improvement in forecasted net claims incurred of $64.2 million due to a re-evaluation of PIPP, or Personal Injury Protection Plan, claims reserves, offset in part by a decrease in projected investment income of some $13.2 million. Also, other expenses were $1.2 million less than forecasted.

With respect to the fiscal year ending in 2009, the current year, as reflected in TI.12, which is at Tab 4 of the Board's book of documents, Basic is forecasted to have a net loss of $2.5 million which includes a transfer of $17 million from the IIF. Basic's forecasted net income prior to this transfer was a loss of $19.5 million. The net loss of $2.4 million is compared to a projected net income of a half a million dollars last year, which included a $12.6 million transfer from the IIF and a $12 million loss before the transfer.

In other words, as at the time of the current GRA filing, Basic was projected to suffer a net loss of $2.5 million compared with net income of a half a million dollars projected last year. This change was due to an increase in total earned revenues of $17.7 million, offset by an increase in total expenses of $2.2 million, and lower forecasted investment income of $13.3 million due to the lower investment yields as compared to last year's projection.

The Corporation has provided to the Board by a way of undertaking, a revised forecast for the current year, fiscal 2009, entered as MPI Exhibit 28 in this proceeding. That report provides for a $13.9 million improvement in net income from that forecast in the GRA filing or forecasted net income of $11.5 million for rate-setting purposes, which includes a transfer of $17 million from the IIF.

Prior to this transfer, there was forecasted for Basic a $5.6 million net loss. This is compared with a projected net loss of $2.5 million in the GRA filing at TI.12. Overall, the Corporation is anticipating earning 32.2 million from it -- from its extension and SRE lines of business in fiscal 2009.

With respect to the year ending 2010, the projected operating results are reflected at TI.13 through TI.15 which are found at Tabs 5 through 7 of the Board's book of documents.

The Corporation projects to have a net loss of some $4.2 million after a transfer from the IIF of approximately nine hundred thousand dollars ($900,000), so the projected loss is about $5.1 million before the transfer.

Total earned revenues for fiscal 2010 are currently projected to be $745.7 million, compared to $712.4 million now forecast for fiscal 2009, as per Exhibit 28.

This year's GRA assumes a two point seven five (2.75) vehicle upgrade factor for 2009/'10, which reflects the renewal of the vehicle fleet through customer disposal of older vehicles and the purchase of newer ones. As well, the application assumes a volume factor representing growth in the number of vehicles insured of 2 1/4 percent for the same year.

Services fees and other revenue are expected to be $17.4 million for the year of the application, which is a slight increase from the $17.1 million revised forecast for 2008/'09 in the current year, as per Exhibit 28.

Total claims costs, which includes claims incurred, claims expenses, and road safety and loss prevention expenses, are expected to increase to $730.7 million, compared to the revised forecast for 2008/'09 of $694.1 million, as per Exhibit 28.

Total expenses are projected to be $112.1 million for the year of the application, an increase of $8 million from the revised forecast for the current year as set out in Exhibit 28. Included in that $8 million increase is an increase in operating expenses of $5.3 million. The projected underwriting loss for the year of the application is $97.1 million, while investment income is forecast to be some $92 million.

The result is that overall the Basic insurance program is expected to have a net loss of $5.1 million before a nine hundred thousand dollar ($900,000) transfer from the IIF, such that the net loss to be considered for rating purposes is projected to be $4.2 million. This overall projected net loss includes consideration of a forecasted 1.03 percent premium rate decrease.

Projections through the outlook period, which consists of the fiscal years 2010/'11 through 2012/'13 are found at TI.15A at Tab 7 of the Board's book of documents, and do not reflect any rate changes in the projections, though the projected revenue growth reflects both the upgrade and volume factor increases. The Corporation is projecting net income of $6.5 million in 2010/'11, net income of $27 million in 2011/'12, and net income of $41.7 million in 2012/'13. And the Corporation has indicated that these forecasts include the projected savings from the PIPP infrastructure initiative.

The projections for the outlook period do not, however, reflect the impact on basic operations of the new driver safety rating system and streamline renewals, which are the subject of a future hearing, changes in investment income assumptions arising from the revised investment asset mix, or accounting changes from the adoption of the international financial reporting standards, or IFRS.

In the application as filed, the average rate adjustment for each major vehicle class is as follows:

For private passenger, a 1.5 percent decrease; for commercial, a 3.9 percent increase; for public, a 2.3 percent increase; for motorcycles, a 7.2 percent increase; for trailers, a 3.4 increase; for off-road vehicles, a 14.3 percent decrease; giving rise overall to a 1 percent decrease.

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. In total, the vehicle population for the year of the application is expected to be some nine hundred twelve thousand seven hundred and fifty-four (912,754) vehicles, which yields the following requested rate changes:

65 1/2 percent of vehicles will receive a

rate decrease. Most decreases will be less than fifty dollars ($50).

2 percent of vehicles will receive no change in rates.

32 percent of vehicles will receive a rate increase. The majority of increases will be less than fifty dollars ($50), however, 1.5 percent of vehicles will receive a rate increase of between fifty ($50) and a hundred dollars ($100).

As well, less than 1 percent of vehicles will receive an increase of between one hundred ($100) and two hundred dollars ($200), and less than .1 percent of vehicles will receive an increase of two hundred dollars ($200) or more.

With respect to IFRS, or the International Financial Reporting Standards, MPI will be required to adopt the same for fiscal 2011/'12, with comparative information required for 2010/'11. The Corporation is currently in the process of a detailed examination of the impact of IFRS. An initial assessment was completed by KPMG which indicates, at a high level, the potential impact of IFRS upon the Corporation.

KPMG has identified areas where the Corporation's accounting policies and financial reporting will likely change. Throughout the remainder of 2008 and

2009, a detailed assessment will be performed and a conversion plan will be finalized.

The Corporation has further advised that while it is approaching the issue cautiously, it believes that IFRS will not have a significant impact on its bottom line. And the reference for that piece of evidence is page 194 of the transcript in this proceeding.

With respect to driver and vehicle licensing, or DVL, which is treated as a fourth line of business in the Corporation since the merger three (3) years ago, the Government provides funding to the Corporation fixed at $21 million annually, which does not satisfy the costs of operating DVL, and as a result there is a shortfall which the Corporation has advised is being covered by the extension line of business outside the Board's jurisdiction.

In 2007/'08, the cost of DVL operations was $32.8 million, resulting in a shortfall of 11.8 million. In the previous year of 2006/'07, the costs of DVL operations was $31.4 million, resulting in a shortfall of 10.9 million. And in 2005/'06, the shortfall was $6.1 million.

KPMG, in its IFRS quick scan analysis, has stated that provisions for loss-making executory contracts, or onerous contracts, are required under IFRS. Generally, provisions for these types of contracts are not recognized under Canadian GAAP, which stands for generally accepted accounting principles.

KPMG has suggested that the Corporation will need to evaluate agreements such as any long-term purchase and supply contracts and various leasing arrangements to assess whether additional provisions would be required under IFRS. As an example, KPMG cited the Corporation's master agreement with the Province of Manitoba relating to DVL operations, which in its view, would need to be further analysed.

MPI's auditor, Robert Kowalchuk, of KPMG, stated in oral evidence that:

> "Pursuant to IFRS, an onerous contract is defined as one where the unavoidable costs of fulfilling the obligation exceed the benefits expected to be received under the contract."

And that reference is at page 1373 of the transcript in this hearing.

As such, it appears that the management of the Corporation will have to determine whether it may have to record a liability for this contract, reflecting the impact of any future funding shortfall. If an adjustment were to be made, it would reduce the retained earnings in the extension line of business.

As the record reflects, the Corporation has undertaken a Business Process Review, or BPR, to identify ways in which it can maximize the benefits of the DVL merger to ratepayers, vehicle registrants and driver licence holders. A new project relating to streamline renewals and a one-part driver's licence has been added to the BPR portfolio of initiatives, which will have an impact on Basic.

In addition, the Corporation has undertaken to develop an enhanced driver's licence at the request of the province. The Corporation has advised that its cost recovery for undertaking this initiative has yet to be negotiated with the province.

The identified capital or deferred spending for the BPR is over $100 million and the majority of the costs for the BPR, except for the driver safety rating and PIPP infrastructure components, are being paid for by the extension line of business. The capitalized, or deferred Basic BPR initiatives, total over $33.4 million and, in addition, per MPI Exhibit 19, the Corporation is forecasting to expense some $12.1 million, excluding amortization, from the years 2008/'09, the current year, to 2011/'12 on BPR initiatives.

Taking into consideration the total investment and -- taking this into consideration -- pardon me -- the total investment in Basic BPR initiatives is forecasted to exceed $45 1/2 million.

As mentioned a moment ago, MPI is currently undertaking a process to implement both a new system to replace the current bonus/malice system, otherwise known as the Driver's Safety Rating system, or DSR, and a streamlined renewal system. Both of these initiatives will be the subject of a separate hearing before the Board to be filed by January 30th, 2009, and to be heard in April 2009.

The streamlined renewal system will lead to a significant decrease and the work efforts of brokers' offices associated with the renewal process, since renewals that currently occur annually will happen once every five (5) years under the new regime.

In conjunction with the streamlined renewal system, MPI has negotiated with brokers a gradual decrease in their commission rates for basic insurance renewals.

MPI has indicated that these future reduced commissions will not impact the current rate application, and that further details will be presented at the 2009 Special Hearing.

With respect to cost allocation, the basic financial statements filed in this proceeding at AI.6 and the financial forecast presented in this application reflect the outcome of an allocation by the Corporation of revenue, expenses, assets and liabilities, based on its approved cost allocation methodology.

This cost allocation methodology was the subject of discussion at this hearing, and questions were raised on whether that methodology remains appropriate given the integration of DVL operations and employees within the Corporation.

In its Order 150/07, this Board ordered that MPI undertake a cost allocation review in consultation with the Board and file the results of that review at the next GRA.

The Corporation has indicated that currently there is legislation pending that will fundamentally change the way in which it transacts business, noting the implementation of enhanced identification cards and licences, one piece driver's licences, streamlined vehicle registration and insurance renewals and the DSR system changes.

The Corporation has advised that it will file a cost allocation review with the Board at the 2010 GRA. In support of the current cost allocation methodology, the Corporation has indicated that its external auditors have not raised any concerns with regard to the allocation policy or take an issue with it.

MPI has further referenced its auditor's report which states that, quote:

> "An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statement.
>
> An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation." End quote.

MPI has indicated that the statement just quoted by me provides the assurance that the amounts allocated to Basic have tested, and the amounts represented in the Basic financial statements are fair. And that references at page 268 of the evidence.

MPI's external auditor, Mr. Kowalchuk, who testified in this proceeding at the Board's request, has advised the KPMG provided an audit opinion on the basic financial statements which reflected both direct and allocated expenses. The allocated amounts were based on the MPI Board of Directors approved cost allocation -- allocation methodology.

Further, in performing its audit KPMG performed an examination on a test basis of some of the amounts that were allocated to Basic to ensure that those amounts were allocated in accordance with the approved policy.

KPMG indicated that it could not comment on whether, as an auditor, it accepted that the cost allocation policy is fair and reasonable, as it was not engaged to perform an analysis on the allocation formula, but rather was engaged to report on the financial statements as a whole.

KPMG further stated that it did not come to any conclusions in respect of whether any amendments or changes to the cost allocation -- allocation methodology should be made as this was not within the scope of its engagement.

With respect to anti-theft initiatives on the part of the Corporation, the record reflects that the Winnipeg Auto Theft Suppression Strategy or WATSS, W-A-T-T-S, (sic) was started by the Provincial Auto Theft Task Force which is 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.

WATSS was intended as a bridging strategy to decrease auto theft until the number of immobilized vehicles in Winnipeg reach critical mass.

Originally, the Corporation funded this initiative to the extent of approximately nine hundred thousand dollars ($900,000) per year which has now been increased to some $1.14 million.

This funding directly supports the cost of fourteen (14) additional positions within Manitoba Justice. This program is set to run through July 31st, 2009 at which time the Corporation will re-evaluate whether the program should be further extended.

The Corporation has also continued the Immobilizer Incentive Program under which after-market immobilizers are installed in vehicles. The Corporation has devised a list of the most at-risk vehicles or the MAR list which originally included vehicles with a one (1) in sixty (60) chance of theft.

Last year the list was expanded to include vehicles with a one (1) in one hundred (100) chance of theft.

The MaR list included both vehicles that were required to be immobilized, and those that could be immobilized on a voluntary basis. The Corporation offered free installation and financing for the MaR vehicles.

Manitoba legislation requires the mandatory installation of immobilizers in MaR vehicles located in or commuting to Winnipeg.

Last year, approximately forty-six thousand (46,000) vehicles were included on the MaR list, and in May 2008 the mandatory installation list was expanded to include an additional fifty thousand (50,000) vehicles.

MPI has indicated that the risk of theft for these vehicles has increased from last year.

The Immobilizer Program is funded by the Immobilizer Incentive Fund, or IIF, with an initial allocation of $50 million from the Basic rate stabilization reserve to offset the cost of the installation and administration of the Immobilizer Program. It is anticipated that this fund will be fully depleted in 2009/'10.

In the current application, the Corporation projects fifty thousand (50,000) installations in the current year 2008/'09, and two (2) -- twenty-seven thousand five hundred (27,500) installations in the year of the application, with an additional one thousand (1,000) installations annually from 2010/'11 through 2013/'14 such that a total of approximately one hundred and eighty thousand (180,000) vehicles will be immobilized through the life of the Program.

At the end of 2007/'08, there were approximately eighty-five thousand (85,000) vehicles immobilized under the Program, which total is forecasted to grow to approximately one hundred and twenty-three thousand (123,000) vehicles by the end of the current year 2008/'09.

The current forecast reflects that the total installation costs over the period from 2005/'06 through 2013/'14 will be some $51.3 million compared to last year's forecast of $68.9 million. The $17.6 million decrease is a reflection of a lower installation forecast made this year.

The Immobilizer Program is forecast to be self-supporting and to result in positive net income to the Corporation.

For the current year, the Corporation is forecasting a reduction in claims incurred from auto theft of 21.6 million to Basic, and $4.5 million to Extension.

The total impact on the operating results for the current year is forecast to be a positive impact of $1.2 million.

For the year of the application, 2009/'10, the Corporation is forecasting a reduction in claims incurred from auto theft of twenty (20) thou -- $27.9 million to Basic, and $5.5 million to Extension.

The total impact on the operating results for the year of the application is forecast to be a positive impact of $15.9 million.

The current forecast further reflects that the reduction in Basic claims incurred over the period from 2005/'06 to 2013/'14 will be some $219 million compared to last year's forecast of $178.5 million.

This improvement of $40.5 million from last year is a reflection of the better-than-expected theft experience in 2007/'08, along with an improved outlook for the forecast period.

Turning, then, to investment income. The record reflects that investment income is a major component of the Corporation's income, and offsets annual underwriting losses.

MPI is projecting approximately $91.9 million in investment income to Basic for the year of the application.

The size of the Corporate portfolio for 2009/'10 is projected to be $2.3 billion comprised of roughly 76.1 percent in long term bonds, 20.6 percent in equities, 3.1 percent in cash and short-term investments, and .3 percent in venture capital. And that's reflected at the document at Tab 13 of the Board's book of documents.

The portfolio is expected to grow to over $3 billion by 2012/'13, which forecast does not reflect the new asset class targets developed as a result of a recent asset liability modelling study conducted by Aon Consulting, which I'll now be referring to as the Aon study.

MPI engaged Aon Consulting to conduct the Aon study to determine whether further diversification of its investment portfolio was warranted.

The purpose of the Aon study was to seek the optimal portfolio asset mix for the Corporation's investment portfolio.

In conducting the study, Aon modelled alternative portfolio mixes and their respective risks and returns against the efficient frontier, which Aon calculated to determine the portfolios that provide the highest levels of excess return for given levels of risk.

Aon conducted the Aon study with a view to two (2) objectives; the primary one being to minimize the tracking error of the assets relative to the liabilities, and the secondary objective being to maximize returns subject to reasonable levels of risk.

Aon recommended to the Corporation two (2) investment portfolio mixes which differed substantially from the Corporation's current portfolio mix.

Specifically, the portfolios recommended by Aon did not have any allocation to universe bonds, whereas the current portfolio has an allocation of 43.5 percent.

Secondly, the recommended portfolios suggested by Aon did not have any allocation to Real Return Bonds which acts as an inflation hedge, whereas the current Corporate portfolio had an allocation to those kind of bonds at approximately 13 percent.

Further, the portfolios were me -- recommended by Aon had 10 percent allocations to real estate, and the current portfolio had no allocation to real estate.

Similarly, Aon recommended a 5 percent allocation to infrastructure, whereas the current portfolio had no allocation to infrastructure.

In addition, one (1) of the portfolios recommended by Aon had a 20 percent allocation to mortgages, and, for the record, all of those details are reflected on page 1 of the Aon study.

The Corporation has revised its current investment allocation framework on the basis of a modified portfolio modelled by Aon.

The allocation being 30 percent in universe bonds, 10 percent in long-term bonds, 20 percent in non-marketable Manitoba bonds, 12 percent in Canadian equities, 5 percent in US equities, 3 percent in international equities, 10 percent in Canadian real estate, 5 percent in private equity, and 5 percent in infrastructure.

MPI did not accept Aon's recommendation to switch from universe bonds to Canadian long-term bonds. Rather, MPI selected a 10 percent weighting to long-term bonds and maintained a 30 percent weighting in universe bonds.

The Corporation's investment committee working group was uncomfortable with the switch given that long term bond yields are at forty (40) year lows, and given the relatively low spread between the yields on long-term bonds and universe bonds.

The working group also had concerns that a wholesale bond transfer would have required the sale of approximately $1 billion of securities, and the purchase of a similar amount.

