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MANITOBA PUBLIC UTILITIES BOARD

Re: MANITOBA PUBLIC INSURANCE
 2010 GENERAL RATE APPLICATION

Before Board Panel:

- Graham Lane - Board Chairman
- Eric Jorgensen - Board Member
- Len Evans - Board Member

HELD AT:

Public Utilities Board
400, 330 Portage Avenue
Winnipeg, Manitoba
November 3rd, 2009

Pages 1579 to 1800

APPEARANCES

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1 --- Upon commencing at 9:08 a.m.

2

3 THE CHAIRPERSON: Okay, good morning,
4 everyone. Okay, I think you have the other undertaking
5 to file.

6

7 (BRIEF PAUSE)

8

9 MR. BYRON WILLIAMS: Mr. Chairman, just
10 while Ms. Kalinowsky is shuffling to a new mic, I just
11 want to indicate I do have a full book of documents
12 available to assist the Witnesses today. And just --
13 I'll -- I'll have it over here so there may be a bit of
14 shuffling if I have to bring it over to -- to the
15 Witnesses.

16 THE CHAIRPERSON: Shuffle away, Mr.
17 Williams. That's fine.

18 Ms. Kalinowsky...?

19 MS. KATHY KALINOWSKY: Good morning.
20 That's a much better start then. Thank you very much. I
21 did note that we did have an Undertaking Number 28 that
22 we wish to file. But I want to have Mr. Palmer speak to
23 it, but I don't think we'll disrupt the cross-examination
24 of Doctors Hum and Simpson, so we'll just put it aside.

25 When the panel comes back later on today,

1 then Mr. Palmer will speak to it and we'll mark it as an
2 exhibit at that point. All right?

3 THE CHAIRPERSON: That's just fine.

4 MS. KATHY KALINOWSKY: I also wanted to
5 note that Mr. Williams pointed out that perhaps I
6 misspoke on the record yesterday, when Dr. Hum noted
7 that, with respect to the Dynamic Capital Adequacy
8 Testing Educational Notes that are produced by the
9 Canadian Institute of Actuaries, he said that he believed
10 that the notes were included in the documentation that he
11 had glanced at. And I said, actually no, it was not
12 included in the materials.

13 Well, the document was not actually in the
14 materials, there was merely a link to it. It's a
15 copyrighted document so MPI did not photocopy it, but
16 instead in the response to CAC-1-14 noted that it was
17 protected under copyright, but a link is provide -- under
18 the internet.

19 THE CHAIRPERSON: Thank you.

20

21 CAC/MSOS PANEL 1:

22 DEREK HUM, Resumed

23 WAYNE SIMPSON, Resumed

24

25 CONTINUED CROSS-EXAMINATION BY MS. KATHY KALINOWSKY:

1 MS. KATHY KALINOWSKY: Good morning, Dr.
2 Hum and Dr. Simpson. I'm looking for a yes/no answer on
3 this question so I'm going to have it directly towards
4 Dr. Simpson.

5 But delving through your report and your
6 testimony that was delivered yesterday, am I correct in
7 my understanding that you support MPI's use of the DCAT
8 for Basic insurance, that you would recommend that DCAT
9 be used for other lines of business such as Extension
10 insurance, and that you support the adverse scenarios as
11 being plausible, subject to the one (1) or two (2) for
12 which you have provided constructive criticism, both in
13 your written evidence and your oral evidence?

14 DR. WAYNE SIMPSON: You're looking for a
15 yes or no answer?

16 MR. BYRON WILLIAMS: Just -- just on --
17 on the question, it is compound. And certainly Dr.
18 Simpson will ask it as -- answer it as he wishes, but my
19 advice to him might be that he answer it one (1) at a
20 time.

21 DR. WAYNE SIMPSON: Oh, I was simply
22 going to say, if you bundle all those questions together,
23 the answer would have to be "no."

24

25 CONTINUED BY MS. KATHY KALINOWSKY:

1 MS. KATHY KALINOWSKY: Okay. Will you
2 support MPI's use of a DCAT for Basic insurance? That
3 was part of the testimony yesterday. Yes or no?

4 DR. WAYNE SIMPSON: In the simplistic
5 manner in which you've asked the question, "no."

6

7 (BRIEF PAUSE)

8

9 THE CHAIRPERSON: I take it, Dr. Simpson
10 --

11 MS. KATHY KALINOWSKY: Doctor -- sorry.

12 THE CHAIRPERSON: I was just trying to be
13 helpful. Dr. Simpson, would you answer that question --
14 given the testimony yesterday, would I be wrong to
15 surmise that your answer's saying that the DCAT could be
16 just one (1) factor that might be used related to an RSR?

17 DR. WAYNE SIMPSON: I think the essence
18 of the testimony given primarily by Dr. Hum yesterday was
19 that the DCAT is a useful tool oriented towards the
20 financial health of the Corporation, is not specifically
21 oriented towards a question of the rate stabilization
22 reserve and is one (1) of two (2) useful but not ideal
23 tools for addressing that issue.

24

25 CONTINUED BY MS. KATHY KALINOWSKY:

1 MS. KATHY KALINOWSKY: And I don't find
2 that any dif -- different really than you've given a
3 smaller elaboration of my question, which was that you
4 support the use of DCAT for Basic insurance.

5 DR. DEREK HUM: To whom is the question--

6 DR. WAYNE SIMPSON: That wasn't a
7 question.

8 MS. KATHY KALINOWSKY: My question is
9 that your -- your response is analogous to my question,
10 which is your -- you support the use of DCAT for Basic
11 insurance.

12 DR. DEREK HUM: We're not trying to be
13 uncooperative, but we would prefer to give the answer in
14 our phrasing in our own words. And if you restrict us to
15 either a "yes" or "no," then I'm not sure we truly
16 understand the totally unqualified answer that you would
17 wish us to make.

18 So to err on the side of caution, if we're
19 not allowed to elaborate, it's -- it's very difficult to
20 answer. And we're trying to be as helpful as we can, but
21 a lot of our position is not so unnuanced that it can be
22 a "yes" or "no." I mean, otherwise, we wouldn't be
23 spending much time here. We would have sent in our e-
24 mail answer that -- you know, we picked one (1) or the
25 other.

1 And I thought the whole thrust of our
2 direct cred -- testimony is that we are trying to help
3 the Board and others to understand the entire complex
4 nature of the risk management enterprise, so to -- to
5 distill it down to a portion for which you require a
6 "yes" or "no" answer is -- is -- well, it's very
7 difficult for us, not as trained lawyers, to know what
8 you -- what you really want, or to -- to imply from a
9 "yes" or "no" answer. So we don't really want to confuse
10 or misdirect. We want to be as helpful as we can.

11 I know that's not the "yes" or "no" answer
12 you want, but there it is.

13 MS. KATHY KALINOWSKY: Well, will you
14 give me a "yes" or "no" on this? But you support the
15 adverse scenarios as being plausible, subject to the one
16 (1) or two (2) for which you provided some constructive
17 criticism, both in your written testimony and your oral
18 testimony yesterday.

19 DR. DEREK HUM: Well, that one is easy.
20 Which one? I mean there were six (6) of them. When you
21 said, would you support them, which one? I think that's
22 fair to ask. Which one?

23 MS. KATHY KALINOWSKY: Well...

24 MR. BYRON WILLIAMS: And to assist --

25 MS. KATHY KALINOWSKY: Well --

1 MR. BYRON WILLIAMS: -- the witnesses,
2 Ms. -- Ms. Kalinowsky, perhaps you can let them know what
3 you mean by "plausible," as opposed to "probable."

4 MS. KATHY KALINOWSKY: I'm using the term
5 "plausible," which is defined in the educational
6 standards of practice in the educational note. Well, we
7 know that you're not in support of the adverse scenario
8 of the extremely large hail storm, subject to changing
9 some of the data, perhaps.

10 DR. DEREK HUM: Would it be helpful --

11 MS. KATHY KALINOWSKY: Data for the --
12 for the --

13 DR. DEREK HUM: -- if I indicated that
14 there are seven (7) scenarios listed. The degree to
15 which I -- I think some of them are very good and some
16 are not, it's not a uniform "yes" or "no" for all of
17 them. Some, I find, you know, I would say, quite
18 implausible or -- therefore I object, and I some I don't.

19 Now, we could go through them one (1) by
20 one (1), but I have difficulty in bundling them, all
21 seven (7), and asking me, you know...

22 MS. KATHY KALINOWSKY: I believe
23 yesterday, that you used the phrase "one (1) or two (2),"
24 and I don't have it right here in the transcript, but I
25 could find that.

1 DR. DEREK HUM: No, I -- I addressed the
2 ones that I was directed to. I wasn't asked question on
3 all seven (7) of them. And when --

4 MS. KATHY KALINOWSKY: No, yesterday you
5 used the term that you supported them, with -- subject to
6 one (1), or two (2).

7 Are you changing your testimony today?

8 DR. DEREK HUM: No, I'm not changing my
9 testimony at all. That -- that is the case. I support--

10 MS. KATHY KALINOWSKY: That you support
11 all of them, subject to --

12 DR. DEREK HUM: -- the concept of --

13 MS. KATHY KALINOWSKY: -- one (1), or two
14 (2)?

15 DR. DEREK HUM: Please, please. Let's be
16 fair. I said I support the concept of the use of adverse
17 scenarios in DCAT as a stress tester. I also said I was
18 going to bless any one of these particular, or all of
19 these selected narrated adverse scenario.

20 I think anyone reading my report would --
21 would see that I characterize the use of these adverse
22 scenarios, in some cases, quite implausible; in some case
23 have a very low probability of happening, if they are
24 plausible; and in some case, as I said, seem to offend
25 standard wisdom and empirical knowledge about their

1 likely occurrence. And I -- I said those statements not
2 about these scenarios as a group, but characterizing them
3 appropriately for one (1) or the other of these.

4 Now, there seems to be a reluctance of you
5 to ask which one I find most uncomfortable with, and
6 which ones I actually find it's not a big deal. But
7 that's -- that's your call. I'm quite willing to help.

8 MS. KATHY KALINOWSKY: Well, I think your
9 testimony is written in a way -- in a -- and it sets out
10 which ones you're uncomfortable with already.

11 You mentioned that yesterday, that you had
12 provided the criticism in your written testimony.

13 Isn't that correct?

14 DR. DEREK HUM: Is that a question?

15 MS. KATHY KALINOWSKY: That you had said
16 yesterday, in your written testimony, which ones that you
17 were uncomfortable with, to use your words.

18 DR. DEREK HUM: I don't think my -- we
19 can look at the transcript, but certainly in the report,
20 I did not go through all of them ad seriatim. I -- I
21 selected those that illustrated the degree of discomfort
22 I had with one (1) or two (2). I particularly
23 highlighted the -- what you call, the integrated scenario
24 of sustained low interest rate and the decline in equity
25 markets, because I believe that is an area in which I

1 have some expertise.

2 Indeed, four (4), at least four (4), of
3 the enumerated ones, I would characterize as having to do
4 with economic matters: Sustained interest rates being
5 low, decline in equity markets, increased inflation, the
6 combination of sustained low interest rates, and the
7 decline in equity markets, the combination of the decline
8 in equity markets, which coupled with large hailstorm
9 which your own analysis suggests are independent events,
10 so we can talk about the decline in equity markets
11 independently. So that's five (5) at least.

12 And so I will come back now to answer your
13 question that I do find most or all of the adverse
14 scenarios that involved economic analysis to be
15 deficient. Maybe that helps.

16 MS. KATHY KALINOWSKY: But yesterday your
17 testimony stated that, and I'll quote from you, but it
18 says, "The thrust of the critical comments," on page
19 1,532 of the transcript -- it's page 1,532.

20 "The thrust of the critical comments, I
21 want to correct the impression we're
22 directed solely at one (1) or two (2)
23 scenarios that I believe did not have
24 basis in theory or empirical grounding
25 and not about the general methodology.

1 In fact, let me be absolutely clear, I
2 hope MPIC continues to use DCAT
3 creatively and more refined in the
4 future. And furthermore, it's such a
5 good tool. I hope they actually extend
6 it to Extension in the entire
7 Corporation, not just to Basic."

8 Is that your testimony yesterday, sir?

9 DR. DEREK HUM: I believe so.

10 MS. KATHY KALINOWSKY: Thank you. I have
11 no further questions.

12 THE CHAIRPERSON: Thank you, Ms.
13 Kalinowsky.

14 Okay. Mr. Saranchuk, are you --

15 MR. WALTER SARANCHUK: Thank you, sir.

16 THE CHAIRPERSON: Do you have a few extra
17 questions?

18

19 CROSS-EXAMINATION BY MR. WALTER SARANCHUK:

20 MR. WALTER SARANCHUK: Yes, Doctors
21 Simpson and Hum, I have some questions of you on behalf
22 of the Public Utilities Board. And just as sort of a
23 preamble before I get into the questions that we have for
24 you specifically, I wanted to pick up on the theme that
25 was pursued just the -- most recently by my Learned

1 Friend, Ms. Kalinowsky, on behalf of the Manitoba Public
2 Insurance Corporation, and this dealt with the adverse
3 scenarios.

4 So what I'm going to ask you to do, either
5 of you, whichever you choose, to provide us with your
6 expert opinion as to the plausibility or probability of
7 each of these adverse scenarios. And you can do so at a
8 high level, we don't have to get into extreme detail, but
9 that's what we think would benefit the Board.

10 So looking at the first adverse scenario,
11 which is the extremely large hailstorm dealt with at page
12 14 of the DCAT report, which is at AI.18, which is
13 actually AI.18.2 in Section 18 of the Application in
14 Volume III, Part 3. So the first adverse scenario,
15 gentlemen, is the extremely large hailstorm.

16 In your expert opinion, can you please
17 advise the Board as to your opinion on the plausibility
18 or probability of that scenario.

19 DR. WAYNE SIMPSON: I think one of the
20 things that we've emphasized in our report is that there
21 is a distinction, at least as we draw it, between
22 probability and plausibility. We're not actuaries, we
23 never claimed to be, so they -- they want to make that
24 point, we didn't dispute it.

25 The -- the question of plausibility as we

1 interpret it is one (1) -- is could this ever happen?
2 Well it's very difficult to disprove a negative. All
3 sorts of things could happen as opposed to what is likely
4 to happen. We think that it is more important to think
5 about what is likely to happen, in the context of -- of
6 setting aside reserves. Because as we said in our
7 report, setting aside excess reserves for things that
8 might -- that -- very unlikely to happen is going to be
9 publicly and socially wasteful.

10 So our emphasis was on the question of
11 probability, not -- not plausibility. Just because we
12 don't think we can say anything about plausibility or
13 imagined events.

14 The question of probability then, in terms
15 of a hailstorm, we all know that hailstorms are -- are
16 going to happen, right? And we're not meteorologists.
17 It strikes us that meteorological opinion would be very
18 useful in this context, that if we were going about
19 constructing an adverse scenario of the importance of
20 hailstorms to -- to claims in Manitoba, that the first
21 thing that we would do is we would look at meteorological
22 opinion on the matter. That would be the first step.

23 The scenario that they've pulled together
24 uses the claims data; essentially the fifteen (15),
25 slightly more than the fifteen (15) years of claims data

1 that -- that is available, for example in the use of the
2 -- of the RAA. It is pulled it -- together in a -- in a
3 fairly cavalier fashion. It's a start but a very minimal
4 start ongoing about understanding this -- this particular
5 problem and how it pertains to the risk of the
6 Corporation. But at least it's a -- it's a start.

7 MR. WALTER SARANCHUK: Can you make any
8 recommendation as to what other information that would be
9 required, that would assist in the process, aside from
10 the meteorological aspect?

11 DR. WAYNE SIMPSON: The -- the
12 meteorological aspect is to gather together the pertinent
13 information that would -- would allow either a
14 meteorologist or a trained statistician to develop a
15 probability distribution of hailstorms. And I've -- I've
16 read in there, their testimony, that they don't claim to
17 have done this, and with the data that they have they
18 couldn't do it, because they just looked at -- at a small
19 set of claims data.

20 But there would be a lot of information
21 out there, presumably meteorologically. I mean we
22 collect this information in a detailed fashion on a
23 regular basis. So that information could be collected
24 and analysed if -- if you want to look at the likelihood
25 of occurrence of these kinds of events, which of course

1 is the probability, empirically speaking.

2 MR. WALTER SARANCHUK: Thank you, sir.
3 Now in particular, this large hailstorm scenario is
4 described in the evidence as:

5 "An extremely large hailstorm occurs in
6 August 2010 and affects about 20
7 percent of Winnipeg. The hailstorm
8 causes \$353 million in Basic losses."