The Board heard evidence on this point

from Drs. Hum and Simpson called by CAC/MSOS in respect of anticipated returns, as well as from the Aon representative, Jeremy Bell, with respect to risk mitigation.

With respect to Canadian equity investments, the Corporation rejected Aon's recommendation to reduce the weighting in the portfolio from 15 percent to either 1.5 percent or 3 percent, citing superior returns on the Canadian equity portfolio during the last nine (9) years.

With respect to US equity investments, the Corporation rejected Aon's re -- recommendation to reduce the weighting in the portfolio to either 3.5 percent or 7 percent, and opted, rather, for a weighting of 5 percent, together with -- with a 3 percent weighting to EAFE, E-A-F-E, which stands for Europe, Australasia, and the Far East, and which was not recommended by Aon.

In other words, the proportional rating of Canadian to US equities selected by the Corporation is the opposite of that proposed by Aon in respect of which the Board has also heard testimony from Drs. Hum and Simpson.

MPI did adopt the Aon recommended weighting regarding Canadian real estate, private equity and infrastructure, and adopted the recommendation that the portfolio not include any Real Return Bonds.

The Board heard evidence on the removal of Real Return Bonds from the portfolio from Drs. Hum and Simpson, and from Mr. Bell, in respective issues relating to inflation, and the relative protection to be afforded to the Corporation by investments in real estate and infrastructure.

With respect to the Corporation's new proposed asset mix as a whole, the Board has heard from MPI that the working group selected the portfolio in question because it provided one (1) of the best ratios of return to risk; higher than both that of the current portfolio and one (1) of the portfolios recommended by Aon, which was portfolio number 5.

Drs. Hum and Simpson testified that the proposed portfolio is an improvement over the current portfolio mix in the sense that according to modern portfolio theory, the Corporation can expect a higher rate of return with the new allocation.

Mr. Bell testified that while the Corporation's selected portfolio is not on -- on the efficient frontier as reflected at page 70 of the Aon report, which mathematically confirms it is not optimal; it is reasonably close to the efficient frontier.

The record reflects that the Department of

Finance has ultimate authority over MPI's investments, though there is the investment committee working group, as mentioned before, in which the Corporation participates.

Historically, there has been some significant variability in the projected versus actual investment income results of the Corporation, which could be attributable to equity gains and losses taken, versus those projected in each year. And those details are set out at Tab 14 of the Board's book of documents.

The Corporation's investment policy statement includes a guideline for realizing gains based on the level of unrealized gains relative to the book value of investments. MPI has stated that on two (2) occasions, it has directed its investment managers to realize a certain amount of gains in the investment portfolio. It has stated that the rationale for realizing gains is so that the increase in the market value of the assets can be reported in income. And that is reflected at the response given to CAC/MSOS in the Second Round, Question 3.

Generally, holdings sold to realized gains are repurchased based on the investment manager's view of the market. The record reflects that in fiscal 2007/'08, a number of changes in accounting standards were implemented by the Corporation relating to comprehensive income, equity, the recognition and measurement of financial instruments and hedges. These provisions require the Corporation to recognize unrealized gains in the statement of comprehensive income.

In addition, accumulated other comprehensive income is to be disclosed as a separate item within MPI's retained earnings. MPI has stated on the record its view that it should not be regulated based on its comprehensive income. As a consequence of applying these new accounting standards, the Corporation's claims liabilities were recalculated using a market rate at March 1st, 2007, which resulted in claims liabilities increasing by some $22.7 million. This change was recorded as a transition adjustment, the net effect being a reduction in the opening Basic rate stabilization reserve balance.

MPI has taken the step of re-designating its bond purchases after June 1st, 2008, as held for trading investments rather than available for sale investments. As a result of this designation, any change in the fair market value of these investments must be recorded as net income. The re-designation of the bonds is to offset the impact that future changes in the fair value of claims liabilities may have.

I mentioned a moment ago, the Basic Rate Stabilization Reserve, or RSR. The state of -- the stated purpose of which is to protect motorists from rate increases made necessary by unexpected events and losses arising from non-recurring event or factors, like the hailstorm experience that swept through our province last summer.

The application as filed reflects the balance of the Basic RSR as follows:

For 2005/'06, $173.1 million including consideration of the $37 million in the IIF and $19 million from SRE and extension transfers.

For 2006/'07, $161.3 million, including consideration of the $33 million in the IIF and the discontinuance of transfers from SRE and extension.

For 2007/'08, $145 million after a $62.6 million rebate and the accounting transitional adjustment of $22.7 million and including consideration of the $17.9 million in the IIF.

For 2008/'09, $139.4 million based on the most recent forecast from the Corporation at Exhibit 28, including consideration of nine hundred thousand dollars ($900,000) in the IIF.

For 2009/'10, $134.4 million, by which time the IIF will be fully depleted.

For 2010/'11, $140.9 million.

For 2011/'12, $167.9 million, which is comprised of the projection of $154 million included in the GRA filing, together with an additional $13.9 million being the current revised forecast in net income for the current year. In addition, the Corporation is projecting net income of $27 million in 2011/'12.

For 2012/'13, the balance in the RSR is thought to be 209.7 million which is comprised of the projection of 195.8 million included in the GRA filing, together with an additional $13.9 million, being the current revised forecast in net income for the current year. In addition, the Corporation is projecting net income of $41.7 million in 2012/'13.

The Board's RSR target level for 2008/'09, the current fiscal year, is a range of 72 million.

At prior application hearings the Corporation has indicated a preference to use the minimum capital test, or MCT, in establishing the RSR range. The MCT identifies risks based on a corporation's current financial statements and is a solvency test utilized by private insurance companies which are regulated by the Office of the Superintendent of Financial Institutions, or OSFI, O-S-F-I.

The Corporation has indicated that the

test is an industry best practice, but acknowledges that it is not subject to OSFI regulation. This Board concluded in Order 156/06 that while the MCT is a reasonable test of an insurer's financial strength and may prove a useful trend indicator over time, it is not superior to the risk analysis previously employed by the Corporation.

Overall, the financial strengths of the Corporation is positive with retained earnings of $86.3 million and 59 -- $52.9 million in Extension and SRE respectively, as at the end of 2007/'08. The Corporation has declined to file any forecasts of retained earnings related to SRE and Extension. However, it has indicated that it is now forecasting to earn $32.2 million from those divisions in the current year. And the reference for that evidence is page 1399 of the transcript.

Since March 1st, 2006, the Corporation's Board of Directors has authorised no transfers of retained earnings from Extension and SRE to Basic on the basis that the Public Utilities Board RSR target range has been met. It is noted in MPI's annual report that on March 1st, 2007, its Board of Directors approved a one (1) time transfer of $39 million in deemed excessive competitive line retained earnings to establish the

Extension Development Fund or EDF.

The EDF was to be used to defray the annual driver licensing project costs that flow through the Extension line of business. The balance of the fund at the end of the fiscal year 2007/'08 was $35.4 million.

As has been stated, at the end of 2007/'08 the competitive lines of business had approximately $139.1 million in retained earnings before the transfer to the EDF and that when combined with the $145 million in Basic retained earnings as at the end of the same year, there is reflected a $284 million overall retained earnings in the Corporation.

The Corporation's second quarter report for the period ending August 31st, 2008, reflects a further transfer to the EDF of some $31.7 million, effective July 1st, 2008, used to fund service improvements made possible by the DVL merger. As of August 31st, 2008, the balance in the EDF was $63.8 million.

The most recent retained earnings forecast for Basic, which is set out at Exhibit 28, reflects that for fiscal '08/'09 the current year, the Basic insurance RSR will be $139.5 million including the IIF, which is well in excess at the top end of the Board's RSR range for rate-setting purposes.

Given that the balance of retained earnings in Extension and SRE was $139.1 million as of the end of 2007/'08, and that an additional $32.2 million is forecasted in income in those lines of business in the current year, and given that the forecast for Basic is $139.5 million, the retained earnings of the Corporation as a whole are forecast to be some $310.8 million as of the close of 2008/'09. The Corporation has not requested a rebate in the current GRA application.

Moving to claims incurred, we note that claims experience rate adjustments are made by looking at historical data and projecting that data into the future to determine the expected costs of claims for all of the different categories in order to achieve revenue neutrality.

With respect to accident benefits, the actual claims incurred were $164.2 million in 2007/'08. They are forecasted to be $242.2 million in the current year, 2008/'09, and projected to be $251.3 million in the year of the application, 2009/'10.

With respect to Collision coverage, the actual claims incurred in 2007/'08 were $241.3 million. They are forecasted to be $253.7 million in the current year '08/'09 and projected to be $266.5 million in the year of the application.

With respect to Comprehensive coverage, the actual claims incurred in 2007/'08 were $76.3 million. They are forecasted to be $66.2 million in the current year and projected to be $63.3 million in the year of the application.

With respect to property damage coverage, the actual claims incurred in 2007/'08 were $35.7 million. They are forecasted to be $36.5 million in the current year and projected to be $38.7 million in the year of the application.

With respect to public liability claims, the actual claims incurred in 2007/'08 were $2.7 million. They are forecasted to be $4.9 million in the current year and projected to be $5.1 million in the year of the application.

The total numbers for claims incurred therefore are $525.3 million for 2007/'08 forecasted to increase to $603.4 million in this GRA filing, now updated to 589.5 million, and projected to increase to $624.8 million in the year of the application.

For the fiscal year 2007/'08 the Corporation experienced favourable runoff of past year's claims liability. In particular, Basic enjoyed over $58 million of favourable net runoff on the claims liabilities posted at the prior fiscal year end for the year since the inception of PIPP, comprised of almost $20 million of unfavourable runoff on the two (2) most recent insurance years and favourable runoff of about $78 million on prior PIPP insurance years.

Cumulatively, over the fiscal years from 2004/'05 to 20071/'08 Basic has experienced over $194 million of favourable net runoff for the year since the inception of PIPP, with the runoff being consistently favourable for each insurance year during each fiscal year except as I just noted. With respect to these developments, the Corporation has advised that it will be reviewing its unpaid claims reserves.

In Exhibit 28 filed by the Corporation on September 30th, 2008 it is reflected that the Corporation is now projecting a reduction in the 2008/'09 claims incurred of $13.4 million from that forecasted in the GRA filed in June.

Claims incurred are still projected to increase by 99.5 million, or 18.9 percent, from 2007/'08 to 2009/'10, the majority of which increase relates to an increase in PIPP claims incurred of some $87.1 million, or 53 percent.

With respect to PIPP infrastructure, in past orders the Board has recommended that the Corporation develop claims handling, PIPP and other operating cost benchmarks and that it perform analyses comparing its experience with that of comparable insurers.

In December 2005 the Corporation understood a PIPP infrastructure study at an estimated cost of some $1.2 million. An update with respect to that project is found in the GRA filing at AI.20. In particular the Corporation has now concluded phases 1 and 2 of the PIPP infrastructure study and is involved in phase 3. Phase 3 of the study comprises the effort required to build the integrated people, process, technology, management, and information solution to enable the vision and objectives for PIPP claims management.

The Corporation has selected FINEOS, F-I-N-E-O-S, claims management software as the technology solution for PIPP following an assessment process and has provided an updated cost estimate for the new PIPP infrastructure system to be $21.7 million.

Commenting briefly on motorcycles, mopeds, and motor scooters, we note that over a number of years the Corporation has been phasing in rate line adjustments for motorcycles and that will be completed in 2009.

As the majority of the motorcycle rate line is nearing its target, motorcycle rate line changes now have an offset adjustment implied to ensure revenue neutrality.

Since the rate line for motorcycles for 2009/'10 has an offset for revenue neutrality, there is no overall average rate change to the motorcycle class for this change.

The average rate line changes range from an increase of 13.8 percent for rate group 0 to a decrease of 3.2 percent for rate groups 4 and 5. As a result of experience rate adjustments and the rate line adjustment an overall increase of 7.2 percent for the motorcycle major class is requested in this application. As well, off road vehicles have an experience indicator of negative 59.3 percent, however, the Corporation is proposing a negative 14.3 percent adjustment.

Claims expenses for the Corporation are projected to increase from $73.1 million in 2007/'08 to $86 million in the year of the application, an increase of 17.6 percent over two (2) years. The majority of the change is a result of higher data processing costs and the undertaking of several operational initiatives including the PIPP infrastructure initiative.

With respect to operating expenses, I confirm that the operating expenses of the Corporation attributable to Basic have increased to $45.5 million in the current year, from $41.6 million last year, and are projected to increase further to $47.7 million in the year of the application. This increase is partly attributable to higher amortization costs from improvement initiatives.

Staffing levels continue to increase for the Basic line of business as set out in TI.9. In particular, the Corporation employed some thirteen hundred (1,300) full-time equivalents as at March 1st, 2003, which grew to some seventeen hundred and seventy-six (1,776) full-time equivalents as at March 1st, 2008. That number is forecasted to grow further to nineteen hundred and sixty-three (1,963) full-time equivalents at March 1st, 2009.

This is an increase of a hundred and eighty-seven (187) full-time equivalents in one (1) year, of which a hundred and thirty-six (136) full-time equivalents relate to the business process initiatives, or review.

The Corporation has advised that its staff has been integrated, such that is unable to identify the number of full-time equivalents that provide service to Basic. In other words, the detailed information contained in TI.9 cannot be produced for Basic in the same level of detail, due to the fact that Basic operations are integrated throughout the Corporation, along with the other lines of business.

The Corporation has advised that it continues to allocate staffing costs to DVL appropriately. Although, as I mentioned earlier, it has not yet undertaken an updated cost allocation methodology study to assess the reasonableness of the allocations. The need for a new shared service cost allocation review was an issue raised by the Board in Orders 156/06 and 150/07. As previously mentioned, MPI has delayed this study pending anticipated operational changes and will provide a study at the next GRA.

Salaries are a major component of the operation expenses of the Corporation, representing approximately 58 percent of the total operating and claims expenses in the year of the application.

With respect to capital expenditures, as previously mentioned, the Corporation is continuing with the business process review, the costs of which are now expected to exceed $100 million. In addition, the Corporation has committed to the building of four (4) new claims centres, three (3) in Winnipeg and one (1) in Selkirk, at an estimated cost of $34 1/2 million. The Corporation has also included in the filing a provision of $1.5 million for future buildings.

It is the Corporation's view that specific capital expenditures such as the claims centres are not subject to regulatory approval. And the reference for that is CAC/MSOS First Round Interrogatory Number 48.

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

THE CHAIRPERSON: Thank you, Ms. Everard. Next we are going to go on to Mr. Oakes. Do you want to start now or do you want a short break first?

MR. RAYMOND OAKES: Certainly prepared to go ahead, Mr. Chairman.

THE CHAIRPERSON: Okay. How long do you think you will take?

MR. RAYMOND OAKES: I anticipated fifteen (15) minutes.

THE CHAIRPERSON: Okay. Please proceed.

CLOSING SUBMISSIONS BY CMMG:

MR. RAYMOND OAKES: Thank you, Mr. Chairman, members of the Board, ladies and gentlemen.

Once again, the CMMG is being very pleased to be able to participate in these hearings, hearings which this year became somewhat more protracted necessarily from what we anticipated when the application was filed. That's because there's a number of issues of vital importance to motorcyclists and to Manitobans as a whole.

The Coalition explored a number of those issues, continue to explore those in the future and we note generally, to preface some other marks regarding the issue of jurisdiction and what this Board reviews in connection with the GRA, we note that the Corporation which is generally cooperative appears to be oriented to -- somewhat less cooperative stance on certain issues that I wish to discuss.

With respect to the issue of the hardening of the boundaries around the rate application, these remarks will, I'm sure, be of quite a interest to Mr. Dawson and Mr. Williams, because they've encountered issues around that hardening of the boundaries over the past few years as well, I believe.

This year, for example, there are many cases where the Corporation refused to answer CMMG interrogatories, arguing that the matter was not germane to the rate application. The Corporation appeared to be hesitant to provide information relating to other jurisdictions, specifically in particular other public insurance corporations.

Going back to the basics, when we look at the Webster's New College Dictionary, the definition of germane means that the topic is at once relevant and appropriate. It appears the Corporation is using the word germane in terms of appropriateness in view of the Crown Corporation Review and Public Accountable Act, where the focus is on rates for service under the Basic Autopac program.

Effectively, this removes regulating insurance coverage from the mandate, or -- of the Public Utility Board, or at least so that interpretation might be argued by MPI. As well, it restricts the ability to probe other monopoly of the Corporation's business relating to Autopac Extension as well all know. It, however, does not rest -- restrict probing in considering coverage and the other lines of business in terms of their implications on Basic Autopac rates. For example, when the PIPP program which changed coverages was introduced, a full set of hearings were held to vet and approve the consequent rates for service. That hearing included a review of coverages and their levels.

The Corporation has had a somewhat variable and inconsistent approach when it comes to apply this germaneness rule. For example, several years back when discussing the rate stabilization reserve limits, the approaches and the goals of other public insurers in the private sector were a key part of their application, yet this year when being asked, these sources were dubbed as not being germane.

Another example is last year's hearings were in support of its application for multi-year applications, the Corporation came before this Board and filed a variety of information from unrelated companies such as Manitoba Hydro, and Manitoba Telephone System. The implication from an Intervenor perspective is two-fold, Mr. Chairman.

First, it puts Intervenors in a position where they must acquire the information in which the Corporation may already have. This adds to the -- to costs in the regulatory process.

Second, where Intervenors do not have the resources, or have limited resources, it inhibits their ability to present their case fully.

In the CMMG's perspective, further clarification of what is and what is not germane could be helpful for future rate applications. The CMMG suggests that comparative information relating to other public and private insurance companies should be considered germane.

The cost implications of coverage changes suggested by Intervenors should be made available. Finally, that information needed to understand the total cost of insurance inclusive of monopoly, MPI extension products may be considered germane.

This will aid the Intervenors in formulating their views related to Basic rates, as in most cases the Basic insurance buyers are, of course, monopoly in extension product buyers.

Looking at the rates specifically, and of course as pointed out in spite of many years increases motorcycle rates continue to rise. For 2008/'09 the average increase is in the 7 percent range. Again higher than other classes. More than 50 percent of motorcyclists receive an increase of a hundred dollars ($100) or more. More than a third receive an increase of more than 15 percent.

Overall in the last ten (10) years, as been pointed out, the average rate has increased more than six hundred dollars ($600), more than doubling. No other group of major class insurants has experienced that kind of price spiral.

The coalition is of the view that there are a number of areas where the Corporation could take steps to mitigate those increases.

First, and this was an issue examined at length by Board counsel and Mr. Williams, relative to comparable insurers, such as SGI and ICBC, MPI has seen a rapid growth in claims and operating costs. Claims expenses rose 70 percent from 2001 to 2008. The rate of increase was nearly 8 percent per year, some four (4) times the general rate of inflation.

We looked at other jurisdictions; during the same time frame, expenses fell in British Columbia and only rose 40 -- a lesser amount -- 46 percent versus 70 percent -- in Saskatchewan.

A similar pattern emerges with respect to operating expenses. In Manitoba the increase was 82.6 percent since 2001, or nearly 9 percent per year.

Comparable operating expenses, of course, fell in BC and only rose 40.1 percent in Saskatchewan. And, of course, the Corporation has some explanation for those, and we -- we agree that we can't take those figures as apple-to- apple comparisons in all cases. But certainly the trend has to alarm this Board.

The Coalition is of the view the Corporation needs to redouble its efforts to control expenses. In this regard, it suggests the Board establish inflation targets as allowable growth rates for expenses and adjusts rates downward accordingly.

Inter-related, of course, the issue of capital expenditures. The higher the forecast of capital expenditures, eventually the higher rates the Manitobans will pay.

As shown in cross-examination, the Corporation's record in projecting capital expenditures is biassed towards over estimates. In every year since 2001/'02, the Corporation has overestimated capital expenditures in the Rate Application.

Lost development and IBNR are inextricably tied to the level of rates. The higher lost development factors, the higher the rate indicators.

Most of the IBNR consists of PIPP, IRI and accident benefits other PIPP indexed. As described in cross-examination, there have been significant fluctuations in IBNR for these coverages.

Given the importance of lost development on rates, the Coalition's concern is that the downward fluctuations imply that the rates from the initial assessment were far too high.

MPI suggests in response to Information Request that -- that the IBNR analysis, as well as the PFAD is solely undertaken by the Corporation's external actuary.

During cross-examination it becomes

evident that there are discussions internally amongst MPI management and the external actuary as his work is being done.

We are left to ponder how much is the external actuary's input and advice, versus how much is reflective of MPI management.

Related to IBNR is the PFAD, which is simply a judgmentally-determined risk margin related to the IBNR. As discussed in cross-examination, PFAD has grown substantially in the last number of years in terms of total dollars, as well on a percent of total IBNR basis as shown in CMMG Interrogatory 2-27.

For the major components of IBNR, it constitutes the most significant portion in excess of the amounts generated from lost development. It is important to recognize that the PFAD provides the Corporation with a significant stabilization-type reserve that supplements the Basic stabilization reserve and the overall financial strength of the Corporation.

Mr. Chairman, it would be only somewhat scurrilous to suggest that the Corporation should take out the 'F' in the initials "PFAD" because there is some concern that these reserves have been necessarily padded over the years.

In addition to the Basic rate

stabilization reserve and the PFADs, the Corporation holds, of course, a number of other reserves to mitigate risk to the public and the Corporation. They were discussed in cross-examination shown in the response to CMMG 1-4-47. The total of these reserve levels, the Coalition believes, argues for lower overall rates.

CM -- CMMG is quite concerned about the over- estimation of claims forecast when rates are being set. In four (4) of the five (5) last Rate Applications the claims forecasts were higher than actual.

While the over-estimation results in a higher current rates, the Coalition understands that the effect may be to reduce future rate requirements, or at least is argued by the Corporation.

The fundamental problem with that view is that the current owner pays a higher than necessary rate, spending funds that they may wish to use for other purposes.

And, finally, there's no guarantee that the current ratepayer will be the future ratepayer and garner the potential future benefit.

The coalition suggests to the Board that is -- that over-estimation be considered in its final analysis of requirements, and reduce rates accordingly.

More specifically with respect to

motorcycles, the CMMG is wary of some of the data used to determine motorcycle rates.

One (1) consinu -- continued concern is the number of single vehicle accidents reported in Manitoba for motorcycles relative to other jurisdictions.

As shown in CMMG-1-73, about one half of the claims in 2007 were single vehicle. This follows after declines in 2005 and 2006.

Current data related to these claims is at odds with the 2004 motorcycle risk study. For example, in 1996 the current data indicates 38.9 percent of motorcycle accidents were single vehicle. Comparatively, in the motorcycle risk study, it was only 28.3 percent.

The greater the number of single vehicle accidents, the higher the motorcycle rates. Given this anomalist data, the CMMG remains of the opinion that the data is potentially wrong and, consequently, so are rates.

This suggests further analysis and research by the Corporation, or an independent organization, to ensure that the data is correct.

Somewhat related to that issue of SVAs; wildlife claims. They are an important cost factor for motorcycles.

Based on MPI's current protocols, such

accidents are considered as at-fault single-vehicle accidents with costs assigned to the motorcycle class.

The growth incurred in this category has been remarkable. It's risen from about fifty-seven thousand dollars ($57,000) in 1998 to 1.2 million in 2007.

As part of the Information Request, the CMMG sought through the Corporation information relating to the handling of these claims in Saskatchewan and British Columbia.

The Corporation reverted to its standard response; that treatment of these claims in those jurisdictions was not germane to the MPI application as shown in the response to CMMG-1-21.

On cross-examination, we reviewed information that the SGI program showed that such claims are not treated as at-fault claims in Saskatchewan.

The Corporation was clear that it wouldn't even pick up the phone and phone the people that they have known for thirty (30) years, who work in that area in Saskatchewan, and find out how that process is handled in Saskatchewan.

The coalition requests that the Board order MPI to remove these costs from each specific class and, instead, allocate costs on equal amounts across the board to each class.

Mr. Chairman, it is apparent on cross-examination that MPI appears to be waiting for a direction from the Board, because they -- they implemented the requirements relative to allocation of expenses arising from pedestrian claims, but they apparently need direction from the Board with respect to wildlife claims and other such allocations.

If there are issues with the data for the whole motorcycle class, which consists of ten thousand (10,000) plus units, a concern that arises is the veracity of the data for a small group such as sport bikes.

As described in cross-examination, there are fewer than a thousand (1,000) sport bikes in Manitoba with credibility factors of point zero eight two nine (.0829).

When it comes to applying credibility, the coalition notes several things. First, the Corporation has not explored and reported to this Board on other alternatives for the calculation, such as the claims based approach.

Secondly, the treatment of credibility is different for motorcycles than other vehicle group, namely the Corporation uses a different constant.

Third, the complement to the credibility used is the previous rate. The assumption is the former rate is correct and reflective of the risk.

Given the small pool size for sport bikes, there is potential that the previous rate calculated is not reflective of the true risk.

Consequently, using the previous rate as the complement just promogulates those potentially incorrect rates.

In this regard, the Coalition requests that the Corporation explore and provide analysis to the Board related to other potential methods for calculating credibility, and especially concerning their use of the prior rate as the complement.

With respect to he rate line adjustment, the CMMG is pleased that the Corporation's decided to apply the same general approach as used for other vehicle classes when applying adjustments. This now includes an offset adjustment.

There are a significant number of motorcycles receiving a rate decrease from the rate line relativity adjustment; approximately half of those vehicles. This suggests that perhaps the Corporation was overzealous in its former inequitable treatment of those motorcycles and, consequently, some of them may have been paying inappropriate rates to this date.

In the Coalition's opinion, the MPI has only half completed its work with respect to the classification of motorcycle risk. As we heard in cross-examination, MPI uses three (3) declared value ranges related to motorcycle engine displacement. This is fewer than typically used elsewhere, and within those three (3) ranges, MPI has not performed any analysis to insure that the relativity between ranges is correct.

If this classification scheme is not sufficient and the homogeneity in the class does not occur or if the relativities are not correct, rates charged individual motorcycle insureds are not correct.

Coalition believes the Board should order the Corporation to prepare additional analysis indicating the current declared value ranges and the relativities to ensure that they result in fair and equitable rates for motorcycles, or come forward with a new classification by 2010.

While the Corporation performs mechanically in developing rates for motorcycles, the Coalition suggests there are many more possibilities for the Corporation to reduce motorcycle claims costs as well as opportunities to improve service to this high ratepaying group.

Coalition question the Corporation regarding road safety initiatives for motorcycles, especially with regard to the NAMS report. In spite of the comprehensive nature of that report and its acceptance in the US and elsewhere, MPI has not allocated any resources to analyzing or deploying those recommendations. It has also not undertaken significant activities related to improved signage in construction zones. And, overall, compared to persistent -- to percentage of premiums, motorcycle safety appears to be under-funded.

The Coalition requests the Board to direct MPI to undertake additional motorcycle safety-related activities and report back on the effectiveness of those initiatives. There are several other areas where the Corporation could provide better service for the rates charged to motorcycles.

As reported by MPI, there's nothing to stop them from making available to broker's offices information related to declared value of motorcyclists. The provision of that information would help motorcyclists determine the correct declared value range for their vehicle so that they are not under insured or over insured.

Coalition is also quite concerned about

the inequitable treatment related to the family discar -- family car discount. That's the situation, of course, where one (1) car in the household may be insured at an all-purpose rate and a second rate at the pleasure rate and both allowed to be -- go to work or school. That benefit is restricted to passenger cars only.

In spite of MPI's argument that extending this benefit to mixed vehicle types; for example, a car and a truck or to other similar vehicles such as motorcycles, would disrupt the equity of the class plan. Common sense from the household level suggests there's unfair treatment in that case. Coalition sees no restriction to the extension of this practice to other vehicles.

A third potential area where the Corporation could potentially improve service to the motorcycling public is to add comprehensive coverage to the Basic plan. That's an initiative that's -- perhaps will be -- we'll stand down on that particular issue and comment on that in future years.

Maximum insured and declared values have not been increased for a number of years. The effect is to shift premiums to the monopoly AutoPac Extension Division. To improve service to motorcyclists, the Coalition suggests this range be extended to sixty-five thousand dollars ($65,000), the same as the clear limit. The Coalition suggests the Board order an analysis of the rate impact of that change.

(BRIEF PAUSE)

MR. RAYMOND OAKES: Mr. Chairman, those are the issues that the CMMG wishes to highlight and as argument this year. Of course, we have the transcript relative to the cross-examination and we look forward to the Board's determination on all of those issues.

It's been a pleasure, of course, to participate in these hearings. We have a contribution to bring to the special hearing to be filed next January.

The Corporation has asked the CMMG to comment ahead of that, but we look forward to bringing our perspective to those hearings as well.

We will be making an application for costs. We hope that the Board, in its determination of Mr. Dawson's costs, recognizes his contribution for the provisional water to the other Intervenors and will -- will consent to that disbursement on his behalf.

Thank you.

THE CHAIRPERSON: Thank you, Mr. Oakes. Next up is Mr. Williams. Mr. Williams, can you give us an idea as to how long your address will be?

MR. BYRON WILLIAMS: It will be more than fifteen (15) minutes. Mr. Chairman, just two (2) things. I've talked with -- or Mr. Kruk has talked with me -- I think certainly the Coalition will -- will be in the range of an hour to an hour and a half.

I -- I've spoken with Mr. Kruk and Mr. Dawson and -- and my client and we're certainly amenable to them proceeding ahead of us, and that has been their request to us. So that's certainly fine from -- from my perspective, as long as it's okay with my client, and it is. Mr. Chairman, the other thing I might ask, just to speed things along, is CAC/MSOS have done in the past to proceedings of Hydro and also the -- the Payday Lending proceeding, we've prepared, hopefully for the benefit of all, outline of our arguments.

So, with your permission I'd like the opportunity to distribute that over the break and also ask that the Board certainly just keep near at hand CAC/MSOS Exhibit Number 4 which is their book of documents.

THE CHAIRPERSON: Thank you, Mr. Williams. We'll take our break and we'll come back with CAA and then Mr. Dawson and then move onto Mr. Williams.

And you can distribute those now.

--- Upon recessing at 10:17 a.m.

--- Upon resuming at 10:35 a.m.

THE CHAIRPERSON: Okay. Ms. Wankling...?

CLOSING SUBMISSIONS BY CAA:

MS. DONNA WANKLING: Thank you, Mr. Chairman. Good morning, Mr. Chairman, Members of the Public Utility Board.

CAA found this year's rate hearings to be very interesting to say the least; interesting to find that the more things change, the more they stay the same.

CAA reviewed our comments at the end of last year's 2008/2009 rate hearing and realized that for many of the topics we couldn't comment any differently or any better than we did one (1) year ago, and that will be reflected somewhat in these remarks.

There are, of course, some topics, like the issue of funding allocations and investments, that to the largest degree were not canvassed last year, and therefore will require separate comment.

Let us then begin.

On the topic of auto theft, one (1) year ago CAA presented the following, and we quote:

"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 related 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 aspect of auto theft, we may 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, et cetera, will no doubt be increasing because of our success in minimizing actual car thefts.

We heard MPI witnesses suggest that after we've immobilized all the most at-risk vehicles, thieves will give up. 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 Boards -- Board, its advisors, MPI, and all of us that are intervening have a larger societal obligation to insist on proper interventions that 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 in the justice system, and when they fund police departments in Winnipeg more than 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 start-up cost for any of the police issues has now taken on the appearance of permanent funding.

On the issue of MPI's funding 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 rolled out." End quote.

This year's '09/'10 rate hearings has had very little discussion on auto theft because CAA assumes that the statistics have shown such a significant drop in thefts. However, one (1) of the answers to a question posed by the PUB counsel indicated that vandalism and attempted theft is, in fact, increasing as significantly as car thefts are decreasing.

CAA's concern, as we noted last year, is that the issue of vandalism has not been addressed and, in fact, motorists are paying the price again by way of their deductibles.

So, before we congratulate ourselves on how well everything is working, the real question of the cost of vandalism, double-paying for police services and prosecution, and the potential societal programs to which we referred one (1) year ago really need to be taken into account.

Is anyone out there really listening?

On the topic of forecast accuracy. The entire rate process is contingent upon forecasts. Recognizing that these forecasts must be made some eighteen (18) months in advance, CAA has sympathy with MPI's ability to forecast accurately. However, it is somewhat curious that income for the last four (4) years has been consistently higher than forecast, while expenses have been consistently lower than forecast. This can only be attributed to a bias in the forecast methodology.

Cost allocation. The issue of cost allocation is centred around which business line -- Basic, Extension, SRE, DVL -- pays for what proportion of expenses. Two (2) years ago this Board ordered that MPI undertake a cost allocation review in consultation with the Board and file the results of the review at the next General Rate Application. Two (2) years later, we are still waiting.

While MPI has indicated that the reason this has not been done is because there are so many things on their plate, CAA disagrees with their priorities. By not having the cost allocation done previously, we are left to accept and pay for the allocations set out by MPI internally.

Where is the transparency that Ms. McLaren suggests MPI is operating by.

As these other initiatives increase and as more funding is required to pay for these initiatives, the cost allocation issues become even more urgent and more muddied. CAA's concern is that much of this is erroneously being loaded onto the Basic insurance program's share of cost and until the cost allocation is done -- the review is done -- we will not be able to confirm or deny this to be the case.

On the topic of DVL amalgamation with MPI: When the Department of Vehicle Licensing was merged with MPI, the Manitoba Government agreed to pay the continuing cost of operation. As a result, MPI received $21 million per year as well as $6 million towards brokers' commissions.

Today MPI has received one-half (1/2) million dollars less than the $21 million promised according to Mr. Keith, and none of the $6 million promised to offset the brokers' commissions.

Why? Who's paying for this?

In MPI's testimony, we learned that the cost of the DVL operation is now some $30 million per year. Despite the promises of efficiency that we were given when this amalgamation occurred, we are now realizing increased operating costs overall, and decreased offset funding by the government.

So the total bill to motorists is, in fact, closer to $15 million per year. By MPI's own admission, Basic is getting a portion of the bill.

Without the cost allocation exercise being completed, we have no way of determining whether or not there is fairness here, except that we do know that the $15 million that is being shortchanged by the Government is an outstanding expense being born by motorists instead of the Government.

The takeover of DVL and the subsequent shortfall of funding by the Manitoba government, now in the order of $15 million annually, is being paid by whom?

On the issue of KPMG, the external auditor. The discussion, or lack of same, with the external auditor, KPMG, was astounding to CAA.

For KPMG to suggest that they did not provide a management letter to MPI for last year's results is an eye opener.

To CAA's knowledge, no annual audit ever provided to our operation has ever been delivered without a management letter.

Mr. Kowalchuk of KP -- KPMG also indicated that KPMG had no comment to add to any of MPI's operations.

To CAA that, too, is absolutely astounding since our experience is one of no annual audit being finalized without an auditor having several comments about how to better the operation of a business.

Ms. McLaren indicates that they did receive an audit findings report, but that since it not only relates to the Basic line of business but to other lines as well, MPI considers it to be internal to MPI's Board and not germane to this hearing.

CAA understands that the Basic line of business has been under study by the PUB during these past many days, and that a significant part of the payment of the auditor's fees will no doubt be allocated to the Basic line of business.

Does that portion of the audit findings report not belong to the Basic line of business? And, therefore, should it not be under the purview of this Public Utilities Board?