9 Dr. Hum, I believe had some comments
10 expressing some reservation about the plausibility or
11 even probability of the scenario in that context
12 yesterday. Could perhaps he elaborate on that, or -- or
13 you if you're comfortable in doing so, Dr. Simpson.

14 DR. WAYNE SIMPSON: Well he can -- he's
15 not shy so he'll -- he'll put his few words if he -- if
16 he feels he wants to.

17 MR. WALTER SARANCHUK: That we know.

18 DR. WAYNE SIMPSON: In order to evaluate
19 a scenario like that, I think one would want to have the
20 -- the statistical background, preferably organized by
21 someone with meteorological training, that would say:
22 Has this event occurred in the past in Winnipeg or
23 anywhere else? Is Winnipeg one of the hail alleys of
24 Manitoba that -- where this is more likely to occur than
25 in other areas?

1 And, you know, whether that is a -- is a
2 statement that is -- is borne out by past experience. I
3 mean, all we really have in constructing probability, as
4 opposed to plausibility, is essentially the historical
5 experience. In the particular case of the hailstorm, it
6 is a good example, because we have a fair amount of
7 recorded historical experience on which to base those
8 kinds of scenarios.

9 So, it -- it is one of the better
10 examples, just because of the widespread detailed
11 information one would have to collect, and use, and
12 analyse.

13 DR. DEREK HUM: To illustrate my non-
14 shyness, I think I remember what you said in the way of
15 your question. Just to make sure, that you were quoting
16 from page 14, of the -- of the AI.18.2, I believe, about
17 the hailstorms.

18 Was that correct?

19 MR. WALTER SARANCHUK: Yes.

20 DR. DEREK HUM: Is this the passage?

21 MR. WALTER SARANCHUK: Yeah, I think so.

22 DR. DEREK HUM: I take my com -- I want
23 to make sure.

24 MR. WALTER SARANCHUK: Yes, sir.

25 DR. DEREK HUM: I wanted to make sure.

1 Now that I am sure, I -- I think my reservations, and
2 again, I admit to not being a trained meteorologist, that
3 -- that it is not plausible to me to estimate these
4 losses occurring covering 20 percent of Winnipeg, based
5 upon a Dauphin-like storm, who's basis for the
6 calculation was a storm that occurred in -- it doesn't
7 say the year -- oh, yes, 2007, Dauphin.

8 And I think being a non-meteorologist, I -
9 - I have -- I had some difficulty with this kind of
10 methodology, so therefore, I found it not very plausible.
11 And I don't know if others find it plausible or not, but
12 I personally didn't. And I don't know if that's the
13 recommended way in which one goes about trying to
14 estimate this.

15 MR. WALTER SARANCHUK: So, in effect, if
16 I may ask you, sir, what, in the perhaps summarized form,
17 would you do to determine the effect of this kind of a
18 loss? I mean, how would you determine the extent it
19 should be taken into account as an adverse scenario?

20 DR. DEREK HUM: Well, I think the
21 standard statistical or econometric account would be to
22 try to get a handle on the probability of the event
23 occurring. Something that has no probability of
24 occurring, then you don't take into account.

25 MR. WALTER SARANCHUK: So, you --

1 DR. DEREK HUM: Some --

2 MR. WALTER SARANCHUK: -- into the
3 meteorological aspect, from what we understand, and --

4 DR. DEREK HUM: We would have to get that
5 information --

6 MR. WALTER SARANCHUK: -- then what?

7 DR. DEREK HUM: -- that information is
8 not really in the skill set of an economist in predicting
9 hailstorms, so we would never venture there.

10 MR. WALTER SARANCHUK: But once you've
11 got it, then --

12 DR. DEREK HUM: Once we've got it --

13 MR. WALTER SARANCHUK: -- what do you --
14 what do you do with it?

15 DR. DEREK HUM: Once we got it, we would
16 expect to be informed by -- by past payment claims, past
17 payouts, based upon that kind of hail experience. Of
18 course, we would assume that if you've changed the
19 amounts you've paid out in the interim since that was
20 observed, you know, these would be factored in, or take
21 into account inflation, and so forth, so on. But we
22 could get an ag -- a magnitude, of what I call the
23 monetary consequences of the occurrence of that event.

24 And then the next step that an
25 econometrician would do is to, usually, weight the amount

1 that would be paid out. Let -- let's say, for the sake
2 of argument, it's \$10 million, by the probability of the
3 event occurring, and this is called, in economics, the
4 expected -- the "expectation;" it's a jargon term.

5 It's the expected amount you would pay
6 out, because you don't pay it out with certainty, you
7 only pay it out if it occurs, but it doesn't occur with
8 certainty. And this information would be usually fed in
9 to the calculation of what the reserves you would
10 require, on the notion that in any given period of
11 reference you would expect to incur this type of risk.
12 And you would then decide how comfortable you would be in
13 terms of assuming this risk by a selection of a
14 confidence interval ban, which is subjective.

15 MR. WALTER SARANCHUK: Isn't this
16 effectively what was done, and so that the shortfall from
17 your standpoint is the lack of meteorological substance
18 to the whole process?

19 MR. WAYNE SIMPSON: Well, there's two (2)
20 links, there's two (2) links here to -- to hailstorm
21 damage. One (1) is the incidence of a hailstorm, and the
22 other is what the implications of that would have to be -
23 - would be, in terms of claimed costs.

24 The -- the first link, it seems to me that
25 -- that we're all talking without the expertise, because

1 my crude understanding would be that if you'd ask a
2 meteorologist they'd say that some places are more --
3 more likely to get hailstorms than others. And that has
4 something to do with the geography of the province. So
5 that would be information we would -- we'd want to use.

6 And so the information you brought to bear
7 from meteorological records would depend on that kind of
8 advice. From that you would then have a link where you
9 have some information about hailstorm incidents,
10 severity, I guess, and claim damage, and that would be
11 the -- the kind of the second link that you would want to
12 make and that would be based on -- on MPI's records.

13 And you would have to pull those two (2)
14 things together. I think MPI is probably comfortable
15 with the -- the second link but not the first.

16 MR. WALTER SARANCHUK: Okay, sir. Thank
17 you. Gentlemen, the second adverse scenario cited in the
18 evidence is at page 17. It's described as the high-loss
19 ratio. And the description of that scenario is as
20 follows:

21 "The 2010/'11 insurance year
22 experiences combine the collision, PIPP
23 and property damage claims costs that
24 are \$79 million higher than forecast on
25 an ultimate basis. The -- this ad --

1 [oh, sorry] the adverse scenario
2 represents the 2010/'11 expected losses
3 at the 99th percentile level, i.e., one
4 (1) in one hundred (100)." End of
5 quote.

6 What is your comment, relative to the
7 plausibility or probability, in respect of that scenario?
8 You might not have a comment but --

9 MR. WAYNE SIMPSON: I -- I --

10 MR. WALTER SARANCHUK: -- if you do --

11 MR. WAYNE SIMPSON: I --

12 MR. WALTER SARANCHUK: -- please --

13 MR. WAYNE SIMPSON: -- think our only
14 comment is that the -- the -- the statements you've read
15 out there, "the adverse scenario represents the 2010/'11
16 expected losses in the 99th percentile level," implies an
17 analysis of a probability distribution on which we have
18 no information how it was -- what was assumed, how it was
19 assumed, what information was used to construct it, and
20 so on.

21 So at that point we would simply say that
22 this is a statement we don't have any empirical backing
23 for.

24 MR. WALTER SARANCHUK: Thank you, sir.

25 The third adverse scenario is described as

1 sustained low-interest rates. And at page of the report,
2 or at least the RSR report, the description is as
3 follows, quote:

4 "The interest rates in 2010/'11 and
5 2011/'12 remain at the same levels
6 forecasted in 2009." End of quote.

7 What is your assessment, in terms of the
8 plausibility or probability of that adverse scenario?

9 MR. DEREK HUM: I think we have very
10 little, well I have very little difficulty with this one,
11 in terms of sustained low interest rates. We are
12 currently -- and it's almost 2010; we are at a period of
13 low interest rates in the -- at least in the scenario I
14 have they are projecting this only extending to
15 2011/2012, so that's not a long period for -- forward.

16 And a period of low sustained interest
17 rate is -- is quite plausible, given the fact that we
18 also know, or at least I claim to know, that the Bank of
19 Canada Governor is not likely to be changed. Mark Carney
20 has indicated that he intends to follow the current
21 interest-rate policy, which is to keep it within a band
22 that has been agreed upon by the Federal Government and
23 the Bank of Canada.

24 We also know that Canadian interest rates
25 are not set in isolation, they're set in terms of a

1 global financial market, of which the United States is a
2 major player. And the Chairman of the Federal Reserve
3 there has indicated, at least until 2010 and perhaps
4 early 2011, his intention is to keep interest rates low
5 in the United States. The capital markets of Canada and
6 the United States are very, very integrated in terms of
7 this.

8 So this, I -- I personally don't have a
9 great deal of difficulty with, as a -- as a plausible
10 scenario of a low interest rate for the next, I guess
11 it's two (2) fiscal years.

12 MR. WALTER SARANCHUK: Thank you, sir.
13 The next adverse scenario is described at page 24 of the
14 report as follows, quote:

15 "The Corporation's equity assets
16 declined by 40 percent in 2010/'11 and
17 remain at that level for the entire
18 forecast period. The losses are
19 realized as follows: 35 percent in
20 2010/'11, 35 percent in 2011/2012, and
21 30 percent in 2012/2013." End of
22 quote.

23 What is your assessment in terms of -- and
24 your opinion, in terms of the plausibility or probability
25 of that adverse scenario?

1 DR. DEREK HUM: Whatever the losses are,
2 their projected scenario, as to this manner in which, or
3 the percentage, or proportion, by which they choose to
4 realize it, that's not really an issue because they can
5 probably choose that. So if they state that that is
6 their decision rule, I don't have any difficulty with
7 that, at least as plausible.

8 In terms of the equity assets declining by
9 40 percent in the next fiscal year and remaining at that
10 level for the entire forecast future, my understanding is
11 that that period is a five (5) year period, so this would
12 mean a 40 percent decline and staying down there. It --
13 it's hard to know at what point we should benchmark the
14 date of the decline, but if we date it at the time of
15 writing, say June 18th, I would state that I do find that
16 an implausible scenario. And --

17 MR. WALTER SARANCHUK: Did you say
18 "implausible?"

19 DR. DEREK HUM: Implausible. Did I say
20 "plausible?"

21 DR. WAYNE SIMPSON: No, you said
22 "implausible," yeah.

23 DR. DEREK HUM: Implausible scenario. It
24 -- it would require a -- a 40 percent decline is quite
25 significant. I mean, it's not that it has never

1 occurred, but it is a significant decline. And to remain
2 -- let's understand what is being said here, that it will
3 remain there at that level for the next four (4) or five
4 (5) years, starting from point June -- well, I have June
5 18th as the starting point here.

6 It would have to decline much further now,
7 given that we're into November, and from that point on
8 the markets have risen substantially. So to achieve that
9 scenario, it would have to be a more than 40 percent
10 decline quite quickly, and then thereafter to remain so
11 that on average -- well, in a nutshell, I find it
12 implausible.

13 MR. WALTER SARANCHUK: Do you have some
14 comments on --

15 DR. WAYNE SIMPSON: I was just going to
16 add, looking -- looking at the evidence, PUB/MPI-233
17 Attachment A stock four (4) year returns back to 1939,
18 there's nothing of that magnitude. And there was a
19 period during the '20s and '30s where there was a lot of
20 stock market volatility of the sort that we have not
21 observed in the postwar period, and this goes back to our
22 comments about what we've learned from policy, mistakes
23 made in that period, versus what we -- what might happen
24 today.

25 And that's part of the context in which we

1 find the notion of a sustained stock market decline of
2 that sort to be implausible. And we have some very
3 recent historical evidence of -- of the actions taken in
4 the face of a situation that might have generated that in
5 the ba -- on the basis of past policy mistakes.

6 And, of course, the -- the declines were
7 relatively short lived because the mistakes of the '30s
8 weren't made again. So we've learned something.

9 MR. WALTER SARANCHUK: Thank you, sir.
10 The next adverse scenario is cited at page 26 of AI.18.2
11 and it's described as, quote:

12 "Consumer price -- [excuse me] Consumer
13 price inflation is assumed to increase
14 to 5.1 percent in 2010/'11 and remain
15 at that level throughout the forecast
16 period." End of quote.

17 Would either of you, or both, comment on
18 the plausibility or probability of that scenario?

19 DR. DEREK HUM: I'll comment first. Let
20 me be very clear that I understand the scenario is it
21 increases to 5.1 percent in 2010 and remains at 5.1
22 percent throughout the next four (4) years. I would have
23 no difficulty in anyone saying is it plausible that
24 inflation could increase above the level that is now,
25 which is --

1 MR. WALTER SARANCHUK: Let's talk about,
2 sorry for the interruption, sir, but let's talk about
3 perhaps the next five (5) years.

4 DR. DEREK HUM: That'S right.

5 MR. WALTER SARANCHUK: Okay.

6 DR. DEREK HUM: That was going to be my -
7 - my second statement. But at this magnitude, 5.1
8 percent, and sustained over the next five (5) years, I
9 would find that to be not plausible. The reasons are --
10 are, as I've indicate before, it is certainly not the
11 current Bank of Canada policy as agreed to by the Federal
12 Government and the Bank of Canada. It -- it doesn't mean
13 that they will always succeed in reaching their targets,
14 but this scenario is betting aggressively on failure to
15 achieve those targets for the next five (5) years.

16 And -- and well, it's been quite a while
17 since we've seen interest rates at this level, so one has
18 to ask: What has materially changed in the global and
19 Canadian economies that one would be so bold as to make
20 this prediction? The only consideration that an
21 economist would consider is that the recent difficulties
22 in the financial market, particularly the United States,
23 has led to a tremendous increase in the growth of the
24 money supplied as traditionally defined.

25 It's -- there's theoretical evidence and

1 empirical support for the notion that rapid increases in
2 the money supply does lead with a lag to inflationary
3 pressures. This would also be the case if we were to
4 assume simultaneously that the Bank of Canada and the
5 governments of the world will not do anything to -- to
6 take corrective action with emerging inflation.

7 The stated intention of the Bank of Canada
8 Governor and Mr. Ben Bernanke in the Untied States, is
9 that at the sign of their recognized divergence of
10 inflation, they have a plan which essentially means
11 sopping up the excess money in the system. So again, we
12 would have to be against their success to come to this
13 number.

14 So, Mr. Bernanke has been relatively
15 successful in persuading the United States government to
16 -- to take monetary action in face of what he recognizes
17 as emergency situations. And so I do find this scenario,
18 as stated so bluntly without qualification, to be
19 implausible.

20 MR. WALTER SARANCHUK: Any additional
21 commentary, Dr. Simpson?

22 DR. WAYNE SIMPSON: Well, it refers to
23 the episode between '70 and '74. And again, the -- the
24 policy environment has changed considerably since then,
25 in terms of inflation targeting and the kinds of

1 responses the central banks make. So that information,
2 historical information, while useful is dated and -- and
3 I think what Dr. Hum is saying is that we would discount
4 that experience fairly heavily and we would attach a
5 relatively low probability at this point in time of that
6 occurring.

7 What that -- how that relates to the
8 notion of plausibility is, I guess, in the eyes of the
9 holder.

10 MR. WALTER SARANCHUK: Thank you, sir.

11 DR. DEREK HUM: I -- I just want to add
12 that it was during this period, and -- and members may
13 decide for themselves whether this is an event that's
14 likely to occur, in terms of the magnitude. This is the
15 period of the OPEC oil shock, so the price of oil went
16 from approximately three dollars (\$3) or so at the well
17 head to, at one (1) point, I know this is a shocking
18 number, ninety dollars (\$90), over ninety (90). So, you
19 know, from three (3) to ninety (90).

20 In percentage term, that's a very, very
21 large increase. And -- and so -- so we do give a special
22 significance in economics as the largest oil price shock
23 that we've ever experienced. So if you think this is
24 likely to happen, in percentage terms, in terms of oil
25 price increase over this period, then you're in -- you

1 can find this plausible.

2 MR. WALTER SARANCHUK: But you can't?

3 DR. DEREK HUM: Well, that's -- that's
4 one (1) of my failings.

5 MR. WALTER SARANCHUK: It's also in the
6 eyes of the beholder.

7 DR. DEREK HUM: Beauty in truth.

8

9 (BRIEF PAUSE)

10

11 MR. WALTER SARANCHUK: Gentlemen, you
12 talked in terms -- just the final question on this
13 particular scenario, you talked about low probability in
14 terms of a weighting, W-E-I-G-H-T-I-N-G, for the record,
15 can you comment in terms of the extent to which you would
16 weight this assessment or this scenario, or what weight
17 you would give to it, in very general terms.