Business process review. CAA finds it impossible to comment on the business process review.

Because the cost allocation issue has not been clarified, we are not fully conversant with what is or is not reasonable to the Basic line of business.

On the topic of operating cost growth, CAA notes that the operating costs have significantly grown and continue to escalate in what may, or may not, be a reasonable manner. Again, the difficulty with this issue is to know what has been reasonably allocated to Basic insurance.

Truckers' insurance. CAA believes that -- that the time has come to have truckers pay their appropriate rates so that their benefits are not being subsidized by the private passenger vehicle. This particularly is troubling when many of the truckers are not resident in this Provence.

On the topic of new contract with brokers, MPI suggests that the Extension line of business is competitive.

As in any competitive business, in order to get more of it, you drive certain initiatives. Business 101 suggests that the role of any incentive plan is to extract more business from your competitor and, in fact, to put them out of business.

It is, therefore, very interesting to CAA that MPI's new agreement with their brokers suggests a decrease in payment for Basic insurance and an enhanced payment for Extension insurance.

CAA agrees that this is a textbook way of increasing business in their Extension line. However, since MPI already owns almost 95 percent of the business already, it is likely that more of who MPI refers to as "their competitors" will be driven out of the marketplace, and MPI will obtain an increased share beyond their precent 95 percent.

CAA believes that this, again, points to a furthering of the monopoly in the Extension line of business.

On the topic of investments. CAA found the discussion on investments and MPI's portfolio makeup to be very intriguing.

The discussion of the portfolio chosen by Aon and the subsequent change from that by MPI was fascinating.

Mr. Bell from Aon was excellent in explaining where Aon believed MPI should be in their portfolio. He also indicated that the ultimate choice by MPI was different and his personal choice would have been to maintain his makeup of the efficient frontier portfolio, rather than the one ultimately selected by MPI.

When questioned by both Board counsel and Intervenors about who ultimately made MPI's decision, Mr. Bell did not know the answer. Further discussion about this with MPI witnesses revealed that unlike two (2) years ago, where it appeared that MPI and the Manitoba Department of Finance together developed the investment strategy, this year's final decision according to Ms. McLaren was the responsibility of the Manitoba Department of Finance.

Perhaps coincidentally, the major change to MPI's investment policy appears to be away from real return bonds and is instead being redirected towards real estate and infrastructure.

The thought occurs to CAA that if the Manitoba government is making the final decision about where and how these funds are to be invested, the concern becomes one of having 20 percent invested in MUSH bonds plus further investment in real estate and infrastructure in Manitoba. Because of the lack of transparency in this entire process, CAA is concerned that the investment funds are being utilized by the Manitoba government as a pool of capital for their own interests, to drive another agenda.

Unlike most portfolio strategies that call for a diversification of investments, we're getting 20 percent MUSH bonds and the ability to direct a significant portion into Manitoba real estate and infrastructure. Should that happen? Where's the diversity? Is this healthy for the portfolio?

On the topic of the 2009/2010 rates, CAA, like CAC/MSOS, has in the past commented that in any rate hearing, the beginning and ending point should result in at least break even in one's budgeting. CAA cannot support a budget with begins with a budget loss of $4 million as has been indicated by MPI in this rate hearing.

Retained earnings. Last year on this topic, CAA said, and I quote:

> "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."

End quote.

Since last year, very little, if anything, has changed on this issue. The MPI panel has consistently said, and Mr. McCulloch will likely repeat, that the Extension line of business is a competitive product.

During discussion on this issue, Ms.

McLaren indicated that MPI and Manitobans, quote, "had strong and robust competition", end quote, in its Extension business.

In answer to questioning on this issue, it becomes apparent that the definition of strong and robust competition means that some 5 percent of all Extension business written for private motor vehicles is available to other insurers, while almost 95 percent of such business uses the Basic insurance funded computer system to generate huge, ever-increasing retained earnings for MPI. And further, MPI advocates transparency for all of its products.

During these hearings, Ms. McLaren suggests that the transparency in the Extension lines belongs not to the purview of this Public Utilities Board but to the Government of Manitoba. CAA suggests that this is a strange definition of transparency. The concept of trust me, in light of this lack of transparency before this hearing and the murky cost allocation, rings hollow to the motorists.

Because the Extension line of business and all profits generated by it are effectively being hidden from the scrutiny of this Board, this isn't the completely open and transparent process. There is no ability to prevent redirection of motorists' money to any use that the Government or MPI may choose. Several years ago it was Manitoba universities. More recently the Human Rights Museum. What next?

As we have suggested in the past, CAA more than ever believes that the Extension line of business and its subsequent reserves have been generated by the Basic line of business, and therefore as a monopoly should be part of these open and public PUB hearings.

On the issue of rebate, CAA notes that RSR level is some $30 million over the allowed limit set by this Public Utilities Board one (1) year ago. We recognize that these are troubling economic times which will no doubt have an impact on MPI's operating results for the upcoming year. Notwithstanding this, we suggest that the PUB look at rebating some portion of the RSR that is presently over the allowed maximum they've set and that this be done by crediting motorists' accounts rather than expending the cost of sending cheques to all motorists.

Mr. Chairman, we wish to thank the Board, its advisors, the MPI panel and the other Intervenors for the courtesies extended to CAA during the course of this hearing.

Thank you.

THE CHAIRPERSON: Thank you very much.

Mr. Dawson...?

CLOSING SUBMISSIONS BY CBA/MBA:

MR. ROBERT DAWSON: My client, the Manitoba Bar Association is aware of course that it's the preference of you, Mr. Chairman, that we canvas a large number of issues, but understandably there are limits as to what the Bar Association can usefully comment on.

And in addition to that even though in the course of our public -- or rather our Information Requests as well as our cross-examination, we've touched on a number of issues. Some of those will be better handled by My Learned Friend, especially Mr. Williams whose closing submission I've had the opportunity to review an outline.

So I can move fairly quickly to three (3) specific areas that I'd like to touch upon. The first will be a very brief comment relating to the Aon report. The second will be to revisit the topic of the way in which personal injury claims are handled. And finally, there will be the rater troubling and perhaps for some in this room uncomfortable discussion of what I'm going to label the non-compliance by the applicant of orders made by this Board.

So let me turn first to the subject of the

Aon report. The Board will remember that in the course of my cross-examination of Mr. Bell I asked him specifically if there were any specific issues that -- or any specific issues relating to monopolies that he might have taken into account in his order, or rather in his report. And at page 1050 of the transcript, there is a useful question from the Board and in fact you, Mr. Chairman, asking him if in fact he should have also included a question of taxation. And he notes that he did not incorporate the effect of no tax on the monopoly.

I took the opportunity to pick the brain of Mr. -- or sorry, Professor Hum, when he appeared before the Board, and at page 1238 of the transcript I extracted from him four (4) relevant considerations that might especially apply to a monopoly that do not appear in the Aon report. One was taxation repeating the concern that you, Mr. Chairman, had earlier raised. Then he made mention of the notion of equalization payments.

He made reference also to the third point which was the infinite planning horizon, the notion that a monopoly, a Government monopoly especially, will likely exist and operate without end. And finally, they pointed out that Government monopolies are -- on Crown Corporations are often asked to effect certain societal objectives through their investment policies.

I would suggest to the Board that in any event these factors are in many ways common sense that should be applied when considering the investment policies of any -- if any Crown Corporation. And the fact that Aon's instructions did not seem to include those particular points suggests at least that the usefulness of this report is limited.

When we combine that suggested submission with the reminder that the burden of proof falls upon the applicant to satisfy the Board when it comes to any issue or any submission that it would like to make, the conclusion, I suggest, is that when it comes to the investment report, the Aon report, through no fault of its writer, seems to be of limited usefulness to the Board in assessing the investment approach of the Corporation.

Let me turn now to the topic of the way in which the applicant handles personal injury claims. This has been a concern of the Manitoba Bar Association from the very first year that I assumed conduct of this file, and of course as I've often indicated, in submissions to this Board, it becomes a question of the entitlement of insureds, whether by their insurance contract or whether by operation of statute, to benefits that the applicant should be paying to them.

And of course it follows that if in fact an insured is entitled to a benefit, but that benefit is, because of the way in which the claim is handled, either denied or reduced, then effectively the applicant has not discharged its statutory or contractual obligations. And of course this is where the tie-in comes to the Public Utilities Board, where the applicant has failed to comply with its statutory obligations. Of course it has premised its rate application to this Board upon the assumption that there would be compliance. So it does give rise to an important and critical issue, I'll suggest.

I'm not going to take the time of this Board to review things that I've already said in past years, I'll simply summarize to say that it is the view of my client -- and I'll suggest that the evidence this year, to which I'll make specific reference in a moment, continues to support this -- that the way in which the applicant handles personal injury claims is not sufficient to discharge in all cases its compliance with statutory and contractual obligations to persons who are entitled to insurance benefits.

It certainly remains the view of the Manitoba Bar Association that the no-fault system is, as I flippantly sometimes label it, no good, and we needn't really dwell into that because of course the reality is is that on the topic of making reforms to the legislation we strayed significantly beyond what the powers of this Board are.

It does, however, fall within the purview of this Board, and this Board has previously recognized it going back as early as Board Order 148/'04, and probably earlier, but that predates my own appearances before this Board, that the way in which the applicant handles PIPP claims can dramatically impact upon those who are having -- insured.

Now if we look to this year's -- this year's evidence, I -- I asked Mr. Keith, beginning at page 1308, line 18, whether or not there had been any, for example, significant changes in the way in which the applicant assesses its performance. And I pointed, or rather he pointed out, to customer service standards and surveys which led me to ask and seek his confirmation, which he gave, that when it comes to setting standards in the context of the way in which the applicant itself judges its own compliance with those standards, those standards as well as the survey benchmarks are automatically set at a lower level. The excuse was given at page 1309, line 6 and following. But I'll submit to the Board that when it comes to the handling of the discharge of an obligation to meet the insured entitlements, certain problems do seem to arise when a lower standard is incorporated.

The Board will remember that I've made and in much more great detail this submission in earlier years, and it was gratifying to note that as early as its December order of 2004, that's Board Order 148/'04, the Corporation had required -- I'm sorry, the Board had required the applicant to engage in what we've labelled over the years, the comparative benchmark study.

And the mere mention of that is the natural segue to my most significant submission which relates to the way in which the applicant approaches the orders that this Board has made. I've listened intently and agreeingly with My Learned Friend, Mr. Oakes, as well as the recent submission of CAA on the topic of compliance and the attitude of the applicant, and I -- I won't repeat what they've said except to go as follows.

The Board will remember in the context of Manitoba Bar Association that after we had gone through an extensive review of the way in which personal injury claims were handled an order had been made by the Board. And let us be clear, I'm referring to Section 11 of Board Order 148/04, one -- Section 11 begins, "It is therefore ordered". Not recommended, ordered. And at page 93 of that Order, the fifth recommenda -- or fifth order, rather, is as follows, and I'll quote:

"Manitoba Public Insurance develop claim benchmarks for duration, frequency, and cost for comparison with its own experience and that of other no-fault jurisdictions and agencies, and file a summary of the benchmarks established by Manitoba Public Insurance with the Board at the next general rate application."

And it is the submission of the Manitoba Bar Association that among other orders that this Board has made on various topics, that is an order that the applicant has chosen to evolve into a much broader, more significant project that as we know continues to evolve and unfold.

Board counsel's closing submissions today reminded correctly the Board that there are a number of stages of what is being considered the PIPP initiative now, of which only the first two (2) have been com -- have been complied. And when we also review the transcript, we'll note that in the course of cross-examination, Mr. Saranchuk canvassed a number of other Orders that the Board has made on which there has been, I'm suggesting, non-compliance.

In previous years in my cross-examination of Ms. McLaren, turning to the comparative benchmark study, she's agreed with me that essentially, if I can summarize it, the applicant is doing more than the Board asked. As a result, this study is taking longer then expected.

The submission of my client is, is that while this -- the importance of such a study may undoubtedly be worth the extra time, the reality is, is that the Corporation has been ordered to produce that survey.

I will also explain, frankly, that it was the expectation of both myself, as well as my client, that we wouldn't have to keep coming back here year after year waiting for this report. It -- it contributes -- and I will have more to say on this -- it contributes to inefficient hearings when these sorts of problems arise.

I put this question to the MPI panel this year as to its non-compliance, and at page 1300 of the transcript begins its explanation. And if we are to take MPI's word on it, they're of the view that there is no order, and whatever they've been doing has been in compliance with what they think an ambiguous statement from the Board actually means.

I don't know, perhaps my grasp of the English language is not the same as that of the applicant, but when I read, for example, the Board Order 148/04, it sure sounds like when it starts, "It is therefore ordered," that it's an Order, and it sure seems that it's set out rather clearly what the Board is looking for. But apparently we're ambiguous.

With respect, this is a matter that deserves the greatest attention by the Board. It is a matter of urgency not only to Manitobans, because clearly whenever questions relating to the way in which personal injury claims are handled are -- are raised, it's in the context of, presumably, evidence that was lead in part by the Manitoba Bar Association, going back now to 2004, which presumably at that time sufficiently concerned the Board that it should make an order as it did.

There's a broader problem, and on this I think my client, as the Bar Association, has relative expertise that no other Intervenor has to comment on. The reality is, is that the attitude -- and I will canvas other issues on this particular point as will undoubtedly other Intervenors -- the attitude that the applicant displays to this Board is one (1) of polite tolerance at best. Effectively it undermines the authority of this Board, and it brings into disrepute the administrative law that this Board is trying to put forward and govern.

It has very practical effects as well. I've already suggested that my own client had no intention -- indeed this was my comment to them. I said rather flippantly when they retained me -- I said: You know this can't be a year after year thing. You're going to go in, we're going to talk about personal injury claims, the Board will make its Order. There might be a -- years to follow-up, but we're not going to come back year and year.

And they nodded in agreement, because that was never their intention.

Nevertheless, these -- year after year, we continue to wait for this study, and inevitably, this has one (1) of two (2) consequences.

1. It causes those clients and those members of the public who are not here to doubt the effectiveness of these hearings. And I'd like to pause and point out that my comments here are not a criticism at all of this Board or any previous composition of this Board. What I'm trying to do is to draw to the Board's attention, why this lapse is especially important. And to some extent, I might be trespassing upon the function of Board counsel but I'm prepared to do that at my own peril.

The -- the real problem also comes that there's a chilling effect upon Intervenors and potential Intervenors if they see that the orders that this Board make are going to be treated contemptuously, disregarded or interpreted to suit the abilities, or inclinations rather, of the applicant. Intervenors will wonder why should we expend time, effort, attention on these matters.

And I'd suggest to you that some Intervenors who may be thought of participating may choose not to, and those who are here may re-evaluate whether or not they wish to continue. And I've already eluded to how these delays add costs.

Every year, Mr. -- Mr. McCulloch very politely tolerates the presence of the Bar Association, and we remember his spirited objection to our initial year when we appeared. And every now and then, he objects to the application of costs that the Bar Association applies for. I suppose my -- my comment is, is we're here because these orders are not being complied with and we have an active interest in the outcome of compliance with those orders.

There's a recent case out of Ontario, decided only this year in May. The case itself is only useful for an extract but I'd like to mention it because it does touch upon the role of Boards like the Public Utilities Board. For the record, the case to which I'm making reference isn't -- is styled, The Advocacy Centre for Tenants Ontario and the Ontario Energy Board. And it's a decision of Ontario's Divisional Court, which this Board may remember is a Court that's specially expert in issues of administrative law. Its judges are primarily in that area.

By way of a summary, the Ontario Energy Board, which is equivalent to the Public Utilities Board in that context, had been asked to consider an application of the utility to establish certain rates. And in that context, one of the Intervenors had asked the Board to consider whether as a factor in setting those rates, the Board could consider the interests of low income consumers and establish variable rates depending upon the affordability of those rates. And that was the question that came before the Divisional Court as to whether or not the Board had jurisdiction.

In the process of coming to its answer, the Board went through and approved the following definitions. Paragraph 38 of that -- that decision approves the notion that the Board, that is the Ontario Energy Board, which I'm suggesting is comparable to the Public Utilities Board, has a mandate for economic regulation that is, and I'll quote:

> "...rooted in the achievement of economic efficiencies, the establish -- of fair returns for natural monopolies and the development of appropriate costs allocation methodologies."

This Board, of course, is very -- pays very close attention to when evidence goes in before it here, so you'll recall that in my opening cross-examination of Ms. McLaren, I asked her if, in fact, those very three (3) components are indeed a description of the way in which this Board functions. And she agreed on all three (3). So, so far, hopefully the applicant is agreeing with me that this case does suggest to us what the function of a Board might be.

Most particularly, paragraph 39 of that decision goes on to say the following, and this ties in directly with why the -- why it is so important that the orders of this Board should be complied with. The quote is as follows:

> "The Board's regulatory power is designed to act as a proxy in the public interest for competition in view of a natural gas utilities geographical natural monopoly. Absent the

intervention of the Board as a regulator in rate setting gas utilities, for the benefit of their shareholders, would be in a position to extract monopolistic rents from consumers, in particular, given a relatively inelastic demand curve for their commodity.

Clearly, a prime purpose of the Act and the Board is to balance the interests of consumers of natural gas with those of natural gas suppliers. The Board's mandate through economic regulation is directly primarily -- or directed primarily at avoiding the potential problem of excessive prices resulting because of a monopoly distributor of an essential service."

The key thing that I'd like to impart here, and that I submit is in fact a correct statement, is that the function of this Board is to act as a proxy in the public interest for competition.

And so, when the Board makes an Order, what it is effectively doing is acting in the public interest, because that is what this Board has been mandated to do.

And by imposing these curbs, controls or other regulatory provisions upon the way in which the applicant governs itself, it is substituting natural competition as a way of controlling this monopoly.