18 DR. WAYNE SIMPSON: We're -- we're still
19 talking about the -- the inflation scenario?

20 MR. WALTER SARANCHUK: Yes, sir.

21 DR. WAYNE SIMPSON: Well, probability has
22 several -- you know, we can attach a subjective
23 probability to this, based on essentially what we said.

24 MR. WALTER SARANCHUK: We're talking
25 about your opinion, based on your comments.

1 DR. WAYNE SIMPSON: It would be, I would
2 think, under 1 percent.

3 MR. WALTER SARANCHUK: Thank you, sir.

4 DR. WAYNE SIMPSON: Well under 1 percent.

5 MR. WALTER SARANCHUK: Proceeding with
6 the next adverse scenario, this is described at page 32
7 of the report, and it states as follows, quote:

8 "The interest rates in 2010/'11 and
9 2011/'12 remain at the same levels
10 forecasted in 2009/2010, and the
11 Corporation's equity assets declined by
12 20 percent in 2010/2011 and remain at
13 that level for the entire forecast
14 period. The equity losses are realized
15 as follows: 35 percent in 2010/'11, 35
16 percent in 2011/'12, and 30 percent in
17 2012/'13." End of quote.

18 What is your opinion on the plausibility,
19 or probability, in respect of that scenario?

20 DR. DEREK HUM: I think I answered that
21 at some length in direct, so I won't really repeat
22 myself. And so perhaps this is an opportunity to -- to
23 have Profe -- Professor Simpson give some comments.

24 MR. WALTER SARANCHUK: Yes, anything just
25 additional to what was stated yesterday.

1 DR. WAYNE SIMPSON: Yes, I -- well, and I
2 think we've -- we've talked about the -- the likelihood
3 of this kind of an event occurring in kinds -- in terms
4 of the kinds of policy mistakes that governments are
5 likely to make, and our recent experience gives us some
6 confidence.

7 You know, we -- we have two (2) presidents
8 with very, you know, different -- in very different
9 situations and perhaps very different intellectual
10 capacities, essentially, both responding in the same
11 fashion, in a way that -- that prevented this kind of
12 scenario from occurring. So I don't think that we find
13 this plausible, i.e., we would attach a probability to it
14 that would be ver -- well, minuscule.

15 MR. WALTER SARANCHUK: Thank you, sir.
16 And, finally, sir, the -- the last scenario that I wish
17 to draw to your attention is on page 35 of the report,
18 and it is described as follows, quote:

19 "A \$55 million hailstorm occurs in
20 August 2010 and the Corporation's
21 equity assets declined by 20 percent in
22 2010/'11 and remain at that level for
23 the entire forecast period. The equity
24 losses are realized as follows: 35
25 percent in 2010/'11, 35 percent in

1 2011/'12, and 30 percent in 2012/'13.

2 As a result of the economic downturn
3 the Corporation's largest participating
4 reinsurer defaults on 50 percent of
5 their obligations." End of quote.

6 What is your opinion relative to the
7 plausibility or probability in respect of that scenario?

8 DR. WAYNE SIMPSON: The -- I don't think
9 anyone is claiming that these two (2) events aren't
10 independent, and so the likelihood of them both occurring
11 in the same year is the product of their individual
12 probabilities. And the first event has -- make sure I
13 get the first event.

14 The first event is the hailstorm; has some
15 small but not minuscule probability. And the second
16 event, as we've said, has minuscule probability. And the
17 product of those two (2) is minuscule times a small
18 probability, which is very, very small.

19 DR. DEREK HUM: I -- I want to add
20 something. Whenever you have the two (2) events, you
21 normally would calculate the joint probability, but here
22 it is of course independent, so there is no necessity to
23 do it. But at the same time I note there is a third
24 condition which is the Corporation's largest
25 participating reinsurer defaults on 50 percent of their

1 obligations. So that's part of the scenario.

2 So -- so I have no idea of the probability
3 of that occurring, but since they indicated is the result
4 of the economic downturn...

5

6 (BRIEF PAUSE)

7

8 THE CHAIRPERSON: Apparently we have been
9 asked to vacate the building.

10

11 --- Upon recessing at 10:01 a.m.

12 --- Upon resuming at 10:20 a.m.

13

14 THE CHAIRPERSON: Mr. Saranchuk...?

15

16 CONTINUED BY MR. WALTER SARANCHUK:

17 MR. WALTER SARANCHUK: Thank you, sir.

18 It's improbable that we'll have that interruption,

19 Misters Simpson and Hum.

20 Just on one (1) final point, relative to

21 the last adverse scenario, we've talked about the

22 reinsurer's percent at 50 percent of a chance of their

23 failing to respond. Just, I would ask you to confirm

24 that indeed that contingency is tied to the equity

25 market, isn't it? The decline, actually, in an equity

1 market.

2 DR. DEREK HUM: Well, I -- I am not going
3 to speculate, or claim that I have knowledge, as to the
4 causes of the default of a coinsurer, as to the reasons
5 why. The statement, in terms of the scenario, it says,
6 "as a result of the economic downturn." So, one could
7 probably infer that it -- it meant, in association with
8 the conditions that lead to the corporate's equity assets
9 declining. I suppose, that meant a general decline, as
10 opposed to no equity declining except those of the
11 Corporation's.

12 The point I simply wanted to make was,
13 while the two (2) previous incidents were independently
14 distributed, that is, the large hail storm and the
15 decline in equity markets, it is unlikely that the
16 failure of the corporate's insurer would be uncorrelated
17 with the decline in equity markets, which I'll take as a
18 proxy of economic conditions, again.

19 So to calculate -- to know the probability
20 that -- of that occurring, you would actually have to
21 have a calculated joint probability of these two (2)
22 events, which: A) we were not able to find a
23 documentation, and B) given that they're fairly rare
24 events, then would be multiplied together. So two (2)
25 small numbers -- or, three (3), in this case, being

1 multiplied together gives you a very, small, small, small
2 number, so the probability, I think you'd say it's micro-
3 minuscule.

4 MR. WALTER SARANCHUK: Thank you, sir.
5 I'd like to proceed to discuss some aspects of your
6 report, and in particular, in terms of an introduction
7 that you have in your report, pages 2 and 3.

8 The bottom of page 2 you indicate that
9 essentially the establishment of the RSR target comes
10 down to two (2) elements.

11 1. Considering the measuring -- and
12 measuring the appropriate factors that contribute to
13 MPI's risk, and;

14 2. Adopting a degree of tolerance.

15 Can you confirm that that is indeed the
16 case, sir?

17 DR. WAYNE SIMPSON: Yes, we can.

18 MR. WALTER SARANCHUK: Now, at a high
19 level, can you address the Board approved RAA, or Risk
20 Analysis Approach, in terms of a general overview as to
21 how it addresses each of those two (2) elements?

22 DR. WAYNE SIMPSON: The -- the words here
23 are considering and measuring, or analysing, I guess, the
24 appropriate factors that contribute to MPI's risk. The
25 RAA uses the historical claims experience and the

1 historical net underwriting income as the basis for the
2 calculation of the -- of the RSR target range.

3 And in the terms of the second one, the
4 degree of risk tolerance is defined by the confidence
5 interval in the standard, you know, well developed and
6 understood statistical fashion of setting out a, say, 95
7 percent confidence interval, as an interval within which
8 the underwriting income would fall 95 percent of the
9 time; that is to say, would fall outside that only 5
10 percent of the time.

11 So, that's what is meant there by a degree
12 of risk tolerance. If you had less tolerance for risk,
13 then you would go to, say, a 97.5 percent confidence
14 interval, and -- and so on, progressively. And that's in
15 the eyes of whoever, again, in the eyes of the beholder,
16 what risk tolerance you're willing to adopt.

17 MR. WALTER SARANCHUK: And similarly,
18 sir, at a high level, can you indicate as to how the MPI
19 proposed Dynamic Capital Asset Testing, or DCAT, approach
20 addressees each of those two (2) issues that you have
21 identified at the bottom of page 2 in your introduction.

22 DR. WAYNE SIMPSON: I'll speak first and
23 then Professor Hum can add.

24 I think our concerns with the DCAT on each
25 of these items -- the first one, we're not sure that

1 there's a great deal of considering or measuring
2 appropriate factors. And this is again this question of
3 probability versus plausibility and imagined events. So
4 we had some concerns about that and we've expressed those
5 in detail in the report.

6 And the second one, it's -- it's not clear
7 on standard statistical procedures how the target for
8 example relates to degrees of risk tolerance, because it
9 doesn't adopt the framework of a standard sort of
10 statistical analysis, confidence intervals, and so on.
11 And indeed, doesn't give us a range and therefore cannot
12 not be a confidence interval in the usual sense.

13 MR. WALTER SARANCHUK: Thank you, sir.
14 Anything to add in the brief commentary, Dr. Hum?

15 DR. DEREK HUM: Just -- the question was
16 asked, relationship to the DCAT. I think also in our
17 report, we eluded to and perhaps did not emphasize that
18 we had some concerns about the translation of the output
19 of that exercise to the actual calculation of a RSR
20 target. In particular, we also noted that the exercise
21 is also confined to -- to less than the whole of the risk
22 exposure of the firm.

23 And notwithstanding the fact that we're
24 concentrating on discussing Basic, one of the lessons,
25 perhaps too well hidden of our stylized model, was to say

1 that because of the necessity to incorporate the
2 correlational structure, you -- you really can't study it
3 or specify it in total isolation. What happens in Basic
4 does have an effect on the rest of the corporate's
5 activities and vice versa and so forth.

6 So that is something that, perhaps not
7 well emphasized, but that is the spirit of why one
8 concentrates on -- on a technical issue such as the way
9 in which the components of the firm effect each other.
10 There are -- there are effects.

11 MR. WALTER SARANCHUK: Can this be
12 described as the overall financial wellness of the
13 Corporation? In other words, could it be interpreted as
14 meaning that in order to determine the overall financial
15 wellness, determining what should be an analysis of the -
16 - the prospect of a reserve, that that should take into
17 account all aspects of the Corporation's business, not
18 just one (1) facet of it?

19 DR. DEREK HUM: Well, I think that's
20 acceptable colloquial expression. I forget exactly how
21 you said it, but themselves, the DCAT, uses the term,
22 "satisfactory financial condition." And they're quite
23 precise as to the time frame and what that means. Now
24 your phrase, "overall financial wellness," I -- I would
25 imagine amounts to, I -- I would suggest, pretty much the

1 same concept.

2 So -- so without asking you for a precise
3 definition I don't have any difficulty with that. I
4 think that's -- that's the spirit of it. That is -- I
5 certainly will take a wild shot in the dark is obviously
6 the concern of the Board and executives of MPI, but it's
7 very difficult to -- to examine that, when given
8 information of one (1) particular division.

9 As I said, it's hard for a bank to say
10 that our deposit taking business is in satisfactory
11 financial condition. I think most shareholders would
12 like to know, well what's happening with your mortgage
13 division, what's happening with your commercial loan
14 division, what's happening with your consumer finance
15 division, what's happening with your foreign exchange
16 operations? And I don't think you'd get a good picture
17 if someone were to limit it say in the annual report of a
18 bank to say: No, no, we're not going to talk about that.
19 We're just going to tell you how well we're doing in one
20 (1) of our divisions.

21 And stockholders, if it were a private
22 company, would understandably not be satisfied with that
23 level of -- of detail.

24 MR. WALTER SARANCHUK: Thank you, sir.
25 Are the differences in the approach to addressing the two

1 (2) elements that you've identified, that is between the
2 RAA and the DCAT, more easily overcome or reconciled for
3 one (1) element over the other? In other words, which of
4 those two (2) elements represents the greater challenge
5 to reaching a consensus?

6 DR. DEREK HUM: Well, the first one --

7 DR. WAYNE SIMPSON: You're referring to
8 the -- the two (2) elements at the bottom of page 2?

9 MR. WALTER SARANCHUK: Yes, sir.

10 DR. DEREK HUM: Number 1. Number 1 is
11 extremely more difficult, because Number 2, adopt the
12 degree of risk tolerance, is a matter of, to put it
13 rather prosaically, individual comfort of those people
14 who have the mandate of -- of the fiduciary
15 responsibility of managing the Corporation.

16 Risk tolerance is whatever the Board
17 accepts as an acceptable level of risk. That -- there's
18 not -- there's not -- I'm looking at adopting, not
19 necessarily doing the necessary work in order to be able
20 to get to that point, but adopting a degree of risk
21 tolerance is -- is in the purview of the Corporation's
22 Board. That quite easy.

23 MR. WALTER SARANCHUK: Thank you, sir.

24 DR. WAYNE SIMPSON: Can -- can I just
25 relate this to the -- the dis -- question you asked about

1 the RAA, because let's suppose -- for simplicity, let's
2 start with just a single scenario, where we consider and
3 measure the likely incidence of a severe hailstorm that
4 causes substantial damage. Then I presume that the
5 relationship between this exercise and the exercise in
6 the RAA is to say that, given a probability distribution
7 of -- of hailstorms which might or might not hit
8 Winnipeg, and might or might not cause the kind of damage
9 we're thinking of, we're going to look, say, at the 95
10 percent -- percentile point as a cutoff.

11 That corresponds crudely to the 95 percent
12 confidence interval in the RAA analysis, and that gives
13 you a degree of risk tolerance which essentially
14 balances, in the context of the RAA, the -- the likely
15 outcomes relative to the -- to the less likely outcomes,
16 and says that you're going to base your reserves on what
17 we can reasonably expect to happen, as opposed to what we
18 probably -- we expect not to happen.

19 MR. WALTER SARANCHUK: Thank you, Dr.
20 Simpson. Now, your paper refers to four (4) elements or
21 aspects of the two (2) approaches, namely the DCAT and
22 the RAA, and the first one (1) is addressed at pages 12
23 to 16, namely the differences in objectives. And your
24 report notes MPI acknowledgement -- it's the bottom of
25 the page 12 -- that the purpose of the rate stabilization

1 reserve is to protect motorists from increases made
2 necessary by unexpected events and losses arising from
3 nonrecurring events or factors.

4 And you express your view at the bottom of
5 page 12 and the top of 13, that the purpose of the RSR is
6 not meant to smooth rate increases from year to year, nor
7 otherwise forestall a necessary rate increase that, as a
8 result of a major -- of major permanent changes in the
9 economic or operating environment.

10 Can you elaborate on how this difference
11 differs from MPI's stated purpose?

12 DR. DEREK HUM: Well, I think they're
13 quite different. Let's -- let's work backwards. We --
14 we were terse because we were summarizing points that we
15 had previously made, and that the purpose of the RSR is
16 not to smooth rate increases from year to year.

17 In our original presentation we, I think,
18 discussed smoothing and that it was not necessarily to
19 simply rule out fluctuations that are necessary in a rate
20 along a mean or a trend, because of random variations in
21 the number of, say, accidents or hailstorms that occur
22 from year-to-year. It's not a hard-fixed number that the
23 same number of accidents or hailstorms or whatever
24 calamities that lead to a claim will occur year after
25 year. There'll be a fluctuation. There'll be a

1 statistical distribution.

2 And we would not want, we claim, the rates
3 to be matched year-to-year necessarily on the basis of
4 equalizing that on a year-to-year accounting basis. We
5 call that process, if you're trying to do that, to have a
6 rate that's more constant even though your claims would
7 fluctuate slightly around a mean or a trend, smoothing
8 the rate. And the RSR can adopt that much in the same
9 way that governments have foreign exchange reserves to
10 maintain a certain degree of stability in its exchange
11 rate.

12 So we said we didn't interpret that as the
13 purpose of the RSR. So that's what we meant by saying it
14 was not meant to smooth the rates.

15 We also did not believe that the RSR, we
16 claim, is to -- it can't, actually, logically, forestall
17 a major permanent change in operating our environment
18 that would lead to a change. You -- by definition you'd
19 have to have infinite reserves in order to forestall
20 that. So, again, we didn't think that the purpose of the
21 RSR is to -- to eliminate these things; it just actually,
22 logically it can't be done.

23 So we argue then the purpose of the R
24 (sic) is not to finance, also, forecast errors, because
25 in our first report, I think, without putting too fine a

1 point on it, we said forecast errors are likely to occur
2 in any exercise, in terms of forecasting claims,
3 forecasting, so forth, and this is inevitable. So the
4 RSR should not be used for that.

5 So we -- we enumerated a number of items
6 that we thought was not the central purpose of the RSR,
7 and that left, therefore, the consideration of -- of
8 what, if I quote from our report, that it was to minimize
9 the risk of an unacceptably large year-over-year, say, 20
10 percent, as I said, that's arbitrary, rate increase for
11 motorists that arise from an event having a low
12 probability occurring in any given year.

13 MR. WALTER SARANCHUK: Just on that point
14 could you -- and -- and I'm sure you're coming to this,
15 could you elaborate on how this differs from MPI's stated
16 purpose of the RSR, and explain how you would
17 characterize the differences between statistically rare
18 events and unexpected events.

19 DR. DEREK HUM: Well, I -- I think at
20 some point, I'm not sure exactly where in the passage
21 now, we -- we did say that -- that an event may have a
22 low probability of occurring, but is not necessarily
23 unexpected. We wanted to make that distinction.

24 We're being, I suppose, somewhat pedantic
25 as statisticians, because for a statistician a rare

1 event, meaning in the sense of having a low probability
2 of occurring, is not necessarily unexpected. I mean, the
3 very fact that it's rare means that you'll -- you can't
4 expect it to happen, especially, as Professor Simpson
5 indicated, as the length of time elongates the actual
6 probability of it occurring in a longer and longer time
7 span actually becomes more and more elevated.

8 So we wanted to make that distinction
9 which may seem whimsical, or odd, or pedantic, but that
10 is a distinction a statistician would make between low
11 probability and unexpected.

12 And -- and losses arising from non-
13 recurring events or factors, we didn't give too much -- I
14 didn't give too much weight to that because I'm not quite
15 sure what is meant by that. But obviously a hailstorm is
16 a recurrent phenomena that could happen again, unless one
17 is saying that a particular hailstorm of exactly this
18 magnitude at exactly this spot, it may not occur again.
19 But I didn't take such a literal interpretation of non-
20 occurring.

21 MR. WALTER SARANCHUK: Thank you, sir.

22 DR. DEREK HUM: I wasn't looking for what
23 is proverbially called the "Black Swan," and statistics
24 or -- the Black Swan is something that has never ever in
25 the history been seen before. I mean, I don't think I

1 was going for that. So let's just leave it there. It
2 wasn't a Black Swan.

3 DR. WAYNE SIMPSON: Yeah, I mean, when
4 you're looking at a -- when you're looking at a series,
5 as for example the RAA does, and -- and -- and some of
6 the information that informs the DCAT scenarios might,
7 the -- you know, the simple time series distinction is
8 between the trend and -- and the variations about the
9 trend or the volatility.

10 And things that are in the trend are what
11 we would call, you know, permanent changes, or I would
12 interpret that word "non-recurring" to fit in there.
13 That is to say: Something happened. We don't expect it
14 to recur. It may or may not be built into the system as
15 a future event, because it only occurred once. It may be
16 part of the volatility. It may also be part of the -- of
17 the trend if it has a permanent effect.

18 And -- but the -- the essence of the
19 exercise really, in terms of the RSR, is to -- is to pick
20 up this question of -- of the potential volatility about
21 the trend, and that is something that the RAA
22 specifically addresses, perhaps not ideally, but
23 specifically, and the -- the DCAT tries to come to terms,
24 with in terms of as they put it stress testing the -- the
25 system, the financial corporation.

1 MR. WALTER SARANCHUK: Thank you, sir.
2 On page 14, there's the comment that -- it's the top
3 paragraph, about halfway down -- the statistical method
4 allows theoretically calculation of an optimal reserve
5 level.

6 Are you referring to the risk analysis
7 there?

8 DR. WAYNE SIMPSON: Yes.

9 MR. WALTER SARANCHUK: And how is an
10 optimal reserve level different from a target RSR level?

11 DR. WAYNE SIMPSON: There is no
12 difference, given -- given a -- an assumed risk
13 tolerance.

14 DR. DEREK HUM: Well, it's very difficult
15 sometimes because we're using language that we have a
16 shared understanding, which may not be common. If -- if
17 colloquially you mean a target level that somebody simply
18 stipulates that this is going to be the level, we could
19 have a target level of whatever and that's not how we
20 meant it. That's...

21 When he says "target level," he really
22 means that it is the product of a process by which we
23 balance the risk that the person is willing to assume by
24 specifying the confidence levels, and the cost and
25 benefits of a particular level of reserves that is going

1 to be held. Because at another part in the report, I did
2 say that holding reserves do have costs, in terms of
3 foregone opportunities, as it does have benefits, in
4 terms of the degree of comfort one achieves from that.

5 So -- so, it's optimal in the sense that
6 it's the balancing of it. It's the best, given all
7 factors taken into consideration, but it is not a random
8 target.

9 Is that okay?

10 MR. WALTER SARANCHUK: Thank you, sir.
11 In the next sentence you state that:

12 "On a full economic accounting basis
13 excess reserves are wasteful and they
14 have an opportunity cost, and excess
15 reserves kept in place just for that
16 rare event is wasteful."

17 Now in your direct examination, you did
18 elaborate on the opportunity cost aspect of it. But in
19 terms of probability, do you have a recommendation, with
20 respect to how rare an event needs to be, such that
21 holding RSR funds as protection against that event first
22 becomes wasteful?

23 DR. WAYNE SIMPSON: The standard, you
24 know, statistical confidence intervals are probably the -
25 - you know, these have been developed to -- to deal,

1 essentially, with these kinds of -- of issues, and the 95
2 percent standard is -- is well recognized. I -- I don't
3 have anything to add to that -- that standard. I think
4 that would probably be -- be something that -- that the
5 Board would want to consider.

6 But I -- I don't have any trouble with the
7 RAA, for example, as it's currently conceived, in
8 adopting the standard that it has, the -- the 95 and 97.5
9 percent intervals.

10 DR. DEREK HUM: I just want to emphasize
11 that, as we have testified at -- previously, that these
12 are conventions. These are ninety-five (95), ninety-
13 seven and a half (97 1/2), ninety (90). These are not
14 constitutionally given; these are standards. And for the
15 purpose at hand, the group who is undertaking this must
16 pick a standard at which they feel comfortable. And we
17 would have no difficulty if someone chooses ninety-six
18 point three (96.3), or whatever number.

19 It is -- it is something, a matter of
20 individual comfort. It's a convention.

21 MR. WALTER SARANCHUK: Can we pin you
22 down, in terms of an opinion, as to whether the
23 confidence level should be 90 to 95 percent, or 95
24 percent to 97.5 percent, or some other value?

25 DR. WAYNE SIMPSON: Well, I think -- I

1 think, I mean, if I were doing this exercise, I think
2 this is a fairly complicated exercise where you'd have to
3 look at a range of outcomes consequent upon a choice of -
4 - of a particular confidence interval. And that --

5 MR. WALTER SARANCHUK: Sir, we're talk --
6 sorry for the interruption. Just so that I make myself
7 clear, we're talking about economic efficiency.

8 DR. WAYNE SIMPSON: Yeah.

9 MR. WALTER SARANCHUK: So, I take it
10 that's --

11 DR. WAYNE SIMPSON: But, economic
12 efficiency --

13 MR. WALTER SARANCHUK: -- where you're
14 coming from?

15 DR. WAYNE SIMPSON: -- involves what the
16 -- what the implications would be, for example, of -- of
17 these events, right, occurring outside the -- the
18 confidence interval range. And for that you'd have to
19 assess what would happen, what the consequences would be
20 of those -- of those events happening. And I don't -- I
21 don't feel confident in doing that. I think that's
22 something that -- that the Board has to consider.

23 But -- but, you know, I'm saying it's not
24 a simple exercise. You can make some back of the
25 envelope calculations about the -- the cost of funds, in

1 terms of where they might go elsewhere and what the value
2 is to the funds elsewhere, but that -- that's -- that's
3 really all you could do.

4 MR. WALTER SARANCHUK: So, we can't pin
5 you down?

6 DR. DEREK HUM: I'm going to take another
7 crack at this. The -- while arbitrary, they're not
8 equally costly, so whether -- pick ninety-two (92),
9 ninety-five (95), ninety-seven (97), ninety-nine (99).

10 And if someone is -- is very, very what we
11 call risk adverse, I don't want something that's going to
12 happen to me even though you tell me it's rare. For
13 example, I have really, really -- don't want to be struck
14 by lightning on a Tuesday. I know it's rare, but it's -
15 - keeps me awake at night. The insurance cost of that,
16 if we work out the probabilities of it, would be very,
17 very high if I took out an insurance policy that pays off
18 provided that happens on a 99.9 percentile, as opposed to
19 something -- a contingency that's only 95 percent.

20 Now, if the reserves are to be put in
21 place for a 99 percent level, as opposed to a 92 or a 95,
22 given what we know about the shape of the distribution,
23 the cost of moving higher and higher to great degrees of
24 risk intolerance is not linear; it's not like an extra
25 two hundred dollars (\$200) for that.

1 So, the -- the cost of the reserves, the
2 economic costs of the reserves as we were recommending
3 it, is nonlinear. In fact, it goes up very steeply, as
4 anyone who has ever, I see, attempted to buy, you know,
5 life insurance tells you, you know.

6 So that is the nature of, I suppose,
7 illustrating the complexity of the calculation, as well
8 as conceding that the level of comfort that one chooses
9 for a confidence level is something that one personally
10 chooses.

11 MR. WALTER SARANCHUK: So we can't pin
12 you down either.

13 DR. DEREK HUM: I wouldn't go -- my --
14 now this is personal. I wouldn't -- I'm a risk loving
15 person. I wouldn't go push it to ninety-nine (99). I'm
16 willing to take a little bit of a gamble in my life, so I
17 operate it well below 99 percentile. In fact, sometimes
18 I operate well below ninety-five (95). But then I don't
19 drive.

20 I -- I just -- I want to know that I have
21 absolutely no vested interest in the insurance rates
22 being set.

23 DR. WAYNE SIMPSON: And -- and everyone's
24 public safety is -- is assured because Derek doesn't
25 drive. I was just going to add that there is --

1 DR. DEREK HUM: Wayne drives me.

2 DR. WAYNE SIMPSON: There is -- there is
3 a -- statisticians would term this -- you'd need to know
4 about the -- the loss function and the implications of --
5 of falling outside this interval. And a lot of that is
6 information that -- that we don't have, except that we
7 know that the larger -- the confidence interval, the
8 higher -- say 99 percent versus 95 percent, the more
9 likely you are to hold funds that will simply be held for
10 contingencies that are less and less likely to be used.

11 MR. WALTER SARANCHUK: Thank you, sir.
12 Can we get you to agree then that the 90 to 95 percent
13 level would result in a lower RSR range, as opposed to
14 the 95 to 97.5 percent range?

15 DR. WAYNE SIMPSON: Yes.

16 MR. WALTER SARANCHUK: Thank you for
17 that. Now we've heard, of course, that the RAA addresses
18 the question of risk tolerance through the selection of
19 confidence levels. Does a -- and you may have addressed
20 this, although I'm not sure that you did specifically --
21 does the DCAT address this issue through the selection of
22 plausibil -- plausibility levels, assuming they're
23 measurable for adverse scenarios?

24 DR. WAYNE SIMPSON: No.

25 MR. WALTER SARANCHUK: At page 15 or your

1 report, sir -- gentlemen, you state at the bottom of that
2 particular page that the PUB and the general public might
3 have more confidence in the DCAT exercise if the adverse
4 scenarios pertaining to future economic conditions were
5 commonly held as a consensus view by government's third
6 party independent research groups, private sector
7 forecasters, and the like.

8 To your knowledge, is there any source to
9 determine the consensus view on such adverse scenarios?

10 DR. DEREK HUM: Well, it's not possible
11 because the -- taken literally, these adverse scenarios
12 were written up by MPI. They're not generally well known
13 in the public domain.

14 I think what is meant by that, is if in
15 their scenarios their projections, or assumptions, or --
16 or however I -- I want -- I want to choose a word
17 correctly -- on the level of the interest rate, the level
18 of equity, direction and its rate of decline, the
19 conjunction of declining equity and low interest rates, I
20 would imagine it would be not difficult to find on
21 economic matters, some notion of whether or not a
22 scenario was held to be commonly held or reasonable,
23 because there's all kinds of -- even if you miss -- if
24 you don't trust a government's own finance department,
25 there are all kinds of private sector forecasters, people

1 who study this, who -- financial analysts who give their
2 judgment as to what will be the interest rate or the
3 direction of equity prices.

4 I'm not saying that they will all agree.
5 I'm not saying they'll always be correct. But at any
6 given time this information is available, it's in the
7 public domain, or could be easily gathered, so that in
8 some sense it's a check, if you like, on whether your
9 particular view of the future course of the economy in
10 the next five (5) years is part of the commonly shared
11 view to some extent, or is some bizarre idiosyncratic
12 projection that nobody else believes is likely to happen.

13 I mean, this is a check, this is a check,
14 and that is what -- what I meant by commonly held as
15 consensus. That's not a literal consensus. We don't all
16 agree on what the interest rate will be next year.

17 MR. WALTER SARANCHUK: Is there even a
18 source for the consensus view on the expected scenario?

19 DR. DEREK HUM: Well, the source was the
20 MPIC Board, I believe.

21 DR. WAYNE SIMPSON: I think you're
22 talking about a consensus view outside, an externally
23 held consensus view.

24 It would depend on the -- on the matter.
25 But for example there are a number of -- on economic

1 matters there are a number of forecasters out there,
2 banks, conference board, so on and so forth. And those,
3 you know, those forecasts of economic activity, for
4 example, are tabulated and quoted back to us by people
5 like the Finance Minister when they formulate their
6 opinions.

7 So there is -- depending on the issue,
8 there may well be a -- a commonly held consensus. If you
9 were dealing with hailstorms on the other hand, you'd
10 probably want to talk to meteorologists.

11 MR. WALTER SARANCHUK: Thank you, sir.
12 At page 16 and the top portion, the comment is made that
13 the RAA objective is focussed on the appropriate target
14 RSR necessary to forestall price or rate shock effects
15 and its horizon is one (1) year. And it's compared to,
16 for example, the DCAT objective, which is more broadly
17 concerned with the future satisfactory financial health
18 of the Corporation under selected adverse scenarios. And
19 its horizon is five (5) years.

20 What is the significance of the time
21 horizon difference with regard to the appropriateness of
22 each approach to setting a target RSR level?

23 DR. DEREK HUM: The horizon being one (1)
24 year for one and five (5) year for the other is -- is
25 descriptive. There's -- again, it is at the -- the

1 discretion of the practitioner as to how long the DCAT
2 exercise is to be run. I mean, there's nothing that says
3 that the DCAT exercise couldn't be done for seven (7)
4 years, ten (10) years.

5 The RAA is -- is -- horizon has been
6 traditionally one (1) year and it's also arbitrary.
7 There is nothing in the logic of the exercise that would
8 say the RAA has to be -- could be set for three (3) years
9 and will have a two-third (2/3s) savings because the PUB
10 would only have to meet once every three (3) years, as
11 nice and congenial as this gathering is.

12 And slipping into a little bit of jargon,
13 in -- in dynamic programming, which is a methodology
14 that's not discussed in the paper, it is conventional to
15 model a period of time for which action can be taken.
16 For example, if something cannot be done for five (5)
17 years, then there's no point -- well, there's no point
18 really developing a model as to what you will do in a
19 period of time less than five (5) because no action is
20 possible.

21 So in that spirit the RAA's horizon is one
22 (1) year, almost because of institutional arrangements
23 that the rate, as my understanding is, is -- is -- comes
24 before the PUB on a yearly basis. I understand under
25 emergencies it would come more frequently but as it

1 ourselves, we have probably, in our various comments,
2 indicated why the DCAT does not really address the issue
3 of the reserve level for the rate stabilization reserve,
4 but we could go through those again. Perhaps I'll
5 confine my comments to the RAA, because for whatever
6 reason it's not been given as much attention or airtime
7 as the DCAT.

8 The RAA procedure now being employed by
9 the PUB does everything that we have been describing:
10 calculates and forecasts the loss and claim experiences,
11 and subject to errors of forecast, and calculates what
12 the rate of reserve shall be in the contingency that some
13 event like a hailstorm exceeds the confidence levels and
14 so forth.

15 Not given much emphasis in this paper, but
16 if we draw your attention to the stylized model, and I
17 know, you know, Mr. Williams' heart is palpitating, there
18 was the indication that it's not that simple because it
19 depends on the correlational structure of any part of the
20 firm with other aspects and activities of the firm.
21 Specifically with respect to the RAA, it does have a
22 component not emphasized in the paper on the portfolio
23 performance. I believe it goes under the name "VaR".

24 That portfolio is not directly involved in
25 the data of the claims and accidents and losses and so

1 forth, but has to do with the portfolio position of the
2 Corporation. That portfolio is -- well it has changed in
3 the last year, but I think it's -- it's fair to
4 generalize is more like a common property resource of the
5 entire Corporation, that it is not specific to, in my
6 taxonomy, only Division A or only Division B. For
7 example, the pension fund is folded in there. Many of
8 the other assets are somewhat indivisible, in terms of
9 who bought it and so forth.