So for those who need the theory behind why, in fact, the Board exists, why it operates and why, most particularly, this Board has an interest in seeing its Orders operate, I suggest that this particular case and that approach; namely, the Board acts as a proxy in the public interest for competition is the key.

If we accept that that is the role of the Board, I now turn to my closing comments relating to what we should do about this. And I have to say right off the top that I'm rather pessimistic, and some might label my comments as follows to be rather cynical.

This Board has, as long as I've been appearing before it, for example, had a long standing concern over the way that Basic, Extension and now DVL, are handled by the applicant.

And if I can be blunt about it, the Board has always recommended recognizing that there are limits on its statutory jurisdiction, that the process and the financing relating to Extension and DVL should be opened up and subject to oversight by this Board.

And, in many ways, I'll submit that that's a perfectly appropriate and logical approach given that these funds are able to move as freely as water might from one (1) part of a pool to another, I might be crass about it by saying as follows.

If someone soils part of the pool, that water is going to eventually move to other parts of the pool. And if in fact we're trying to hide the fact that an accident has happened at one (1) part of the pool, the mere fact that we can move that water to another part of the pool helps conceal that.

I'm not an actuary. I'm not an accountant. But I would think that from the evidence that we've seen, it's relatively easy to think of ways in which to conceal aspects of the way in which the applicant operates that should be subject to oversight by this Board by moving those components around into -- into Extension and DVL.

It, therefore, becomes almost a legislative issue, and here is where my pessimism arises. It is a historical fact that this Board assumed oversight over the applicant largely at a time when the Government would have otherwise set the rates, and at a time when those rates were, rather unpopularly, moving up.

It made sense from perhaps a political perspective to off-load an unfavorable decision; namely, to increase Manitobans – the voters -- insurance rates to an independent Board such as this.

Now, of course, things are going swimmingly. But I'll suggest to you that if, in fact, the applicants' oversight -- or rather the Board's oversight of the applicant arose really out of political ethicacies, one not ought -- one not ought to be too surprised to see that the scope of this Board is somewhat limited, jurisdictionally.

And so we're left with the question of what to do, especially given that it seems to be a legislative problem. I note every year that the Board writes its recommendations and suggestions urging a review of the legislation.

This might be the year, given the fact that I think and safe to say, although I haven't heard Mr. Williams' comments, that My Learned Fried will echo many of the complaints, if not louder than have already been put forward.

This may be the year that this Board should, either as diplomatically or as loudly as it thinks is appropriate, revisit the question of the way in which it tries to compel the applicant both to adhere to its Orders as well as to extract from out of the Government such jurisdictional powers as it may need to truly do the effective job.

And again, I want to emphasize, I think the Board is doing -- and I think everyone in this room would agree -- as well as it can, given what it's been allowed to do. So this is not at all an attack upon the Board or its Members. But the current structure, as we see it, simply is not an effective way in which for this Board to operate as, so to speak, a proxy in the public interest for competition.

Those are the three (3) substantive areas that my client wishes to put forward before the Board. I will simply say that it is the intention of the Bar Association, as usual, to make an application for costs.

And, at this point, I'd like to close by thanking a number of groups. First, of course, my client is appreciative to this Board for granting it Intervenor status so that it might participate in this proceeding.

I'd also like to thank the MPI Panel and the -- especially Mr. McCulloch, whose cooperation is always appreciated -- and I'd like to thank, of course, the other Intervenors who have made my job a lot easier by tackling some of the issue for which they're better suited.

Thanks again to the Board for your attention and especially for your preparation throughout this hearing. Failing any questions, that concludes my submission.

THE CHAIRPERSON: Thank you, Mr. Dawson.

Well, this brings us to CAC/MSOS and Mr. Williams.

Mr. Williams, do you want to begin now?

CLOSING SUBMISSIONS BY CAC/MSOS:

MR. BYRON WILLIAMS: Yes, thank you. And I just want to note that in loyal attendance again today is Ms. Desorcy and certainly, on her behalf, I'll start out with the thank you right up front rather than at the end.

I do want to thank on -- on her behalf and also on behalf of the Manitoba Society of Seniors, MPI, our fellow Intervenors, the Board and -- and Board Counsel and -- and Board experts in terms of their participation and helpful, thoughtful participation in this hearing.

And just on a -- speaking for myself, in terms of the opening submissions of -- of -- or the closing submissions of Board Counsel today, I do want to commend them. I thought they were very comprehensive, but also concise and very helpful, and allowed me to correct a couple of typographical errors or -- in my -- in my own submissions.

Before moving to the outline of the closing submissions of CAC/MSOS, Mr. Chairman and Members of the Board, I should note, at some risk of undermining my own credibility, that on the very first page there is an error in that I'm pretty confident that this is the 2009/2010 Manitoba Public Insurance General Rate Application, on the cover page, rather than the 2008/'09 General Rate Application.

And I want to assure the Board that I am cognisant of -- of which year that we're -- MPI is seeking rates and in my own feeble defence I can only offer the fact that I think I typed that cover page at about 1:14 in the morning about two (2) hours before I got my last e-mail from Mr. Dawson.

The other -- if the -- the other note I would make is -- is if -- if the Board or members of the -- the massive audience here today is trying to follow along with this outline, it is two (2) sided, so if you find that you're -- you're not following, you probably want to look to the page to your left.

I won't respond to that off-mike comment, Mr. McCulloch. My ears are finely attuned though.

Mr. Chairman, probably, in comparison to some of the marathon closing submissions you've heard from -- from myself on behalf of my clients in recent proceedings, this is going to be a bit shorter. And it's not going to be shorter because my clients don't think that the issues are significant; it's not going to be shorter because they don't think they have a meritorious case; but, to a large degree, it's going to be short because in my client's view this is a case where, to a significant degree, the numbers do speak for themselves.

MPI -- and just looking at -- at a high level at some of those key points -- it's quite clear that MPI is a corporation with a significant excess in its RSR when compared to the PUB approved target.

And it's also clear, leaving aside, perhaps, some issues related to onerous contracts, that the Corporation's health as a whole, ably summarized by Ms. Everard this morning, is -- is -- it's in quite good shape with reserves at or in excess of $300 million looking out to the '08/'09 year.

It's also clear that this is a Corporation with a four (4) year track record of over-forecasting costs in one (1) of the two (2) most significant categories of claims incurred; namely, PIPP.

And I would submit, based upon this

record, that it's clear that this is a Corporation with a demonstrated lack of fidelity over the past two (2) years in controlling its expenditures; in confining its expenses to the projections that it set out before this Board in the context of the past two (2) General Rate Applications.

It's also clear that as the investment portfolio is currently structured, it's submission-optimal, suggesting that the Corporation has been less efficient than it should in terms of maximizing return.

And it's also clear, whether from the evidence of Mr. Bell or Drs. Hum and Simpson, that while the newly adopted investment portfolio is likely to yield a greater -- greater return, that it will still yield submission-optimal returns for a given level of risk.

So on the surface at least, this is the case that calls for a modest RSR rebate and a rate reduction of some significance.

However, there are a number of submission texts to this case, and I've identified four (4) on page 4 of the outline. One (1) of the things that's going on and it's -- it's not under the surface, it's certainly out there.

There's a jurisdictional tug-of-war going on. And my clients certainly are of the -- the view that the regulatory intent is being frustrated. We're not suggesting intentionally, but it is being frustrated by the opaque nature of the integrated corporate structure.

The tremendous difficulties in disentangling the Basic -- the regulated part of the program -- from the rest of the -- of the program.

It's also clear, implicitly if not explicitly, that there is a palpable lingering resentment of the Corporation with regard to the Board's decision in past years relating to the rate stabilization reserve.

One only needs to look at the annual reports of Manitoba Public In -- Insurance to -- to see that that -- what may be implicit in the hearing is explicit in the annual reports.

A recent event, and certainly a troubling one for my client's perspective and certainly CAA averted to it, is that my clients would suggest that there's probably a significant degree more of economic uncertainty today than there was at the time that the Rate Application was filed.

And I'm not a brilliant economist like Dr. Hum or Dr. Simpson, so I can't offer an explanation of what's been going on, but I'm -- I'm suggesting that the spreading taint of the US financial market crisis is raising uncertainty, and we'll certainly address that a bit later in our submission.

And given our experience in the Hydro proceeding, and also following as closely as I'm capable of with my limited capabilities in this proceeding, there's also uncertainty ,both in terms of the recently implemented Canadian accounting rules, but -- in general -- but in particular, with the pending adoption of IFRS International Financial Reporting Standards in 2011 and '12, suggested a high level, while the numerical evidence, which I will summarize, may appear patently obvious.

The path to this public interest decision will require careful deliberation.

And over the next little while, hopefully, I'll take you a little bit into the lunch hour but not through the lunch hour, my clients are going to offer their assessment of the evidence and their advice to the Board on some matters of significant concern.

Just moving to page 5, and I do want to cl -- correct a couple of typos on this page. I -- Ms. Everard again has ably summarized at a high level the fundamentals of this application.

But my clients' understanding is that MPI is seeking a 1 percent rate reduction for the '09/'10 year, notwithstanding the fact that it's projecting what should read four (4) -- $4.2 million deficit in '09/'10, rather than four point five (4.5) on the -- on the text before you.

It's also another twelve (12) months out projecting a modest surplus in the 2010/'11 year.

We note with interest MPI Exhibit 28, and the revised forecast for '08/'09 which suggests it was once projected as a modest loss of -- of $2.5 million. The most up-to-date forecast suggests a positive net income in the range of $11.5 million.

My clients are also interested in the fact -- and again, I'm using MPI Exhibit 28, and I note my numbers are a little bit different than those of Ms. Everard's.

I'd suggest you probably defer to her's, but -- but at the year end of '07/'08, after the $62 million Premium rebate, the -- the rate stabilization reserve for Basic was well in excess of the target range some $22 million, and its forecast -- at least my reading of Exhibit 28 -- to be close to 139 million, or somewhere between 20 -- 28 and 30 million above the target range at the end of '08/'09.

The first comment -- turning to page 6 of the outline, the first comment my clients made at the outset of this hearing, apart from reminding the Board of the Corporation's onus, which Mr. Dawson has ably done again today, is to express my clients strong discomfort with the fact that the Corporation is budgeting for a -- a loss in the '09/'10 year, and certainly we note CAA's comments on that subject today.

Now, as I understand the Corporation's evidence and it's argument, and I -- I think expressed most frequently by Mr. Palmer -- as I understand it, it's saying, Well if you take together our projection of a modest net income in the 2010/'11 year, couple it with the loss forecast for the '09/'10 year, then really we're in a break-even proposition for the budget over that two (2) year period.

And the first criticism my clients would offer of that argument is that this is not a multi-year Rate Application.

The Corporation is not seeking approval for the rates in the 2010/2011 policy year. And, as Mr. Palmer admitted in cross-examination, it's quite conceivable that when it comes to that policy year, the Corporation could come in with a -- a rate application seeking either an increase or a decrease.

So, while my clients acknowledge that the Board, looking ahead, should have -- give some weight to the forecast -- or excuse me, the projections for

2010/2011 for that policy year, my clients believe that the primary focus of the Board should be on the '09/'10 year.

And that year, the Corporation is pro -- projecting a loss, and my clients definitely and firmly and absolutely and sometimes grouchily, as -- from my instructions from Ms. Des -- Ms. Desorcy, do not support a pro --proposed draw-down of the RSR through a rate decrease.

And on the remainder of page 6 and page 7, I outline why. My clients do not believe that you can rely on a forecast for 2010 -- excuse me, a projection for 2010/2011 of a modest surplus as providing any -- any solus or comfort, or any significant solus or comfort, in terms of what's going on in '09/'10.

The reality of forecasting, and Mr. Palmer has been frank about this in every proceeding in -- in which I've part -- partaken in, is that forecasting is challenging, even over the short term.

And the longer out we go, the less confidence we can have in the Corporation's projections. And Mr. Palmer and I had a brief discussion on this on pages 628 to 630 of the transcript.

He noted just in the -- in terms of the '07/'08 application, just in the -- in the course of, you know, a -- a eighteen (18) months period, the Corporation's cl -- projections of claims incurred just over that short period of time were almost 10 percent off. And he also conceded, though I've not referenced it in the tran -- in the -- my outline, that they can be off in a favourable way, but they can just as likely to be off in a -- in a negative way.

Mr. Palmer also conceded to the general principle that the farther out in time that we forecast, generally the less reli -- reliable that forecast will be. And he said, certainly he's got a lot more confidence in a forecast six (6) months out than a forecast thirty (30) months out.

And it was a grudging admission that I got from him. I think the words he used were "marginal," but he did concede that all things being equal, he would have more confidence in the '09/'10 projection as compared to the 2010/2011 projection.

So, in refuting the Corporation's claim that we're not really budgeting for a loss, my clients put to the unreliability of forecasting over time, they also point to the reality that this is the same with forecast expenditures. And they would note that we've seen significant variances in the Corporation's actual expenditures over-projections over a very short period of time.

Just think about last year. In the context of '08/'09 General Rate Application, what did the Corporation tell us? That its expenditures for basic operating claims expenses would be about $142.97 million. That's from Mr. Palmer. Now in the concepts of this GRA for the same year, the '08/'09 year, the most recent updated forecast -- $156 million.

So even in that short period of time, expenditure projections can go south in -- in this -- in -- in the '08/'09 year to the tune of about 9.2 percent.

The fourth point in terms of not accepting the Corporation's argument that we're essentially breaking even over the two (2) year period and, therefore, not budgeting for a loss is a reality that we cannot have much confidence in the Corporation's projection or forecast that it's going to earn a modest net income in 2010/2011. Essentially, there's a close to 50/50 chance the Corporation will lose money in 2010/'11.

I put this to Mr. Palmer; I said -- I suggested to him that the Corporation cannot tell us with confidence that there will be positive net income of $6 million in 2010/2011. And I pulled a -- one (1) line out of a longer answer -- Mr. Palmer's answer -- though on this point it was, "I'm not going to bet on it."

He -- he also went on to concede that given the relative proximity of the mean to zero and assuming an unbiased forecast, there is pretty close to a 50/50 chance the Corporation will lose money in 2010/2011.

So on this point my clients want to concur with Mr. Palmer. Like Mr. Palmer, they're not prepared to bet on a positive net income for 2010/2011. They're not prepared to bet on a positive income at all.

So their recommendation on this point is that assuming that the Corporation's forecasts are considered reliable and its forecast expenditures are considered prudent -- this is at the top of page 8 -- CAC/MSOS recommend that the 1 percent rate decrease should be denied and the overall rate be unchanged.

Now that leads to the -- to the -- the -- a key question in this proceeding: Should the Corporation's forecast be relied upon for the purposes of rate setting? And it's both Mr. Oakes and, I believe, CAA commented upon, and the key question with regard to the MPI forecast, especially on the claims incurred and with particular reference to the PIPP forecast of claims incurred; is it unbiased?

And by "unbiased" I know that the Board means that I'm not suggesting that the MPI is cooking the books. What I'm suggesting is the question is: Is there a metholo -- methodological issue with regard to their forecasting, especially with regard to PIPP which -- which should cause us to place less reliance upon this.

And Mr. Palmer and I discussed this at a high and somewhat simplistic level at pages 635 to 637 of the transcript, and I thought a picture being worth a thousand words or, in this case, nine (9) pictures or ten (10) pictures might be worth even more.

And I want to just run though Mr. Palmer's evidence on this point. For those of you who are interested, this is a coin of Kind Edward VII. Apparently he was ruler of the United Kingdom between 1902 and 1910. I could give you a long dissertation of him, but perhaps on another time.

But basically -- and let's assume that this is a true unbiased coin. Basically what the question that I put to Mr. Palmer is: Well let's look at the probabilities. Assuming a true coin if I want to project what are my chances of one (1) coin flip in a row of being heads or tails, I hae a one (1) in two (2) chance of that coin flip being heads.

Okay, so what about if I want to see -- what are the chances of an unbiased fair coin two (2) times in a row being flipped consecutively heads? Mr.

Palmer's evidence, well that's a one (1) in four (4) chance, a 25 percent chance.

Well what -- what are the possibilities of a fair unbiased coin three (3) times in a row being flipped heads? And that's a one (1) in eight (8) chance.

Well, what about four (4) times in a row? Four (4) times in a row that this is a fair unbiased coin being -- being -- becoming heads. Well, that's a one (1) in sixteen (16) chance.

And I'm going to suggest to you that again, I mean this is simplistic, but it suggests that there's a one (1) in sixteen (16) chance that an unbiased forecast would overestimate PIPP costs for four (4) years in a row.

If you turn to page 10, and other parties have spoken of this including Ms. Evidence -- certainly Board counsel in their objective presentation, what is experience of PIPP? At the top of page 10 of the outline.

The projections in '04/'05, '05/'06, '06/'07 and '07/'08, Manitoba Public Insurance consistently over-projected PIPP claims incurred. And the most significant variance was actually the '07/'08 year, a close to 30 percent negative variance.

Ms. Everard had an interesting cross-examination of Mr. Palmer on this point. And he wasn't quite prepared to call it systemic bias at this point, but he does concede -- and I think his words are worth repeating.

> "Over the last two (2), or well, three (3) years, well even four (4) -- four (4) years our actuals did come out under the original projected. So for four (4) years there's been an over-estimate."

And Mr. Palmer certainly was candid in -- in acknowledging that there may be issues to look at with the PIPP forecast.

As I mentioned with -- when we're talking about the evaluation of liabilities, the runoff has been less than we had -- had expected. So certainly we will be taking a very hard look at that and the reasons for that. Again, in conversation with myself, Mr. Palmer confirmed that the projections for PIPP incurred have been higher than the actuals for each of the last four (4) years and it's -- the largest variance was the last year.