10 So there is a common risk of whatever
11 happens to that investment portfolio affects, in my
12 taxonomy, 'B' and also affects 'A'. Now that's just one
13 (1) example of -- of an interconnection. So the RAA as
14 strictly interpreted to calculate the loss claims and
15 that, which was the emphasis of this exercise because we
16 did not delve into, and we did not have the information
17 to look at all the ways in which the activities of the
18 firm 'A' divisions have an impact on 'B' and vice versa.

19 So in that sense the RAA procedure is not
20 perfect. So I'm glad that you asked that question
21 because I did not want to leave the impression in the
22 close questioning of our statements on the DCAT that we
23 A) either disapproved of the DCAT, or that we are the
24 authors and champions of RAA, or that we stand
25 unqualified as advocates of RAA. Thank you for that.

1 MR. WALTER SARANCHUK: Thank you, sir.
2 You were pleased that I asked that question; you might
3 not be so pleased when I ask you this one.

4 DR. DEREK HUM: I'm always pleased.

5 MR. WALTER SARANCHUK: In terms of the
6 differences in the objectives, which of the -- the is
7 addressed to both of you gentlemen, of course. If you
8 have a combined answer that's all the better. Which of
9 the two (2) approaches, in your view, would be more
10 appropriate for setting the RSR target?

11 DR. DEREK HUM: I'll let you go first.

12 DR. WAYNE SIMPSON: Well, our -- our
13 opening statement was that we're not voting. So now
14 you're asking us to vote.

15 MR. WALTER SARANCHUK: I've asked you --

16 DR. WAYNE SIMPSON: Is this a secret
17 ballot or --

18 MR. WALTER SARANCHUK: All I --

19 DR. WAYNE SIMPSON: -- a show of hands.

20 MR. WALTER SARANCHUK: I'm -- all I'm
21 asking -- all I'm asking you is not necessarily to cast a
22 ballot in favour of one (1) or the other, but I'm asking
23 you in your opinion, your expert opinion, which would you
24 consider as more appropriate?

25 DR. WAYNE SIMPSON: As they're -- as

1 they're presently constituted and presented, I would be
2 more comfortable with the RAA for -- basically for the
3 reasons we've given in the report. I think it is more
4 transparent, easily replicable and understood in terms of
5 both the -- the nature of the calculations and the
6 implied risk tolerance that the -- that -- that is
7 involved.

8 DR. DEREK HUM: My answer is slightly
9 different. I -- I feel as much a discomfort with your
10 question as a yes/no answer, because sometimes it's very
11 difficult giving a yes/no answer.

12 I think the difficulty is that we saw our
13 mandate as trying to help some sort of consensus when
14 views differ. And so we see the benefits of both systems
15 and I see quite fixable flaws in both. So the question
16 phrased that way is which one of these would you pick, I
17 -- I'm -- I -- I'm hesitant. One (1) may be more fixable
18 easily at cheaper than cost than other, and we don't have
19 the full information for that.

20 But pushed into a corner which, sir, I
21 think you wish me to go, right now, you know, I would
22 pick the RAA. But it's --

23 MR. WALTER SARANCHUK: Thank you.

24 DR. DEREK HUM: -- flawed.

25 MR. WALTER SARANCHUK: Thank you. And in

1 fairness to all concerned in the process, DCAT does have
2 a role in the entire process, does it not?

3 DR. DEREK HUM: I -- I've said that
4 rather forcefully and unambiguously and I'm glad to
5 repeat it again because I don't want the impression to be
6 left in that -- that -- that we don't like it or we find
7 it have -- have no use. It's -- I guess I'm -- this is
8 one of those times where redus -- redundancy is
9 effective. I -- I am not against it.

10 MR. WALTER SARANCHUK: Can you use the
11 RAA and the DCAT together?

12 DR. DEREK HUM: Well, actually I probably
13 would, but I was just going to continue my thought that
14 with respect to the DCAT, an analogy might be, and I used
15 it in my paper, that -- and you may not like it, it's --
16 as a hammer it's an excellent hammer, but sometimes what
17 you need to do is to fasten a picture to the wall with a
18 screwdriver because what you have is a screw. So that --
19 that is got nothing to do with the beauty and elegance of
20 the hammer; it's just an inappropriate tool for the job.

21 DR. WAYNE SIMPSON: Maybe I could just --
22 just add, I guess, a technical point, but the -- the DCAT
23 generates, as it's constructed, a -- a range of possible
24 outcomes for what we've characterized as outliers. It
25 could be used in a -- in a different fashion and a series

1 of simulation exercises to generate a distribution of
2 outcomes, which would be, you know, a distribution of
3 outcomes for the -- the wellness, as you put it, of the
4 financial corporation. And that distribution would
5 include, you know, implicitly would have to include both
6 favourable and unfavourable outcomes, because it would
7 have to, you know, most of the outcomes would have to lie
8 in the range of we don't really need the RSR this year.

9 And it would then allow you to pick off
10 the -- the -- using the one (1) tail test, I guess, pick
11 off the 5 percent, or 2 1/2 percent tail. And properly
12 constructed that would correspond to the kinds of things
13 that the RAA is attempting to do with the specific
14 historical data on claims.

15 MR. WALTER SARANCHUK: Crudely put, could
16 this be described as a DCAT-like, L-I-K-E, process?

17 DR. WAYNE SIMPSON: You would use the
18 DCAT, but you would use it in a simulation exercise --
19 it's a Monte Carlo experimental context -- to generate a
20 range of outcome from which you would select the -- the
21 range of most likely outcomes, and therefore the range
22 for the reserves of the Corporation in that context.

23 If -- if the only reserves of the
24 Corporation are the RSR, then that's fine. If there are
25 other reserves, then of course, you would want to look at

1 the -- at a more broadly based reserve for the
2 Corporation because this is an exercise for the financial
3 wellness of the Corporation.

4 MR. WALTER SARANCHUK: Thank you, sir.

5 DR. DEREK HUM: I just want to add that -
6 - that what Professor Simpson suggested, in the way of a
7 Monte Carlo experiment, is not a bizarre or uncommon
8 tool. It is -- it is used quite frequently in
9 statistical and econometric work, and it's quite common.
10 I have used it myself.

11 MR. WALTER SARANCHUK: Would you use the
12 Monte Carlo for the VaR risk, as well? The Value at
13 Risk. The investment side.

14 DR. DEREK HUM: It actually is of --
15 whether I -- I would use it, or is it used, it is
16 actually quite commonly used in the financial literature.
17 We didn't discuss much the VaR, but I -- I have some
18 difficulties with the VaR as presently constituted that's
19 quite independent of not being done, but financial
20 analysts often do do that.

21 MR. WALTER SARANCHUK: What are the
22 difficulties that you have, just incidently, insofar as
23 the VaR is concerned, sir? As it's constructed
24 presently.

25 DR. DEREK HUM: In this context -- in

1 this context of discussion of determining a amount of
2 reserves that is going to be in the RSR. Okay, I want to
3 emphasise that.

4 The VaR, as presently con -- constructed,
5 has a very -- there -- there isn't a great deal of -- of
6 consideration in it's choice of the time period over
7 which class of assets, that one should be looking at it's
8 volatilely with respect to the RSR question. There isn't
9 an incorporated, at least the last time I examined it --
10 and I confess, I did not examine this for this particular
11 report -- there wasn't an exam -- integration of -- of
12 the particular accounting rules, which I think are about
13 to change, or the -- the policies that would be optimal
14 or affirmed, as to how losses would be realized, and so
15 forth, so on.

16 There's a new wrinkle now, in the sense
17 that the portfolio model is shif -- shifted, and that
18 you're moving into private equity. There is a concern
19 about all kinds of things that takes us slightly away
20 from the original purpose for which the VaR exercise were
21 originally designed. It was designed for day traders to
22 see how much capital would be at risk. And a day trader
23 typically ideally tries to end the day with as close to
24 zero balances on both sides as possible.

25 This is not a context that is really,

1 really relevant for the RSR, in my judgment, so these
2 parameters can be modified, but I am not yet confident
3 that they have been modified with a deep linkage to the
4 RSR target level exercise.

5 So I'm going to stop there by saying that
6 it's not an area that I've given as much thought this
7 time to as -- as the other elements. I specifically said
8 we were confined in this report to look at just a limited
9 range of possibilities.

10 MR. WALTER SARANCHUK: But does, given
11 your evidence, sir, on the VaR, in your opinion, given
12 what you do know, should it be jettisoned or should it be
13 repaired?

14 DR. DEREK HUM: I think it's easily
15 modifiable, so maybe that's the answer. I think, if
16 we're looking at the requirement for reserves, it occurs
17 whenever something happens that the balance between the
18 premiums that you had set, in terms of the revenue flow
19 you're receiving, is somehow out of whack with what you
20 thought you were going to have to give in the way of
21 claims or losses, and so forth. And this is a flow.
22 This is a flow, okay?

23 Economists make a big difference between
24 stocks and flows. To bring it down to the simple level,
25 you have an income, that's a flow; you have expenses,

1 like groceries and a mortgage, that's a flow; but you
2 also have a stock of wealth, I'm sure, large amounts, in
3 your pension fund or equity, whose value of that
4 portfolio fluctuates on a even daily basis. And most
5 people, in context, would not allow the fluctuations that
6 occur in the stock, within limits, to overly influence
7 their behaviour and strategy with respect to managing
8 flows.

9 Now the VaR, in terms of the portfolio of
10 MPI, and let's -- I haven't looked at the latest numbers,
11 but we're talking a value in the nature of about 2
12 billion, I would guess, that's a large amount of money,
13 whose value can be expected to fluctuate, and whose value
14 can be expected to be subject to all kinds of
15 institutional constraints imposed by MPI by regulation
16 and portfolio restrictions, as to what they can by and so
17 forth, by the Department of Finance and so forth.

18 I would be loathe to allow that complex
19 tangle of situa -- situation affecting the stock to have
20 a dramatically big impact on the RSR calculation, with
21 respect to the determination of the target reserves. So
22 that is probably a fundamental issue which is easily
23 fixed, because all you have to do is to not value the
24 stock, but see what is the predictable flows that one can
25 expect to receive from this portfolio.

1 For example, if you are holding MUSH bonds
2 with a long-term maturity whose coupons are guaranteed by
3 the government, notwithstanding the fluctuation in the
4 equity markets and so forth, it's not going to have a big
5 impact on your ability to fund an unexpected claim that
6 arises for which you would normally, absent that, require
7 a large RSR. So that's just one (1) example of
8 converting that into its appropriate dimensions.

9 Now, that's a long answer, but I didn't
10 mean it to be that long.

11 MR. WALTER SARANCHUK: Thank you, sir.
12 Another area that you've addressed in your report is
13 described as the differences in scope, and that -- this
14 dealt with at pages 16 and 17 of your report. And at
15 page 16 you state:

16 "The RAA addresses the need for an RSR
17 level, so as to limit annual changes to
18 the rates, under those circumstances
19 where bringing losses and premiums into
20 balance immediately would lead to an
21 annual rate increase that is deemed
22 unacceptable."

23 Can you elaborate on any inconsistencies
24 about this scope, relative to MPI's stated purpose for
25 the RSR?

1 DR. DEREK HUM: No, I think that's -- the
2 wording may not be to your liking, but that's the spirit
3 of it. When I say "immediately" I don't mean
4 instantaneously, so that's why put in parenthesis within
5 the next fiscal year.

6 But that doesn't rule out the use of
7 judgment if adjustment is better effected over two (2)
8 consecutive years rather than one (1).

9 I mean, throughout the report there's been
10 very, very much reiteration of the notion that for both
11 methods, judgment is important. Neither of these tools
12 should be mindlessly applied mechanically. So that is
13 basically the spirit of what the RAA is attempting to do.

14 MR. WALTER SARANCHUK: Thank you, sir.
15 At page 17, you indicate that the scope of the DCAT
16 entails nothing less than the viability of the entire
17 Corporation, in the sense that assets must exceed
18 liabilities on a continuous and permanent basis.

19 Can you elaborate please on any
20 inconsistencies about this scope, relative to MPI's
21 stated purpose for the RSR. For example, does your view
22 change if one -- one considers DCAT as the only modelling
23 -- as only modelling Basic operations?

24 DR. DEREK HUM: I'm not sure I understand
25 the question. Could I ask you to repeat it.

1 MR. WALTER SARANCHUK: Sure. Yes. With
2 reference to your comment where you state that the DCAT
3 is more sweeping in its scope and entails nothing less
4 than the viability of the entire Corporation, in the
5 sense that assets must exceed liabilities on a continuous
6 and permanent basis.

7 My question is: Could you elaborate on
8 any of the inconsistencies about this scope, relative to
9 MPI's stated purpose of the RSR? Let's stop there for a
10 moment.

11 DR. DEREK HUM: I don't think there's an
12 inconsistence -- I don't think there's an inconsistency,
13 they're just different but they -- I think one way to
14 look at it is that I did say in that same page that the
15 RSR is a proper subset of the set of items for which the
16 DCAT addresses.

17 So there is no inconsistency in that
18 sense, it's just that the DCAT is more broadly cast. But
19 to be broadly cast doesn't mean it's inconsistent with a
20 more narrow cast, which is how I characterized the RAA
21 with respect to setting the target for the RSR.

22 And there's no inconsistency at all in the
23 sense that a firm can very well say, I am interested in
24 the financial health of all of the divisions of the firm.
25 And there's no contradiction in that. And someone says,

1 I am concerned with the viability of a -- my particular
2 division of the firm. There's -- there's no conflict
3 whatever.

4 MR. WALTER SARANCHUK: So with respect to
5 the differences in scope, let me ask you gentlemen, which
6 of the two (2) approaches, RAA or DCAT, in your view, is
7 the more appropriate for setting the RSR target?

8 DR. WAYNE SIMPSON: I think from what
9 we've said in our report, in terms of the -- of the
10 scope, we see the RAA as more directly addressing the
11 question of the volatility of reven -- of net revenue in
12 Basic operations. And therefore its scope is more
13 appropriate to the -- the design of the RSR, as it's
14 currently envisaged.

15 And we're pointing out that the DCAT is
16 properly applied in a more broad sense and therefore its
17 scope is less appropriate to that exercise.

18 MR. WALTER SARANCHUK: Thank you, sir.
19 Just moving along. Another factor that you've taken into
20 account is dealt with at pages 18 to 21 of your report
21 and it is described as the differences in tools employed.
22 And you state at page 18, at the end of the first
23 paragraph, that:

24 "Both tools explicitly acknowledge that
25 RSR is an integral part of the

1 Corporation's operations, and attempt
2 to -- and the attempt to take account
3 of the relationships in different
4 ways."

5 What are the relationships that are being
6 referenced there?

7 DR. DEREK HUM: Well, I think the
8 relationship between the RSR, and the RAA, is probably
9 transparent. I mean, they take into account this
10 relationship in setting the RSR, that's the purpose of
11 RAA.

12 DCAT is being used for this purpose
13 putatively, in the sense that it's -- it's objective is,
14 if I might phrase it this way, unconsciously or
15 consciously subsumed under the rubric of achieving a
16 satisfactory financial condition, which is not quite the
17 same thing because one could have an element of reserves
18 that might forestall the need to raise rates because of a
19 hailstorm. And yet there could be other issues affecting
20 the Corporation that DCAT captures.

21 So, I mean, it's -- it comes down to --
22 and I know that I'm repeating myself, but it seems like
23 I'm -- have to with -- the question seems somewhat
24 similar.

25 The RSR is a proper subset of the DCAT

1 scope. So, it goes without saying that what is
2 appropriate in one (1), is also being subsumed to be an
3 appropriate area of investigation for the other. So, I
4 don't know if I can say it any differently.

5 DR. WAYNE SIMPSON: So, this goes back to
6 our distinction between Division A and Division B, and
7 the interrelationships between those two (2) divisions,
8 and how -- how those matter.

9 MR. WALTER SARANCHUK: Later on, on page
10 18, gentleman, there's reference in the bottom paragraph,
11 in the second sentence, that the RAA does not include
12 everything.

13 In -- in words, as opposed to the
14 notation, as is done in the report, can you elaborate on
15 what is excluded from the RAA analysis.

16 DR. DEREK HUM: Well, the RAA doesn't
17 include everything because -- maybe this is a good way to
18 make some progress. If I gave you all the details you
19 would want to have, respecting the RAA in setting the
20 reserve level, and you had no other knowledge
21 independently of the operation of MPI's firm and
22 activities, you would not be able to extrapolate from the
23 information provided RAA on a wide variety of things that
24 I claim are pertinent to the satisfactory financial
25 performance condition of MPI.

1 For example, you would not know what is
2 happening to the market share and performance of
3 Extension. You would not know what is happening to some
4 of the rates of return in the portfolio. You would not
5 know what is happening to -- I'm just, sort of, doing
6 this on the fly now. But, there's a lot of things you
7 would not know, on the basis of the RAA information.

8 So, that's what I meant. It doesn't
9 include everything.

10 The DCAT, on the other hand, if applied to
11 'A' and 'B', from a financial perspective, balance sheet,
12 not personnel, and so forth, not who's getting what
13 parking spot, you would have a very good financial
14 snapshot of the financial health of the Corporation. You
15 would actually know what would be the impact of inflation
16 on the entire Corporation. It's very hard to -- to know
17 that from the RAA.

18 MR. WALTER SARANCHUK: Given your
19 comments, sir, on what is excluded from the RAA analysis,
20 in general terms, can you elaborate on the importance of
21 that factor, or those factors, for setting a target RSR
22 level, given MPI's stated purpose for the RSR. In other
23 words, is this a weakness of the RAA?

24 DR. DEREK HUM: Well, it -- it is a
25 weakness, in the sense that it doesn't solve everything.

1 And the way to put it, I like to raise the heart rate of
2 the people in this room, if you go back to the stylized
3 model, it comes back to the notion that the information
4 in that correlational structure, which in English I said
5 what that means is it actually captures the structure of
6 how the Corporation works and how the risk is distributed
7 among the various divisions, or parts, or portions, or
8 elements of the Corporation.

9 And focussing on the RAA, in absence of
10 information and knowledge about that, that set of things,
11 which is encapsulated in the correlational structure,
12 means that you don't know this, and what you don't know
13 is what you don't know, so it's inadequate in that sense.
14 It's not that this information, on the other hand, is not
15 attainable or is some secret, it's just that, in the
16 formulation of this tool, it doesn't take it into
17 account. I'm not faulting the RAA in not knowing
18 something which is not knowable, it's just that it's not
19 taken into account.

20 MR. WALTER SARANCHUK: Just on the point,
21 given this, quote, "weakness," end of quote, if you will,
22 can it be addressed somehow by improving the risk
23 analysis?

24 DR. DEREK HUM: Well, it can be improved.

25 DR. WAYNE SIMPSON: The -- the nature of

1 the RAA analysis is something that could be applied to --
2 to any set of information, time series information,
3 available about the operations and activities of the --
4 of MPI. And so if you wanted to broaden the scope of the
5 RAA exercise, is straightforward to do that, again,
6 exercising appropriate judgment to what is happening when
7 you do that broadening.

8 MR. WALTER SARANCHUK: Thank you, sir.
9 On page 19 of your report, on the third paragraph, with
10 reference to the DCAT, you indicate that it's attempting
11 to paint a very broad picture of the risks facing the
12 Corporation.

13 Can you indicate, from your perspective,
14 the importance of this for setting a target RSR level,
15 given MPI's stated purpose of the -- for the RSR?

16 DR. WAYNE SIMPSON: Well, the RSR is
17 narrowly defined in terms of a particular set of
18 operations of MPI, that is to say the -- a subset of the
19 basic operations of MPI, and therefore the DCAT is much
20 broader than that. And, in that sense, we find its scope
21 less suited to the -- to the exercise, as it's
22 specifically defined at present.

23 MR. WALTER SARANCHUK: Thank you. At
24 page 20, in -- at the beginning of the first -- or the
25 main paragraph there, the comment is made that the DCAT

1 adverse scenarios are selective and imagined and that you
2 mean that there is no attached probability.

3 Does this weaken the relevance of the DCAT
4 for the purpose of setting an RSR target level?

5 DR. WAYNE SIMPSON: I think the weakness
6 is, as -- as Dr. Hum pointed out, this question of -- of
7 defining plausibility, in terms of events that one wildly
8 could imagine might happen, as opposed to using the
9 information we have in the historical rec -- record and,
10 in some cases, external judgment by people who actually
11 know something about the questions, like meteorologists
12 and hailstorms, to reach some sort of judgment about what
13 -- what events have -- can occur but have a relatively
14 low probability.

15 And so from our perspective we'd much
16 prefer that approach to simply saying -- wildly imagining
17 what might be plausible, which we can't -- we can't
18 disprove, you can't disprove the negative, but in our
19 view is not -- is not easily justified.

20 MR. WALTER SARANCHUK: Thank you, sir.
21 And, Dr. Simpson, in your evidence thus far, you did
22 refer to favourable scenarios and that DCAT is a one (1)
23 tail test. And this is addressed at page 20 of your
24 report. It's a one (1) tail test that doesn't -- does
25 not allow for favourable scenarios.

1 Again, very briefly, perhaps in summary
2 form, what is the relevance of favourable scenarios in
3 DCAT stress testing?

4 DR. WAYNE SIMPSON: Well, our point there
5 was in contrasting the -- the two (2) approaches. The
6 RAA, because it's using historical data, is building in
7 essentially what favourable of -- scenarios might occur,
8 which would offset the unfavourable scenarios that might
9 occur.

10 The stress testing does not adopt that
11 approach. It -- it focusses on a series of outcomes that
12 -- that are plausible, to use the words, but it doesn't
13 offset that against anything else that might be occurring
14 in the Corporation.

15 To go back to my earlier example, if you
16 did a Monte Carlo exercise, you would have to introduce
17 both favourable and unfavourable scenarios and get a
18 range of outcomes for the firm that would -- would
19 reflect that and would be consistent with the historical
20 experience as well.

21 I mean, that would be one of the checks,
22 as you'd want it to -- to in some sense be consistent
23 with what we've actually observed happening.

24 MR. WALTER SARANCHUK: Does this lack of
25 taking into account favourable scenarios, does that

1 weaken the relevance of the DCAT for the purpose of
2 setting an RSR target level?

3 DR. DEREK HUM: Could I continue on what
4 Professor Simpson made, the comment? Let's -- let's
5 suppose there is an event that's considered unfavourable,
6 such as the imminent collapse of a large bank. And
7 supposing the historical record experience is that when a
8 bank is deemed by government to be too large to fail,
9 funds are forthcoming to save it in some financial sense.
10 And we do observe this historically, so that one might
11 argue there has been an observed correlation of an
12 unfavourable then, very unfavourable then, imminent
13 collapse of the institution, with what, from the point of
14 view of the firm, a favourable event that sort of occurs.
15 A white knight tends to come and do this.

16 Now you could deny that proposition and so
17 forth, but if we observe that and if we believe this to
18 be likely to occur under these situations, this would be
19 an example in which the past data shows us a
20 correlational structure between what is putatively an
21 unfavourable event being correlated with, in this case,
22 what I characterize as a white knight, a favourable
23 event, which would -- again, if you believe in this to be
24 the case, then that would certainly influence the
25 calculations that you would normally use on a statistical

1 basis to -- to determine the amount of reserves you would
2 need.

3 Now, of course this is pure speculation.

4 THE CHAIRPERSON: Mr. Saranchuk, if I
5 could enquire, how much more time do you think you have
6 of the two (2) professors?

7 MR. WALTER SARANCHUK: Half an hour.

8 THE CHAIRPERSON: Okay. We're just going
9 to take a five (5) minute break and then you can finish
10 up.

11 MR. WALTER SARANCHUK: Thank you, sir.

12 --- Upon recessing at 11:39 a.m.

13 --- Upon resuming at 11:46 a.m.

14
15 THE CHAIRPERSON: Mr. Saranchuk...?

16
17 CONTINUED BY MR. WALTER SARANCHUK:

18 MR. WALTER SARANCHUK: Thank you, sir.

19 Now just to conclude with reference to the
20 differences in the tools employed -- and I'm just looking
21 at the clock. I'm going to have to move along here.

22 Let me put the question to you, gentlemen,
23 again, in this rele -- refer -- with reference to this
24 aspect of your report. Differences in the tools
25 employed: Which of the two (2) approaches, in your view,

1 is more appropriate for setting the RSR target? More
2 appropriate. Don't vote, but what's more appropriate.

3 DR. DEREK HUM: I'm getting used to this
4 but -- now. Unchanged from what is presented today and
5 making the decision today, I would prefer the RAA,
6 unchanged.

7 MR. WALTER SARANCHUK: Dr. Simpson...?

8 DR. WAYNE SIMPSON: It was designed,
9 however, imperfectly, for the -- the exercise at hand, in
10 terms of the RSR, and I would agree.

11 MR. WALTER SARANCHUK: Thank you, sir.
12 Now, finally, moving onto the differences in information
13 requirements, dealt with at pages 21 and 24 of your
14 report. You state at the end of the first paragraph at
15 the top there that:

16 "The RAA is amenable to evaluation of
17 its performance by known procedures and
18 standards."

19 Can you elaborate on that, Dr. Simpson or
20 Dr. Hum, including an explanation of the relevance of
21 this evaluation in setting an RSR target level.

22 DR. WAYNE SIMPSON: Well, I think this
23 goes back to this notion of -- of a statistical
24 convention and the idea of taking the information you
25 have, the statistical information, and calculating a

1 confidence interval which reflects your -- your level of
2 risk tolerance; in other words, the size of the -- of the
3 observations outside that confidence interval that would
4 deem acceptably unlikely.

5 MR. WALTER SARANCHUK: Thank you, sir.
6 Dr. Simpson, later on, on page 22, you state, and this is
7 the middle of -- or the end of the second paragraph:

8 "The output of the RAA exercise may be
9 accordingly modified to capture the new
10 reality. There are even ex post
11 statistical tests, test for
12 stationarity, et cetera, to determine
13 whether a regime change has occurred."

14 While there might be limited data in such
15 a new regime, how accurately can a new target RSR level
16 be determined?

17 DR. WAYNE SIMPSON: I -- I think we've
18 acknowledge that with the fifteen (15) years of data the
19 reliability will not be very large. These tests can be
20 done, but not a -- you know, it would be difficult to
21 differentiate between a regime change and the status quo.

22 MR. WALTER SARANCHUK: Thank you, sir.
23 And just picking up on that a little further, and re --
24 relative to the differences in information requirements,
25 there's a reference in your report at page 23, at the

1 beginning of the second paragraph, quote:

2 "The epistemological -- [sorry]
3 epistemological status underlying the
4 self selected adverse scenarios is
5 highly mixed."

6 Are you suggesting -- or let me ask you
7 this: Can you elaborate, including an explanation of the
8 relevance in setting the RSR target level?

9 DR. DEREK HUM: Thank you. I'm sorry,
10 sir, I -- I wanted to add a comment to the last question,
11 so if -- I'll -- I'll just do that, with respect to the
12 notion of ex post statistical tests and that.

13 It ha -- it has been assumed that we have
14 fifteen (15) years of data, but for some events, you --
15 it is possible to have more. For example, if we're
16 looking at a prevalence of storms and that, I don't think
17 anyone would claim that we only have fifteen (15) years
18 of measured data. And if we're trying to say that the --
19 the nature of the prevalence is changed or not, we could
20 actually test to see if in fact this happened.

21 In other words, there may be some people
22 who truly believe that the frequency of occurrence of
23 severe hailstorms in Winnipeg has increased in the last
24 fifteen (15) years --

25 MR. WALTER SARANCHUK: Just so you know,

1 sir, the fifteen (15) years was taken because it's the
2 post PIPP environment.

3 DR. DEREK HUM: Yes, I understand that.

4 MR. WALTER SARANCHUK: So, there's that.

5 DR. DEREK HUM: But, that's why I chose
6 this example, the hailstorm, which I hope you agree, sir,
7 that it didn't have anything to do with the underlying
8 probability of hailstorms occurring.

9 But, anyway I want to use that example
10 because if someone in the Board believes this to be the
11 case, we would have recourse with statistical tests to
12 see if it's true. Similarly we would have it with a
13 variety of factors. If someone said rates of return and
14 the equity market seems to have been falling off, or
15 whatever it is, we would be able to -- to do these kinds
16 of tests. And we would be able to, within that context,
17 to note -- when it's very difficult, I thought this was
18 an outlier, but it wasn't an outlier. So we would be
19 able to do these sorts of things.

20 So, that's simply what I wanted to say.
21 It's not fifteen (15) years of data on everything.

22 And now your -- your second question -- or
23 the question -- the real question, was on the next page
24 about the epistemological status underlying the self-
25 selected scenarios. That was essentially to say, that

1 when ones doing this, as -- in the spirit of stress
2 testing what will happen using the DCAT, there may be
3 scenarios in which you're absolutely certain that they
4 will happen in future. The probability is close to one
5 (1).

6 And the examples I gave is, when there's
7 been significant legislation on our accounting changes
8 that passed into law, but mandated for adoption in the
9 next five (5) years and so forth, it would be
10 irresponsible to say, Well, I guess they may or may not
11 pass that. So, you could take these into account.

12 So, the epistemological basis for other
13 scenarios -- and I come back to my favourite: low
14 interest rates combining with declining equity prices --
15 I -- I have put that -- and in quotation marks, as
16 "highly speculative." So, the basis for that as a
17 scenario to be stress tested, for me, would not have the
18 same epistemological status as something that I know will
19 certainly happen.

20 And then the third category is probability
21 based: It may happen, it may not. That where, of
22 course, I would want the statistical foundation work to
23 be done, in one way or another, so that I would have some
24 good handle on how likely it is that I should give this
25 importance.

1 So, we can imagine all kinds of adverse
2 scenarios, but the fact of the matter is that I am
3 claiming that their epistemological status varies.

4 MR. WALTER SARANCHUK: Thank you, sir.
5 You gentleman go on to state at page 23, at the bottom,
6 last sentence in the second last paragraph, quote:

7 "In the extreme, the DCAT is
8 unconstrained in the sense that it
9 could select adverse scenarios that
10 attract no true believers other than
11 the DCAT practitioner." End of quote.

12 Are you suggesting that this is the case
13 for any of the adverse scenarios filed with respect to
14 this GRA, and if so, which ones?

15 Dr. Simpson, I see you have some comment.

16 DR. DEREK HUM: I'll take that because
17 I'm going to -- I wanted Wayne to be in my debt. I would
18 -- I would find it extremely uncommon to have the low
19 interest rate declining equity scenario. And I have a
20 limited number of friends, but I don't think there's any
21 in my professional acquaintance who believe that over the
22 next five (5) year period, and they're not DCAT
23 practitioners.

24 DR. WAYNE SIMPSON: I have no friends,
25 but among my acquaintances, I -- I think I would reach

1 the same conclusion.

2 DR. DEREK HUM: I'm not a friend?

3 DR. WAYNE SIMPSON: No.

4 DR. DEREK HUM: We've got that cleared
5 up, sir.

6 MR. WALTER SARANCHUK: I'll let -- if
7 there's any doubt, it's on the record.

8 THE CHAIRPERSON: We better call a cab
9 for Dr. Hum.

10

11 CONTINUED BY MR. WALTER SARANCHUK:

12 MR. WALTER SARANCHUK: Thank you,
13 gentleman. Just wrapping up questions, in respect of the
14 differences in information requirements, I'm going to ask
15 you the question that I've asked you on three (3)
16 previous occasions, with reference to the differences in
17 the information requirements, which of the two (2)
18 approaches, in your view, is, again, more appropriate for
19 setting the RSR target?

20 DR. WAYNE SIMPSON: As they're currently
21 set out, I think it's clear that we like the
22 transparency, or I like the transparency of the RAA
23 approach because it uses the historical record. And I --
24 just adding to what Dr. Hum discussed in terms of the
25 fifteen (15) year period, that's the data available. I

1 guess, in reflection we're not entirely convinced that
2 the data before -- the data series longer than fifteen
3 (15) years might also be useful, but we don't have that
4 information.

5 MR. WALTER SARANCHUK: Thank you. I have
6 some questions, briefly, with respect to some of your
7 conclusions. At page 25, relative to Point 1, that
8 there's currently some degree of agreement between the
9 two (2) approaches you mentioned there, but that this
10 consensus is unlikely to be maintained in the future
11 because of different objectives, scope, tools, and
12 information.

13 Can you elaborate, including comments on
14 which of the two (2) approaches is likely to be the more
15 stable.

16 DR. DEREK HUM: We didn't say there was
17 agreement. We said suggest a degree of ag -- agreement,
18 which is not the same thing as consensus with respect to
19 method. I'm going to let my non-friend answer this.

20 DR. WAYNE SIMPSON: Well, that's -- that
21 -- that's highly speculative. I mean, it is plausible
22 that the two (2) might move in concert because we can't
23 disprove that possibility into the future. But our --
24 our view is that they're not gonna move in lockstep.