And with Ms. Everard, he confirmed as well our current year experience continues to be positive so less than our projections. And he went on to say the runoff being less than expected there's some positive development that continues to happen this year.

And if that positive development continues for another year, that will be five (5) heads in a row, a one (1) in thirty-two (32) chance of an unbiased forecast achieving that result.

So from my clients' perspective there's a real possibility that the forecast for PIPP incurred is overstated. A strong argument without -- can be made, without attributing motives, that systemic bias exists within the forecasting methodology of MPI leading to an overestimate of expected costs.

The statistical improbability of four (4) underestimate -- or four (4) -- excuse me, overestimates of this magnitude supports it. Certainly Mr. Palmer's comments suggests that it's worth a very hard look. And the introduction of a new reserving practice in recent years supports the concept there may have been a structural break in terms of the Corporation's methodology, which would help to explain why we've had this -- this apparent bias occur.

So my clients are recommending, Recommendation Number 2, that the Public Utilities Board not accept the MPI forecast for PIPP incurred for the

'09/'10 year and reduced the projected claims costs accordingly.

Mr. Chairman and members of the Board, moving to page 12 of the outline, just some other observations about forecasting in this proceeding. Certainly, the Corporation has downplayed the observations about volume, suggesting, well, if the costs don't perfectly offset the fact that the Corporation is underestimating volume, thereby underestimating revenue, it suggests that to a significant degree, they are off -- offset by -- on the claims in -- incurred side.

But I think it is helpful and important to look at what's been going on with the volume forecast. This table which appears in the CAC/MSOS exhibit book provides a last four (4) years of volume forecast versus actual. In all years, except for one (1), the Corporation's forecast for volume was actually less than the -- the actual volume. And even the year where it was the same, that it was not less, it was -- it was the same.

In '07/'08, the actuals were twice as high as the forecast and at -- at -- with Mr. Palmer's assistance, we can -- confirmed between '04 and '05 and '07/'08, the actuals were one point five eight (1.58) times the forecast. Mr. Palmer also conceded that there's not a perfect correlation between volume and claims incurred.

So my clients certainly are not as blithe, B-L-I-T-H-E, as -- as Mr. Palmer in dismissing what appears to be a bias in the forecasted volume. In their respectful view, especially given his concession that there's not a perfect correlation between volume and claims incurred, this is the difference that is going to the bottom line of the Corporation's estimates. Perhaps not a huge number but a number that's significant nonetheless.

Well, what is the bottom line? A simple point again pulled from the CAC/MSOS exhibit book, over the last four (4) years, the projection of the net income for the Corporation has consistently understated the actual income of the Corporation. And over those four (4) years, certainly we can -- I would suggest to you that the difference has been in the range of $300 million.

In -- and certainly in the opening statement of CAC/MSOS, after commenting on budgeting for a loss, that issue, and also after commenting on the issue of forecasting, the third major issue my clients raised is: Has MPI demonstrated that the projected --

its projected expenditures for '09/'10 are reasonable, prudent, and necessary?

And sometimes I think in regulatory proceedings, the corporations are under the mistaken impression that the onus lies on the Intervenors to disprove the reasonableness, prudency, and necessity of their expenditures. The Corporation bears the onus; its obligation is to justify its expenditures. And in terms of that, has it done so?

The first thing my clients would point out -- and I apologize for the feedback. The first thing my clients -- the first thing my clients would point out is that there's been a worrisome trend in terms of the gross -- excuse me, the growth of the Corporation's expenditures over the past four (4) to five (5) years. And the question they ask is really: Do these numbers speak for themselves?

And I want to start first with the big picture. And when you look at the big picture, I think certainly its important to understand that when you're looking at the numbers in the '06/'07 through the '09/'10 year, there is a significant impact from the Immobilizer program, and I -- I think it's fair to state that.

By 2010/2011, we certainly see the Immobilizer expenditures trickling down, getting smaller, as Mr. Kramer noted at page 669 of the transcript.

But let's look at where MPI was in some of these key years, and let's look at what percentage the big four (4) expenditures of compensation, data process, amortization, and building expenses occupied.

Well, way back in '06/'07 -- it seems so long ago -- the Corporation's expenditures -- and this is drawn from PUB Exhibit 136, which is re -- repeated in the CAC/MSOS book of documents at page 16 in an excerpted fashion -- back in -- in '06/'07, the Corporation was spending at -- on an actual basis about 132 million. Well what percentage of that did the big four (4) occupy? A little less than 72 percent.

Well, where are we now? What's the projection for '09/'10? The Corporation is projecting to expend in non-claims incurred expenses in the range of $156.6 million, close to 19 percent higher in three (3) years.

And we also see, interestingly enough, a growth in the relative ratio of the big four (4) -- big four (4), compensation, data processing, amortization, and building expenses. Now they're about 5 percent higher -- is a percentage of the -- the total expenditures.

Well, let's go one (1) year out; let's go to 2010/2011. And remember that this is a smaller immobilizer year.

Interestingly, expenses are still in that magic $156 million range, despite the fact that immobilizer expenditures are much less prominent. And what role do the big four (4) play? 82 percent.

Backing up and kind of going on a -- to -- to some of the line items, what's happened to data processing? and I've certainly in -- in my argument looked at that over a four (4) year period, the '05/'06 to the '09/'10 year. Sharp growth, 90 percent over that period according to Mr. Kramer.

What about amortization over that four (4) year period, '05/'06 through '09/'10? More than doubled. And actually when we went back to Mr. Kramer, he confirmed that it increased by 137.8 percent.

And that's interesting, but then look what happens the next year again. Then when -- when we start to see the -- the big claims centres popping into the -- the picture to a -- a larger degree, we see amortization '09/'10 to -- to 2010/'11 projected to increase again by over 90 percent.

What about compensation, and I put a caveat there. Certainly my clients are having diff -- difficulty disentangling Basic from the overall Corporate structure in terms of compensation. But the compensation cost is attributed to Basic by the Corporation's cost allocation policy, between '05/'06 and '09/'10 in -- almost 20 percent, a 19.8 percent increase, or about 4.6 percent annually.

And interestingly, what's happening in '0 -- '09/'10 to 2010/'11? Compensation costs rising by about 10 percent. And that's interesting because that's a year when we'll find out later there's much less expenditure on the business pro -- process review; the full time equivalence being reduced to sixteen (16) from forty-five (45) in previous years, and the source for that is MPI Exhibit 23.

And -- and also less expenditure on the Immo -- Immobilizer Program, so one might have thought there might have been less expenditures on compensation, but apparently not.

Certainly from my clients perspective, to a certain degree, moving to page 16 of the outline, these numbers do speak for themselves. And CAC/MSOS would suggest that the prima facie, they're an indication of a Corporation that is having some challenges keeping its costs -- its expenditures -- its non-claims incurred expenditures under control. But notwithstanding that it's the Corporate's -- Corporation's onus to satisfy us that its expenditures are reasonable, prudent, and necessary, my clients have asked four (4) simple questions to test their prima facie presumption that the Corporation is spending beyond its means -- excuse me, that it -- that the Corporation is struggling to keep costs under control.

First, has the Corporation managed to live within its forecast expenditures, as projected and presented to thy Public Utilities Board?

Second, do the claims of the Corporation in terms of claims costs initiatives bear close scrutiny?

Third, has the Corporation demonstrated that its rapid cost growth is reasonable, in comparison to other Crown monopolies?

And fourth, has the Corporation withstood scrutiny on a line-by-line basis?

Now, Mr. Chairman, I'm just noting where I am; I'm about a bit less than halfway through. I was hoping I could go through to 12:30 and finish but that's not going to be the case. This might not be a -- I'm at the Board's --

THE CHAIRPERSON: I think that we certainly do not want to rush you, Mr. Williams; we are following you fine as you work through your brief.

MR. BYRON WILLIAMS: Yeah.

THE CHAIRPERSON: So we will take the lunch break now and come back at 1:00.

MR. BYRON WILLIAMS: Yeah. And I do want to apologize to my client, who I think may have to leave. I think she has briefed me pretty closely on what I'm going to say, so hopefully she'll forgive me for -- for having to break up the submission.

THE CHAIRPERSON: She can check on you through the transcripts.

MR. KEVIN MCCULLOCH: Sorry, Mr. Chairman, did you say back at one o'clock?

THE CHAIRPERSON: Yes.

--- Upon recessing at 11:53 a.m.
--- Upon resuming at 1:04 p.m.

THE CHAIRPERSON: Okay, Mr. Williams.

MR. BYRON WILLIAMS: Yes, thank you. And for those following with avid and devoted attention to the outline, we're on page 17.

The issue -- I've suggested that prima facie there is a -- a worrisome trend in terms of the rapid growth in MPI expenditures in non-claims and incurred expenditures. And on behalf of my client's, pose four (4) questions as -- as unofficial tests of whether it is demonstrated that its projected expenditures are prudent, reasonable and necessary.

And one (1) of the questions my clients certainly believe is important to ask is whether MPI has demonstrated an ability to -- an ability to manage the PUB -- two (2) PUB projections in recent years.

And just for clarification, my clients understand that MPI certainly provides a basic, projected expenditures to the PUB in -- in consideration, usually in the May/June period prior to the rate application year. The corporate guidelines are approved by the management committee and set in September before the -- the -- the budget year in question.

And the approved budget is set in January of that year. And again, the corporate guidelines -- my client's understanding is -- are set at a corporate level, not a Basic level.

So turning to the question posed in the '07/'08 year, my clients note that the corporate approved budget was higher than the budget guideline. What they're particularly interested in though, is what -- the numbers the Public Utilities Board was project -- presented with.

For Basic in '07/'08, the PUB projection before the Board, according to Mr. Kramer, was 136 million. Go out a few months and what was the actual approved budget? Excuse me, not the actual numbers, but the approved budget. 139 million. At year's end, what was the actuals? Close to 142 million, close to 5.6 million or 4 percent higher.

Now MPI argues, well, most of that's immobilizer. Well, it's not all immobilizer. And certainly from my client's perspective, if there was a decision to -- to invest more in immobilizers, part of MPI's obligation is to manage within the -- the budget, certainly, that it presents to the PUB for consideration as reasonable, prudent and necessary.

What happens in '08/'09? Again, the corporate approved budget is higher than the budget guideline. What about with Basic? While the PUB projection was for about -- close to 143 million, according to Mr. Kramer. The approved budget -- and there was a bit of confusion on this record, but I think I've got it straight now and I'll refer you to the transcripts, pages 714 to 718.

The approved budget was 140 -- 154.6 million, about $11.7 million or 8 percent higher -- calculations I've done myself, because they're not on the record.

And the updated budget, the one that was presented in CAC 1-3, suggests that the -- at the time that Information Request was provided, that the Corporation was looking to spend in '08/'09, about 13 million more or 9 percent higher. Now, out of fairness to the Corporation, I would note that they suggest that they're a bit ahead of their pace in their budget.

Well, what about staffing levels? And I think again, it's interesting, on behalf of my clients, drawing you to page 18 of the application to -- to look at what the Corporation said its overall corporate staffing levels were in last year for the '08/'09 year, versus what they -- they say it is in this year's General Rate Application.

Last year, in the context of the General Rate Application for the '08/'09 year, the Corporation was suggesting that the total corporate staff levels would be a hundred and seventy-four (174). This year now, they're -- they're looking at one thousand nine hundred and sixty-three (1,963). And I think what -- just out of fairness again to the Corporation --

THE CHAIRPERSON: Just for the record, I think Mr. Williams meant seventeen forty-seven (1,747).

MR BYRON WILLIAMS: Oh. I'm getting tired, Mr. Chairman, I apologize that -- for that.

'08/'09 full time equivalent as of March

1st; one thousand seven hundred and forty-seven (1,747) was what they projected last year for the total Corporation. This year, same year as of March 1st they're projecting one thousand nine hundred and sixty-three (1,963).

A similar trend for the '09/'10 year; last year they were saying for the total Corporation, one thousand seven hundred and forty-eight (1,748). Still, this year, they're saying in excess of nineteen hundred (1900).

Rhetorical questions that my clients have -- have posed to me, and I think that we may reasonably pose to the Corporation.

Should not consumers who are expect to -- to set a budget and live within their means be able to reasonably rely on the MPI projections provided to its regulators?

Should not the regulator, which is expected to judge in good faith that the Corporation's cost projections are reasonable and prudent, be entitled to rely upon the Corporation's projected expenditures and staff complements?

Rhetorical, indeed, is question number 3. Is an 8 percent variance between the expenditures projected for the regulator and approved budget satisfactory or does it raise some profound questions about the Corporation's fidelity to cost control?

And certainly my clients are uncomfortable with -- Mr. Chairman and Members of the Board -- with the fact that in the last two (2) GRA's the Corporation has come in and said, This is what we're going to spend Basic non claims incurred expenses and then in their -- in my clients' view, significantly overrun those projections.

And that raises concerns to them in terms of the Corporation's willingness or ability to control costs.

A second question my clients have asked is, you know, whenever we look at the -- the MPI Application, Volume I, section 5.4, we always see these great claim-saving initiatives. and my clients certainly commend MPI for the efforts they are making.

But how -- how -- how reliable, how -- how strong are the claims? You know, how much are we saving? And just in this year's Application, just as a bit of a tire kicking exercise, my clients took a look at the -- MPI's claims that it had success in controlling labour, paint and material costs through its agreements with the -- the suppliers of these services, the MMDA and the ATA in southern -- southern Manitoba.

And they looked at both the -- the most recent nineteen (19) month agreement with these organizations as well as the agreement that preceded it.

And essentially, my clients, in the course of the Information Request process, put some questions to MPI about the growth in -- in some of the costs in the most recent agreement with the MMDA and ATA; in particular, the 12 percent increase in frame labour.

I haven't cited the IR -- it's the Second Round IR of CAC/MSOS. but -- but I can certainly could provide it. And MPI provided a response on that.

And then it also probably noted that it had no increase in paint and material over the course of this nineteen (19) month agreement.

Som on the surface, this looked good to my clients. But they said, Well, let's go back and let's just see how much cost control there has been on that front.

And my clients concede labour and paint from January '08 to August '09; no increases. But go back to the preceding agreement, and what you find are very generous provisions for paint and -- and labour and shop materials.

Over the course of that preceding three (3) year agreement, paint costs increased by over 19 percent as confirmed by Mr. Keith. Shop materials by close to 16 percent; again, is confirmed by Mr. Keith. So that's a bit of a worrisome sign for my clients as well.

Mr. Oakes probably covered the -- the next question better than I -- I -- I can, but he certainly -- we've asked, Has the Corporation demonstrated that's rapid cost growth is reasonable in comparison to other Crown monopolies?

And he certainly drew it to the Board's attention, and I will as well, but there's a bit of a discussion with Mr. Kramer about the Corporation's response to CMMG interrogatories.

And essentially, if the Board has nearby the CAC/MSOS Exhibit book number 4 with the pretty -- I'm not even sure what colour -- beige colour cover?

And you can -- perhaps I could draw your attention to pages 20 and 21, or pages 00020 and 00021.

Again, this is pulled from the CMMG Information Request, and what it attempts to present is a relative comparison of ICBC, SGI and MPI on page 20 in terms of claims expenses using the base or year of 2001.

And, again, a picture perhaps is worth a thousand (1,000) words. Certainly, you can see where MPI -- the little square is -- and relative to the other

Crown Corporations on this simplistic indicator, it performs relatively poorly.

And my clients freely can see that this is an imperfect tool, but it's the only tool we have in the absence of the corporate bench marking that's been sought by the Public Utilities Board in other years.

So my clients would be more than happy, if MPI ever provides such bench marking, to test it and we certainly have done so with Manitoba Hydro.

But what -- what this shows, certainly again, using this -- this simplistic indicator is a relatively poor performance by Manitoba Public Insurance in terms of claims expense.

If you flip over one (1) page, again, operating expenses and you see using 2001 as a base year, again, the square, the one at the top, lonely at the top, is -- is MPI. And again, a relatively poor performance compared to the industry; SGI and ICBC.

There may be explanations for this. Mr. Oakes acknowledged that as do -- do my clients. But again, when you put it together with the worrisome overall trend, more cause for concern.

When you have this much cause for concern -- turning to page 21 of the outline -- a standard regulatory practice in the face of increased costs is to say, I want to dig deeper. I want to get into these numbers more carefully.

And let's say that on behalf of my clients, I wanted to understand what lies behind what they consider to be a significant increase in compensation expenditures. One (1) natural way to do this, focussing on the Basic program, would be to look at the staff trends over the last few years.

Let's look at the various corporate divisions. What's been going on within each of these divisions? Or let's look by type of position, whether it's clerical, management, et cetera.

How many staff is measured by -- I've got EFT's here, I might want to be saying FTE's -- we're in a particular division at a particular point in time. How many more were there four (4) years later? What was their average compensation cost? What was their average overall incremental cost, taking into account other factors such as computer equipment, rent for their -- their working space, et cetera? What are the reasons for the trend?

That would be standard regulatory practice. It would be the type of inquiry that we regularly embark upon with other utilities such as Manitoba Hydro.

And, in fact, the Board may recall, or at least some members of the Board may recall, that we went through some of this in the recent Hydro proceeding. In the face of relatively quickly rising costs, we asked the Corporation to justify its expenditures and the Board may also recall that Hydro had some challenges in meeting this test.

In the final result, the Board was unable to conclude that Hydro had established that its OM&A expenditures -- some close to $400 million -- were -- were fully justified.

So, my client's position -- and key point here -- is it's a central element of the regulatory process to get beyond the corporate numbers at a maceral -- level and to be able to drill down to the finer levels of detail, whether by division, type of position or otherwise.

And CAC/MSOS were surprised and disappointed when they were advised by the Corporation that they were only able to provide this information at this type of level at the corporate level, rather than provide this information for the regulated level alone. And I cite from PUB information response 1-40 submission C:

"The detailed information contained in

TI.9 cannot be produced for Basic in
that level of detail due to the fact
that Basic operations are integrated
throughout the Corporation along with
other lines of business."

In my client's perspective, the opaque structure of this Corporation and the -- has left the -- my clients and, they would submit, the Board unable to use a standard regulatory tool to test the reasonableness of expenditure growth.

And recognizing again it's the Corporation's onus to demonstrate its reasonableness, that causes concern to my clients.

My clients were also a little surprised to learn that MPI was unable to divide the average cost all-in, I underlined those words, of basic full-time -- full-time equivalence employees associated with the BPR initiative.

And I point -- and by "all-in" I mean compensation, office space, computers, et cetera. And I point to the -- Mr. Kramer's comments on pages 699 and 700.

"We've never done a calculation in a
similar matter and I'd be hesitant to
do anything because it may not be

correct or consistent with anything
else that's done."

And in fairness to him he also noted:

"We've got a compensation in the
benefits but each department has
different requirements and we've never
done just an average all-in cost."

And for my clients, that's important information that they, again, are having trouble pulling from -- from Manitoba Public Insurance.

I think Mr. -- on behalf of my clients we would observe that even during Mr. Saranchuk's conversation with the MPI panel on the last day of the hearing, we again started to see some of the challenges associated with the -- the integrated regulating only half the Corporation and the integrated nature of the Corporation.

And it's a bit cumbersome to try and explain but I'll -- I'll do my best. Essentially, in MPI Exhibit 23, the Corporation provided the -- I've got EFT's but I meant to say Full-time Equivalents associated with the business process review. And in MPI Exhibit 22, it provided the compensation costs associated with those FTEs.

And on behalf of my clients and I'm going to walk you through it slowly, but my clients have trouble having confidence in these calculations.

And I'll -- I'll try and walk you through at least where my clients were at least looking with a raised eyebrow or two (2) about this.

We know from Exhibit 23 for '08/'09, MPI had fifty (50) Full-time Equivalents associated with the BPR. We also know that the compensation costs associated with BPR were $3.5 million.

Focussing on compensation costs because we're not able to get all-in costs, the average cost was seventy thousand (70,000) per employee. Well, that sounded fine but then we look at the results for 2009/'10. Forty-five (45) Business Process Review Full-time Equivalents, five (5) less, a drop in compensation costs pursuant to Exhibit 22 of half a million dollars, suggesting that the loss of five (5) employees reduced compensation costs by about one-half million. And -- and that could be the case but it does raise some eyebrows.

And again, we're looking at an average cost focussing purely on compensation in 2009/'10 of about sixty-seven thousand (67,000) or less than in the year before which again is a bit of a surprising statistic.

So my clients, recognizing the onus of the

Corporation, feel that the Corporation has not met its onus and part of the challenge the Corporation faces, and certainly the regulator does, is the integrated structure leading to a degree of opacity rather than clarity.

Mr. -- or the CAA to a large degree spoke about issues related to cost allocation as did Board counsel. Here's the high level summary from my clients' perspective and they will be duplicating a bit of work both of Ms. Everard and of Mr. -- or Ms. Wankling.

Our understand is that the last substantive cost allocation report by the Corporation was in the 1990's according to Mr. Palmer.

We know that there's been a major addition to the operations of the Corporation in recent years with the merger with DVL. I've already talked about the fact that detailed information about staffing at the basic level can't be obtained from the Corporation due to the fact that its Basic operations are integrated throughout the Corporation along with other lines of business.

We also know that the Public Utilities Board, and Mr. -- Mr. Dawson spoke of this, as well, ordered an updated cost allocation study to be presented in the current GRA. And we know we don't have one. MPI has declined to do so although promises to provide one for the next GRA.

And we know from Mr. Kowalchuk and we're working off of handwritten notes but I think it's consistent with what Ms. Everard said, the internal -- external consultant for MPI indicated that his firm did no analysis of the policy guidelines of the allocation of expenses to Basic and cannot comment on whether the policy is fair and reasonable. No conclusions were drawn by him regarding whether any changes or amendments to the policy are needed. Only as -- and he notes -- noted that he only assessed where the amounts allocated to Basic were in accordance with the policy.

So, again from the perspective of the Corporation's onus, as I understand Ms. McLaren's evidence and perhaps that of Mr. Palmer from the early days of the hearing, their advice to the Public Utilities Board was, we've got a Board-approved methodology; the auditor's there to make sure that we're doing the allocations properly.

My client's problem though is that this is a dated -- outdated methodology, that this is an outdated methodology that has not changed or reflected material changes in the Corporation's operation such as the merger with DVL. And given the challenges that my clients are already having in drawing from the Corporation basic information that they should have to test the merits of the Corporation's application, this is again cause for concern.

I anticipate that the Corporation will say, well -- they'll certainly acknowledge the significant jumps in their expenditures over the last few years. I expect that they'll attribute a lot of it to the business process review.

And my clients certainly were taken aback -- and I've got a conservative figure here of $40 million -- to know that the costs attributed to Basic and associated with the business process review, appear to be in excess of, according to Ms. Everard this morning, $45 million, with most of these costs rolling out in '08/'09 and '09/'10.

My clients are also concerned that a significant proportion of these expenditures, those relating to program management, over 10 million over two (2) years, streamlined renewal, over 5 million in two (2) years, and Enterprise Data Warehouse, over a million in two (2) years, are shared costs with the non-regulated portion of the company which again underscores our concerns about the -- the fact that the level of regulatory scrutiny for that part of the company is extremely limited.

And my clients certainly don't understand how the BPR explains the fact that between '09/'10 and 2010/'11, compensation costs are forecast to rise about 10 percent, noting, as they do, that the Full-time Equivalents for the -- associated with the BPR are supposed to be quite -- quite a bit lower being reduced to sixteen (16) in that year, 2010/2011.

So on this point, moving to page 25 of the outline, when we're looking at whether the Corporation has made its case in terms of the prudence and reasonableness and necessity of its projected expenditures, my client's view is, when you take, first of all, a hard look at the rapid rise in the costs, what they considered -- secondly, what they considered to be a material variance between the projections provided to the regulator and the actual budgets approved and/or spent, when you look at the rapid rise in material costs such as paints and shop materials that the Corporation claims it was pro-actively controlling, when you consider that more telling regulatory scrutiny has, in this proceeding, has been essentially hamstrung by the opaque corporate structure, in my clients' view, it's reasonable to assume that MPI is unable to substantiate its claims of cost prudence and reasonableness.

My clients would further add that it's not clear that simply a revised cost allocation methodology will satisfy these concerns about corporate -- the opaque nature of the Corporation.

So they'd recommend that, first of all, the Board determine and conclude and find that MPI has not demonstrated that its proposed expenditures for '09/'10 are reasonable and prudent; secondly, that the Board reiterate its order that MPI file a substantive review of its costs allocation procedures next -- prior to the next GRA; and finally, that MPI be directed to meet with representatives of the Board and representatives of interested Intervenors to discuss ways by which the regulator can be provided with the appropriate information to exercise its statutory mandate to set just and reasonable rates for MPI.

I want to talk about this point for a second. My clients recognize that many parties in this room believe that the PUB should have jurisdiction over rates for Basic and Extension and that DVL should come under the purview of Basic.

And my clients certainly are having growing sympathy with that perspective. My clients, though, also recognize that the government in its wisdom may not direct or legislate this to be a regulatory reality.

If the government doesn't then the

question becomes, are we satisfied that we're able to accurately and completely and fairly test the -- the costs of the Corporation given the -- its integrated structure?

If not, the question becomes, can we work something out? Can we have a dialogue between the Board, the Corporation and Intervenors by which we set to achieve some middle ground in terms of obtaining more disclosure from the Corporation than we currently get?

I don't know what form that could take. There may be some confidentiality agreements involved, I do not know, but I think that that's something that we can't rely upon the -- upon the hope that the government will mandate that Extension come under the regulatory purview of the Board.

If not, the Board certainly has tools to claw more information out of Extension but ideally from my clients' perspective that could be done on a consensual basis. So that's something that my clients would recommend the Board look at.

A third major area of enquiry for my clients is whether MPI has demonstrated that its investment portfolio is efficient.

And just as a kind of an opening note, normally I would bore you with a lot more theoretical details about investment but I think those issues have been well canvassed both in the evidence of Mr. -- Mr. Bell, as well as of Dr. Hum and Simpson.

Normally I would also deluge you with a number of cites from the transcript but, again, I've pointed the Board in -- in -- to the two (2) transcript days in question. So for the next few minutes I'm going to offer what I -- I'm going to suggest is a relatively high level analysis of the investment issue with a little less devotion to citation than is normal in our submissions.

I want to turn to the two (2) issues, first of all, equity -- the equity allocation and the Long Term versus Universe Bonds.

And I note that in his -- in the voir dire of Dr. Hum and Dr. Simpson, Mr. McCulloch in his cross seemed to be trying to set up a -- a test of credibility between Dr. Hum and Dr. Simpson on one (1) side as compared to -- to Mr. Bell.

And certainly my clients feel that both Dr. Hum and Dr. Simpson bring impressive credentials and that they performed well in both their written evidence and their oral evidence.

And they're certainly confident about the expertise in terms of money and banking including portfolio analysis that Dr. Hum brings to the table.

But my clients want to point out that on two (2) key issues, one (1) being the disproportionate weight that MPI gives to Canadian equities and two (2), the probability that Long Term Bonds will yield a higher return than Universe Bonds, there is no disagreement between Dr. Hum and Dr. Simpson and Mr. Bell.

And indeed, if you go back to the Mercer report, as well, and you put together the recommendations of Dr. Hum and Simpson, Mr. Bell and Mercer, all recommend that more than 50 percent of the weight in terms of equities be given to foreign, primarily US, as opposed to Canadian equities.

So on this issue it's not a question of the credibility of Dr. Hum and Dr. Simpson versus Mr. Bell, they're on all fours. The outlier, the analytical outlier in this discussion is the Manitoba Public -- is Manitoba Public Insurance. For reasons that offer no analytical solace, it has proposed a disproportionate weight in Canadian equities.

And I just want to underscore this fact. In this proceeding the expert opinion is unanimous that there are diversification benefits that flow from allocating more than one-half (1/2) of MPI's equities to non-Canadian assets.

Mercer makes that point. Implicitly Mr. Bell does in his two (2) recommended portfolios. And, certainly, Dr. Hum and Dr. Simpson do.

In other words, contrary to all expert opinion in this proceeding, there is no doubt that MPI has chosen a non-optimally efficient portfolio in that it could earn, for a similar level of a -- a commensurate return with lower risk.

I also want to point out on behalf of my clients that there's no dispute between Dr. Hum and Dr. Simpson and Mr. Bell on the reality that long-return bonds can be expected to enjoy a higher return than universe bonds.

We think that became clear in Mr. Bell's evidence when he -- in -- in both his direct and his cross-examination.

And my clients also think it's important to note, leaving aside inflation assumptions, that there is agreement between Mr. Bell and Dr. Hum and Dr. Simpson on the reality that Real Return Bonds are perfectly correlated with inflation, while real estate is not perfectly correlated.

To use Mr. Bell's language, and I'm paraphrasing, There's only a fair degree of correlation.

So my clients don't mind having Dr. Hum

and Simpson engaged in a credibility contest with Mr. Bell, but on the -- on key points, they would point out that the experts in this hearing are on all fours, and really the -- the outlier is Manitoba Public Insurance.

Another issue of credibility though, where there is a difference between Dr. Hum and Dr. -- Dr. Simpson versus Mr. Bell, is whether high inflation is a plausible scenario.

And it's important to understand what Mr. Bell actually did. And as I understood it -- and you can go to his assumptions, page 41, footnote 11 -- what he did with inflation was look at ten (10) year historical standard deviations were used for the inflation standard deviation assumption.

And this is different from many of his other work where he chose a twenty (20) year period. And he states that this period was chosen, rather than the twenty (20) year period used for most other asset classes, because of Bank of Canada inflation targeting began in 1991.

You -- you may hear Dr. Simpson's shriek of horror when -- when -- on that statement, and assume the current form by the end of 1995.

We think the historical standard deviation assumptions in the past ten (10) years of sufficiently long period following the fundamental changes at the Bank of Canada is a more accurate predictor of future inflation volatility than a period including the prior years.

Elsewhere in his evidence -- and I refer you to footnote 4 -- Mr. Bell makes the statement that in Canada inflation is largely a well constrained variable.

And when you look at the model, the logical outflow of Mr. Bell's decision to model inflation taking into account only the ten (10) most recent years of relatively benign experience, is the exclusion from the MTI -- MPI optimal portfolio of the one (1) perfectly correlated tool to hedge against inflation; Real Return Bonds.

And, to give Mr. Bell credit, elsewhere in his evidence he acknowledges the reality that real -- the fact that, and I'm quoting now:

> "That real return bonds are not included in the optimal portfolio is somewhat [and I'll underline the word] non-intuitive as -- as much of MPI's liabilities have inflationary components."

And in -- again in that footnote 4, he attributes this non-intuitive conclusion in part to the low assumed volatility of future inflation.

And I want to be candid about Mr. -- Mr. Bell. Generally, my clients were -- were impressed with Mr. Bell as a witness, especially on issues on -- in terms of equities.

But they generally consider him to be helpful, precises, and certainly candid. But on this particular point, his assumption in terms of using only ten (10) years of data in terms of inflation, in their view -- in my -- in my clients' view, Mr. Assump -- Mr. Bell's assumptions leave them at odd with the weight of the expert evidence in this proceedings.

In their view, his reliance on only ten (10) years of data for his inflation assessment was a design flaw that lead to a non-intuitive and, ultimately, erroneous recommendation to exclude Real Return Bonds from the optimal portfolio.

And I want to address Mr. McCulloch's point of credibility on this specific issue. And my clients freely concede and -- and they compliment MPI, Mr. Bell appears to be a competent actuary and a capable CFA. But in their respectful submission his own expertise on the issue of inflation or the analytical path of the Bank of Canada pales in comparison to the record of Dr. Hum and Dr. Simpson.

And you will recall that Dr. Hum was qualified as an expert in macroeconomics, the study of which is apparently obsessively focussed on two (2) topics: Unemployment and about 50 percent inflation. It's their world.

I'd note as well, going to the outline on page 30, that both Dr. Hum and Dr. Simpson have published recently in refereed journals about the -- about inflation, and that Dr. Simpson's microeconomic background leaves him well qualified to challenge the questionable inclusion by Mr. Bell of only ten (10) years of inflation data.

And just to -- the Board will be familiar with Dr. Simpson from his appearance before it in past -- the past MPI proceeding, the payday lending proceeding and also they had a chance to -- to judge him in this proceeding. And Dr. Simpson doesn't talk a lot and he doesn't intervene in discussions that often. And as you watched him during the -- the discussion with -- in -- on last Monday, Dr. Simpson deferred to Dr. Hum on most issues and let him do most of the heavy lifting.

But when it came to inflation, on this -- this point Dr. Simpson intervened forcefully and powerfully. And perhaps it's from his experience as an economist at the Centre for the Study of Inflation and

Productivity, but he made it clear that he disagreed with -- with Mr. Bell's limited data set that he included for inflation.

It's also important to -- to note that Mr. Bell's express insumption -- excuse me, express assumption and I quote that, in quotation marks --

"Inflation is largely a well constrained variable." End quote --

would appear inconsistent with the approach taken by both the Corporation's consulting actuary and by Mr. Palmer.

The evidence of this hearing makes it clear that both the Corporation's consulting actuary and Mr. Palmer considered a high-inflation scenario to be a plausible, adverse scenario.

And just turning to page 31 of the outline, think of the DCAT testing by the Corporation's consulting actuary. What did he do? He looked at Canada's inflation experience between 1979 and 1984, triggered in part by exogenous factors like the high price of oil, and his -- his DCAT testing for MPI, one (1) of the key tests he -- he developed, assumed 10 percent inflation for '07/'08; 11 percent for '08/'09; 12 percent for '09/'10; 9 percent for 2010/2011; and 5 percent for 2011/'12. So clearly, he considered this to be a plausible scenario.

Now, CAC, out of fairness to Mr. Bell, tried to make Mr. Bell's argument to Mr. Palmer. It said, Look, given the Bank of Canada's express monetary target, given the Bank of Canada's track record over the -- the past decade, don't you question the plausibility of the consulting actuary -- actuary's scenario?

But what did Mr. Palmer say? He said, and I quote from page 780 of the transcript -- I'll tell you when the quote starts -- he considered inflation to be, in quotation marks --

> "a very real risk, notwithstanding short term recent history."

So while not expressed, my clients would suggest that that is an implicit refutation of Mr. Bell's decision to look at only ten (10) years of data. What else did Mr. Palmer say?

> "Inflation is a risk that the Corporation considers potentially real and material."

I'd note also that in cross-examination Mr. Palmer essentially confirmed the evidence subsequently given by Dr. Hum and Dr. Simpson. He acknowledged that while the Bank of Canada may have the ability to mitigate inflationary pressures in an overheated domestic economy by raising its policy rate and dampening aggregate demand.

That policy tool is less efficacious -- those are not his words, those are mine -- when one is dealing with external or exogenous cost inputs for which there are no cost substitutes.

And the example given -- and you can read the transcript at page 786 to 788. It's a bit painful but something like an escalating market price of oil either in the late '70's or otherwise which impacts not just energy cost but transportation, manufacturing and industrial processing.

So the key point of my client is -- is that while Mr. Bell seems to be treading with the professional consensus in terms of his views of the need for MPI to diversify farther away from Canadian bonds and the benefits of long-return verus universe bonds, he is swimming against the analytical tides with his assumption that high inflation is a thing of the past and -- and that he erred in including only the last ten (10) years of experience of -- up to December 2006.