25 And stability is hard to assess because

1 one (1) is appropriately a range, because it's a
2 confidence interval, expresses the risk tolerance, and
3 the other is a -- a number. So a sense of vu -- you
4 know, stability. I mean, you're comparing apples and
5 oranges, so that would be difficult to do. I'm sorry I
6 can't be more helpful than that.

7 MR. WALTER SARANCHUK: All right. Then
8 moving on to the second conclusion, where you state that
9 the RAA method more directly applies to the stipulated
10 RSR objective of a fund to ensure stabil -- and -- and
11 stability of Basic rates. Can we interpret that
12 commentary, that conclusion, that in this particular area
13 it's the RAA approach that is more appropriate for the
14 establishment of the RSR target?

15 DR. WAYNE SIMPSON: Yes.

16 MR. WALTER SARANCHUK: And can the same
17 be said, sir, with respect to your conclusion in Number
18 3, that the RAA method is based on the as yet limited
19 historical experience of adverse events for the client
20 motorists of MPI, while the DCAT method is based on a --
21 plausible adverse scenarios chosen internally by MPI? In
22 other words, is the RAA, therefore, more appropriate in
23 this respect?

24 DR. WAYNE SIMPSON: Yes. I think we have
25 more confidence in the RAA as -- as -- as it's set out

1 here.

2 MR. WALTER SARANCHUK: And with res --
3 reference to Conclusion Number 4, where the horizon for
4 the RAA method is one (1) year and -- while the horizon
5 for a DCAT method is five (5) years, which of the two (2)
6 is more appropriate in that context?

7 DR. WAYNE SIMPSON: Given that PUB meets
8 annually to consider rates, it seems like one (1) year
9 would be more appropriate so...

10 MR. WALTER SARANCHUK: Thank you, Sir.
11 And with reference to Number 5, the various scenarios
12 chosen for the DCAT exercises are selected adverse events
13 without specified probability of occurrence, with no
14 offsetting favourable scenarios being considered, which
15 of the two (2) would be more appropriate in that given --
16 re -- that comment?

17 DR. WAYNE SIMPSON: I think that
18 expresses some of our concerns about the DCAT only. And
19 in -- only in that implied sense gives us more confidence
20 in the RAA.

21 MR. WALTER SARANCHUK: Just going back to
22 your Conclusion Number 4, if the one (1) year time
23 horizon is more appropriate in the circumstances, should
24 that one (1) year time horizon also be applied in respect
25 of the VaR?

1 DR. DEREK HUM: They're being used for
2 different purposes. I guess that is an underlying
3 leitmotif of our testimony.

4 So given that, I -- I have no objection to
5 DCAT being used for the exercise for five (5) years if
6 MPI wants it to be comfortable. To constrain it to be
7 done for one (1) year, and of course I think it would be
8 a good exercise to do for one (1) year just for
9 curiosity, intellectual curiosity --

10 MR. WALTER SARANCHUK: No, but sir, we're
11 talking about the VaR, the Value at Risk.

12 DR. DEREK HUM: Oh, I'm sorry. I'm
13 sorry, I didn't hear that. I'm sorry. I mis --

14 MR. WALTER SARANCHUK: It uses two and a
15 half (2 1/2) year now -- years now, so I'm asking you
16 whether it would be appropriate to use the one (1) year
17 for the VaR.

18 DR. DEREK HUM: I'm not voting for a
19 fraction.

20 MR. WALTER SARANCHUK: Because -- no,
21 because the Board meets once a year.

22 DR. DEREK HUM: Yeah, I know. But I'm
23 not voting for a fraction for the VaR. I -- I thought --
24 I hoped to convey the impression that the VaR should be
25 conducted with nuance, with respect to the time holding

1 periods of the class of securities for which you cannot
2 really readjust.

3 And it's -- it may be on average two and a
4 half (2 1/2) years, or whatever it is, but I'm not going
5 to speculate and say two and a half (2 1/2).

6 MR. WALTER SARANCHUK: Thank you, sir.

7 And with reference to Conclusion Number 6, which states:

8 "The RAA and DCAT methods both require
9 an element of judgment, but the RAA
10 procedure is constrained by its
11 reliance on published historical data
12 and non-proprietary statistical
13 procedures that are relatively easily
14 subject to external replicability.
15 The DCAT methodology is constrained
16 only by the speculative future
17 scenarios MPI might construct that may
18 or may not find external support."

19 With reference to that conclusion, can you
20 advise as to which of the two (2) approaches would be
21 more appropriate in your opinion, for the establishment
22 of the RSR target?

23 DR. DEREK HUM: Well, one (1) might want
24 to define the audience narrow or broad. If it's only the
25 members of the PUB, then of course public agreement as to

1 the plausibility of these scenarios, then totally will be
2 at the pleasure of the PUB.

3 But if in fact there is any lead or
4 compulsion to explain a proposed rate to the general
5 public by saying we believe that we've set these rates
6 because equity markets will be declining by 40 percent
7 over the next five (5) years, and interest rates will be
8 going to a certain level and staying there for the next
9 five (5) year, then, I think, external acceptance of this
10 is an important thing.

11 So on those grounds, I think the
12 transparency, though perhaps imperfect in this
13 Application of the RAA, would be for us preferable as a
14 matter of what I call -- and I know this may take us
15 outside the mandate -- as a general rule of public
16 policy, I basically advocate transparency where -- where
17 no harm is done.

18 MR. WALTER SARANCHUK: Thank you, sir.
19 And in terms of the question of adopting a point estimate
20 target for the RSR level rather than at target RSR range,
21 do you see any difficulty there and are you prepared to
22 make any recommendation in that respect? Dr. Simpson, I
23 see you're nodding your head.

24 DR. WAYNE SIMPSON: Well, I guess I -- I
25 relate this to the -- the exercise in inflation control

1 that the Bank of Canada uses where they adopt a range
2 because they know that it would be very difficult -- they
3 have in mind a -- a 2 percent target, but they -- they
4 recognize that there are bounds around that within --
5 with -- beyond which they don't want to go. That is to
6 say, they're not too concerned about 2 1/2 percent but
7 they're quite concerned about 3.5 percent, and so on.

8 So -- so -- so the range gives you points
9 at which you -- you would react in a fairly extreme
10 fashion, and to me that's a better way of proceeding than
11 to saying I can pick a target and I can -- I can find it
12 and stick to it. It -- it recognizes that that is not a
13 simple task and I wouldn't think it is a simple task for
14 MPI either.

15 MR. WALTER SARANCHUK: Thank you, sir. I
16 have some preamble to this next question, so I'd ask you
17 please to bear with me.

18 But with the differences of view, relative
19 to the PUB's current SR -- RSR range and methodology with
20 the RAA and the DCAT approaches, would not a simpler
21 approach perhaps be advisable in the circumstances? And
22 by that, for example, I would say consider setting the
23 RSR range as being 10 to 20 percent of prospective annual
24 overall basic expenditures as represent a guide, and that
25 base would recognize then the reliance on investment

1 income, other fees and premiums to meet costs and achieve
2 annual breakeven.

3 Would you agree that -- that the range
4 then would -- could be tested against other information,
5 such as DCAT or the RAA, from time to time, and that
6 other factors could also be taken into account in
7 determining if the action required -- if there is action
8 required, when the minimum of the range is being tested,
9 or the maximum of the range is being approached or
10 exceeded?

11 So, in terms of that kind of a concept,
12 what is your view in that respect?

13 DR. WAYNE SIMPSON: I -- I think what
14 you're suggesting is a broadening of the RAA activity to
15 include the -- the Corporation as a whole and trying to
16 relate that to the DCAT exercise, where you would --
17 through some sort of series of events that you would
18 simulate would generate a range of pro -- probable
19 outcome, so that the two (2) are somehow comparable and
20 you can look at -- at the -- where problems might occur
21 and what their likelihood is.

22 And I think that that is a logical
23 extension if you're concerned about the financial well-
24 being of the Corporation. So I think that's probably a
25 good idea.

1 Whether the 10 or 20 percent captures as -
2 - as of value for the reserve funds, would depend upon
3 the actual results of the analysis. But you could
4 proceed on that sort of a basis, yes.

5 MR. WALTER SARANCHUK: But bear in mind,
6 of course, that I was talking about 10 to 20 percent of
7 the prospective annual overall basic expenditures. So
8 that's something that you've taken into account in your
9 answer? We're talking about --

10 DR. WAYNE SIMPSON: If -- if you're -- if
11 you're simply applying it to the -- to the Basic -- to
12 the Basic operations, yes. Yeah.

13 MR. WALTER SARANCHUK: Now, given that it
14 is unlikely that the MPI would seek or that the PUB would
15 approve a rate increase of 10 percent or more for a year,
16 could this type of approach that we've just addressed
17 serve as a consensus over the RSR that you indicate would
18 be preferable?

19 DR. WAYNE SIMPSON: I gue -- I -- I guess
20 I see where you're coming from now. You're -- you're --
21 let's say you're taking the figure of 20 percent, and
22 you're saying this is an unacceptable rate increase, so
23 let's simply fix the RSR at 20 percent of the -- of -- of
24 income. That's -- of the expenditure, yeah. That's a
25 crude -- that's a crude way of doing it. I would still

1 prefer the -- the RAA approach because it -- it makes it
2 more clear what you're trying to protect against, which
3 is volatility. To pick a number of 20 percent is -- is a
4 little bit -- is more arbitrary, in a statistical sense.

5 MR. WALTER SARANCHUK: Thank you, sir.
6 And I have one (1) final question. That in -- at page 12
7 you've indicated that your report would examine whether
8 or not a consensus respecting the target level for the
9 RSR is possible.

10 Given the scenario that I just posed prior
11 to this question, and taking into account all of your
12 report, have you drawn a conclusion in this regard, as in
13 terms of whether or not a consensus respecting the target
14 level of the RSR is possible?

15 DR. DEREK HUM: I don't know if I want to
16 go down that line without, like you, sir, a long preamble
17 as to what I would consider to be the definition of a
18 consensus, so --

19 MR. WALTER SARANCHUK: I would encourage
20 you not to do that.

21 DR. DEREK HUM: Yes, I -- I thought as
22 much. So -- so I would just simply say that after
23 examining the material and writing this report, I don't
24 believe a consensus is imminent. Even with your
25 elegantly expressed proposal that I suspect you wanted us

1 to consider, which we didn't, I don't believe a consensus
2 -- long lasting consensus is possible at this point.

3 DR. WAYNE SIMPSON: I -- I think the
4 thrust of our -- our comments is that the -- the
5 incompatibility of the two (2) exercises makes the --
6 makes a consensus agreement on -- on their -- on their
7 use unlikely at this time.

8 MR. WALTER SARANCHUK: Thank you, sir.
9 Thank you, gentlemen. Those are all my questions.

10 THE CHAIRPERSON: Thank you, Mr.
11 Saranchuk. Before we go over to Mr. Williams for -- if
12 he has any re-direct, just got two (2) related questions,
13 if you wouldn't mind, Doctors Hum and Simpson.

14 Could you describe the results of DCAT
15 with the adverse scenarios, as described and quantified
16 by you as arriving at a conclusion for an RSR that could
17 be described by some observers as being conservative or
18 perhaps ultraconservative?

19 DR. WAYNE SIMPSON: I think we've --
20 we've said it's ultraconservative, yes.

21 THE CHAIRPERSON: Would such a
22 conservative view, even if you considered it to be
23 ultraconservative, be understandable if one was dealing
24 with a large private insurer, one with limited capital
25 and without an outside unlimited backer, an insurer with

1 critically significant obligations to its policyholders,
2 an insurer that was not backed by a provincial
3 government, by the Crown?

4 DR. DEREK HUM: Well, it -- I'm sure the
5 powers of communication are almost unlimited and it could
6 be understood by the public. But if the facts of the
7 implied stress scenarios there were made known to the
8 public and if it were a private sector market situation,
9 organized on a mutual insurance basis, I think many
10 people might say, I think I would prefer to take my
11 business elsewhere where the premiums are slightly lower
12 and the risk profile is slightly different.

13 So we don't have this situation here but I
14 have every confidence that these scenarios could be
15 explained to the public. But whether they would accept
16 them, I don't know.

17 THE CHAIRPERSON: I think what I was
18 trying to say was that there's an argument to be made
19 that the stress test, as you call it, the DCAT, certainly
20 has a place in a private insurer market where the
21 policies outstanding are extremely important to the
22 people that hold the policies and that unexpected events
23 can occur that even as you point out, fall at the
24 furthest reaches of the probability curve.

25 DR. WAYNE SIMPSON: Yeah. I -- I think

1 this goes back to this question about -- about the
2 monopoly and the exercise involved in -- in regulation
3 and the question of -- of whether there's a market test.

4 Here, there is no market test and -- and
5 part of that market test is -- is staying in business or
6 not staying in business. And that's absent from this
7 exercise and it seems to us that that should affect the
8 kinds of stresses to which the -- the exercise is
9 applied.

10 THE CHAIRPERSON: Thank you, Doctors.
11 Mr. Williams, do you have any re-direct?

12 MR. BYRON WILLIAMS: Just a couple
13 questions. I fear Dr. Hum might chastise me if I -- I
14 didn't ask them.

15
16 RE-DIRECT EXAMINATION BY MR. BYRON WILLIAMS:

17 MR. BYRON WILLIAMS: If you could just
18 have reference -- if you could have reference to
19 CAC/MSOS-1-14, Dr. Hum.

20 DR. DEREK HUM: I have it.

21 MR. BYRON WILLIAMS: And you recall a
22 discussion yesterday, in terms of the -- the Canadian
23 Institute of Actuaries Educational Note?

24 At a high level, you recall that
25 discussion?

1 DR. DEREK HUM: I do.

2 MR. BYRON WILLIAMS: And you're aware,
3 and we won't go into the details of the discussion, but
4 the inference could have been drawn that -- that either
5 that material was not on the record, or -- or that you
6 had read it -- or that you had claimed to have read it,
7 and not read it.

8 I wonder with -- if -- if you could just
9 address that issue, Dr. Hum?

10 DR. DEREK HUM: Thank you. It's
11 implication, rather than inference, but my recollection
12 of it was I was asked a series of questions about my
13 familiarity with actuarial practice in memos, to which I
14 answered in the main, that -- that those questions
15 disqualified me as having actuarial expertise.

16 But on the question on a particular
17 document, whether I had read it, my answer was that I did
18 believe I had read it, in part or in excerpt, and so
19 forth, to which I believe a comment was made that -- I
20 had indicated it was among the material I received, and
21 so I read it. And to which comment was then made that
22 this material was not included among the material sent to
23 me. So, the implication was that that would have been
24 very difficult for me to have read it.

25 I subsequently examined my files, paper,

1 electronic, and so forth, in the material that I did
2 receive. And since my report was written on September
3 8th, I find that there was an Information Request dated
4 August 5th, which asked for this material, and the
5 material was delivered, and I think it can be confirmed
6 that I was on the list of people to receive it.

7 In particular, it says:

8 "Please the file the 1999 Canadian
9 Institute of Actuaries, June 1990,
10 education note, labelled Dynamic
11 Capital Advocacy Testing, Life, and
12 Property, and Casualty."

13 And the response was, more or less, Here
14 it is, here is the link.

15 I do want to confirm to the Board, that I
16 did receive this material. I actually have the package
17 in which it arrived. I did download it and I did read
18 it. Whether I understood it, that would be another
19 question. But, I did receive it, I did read it, so I
20 testified in good faith and truthfulness that I had read
21 it.

22 MR. BYRON WILLIAMS: Okay. I have no
23 further questions.

24 THE CHAIRPERSON: Thank you. Mr.
25 Saranchuk, or Ms. Everard, remind me, when we come back

1 what's our schedule then?

2 MR. WALTER SARANCHUK: Maybe just before
3 we do that, Mr. Chairman, we can confirm that no -- no
4 one else has any questions of Professors Hum and Simpson.

5 THE CHAIRPERSON: Mr. Oakes, do you have
6 any questions?

7 MR. WALTER SARANCHUK: He's not here,
8 sir.

9 THE CHAIRPERSON: Mr. Dawson...?

10 MR. ROBERT DAWSON: No, questions. Thank
11 you, Mr. Chairman.

12 THE CHAIRPERSON: Okay. We've confirmed
13 that.

14 And Ms. Charran...?

15 MS. SAMANTHA CHARRAN: No, I have no
16 questions.

17 THE CHAIRPERSON: Okay. Thank you, Mr.
18 Saranchuk, that was important.

19 Ms. Everard...?

20 MS. CANDACE EVERARD: Yes, Mr. Chairman.
21 So, the plan for this afternoon would be to have Mr.
22 Dawson conduct his cross-examination of the MPI panel, on
23 behalf of the Bar Association. After that, I think, Mr.
24 Saranchuk has a few follow-up questions for the panel,
25 and then Mr. Williams has a few follow-up questions for

1 the panel. That's all that I'm aware of. I don't think
2 Mr. Oakes has any further questions and I don't the CAA
3 has any questions. No. And it's being indicated, no.
4 So, that would round out our afternoon.