And, certainly, in my -- in my clients' views in this area the inflation experts are clearly the economists; Dr. Hum and Dr. Simpson.

And just perhaps defensively anticipating an MPI argument, it's important to understand, as we pointed out in redirect of Dr. Simpson, that they're not suggesting it's at zero sum gain between Real Return Bonds and real estate.

What they are suggesting is that -- that some portion of the bond portfolio of MPI should remain in Real Return Bonds.

So in terms of this point, my clients recommendations are as follows.

Certainly they commend Manitoba Public Insurance, and they would recommend that the Board commend Manitoba Public Insurance, for taking steps to remedy the inefficient current portfolio.

They recommend that the Public Utilities Board find the existing allocation of investment assets by which I mean where it is today before it reaches the new target -- target to be submission-optimal.

They recommend that the PUB find that the new portfolio, when its target levels are reached, is likely to yield better returns than the mix within the current portfolio.

But they also recommend that the Board find that the new target portfolio is unlikely to be optimal, i.e., to achieve a maximum yield for a given level of risk. One (1) is because it's in --

insufficiently diversified in terms of equities.

And secondly, although it's a lesser point, that there's a greater potential return for long-term bonds for a comparable level of risk than there is for universe bonds.

My clients also recommend that the Board expressly find that there was a design flaw in the Aon -- Aon modelling related to the assumption that the low inflation environment was likely to endure with the consequence -- with the inappropriate assumption to model only ten (10) years of inflation experience.

They recommend that the Board expressly find that Real Return Bonds have a perfect positive correlation with inflation, while the real estate correlation is less closely related and that -- that the Board recommend to MPI that it reconsider its decision to do away with Real Return Bonds.

Although I haven't really mentioned this in -- in the argument, for transparency purposes, my clients certainly believe that there is merit to idea of MPI separately managing and tracking its pension assets.

Dr. Hum spoke of that and, certainly, you can go to his evidence. I haven't spent a lot of time on it in my submissions.

Turning to page 34 of the outline; I just want to talk about the revenue stabilization concept introduced by Dr. Hum and Dr. Simpson.

The question they posed is, Is the Board concerned about the volatility of investment income flowing through the Corporation?

And they noted that there was quite a bit volatility in results over the past four (4) years. Based upon the new portfolio targeted, Dr. Hum and Dr. Simpson also noted that there's likely to be an increase in volatility in the new portfolio.

And, like everyone in this room, they've noted that there's uncertainty regarding the impact of the new accounting rules. So what they -- the question they posed to themselves and to the Board was, Is this of concern? Are you interested in looking at a way to levelize investment income?

If so, at a conceptual level, what they proposed is a mechanism similar in design to an annuity or some university endowment funds.

Now apparently, it's a high level concept but I don't think it's a very complex one. It's one that Dr. Hum and Dr. Simpson said, If this is a concern to the Board, it merits the consideration of a -- of an investment revenue -- revenue stabilization or levelization fund.

And my clients think that that is a -- a subject worth pursuing. The details have not been worked out and the Board may or may not wish to -- to walk down that path. But they would recommend that the Board direct that MPI consult with interested parties, including CAC/MSOS, about both the merits of and a mechanism for an investment income levelization mechanism.

Just a few points and, Mr. Chairman, and Members of the Board, I'm -- hopefully, I'll be responsive to some of the -- approximately seven thousand (7,000) questions you posed at the end -- I'm just teasing -- at the end of the hearing on -- hopefully I'll give you the advice of my clients on some of those questions that you posed.

My clients would be remiss if they didn't note that there's a -- there's some -- still some lingering tension in the room. There's an undertone related to the RSR. We can go over the history, just the last two (2) or three (3) years.

Certainly, in '08/'09, the GRA, the Board provided an RSR rebate higher than MPI recommended. In the '07/'08 GRA, the RSR rebate was issued which the Corporation was opposed to and, if memory serve me right, the Board chose not to endorse a percentage of the MCT as for the purposes of determining the RSR. In '06/'07, again, an RSR rebate which the Corporation was opposed to.

And I've spoken already about the comments in the annual reports of Manitoba Public Insurance.

So the Board invited the -- some comments in terms of closing in terms of some of these issues, and I'm not sure my clients have that much insight to offer. Certainly, they're of the view that the risk analysis has served Manitobans well -- to -- to the extent that there is tension. In their view, it is less a product of a principle and well throughout policy by the Board than it is of the MPI response to that policy.

After many years of thoughtful deliberation, the Board made a careful decision in terms of risk analysis. And MPI certainly had full opportunity to be heard on numerous occasions on this subject.

And certainly as the Chairperson -- Chairman noted in his closing comments, there is a window of opportunity for MPI to review -- revise some elements of this methodology, and it has chosen not to do so to date. At some point in the future, it may do so.

The reality is, from my client's perspective, that parties to the regulatory process are not always going to agree, and -- and I think my clients have had one (1) or two (2) disagreements with the Board in the past themselves. And they can pursue those disagreements through review and vary or through appeals.

Ultimately, if they don't succeed in -- in having those decisions overturned, they can dwell on the past or move forward. Certainly, in my client's view, the Board has given MPI a tool in which to move forward, and the onus is now on MPI.

I've spoken of this already, but I'll repeat this. There's also some jurisdictional tension in this hearing. Mr. -- Mr. -- or CAA said it better than -- than I can, but in terms of a monopoly, there's a near monopoly in terms of Extension. My clients have no doubt that MPI is in a position to exercise market power in terms of the Extension product.

And certainly, as Intervenors, we can express the reality that we are having on behalf of our clients. Material frustrations in trying to disentangle Basic costs and staff structure from the integrated corporate -- and I misspelled whole there -- that should be a W-H-O-L-E. There was no pejorative element to that misspelling.

This problem has been exacerbated by the merger with DVL. And certainly my clients believe that this is making it increasingly difficult for the Board to discharge its duties, and it's also making it difficult for Manitoba Public Insurance to meets its onus of demonstrating that its costs are reasonable, prudent and necessary.

Some parties to this proceeding may recognize a broader oversight, and my clients are -- are starting to lean heavily in that direction. But until that is achieved, they believe it's necessary to employ some mechanism by which better information can be shared with the Board and with Intervenors, and certainly they would prefer that that be done in an out-of-proceeding consensual discussion, see where that leads us, rather than in a -- a more adversarial approach.

Other issues -- turning to page 37 of the outline of the argument, in terms of the -- the trucking subsidy from basic to SRE, the clients fully endorse the Board's determinations it expressed in last years' Board Order. Issues related to mark -- to market, and there may have been some misunderstanding by the Corporation of a Information Response to the -- the Coali -- CAC/MSOS, I want to clear that up.

My clients weren't overjoyed at the designation of certain assets to AFS. They see -- they recognize the impact on net income and the rate stabilization reserve that that had, but they're certainly prepared and do accept that that was an inadvertent decision. Error may be putting it too strong. So if there was some confusion about that in the -- I -- I wish to clear that up.

My clients are -- are very conscious of issues related to IFRS and, certainly, they've done some back-of-the-envelope calculations in terms of a potential onerous con -- contract between the Corporation and the Province related to the transfer of DVL, whether it's a $9 million short fall annually or a $15 million short fall annually.

And certainly depending on the discount rate when -- when one looks at the net present value calculation, my clients acknowledge that that may have a material impact and effect on retained earnings on the other side of the program.

My clients, in -- in their one (1) Information Response to the Public Utilities Board, CAC/MSOS 1-1, made the point that the issues related to IFRS are not unique to Manitoba Public Insurance. They're not unique to Manitoba Hydro or to Manitoba, and certainly Mr. Matwichuk's advice to my clients is that regulators across Canada are struggling with some of these issues.

And my clients offered the -- the

suggestion in that Information Response that the Board look into some sort of working group or technical committee on that issue.

My clients feel a little hamstrung in this area, Mr. Chairman and Members of the Board, in that they're not sure that they fully understand the issues and -- and they think that the process in Manitoba would benefit from a non-adversarial dialogue on these issues and they certainly would recommend that the Board look at that.

How can my clients not comment about uncertainty in the US and world financial markets? And they recognize that this has -- it's part of the caution that my clients bring to the recommendations is from the numerical analysis, it seems quite obvious to the clients what direction the Board orders should lay.

The caution they do have, and -- and they want to be frank about acknowledging this, is that there's uncertainty in the economy. There's potential for or perhaps there is, a downturn in the economy, certainly in the United States and -- and trickling down or up to Canada, and that can certainly have a potential impact on premiums earned and written, and certainly on investment income.

I guess, going back to Mr. Palmer's point, it -- it may -- may have some benefits on the claims incurred side, but my clients recognize that there's a wild card in -- in the -- in the equation that -- that we -- that we have to be cognizant of.

I've already talked about the -- the Extension near monopoly. I guess the -- the simple point my clients would make is that Manitobans are not enjoying the benefit of competition on the Extension line. And that leads them to -- to -- not to the conclusion yet, but it gives them a lot more sympathy for Mr. Kruk's position that Extension should come under the regulatory purview of the Board.

A point -- if the -- if the Board is considering an RSR rebate -- and hopefully it is -- Manitoba seniors are strongly supportive of using cheques rather than renewals as a rebate. And I guess on this issue, we take some -- perhaps a different position than the CAA.

And one (1) of the reasons, as I understand it, that Manitoba seniors feel so strongly about that is, they're not sure they're going to be renewing their -- their licence or their vehicle insurance in -- in that year. So that's why they've had some sympathy for the cheque as a method of rebate.

Rate recommendations of my clients are set out at page 38, and I've given you three (3).

First of all, if the Board disagrees with my clients and accepts that the MPI forecasts are reasonable and that's its expenditure projections are prudent and necessary, then my clients would recommend that no rate -- I say decrease -- increase there -- it should be no rate decrease should be granted.

Again, my clients are opposed to deficit budgeting and their focussed primarily on the '09/'10 year. If the Board accepts the advice of my clients in the sense that it finds that there is a directional bias with regard to the claims incurred forecasts of MPI, especially with regard to PIPP, then we think that the -- the Board should perhaps consider a 1 percent rate decrease.

If it also shares the concerns of my clients and it's come to the same conclusion that they have that MPI has not demonstrated that its rapid -- rapid and inadequately explained growth in expenditures as reasonable, prudent and necessary, my clients would recommend an additional 0.5 to 1 percent decrease.

That recommendation would have been stronger if not for, then certainly, my clients have about what's going on out in the -- I don't know if we should call it the "real world", but whatever the world is out there, my clients -- that's added some uncertainty to my clients.

And just to underscore my point, Mr. Chairman, and members of the Board, my clients have great difficulty and they do not -- they -- they feel very strongly that MPI has not made its case in terms of the reliability of its forecast or the reasonableness of it -- of its expenditures. Their recommendations are somewhat muted in this area because of the uncertainty around the economy.

In terms of an RSR rebate, subject to the caveat about the uncertain economy, my clients would suggest a moderate rebate based upon the amount in excess at the end of the '07/'08 year. And again, I think my clients tend to be a little more conservative than -- than the Board in terms of the RSR rate -- rebates, but that's what they've traditionally recommended and they're sticking with it.

Two (2) final areas that my clients wish to discuss. One (1) is in terms of -- I say this every year, but my clients mean it sincerely -- the tragic social and economic costs of accidents. And as I acknowledge with Ms. McLaren in -- in -- in cross-examination right off the bat, my clients certainly realize that this is a Manitoba issue, not just an MPI issue. But they have material concerns about what's going on.

It appears to be that there will be close to or more than one hundred (100) deaths associated with motor vehicle accidents, or that there were in the 2007 year. What were some of the factors related to these deaths? Well, twenty-one (21) of them were -- of the persons who died, there was an association with speed-related factors.

Thirty-three (33) of these fatalities, there was some relationship to alcohol or drugs. In twenty-nine (29) of these fatalities, were circumstances where occupant restraint was not in use. And in fifteen (15) additional ones, it's not clear whether occupant restraint was in use.

And again, there's a sad story from rural Manitoba where about two-thirds (2/3) of the fatal crashes in 2007 took place in rural Manitoba, and certainly one suspects that there would be a relationship with the absence of seatbelts in rural Manitoba -- with the relative absence.

Signs for concern; Manitoba is not performing on average as well as the rest of Canada on -- on measures, whether it's fatalities and injuries per billion kilometre travelled, fatalities and the injuries per hundred thousand (100,000) persons in the population or fatalities and injuries per hundred thousand (100,000) licensed drivers.

Manitoba, in these measures, is above the national average, and that is not where we would like Manitoba to be on behalf of our clients.

My clients spent a few minutes on occupant restraint in this proceeding and certainly ,if you go to CAC/MSOS Exhibit 4 -- you don't need to go there, but page 26 -- you'll see that the expenditure since the peak in '03/'04 for that line item appear to be stagnant at best.

Mr. Keith confirmed that there's no major media campaign on this issue for the current fiscal year. And my clients, frankly, they're not seeing a lot of advertising by MPI except for on auto theft issues.

We're told that there's something coming up in other issues this year and we look forward to it, but that's of concern.

There's no doubt that Manitoba is below the national average in the Transport Canada surveys of occupant restraint. Now I think Mr. Keith tried to distance himself or MPI from those measures and place greater reliance on self-reported measures.

But I think we should acknowledge that the one (1) non-self-reported measure -- the one (1) relied upon for the purposes of Vision 2010 -- is these surveys by Transport Canada in terms of occupant restraint usage.

What -- what do they tell us? Well, in terms of rural seatbelt usage, Manitoba's below the national average. And actually, when you compare the snapshot taken in 2006 versus the snapshot taken in 2004 on rural seatbelt usage, Manitoba was performing worse in 2006.

How about urban seatbelt usage? We're well below the national average, and its -- the prairie boy, it was disturbing we're well below Saskatchewan's average. Saskatchewan's doing great on urban seatbelt usage, and maybe there's some lessons to learn there.

When you put them together -- the rolling surveys from '06 and '07 -- again, MPI's below the national average for rural and urban seatbelt use.

And Mr. Keith -- and I find him a frank and helpful witness -- he acknowledges a slippage in terms of Manitoba's performance. And he didn't want to leave aside the Territories, but he -- he was leaving them aside.

He acknowledged that Manitoba's in the bottom third among provinces when it comes to occupant restraint, leaving aside the Territories.

And I've made this point before, but let's -- let's look at how many -- in those deaths in 2007, how many of them where seatbelts were not in use or it cannot be confirmed whether the occupant restraint was in use.

So has MPI demonstrated that its road safety budget is optimally designed to minimize the tragic social and economic cost of accidents?

From my clients' perspective certainly not. Not compared to the Canadian average performance, and certainly in the area of occupant restraint.

In terms of recommendations, my clients would recommend that the Board expressly find that there are unrealized opportunities for the Province and MPI to assist in mitigating these tragic social and economic costs of motor vehicles in Manitoba.

Sometimes on this issue my clients feel like giving up in despair, but they would recommend that none of us do so. And we continue to pursue this in proceedings.

Hopefully the driver safety rating discussion will provide some opportunities, and hopefully as investment and the immobilizers begin to decline, there will be opportunities to devote resources elsewhere to other equally important road safety priorities such as unsafe speed, impaired driving and occupant restraint.

And we certainly look forward to the 2010/'11 GRA as an opportunity to engage in a more aggressive manner in terms of road safety issues, and the consideration of best practices consistent with the mandates of public insurers.

The last heading on page 43 relates to driver's education and we didn't talk much about this in this hearing. But I would really, on behalf of my clients, commend to the Board -- there's some tremendous work done by North Port Associates in their response to CAC-1-25. There's at least three (3) different pieces of literature provided. The one in particular my clients would recommend to the Board relates to the literature review.

And I -- I give MPI credit for their selection of expert in this. The Northport literature review is a candid, thoughtful and ultimately sobering assessment into the limited and sometimes counter-productive impact of driver's education in reducing accidents and the severity of accidents for novice drivers.

And Northport -- my clients can't give them enough credit. It's a really interesting literature review and very thought-provoking. They -- Northport, and MPI for retaining them, should get credit for laying out many of the disappointing results of underachieving driver's education programs including that of MPI.

A knee jerk response to this literature might be to conclude that more education can be a bad thing. But that's not my clients' response. My clients don't think and they certainly think the more education is a good thing, not a bad thing.

What's really intriguing from my client's perspective about the Northport literature review are the -- are some very interesting but largely unexplored positive examples from jurisdictions such as Denmark, night driving, and other Scandinavian jurisdictions related to second stage driver education.

And certainly the authors of Northport were recommending that MPI move in this way. And unless we misunderstood Mr. Keith, my clients were disappointed to hear that little is moving on the second stage front in Manitoba.

There was a long pause before the Corporation gave its answer on that so maybe -- I'm not sure what that pause was related to but that's my clients' understanding because, from their perspective, the empirical work that seems to be positive seems to be flowing from the work out of jurisdictions such as Denmark and others in Scandinavia, focussing in particular on second stage driver education.

So my clients' recommendation on this

issue is that MPI be directed to report back for next year's application with the critical analysis of the merits of second phase driver training as a means to mitigate the tragic social and economic costs of motor vehicle collisions in Manitoba.

Finally, Mr. Chairman and members of the Board, thanking you for your indulgence. I'll note that my clients will be filing a cost application. They're -- they're hoping to actually get it within the thirty (30) day time line that we so regularly exceed so that's on Mr. Williams, not on my clients, and I apologize for that.

Thank you for your patience and, subject to any questions, those close our submissions.

THE CHAIRPERSON: Thank you, Mr. Williams. Thank you very much.

So we will stand down now and we will come together again next Thursday at 9:00 a.m. when MPI will have its opportunity to provide closing comments. Thanks again. Have a good rest of the week, weekend anyway.

--- Upon adjourning at 2:11 p.m.

Certified correct,

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Cheryl Lavigne, Ms.