5 And then we would return on Monday the
6 9th, for closing comments by me, and by the Intervenors,
7 and then on the 12th, by Ms. Kalinowsky.

8 THE CHAIRPERSON: Yeah. And Ms.
9 Kalinowsky would have an opportunity to re-direct to
10 close off this afternoon?

11 MS. CANDACE EVERARD: Absolutely, of
12 course.

13 THE CHAIRPERSON: Okay then. Thank you.
14 We'll be back at 1:15.

15

16 (CAC/MSOS PANEL NO. 1 WITNESSES STANDS DOWN)

17

18 --- Upon recessing at 12:19 p.m.

19 --- Upon resuming at 1:23 p.m.

20

21 THE CHAIRPERSON: Okay, welcome back,
22 everyone. I guess, Mr. Dawson, the floor is yours.

23 MR. ROBERT DAWSON: Thank you, Mr.
24 Chairman.

25

1 (BRIEF PAUSE)

2

3 THE CHAIRPERSON: Just before you begin,
4 Mr. Dawson, I forgot.

5 Ms. Kalinowsky, you had the Exhibit 45?

6 MS. KATHY KALINOWSKY: Good afternoon.

7 Yes, it is Exhibit Number 45, which is respect to
8 Undertaking Number 28, and I believe that Mr. Palmer will
9 be speaking to it very briefly. Thank you.

10

11 --- EXHIBIT NO. MPI-45: Response to Undertaking 28

12

13 MR. DONALD PALMER: Just very briefly,
14 the undertaking specifically asked for the full-time
15 equivalence in the new operating environment. Now the
16 new operating environment has been taken into
17 consideration in -- in our forecasts, so the numbers in
18 the bottom line, the totals as at February 28th, still
19 match to the FTEs that are shown in TI.9.

20 THE CHAIRPERSON: Thank you.

21 MR. ROBERT DAWSON: Thank you, Mr.
22 Chairman. Before I start, I can advise the Board that
23 seated in the gallery is the executive director of the
24 Manitoba Bar Association, Ms. Stacy Nagle, and thanks to
25 her for taking time to come for this cross-examination.

1 I can indicate to the Board that I have
2 three (3) principle areas of examination. The first will
3 be relatively short, relating to FINEOS. The next will
4 relate to the relations between MPI and the Government of
5 Manitoba, and the third area will relate to the
6 jurisdiction of the Board.

7

8 MPI PANEL 1 RESUMED:

9 MARILYN MCLAREN, Resumed

10 DONALD PALMER, Resumed

11 OTTMAR KRAMER, Resumed

12

13 CROSS-EXAMINATION BY MR. ROBERT DAWSON:

14 MR. ROBERT DAWSON: Ms. McLaren, I
15 suspect that most of my questions will be for you,
16 although, of course, Mr. Palmer can jump in and Mr.
17 Kramer can go for coffee.

18 MPI, of course, has retained FINEOS to
19 revamp, among other things, its PIMP -- PIPP
20 infrastructure, am I not correct?

21 MS. MARILYN MCLAREN: Yes, FINEOS is, in
22 fact, the software provider for the new PIPP case
23 management software that we'll be using.

24 MR. ROBERT DAWSON: So, as my suggesting
25 indicates, it's pimping your computers. All right.

1 There was a meeting of the FINEOS Global Claims Group,
2 that is that FINEOS organized sort of as a convention in
3 Dublin in November 2008, am I correct?

4 MS. MARILYN MCLAREN: Do you have the IR
5 reference?

6 MR. ROBERT DAWSON: No, I'm using this
7 from independent information.

8 MS. MARILYN MCLAREN: I think we'd want
9 to check that. I think there's something in one (1) of
10 your requests actually that asked where the groups had
11 met and I honestly don't know if there was something in
12 Dublin. That's not ringing a bell and that's why I think
13 we need to check.

14 MR. ROBERT DAWSON: We can wait. I
15 suspect you're thinking of 146, MPI/MBA-146, but I'll let
16 you look.

17

18 (BRIEF PAUSE)

19

20 MS. MARILYN MCLAREN: One forty-five
21 (145), actually, MBA-145 talked about a meeting on
22 November 7th, doesn't say where it was. Subject to check
23 I'll accept Dublin if that's what you believe.

24 MR. ROBERT DAWSON: I understand that Mr.
25 Guimond, Dan Guimond of MPI attended that meeting, do you

1 know that?

2 MS. MARILYN MCLAREN: No. No, nobody
3 from MPI has gone to Dublin. We're talking about
4 something different.

5 MR. ROBERT DAWSON: My information is
6 there was a meeting of -- quite separate from the FINEOS
7 Global Claims Summit, there was a meeting of FINEOS
8 government customers, almost a user group, that
9 immediately followed the Dublin Summit on or about the
10 7th of November, 2008. Do you know anything about that?

11 MS. MARILYN MCLAREN: Well, those are the
12 meetings that are referenced here but, as I recall, they
13 were in -- I'm -- I'm thinking Chicago, Boston perhaps.
14 They were North America.

15 MR. ROBERT DAWSON: The 2008 meeting was
16 indeed in Boston, so perhaps these meetings were not in
17 Dublin but in Boston. I'll take your correction.

18 Let's talk more about this user group, the
19 FINEOS government customers user group. I understand
20 that the group exists primarily so that users of FINEOS
21 product, specifically government users or government
22 agency users, are able to share experiences of their
23 dealings with and use of the product, is that about
24 right?

25 MS. MARILYN MCLAREN: Yes.

1 MR. ROBERT DAWSON: And I understand that
2 a Mr. Rob Hathaway (sic) from MPI is, for lack of a
3 better word, the chief organizer of that group currently?

4 MS. MARILYN MCLAREN: That's true, yes.
5 Haithwaite, actually, is his name.

6 MR. ROBERT DAWSON: Maybe we should spell
7 that for the transcript, if you could? It's not a test
8 if you don't know. We can move along.

9 MS. MARILYN MCLAREN: H-A-I-T-H-W-A-I-T-
10 E, I believe.

11 MR. ROBERT DAWSON: I understand that
12 unlike some of the other FINEOS customer groups the
13 government customer group was formed only in early 2008,
14 do you know that?

15

16 (BRIEF PAUSE)

17

18 MS. MARILYN MCLAREN: Could be, I'm not
19 sure.

20 MR. ROBERT DAWSON: And some of the other
21 customers that form part of this group besides MPI would
22 include the Road Accident Fund from South Africa, am I
23 right?

24 MS. MARILYN MCLAREN: Yes.

25 MR. ROBERT DAWSON: The Accident

1 Compensation Commission of New Zealand?

2 MS. MARILYN MCLAREN: Yes.

3 MR. ROBERT DAWSON: The Transport
4 Accident Commission of Australia?

5 MS. MARILYN MCLAREN: Yes, the State of
6 Victoria in Australia.

7 MR. ROBERT DAWSON: That's a separate
8 one, that's WorkSafe Victoria.

9 MS. MARILYN MCLAREN: No, the Transport
10 Accident Commission is basically a Crown Corporation of
11 the State of Victoria in Australia. WorkSafe is the
12 State of Victoria's Workers Compensation Board.

13 MR. ROBERT DAWSON: Now we know that
14 there was a set of minutes that recorded the meeting of
15 the FINEOS government customer group of November 2008.
16 I'm not asking for them, I'm just asking, are you able to
17 confirm that there is a set of minutes?

18 MS. MARILYN MCLAREN: I believe so, yes.

19 MR. ROBERT DAWSON: And in those minutes
20 I understand that part of the discussion relates to a
21 discussion on best practices in claims management.

22 Is that right?

23 MS. MARILYN MCLAREN: I believe so.

24 MR. ROBERT DAWSON: And the idea or
25 behind that discussion was essentially to learn by --

1 well, for the FINEOS customers to learn from the
2 experiences of other customers to improve or make more
3 effective their use of the FINEOS product.

4 Would that be right?

5 MS. MARILYN MCLAREN: That's fair.

6 MR. ROBERT DAWSON: I understand one (1)
7 of the topics that was discussed in relation to these
8 uses or best practices, and it was discussed only
9 briefly, related to fraud detection by claimants.

10 Do you know anything about that?

11 MS. MARILYN MCLAREN: No, I don't.

12 MR. ROBERT DAWSON: Are you aware from
13 other presentations that FINEOS has made to you at some
14 point or material that you've come across that the FINEOS
15 system uses customer data to create a point system by
16 which suspected fraudulent claimants are -- are flagged
17 for further investigation?

18 MS. MARILYN MCLAREN: I'm not aware of
19 that specifically but I would not be surprised to find
20 that that would be true.

21 MR. ROBERT DAWSON: And, of course,
22 you're just speculating based on this, but would it be
23 fair to say that enquiries relating to fraud detection
24 would -- the criteria by which fraud detection might
25 begin to be considered would start almost as soon as the

1 initial claim was filed, that is, the initial telephone
2 call or the initial presentation by the claimant at a
3 claim centre?

4 MS. MARILYN MCLAREN: I'm sorry. Can you
5 repeat the question? I'm not -- I'm just a little
6 confused by your reference to the claim centre at the end
7 of that but maybe you can just repeat the question.

8 MR. ROBERT DAWSON: What I'm saying is
9 that, using the FINEOS system, I understand that the
10 criteria by which potential fraud is tested begins its
11 application as soon as a claim is filed.

12 And why it's at claim centre would be in
13 case a claimant walked in, in person, without an
14 appointment or in case a claimant telephoned a call
15 centre.

16 MS. MARILYN MCLAREN: It's certainly
17 possible. You know, we -- we -- and most insurers have
18 fraud detection processes with or without system support.

19 What we would have in place today
20 certainly is the expectation that call centre staff, as
21 an example, would flag concerns that they have with
22 respect to fraudulent claims today without any system
23 support.

24 MR. ROBERT DAWSON: The current system to
25 which you now make reference relating to fraud flagging,

1 if we can say that, or suspected fraud flagging, that is
2 done, based on your answer it seems, almost through human
3 intervention, the sense that the -- the claim centre
4 operator or the telephone operator or the call centre
5 operator, gets from the claim that's being filed.

6 Is that the way it's currently done?

7 MS. MARILYN MCLAREN: That would be true,
8 yes.

9 MR. ROBERT DAWSON: So currently there's
10 not a computer sitting there that analyses the data
11 that's inputted by the MPI employee in the future, the
12 insurer, and then assesses that data against a -- a
13 matrix, shall we say, of potential fraud instances.

14 MS. MARILYN MCLAREN: That's true.

15 MR. ROBERT DAWSON: And I don't want to
16 backtrack and -- and confuse you so please feel free to
17 say you simply don't know, but it's my understanding that
18 the FINEOS system, one of its hallmarks is that it
19 essentially supplements, if not replaces, but supplements
20 is the word I'm going to suggest, the human involvement
21 and simply uses an automated system by which to detect
22 fraud in claims using fields that have been filled in by
23 the -- by the intake worker.

24 MS. MARILYN MCLAREN: Again, I suspect
25 that may very well be true. But carrying that to the

1 next logical step, in my view with my knowledge of the
2 business, I believe that it's fair to say that in all
3 likelihood the only early indication at the first
4 telephone call would be the human interaction that we
5 have today.

6 People phoning in to report their very
7 first claim, I can't imagine a scenario where -- or the
8 information at that point would be substantive or
9 suspicious enough to score enough points to flat it
10 immediately upon registration as you suggested earlier.

11 MR. ROBERT DAWSON: Am I correct though
12 that, like the current system, the FINEOS software will
13 present to the -- especially the telephone call centre
14 operator, a script to follow when someone calls in with a
15 claim?

16 MS. MARILYN MCLAREN: Not specifically a
17 script. The use of the word "script" to my way of
18 thinking imparts a very, very structured process that the
19 call taker really has no option but to follow.

20 The way the FINEOS system works for the
21 first notice of loss is that there a number of data
22 elements that are expected to be collected by the call
23 taker from the caller.

24 And there will be training material and
25 support provided as to how best to request that

1 information, obtain it and record it, but it's not really
2 the same as -- as a script in terms of the very, very
3 structured nature that the word "script" implies to me.

4 MR. ROBERT DAWSON: Regardless of whether
5 it's a script or, shall we say, a guide to direction,
6 you've made reference to the data elements that one will
7 extract and insert into the computerized system.

8 That -- that's correct, am I right?

9 MS. MARILYN MCLAREN: Yes.

10 MR. ROBERT DAWSON: And that information
11 -- and I believe it's under the current system, as well -
12 - would then become part of that claimant's file,
13 essentially for the rest of the claim.

14 Is that right?

15 MS. MARILYN MCLAREN: Until such time as
16 it would need to be corrected. Failing that, it would be
17 there, sure.

18 MR. ROBERT DAWSON: And I understand that
19 one (1) of the hallmarks of the FINEOS system is almost a
20 customer relationship management system, which would
21 expose those data elements throughout the life of the
22 claim to other MPI employees, or indeed even to third
23 parties, as where that might be necessary and
24 appropriate.

25 Is that right?

1 MS. MARILYN MCLAREN: With significant
2 emphasis on necessary and appropriate, certainly.

3 MR. ROBERT DAWSON: I take that point.
4 Okay. I think we can move along, that the end of FINEOS.

5 Let's talk about the recent legislation
6 that received Royal accent relating to enhancing benefits
7 for victims of catastrophic personal injuries arising out
8 of the operation of motor vehicles.

9 You're obviously clearly aware of those
10 amendments, am I right, Ms. McLaren?

11 MS. MARILYN MCLAREN: You're right.

12 MR. ROBERT DAWSON: And as far as I
13 understand, those amendments were introduced as Bill 36
14 in the legislative session that just ended.

15 Am I right?

16 MS. MARILYN MCLAREN: Yes.

17 MR. ROBERT DAWSON: And just for
18 shorthand purposes, I'm going to refer to the current
19 legislation by that Bill 36 label, if that's all right.

20 I understand that first reading of the
21 Bill was done by the Minister responsible for MPI on the
22 26th of May, 2009.

23 Am I right?

24 MS. MARILYN MCLAREN: I believe so, yes.

25 MR. ROBERT DAWSON: And the Bill, of

1 course, went on to receive second reading, consideration
2 by a legislative committee, a third reading, and
3 eventually Royal assent on the 8th of October, 2009.

4 Is that right?

5 MS. MARILYN MCLAREN: Yes.

6 MR. ROBERT DAWSON: And so the amendments
7 came into effect on -- upon Royal assent, which means the
8 8th of October, 2009?

9 MS. MARILYN MCLAREN: Yes.

10 MR. ROBERT DAWSON: So currently those --
11 the enhanced benefits and other provisions set out in
12 Bill 36 are currently in place?

13 MS. MARILYN MCLAREN: Yes, they are.

14 MR. ROBERT DAWSON: And if I can briefly
15 summarize the major changes that Bill 36 made, one (1) of
16 them includes greater lump sum indemnities for the
17 victims of those catastrophic injuries?

18 MS. MARILYN MCLAREN: Larger permanent
19 impairment payment, yes.

20 MR. ROBERT DAWSON: And also enhanced
21 income replacement indemnities?

22 MS. MARILYN MCLAREN: Yes, for some
23 catastrophically injured claimants.

24 MR. ROBERT DAWSON: And also a higher
25 allowance for personal home assistance, is that right?

1 MS. MARILYN MCLAREN: Yes.

2 MR. ROBERT DAWSON: Now each of these
3 major changes to which I've made reference will increase
4 MPI's overall costs relating to claims for catastrophic
5 injuries that fall within Bill 36.

6 Am I right?

7 MS. MARILYN MCLAREN: Yes, they will.

8 MR. ROBERT DAWSON: And I understand that
9 those costs arise in a number of ways. First, for
10 example, claimants -- existing claimants will be entitled
11 to an immediate retroactive payment in a range between
12 eighty thousand (80,000) and one hundred and forty-five
13 thousand dollars (\$145,000) each?

14 MS. MARILYN MCLAREN: And that is related
15 to the increased permanent impairment payment, and that's
16 the cost -- or the expected payment to individuals
17 previously injured who meet the test, the definition of
18 catastrophic injury, and would receive, in effect, a top-
19 up to a previously received, in most cases, permanent
20 impairment payment.

21 MR. ROBERT DAWSON: And in addition to
22 those monies, approximately \$35 million has been set
23 aside to cover ongoing benefits in the enhanced amounts
24 over the course of the lifetime of those existing
25 claimants?

1 MS. MARILYN MCLAREN: Yes, for the people
2 that -- that we, to the best of our ability, have
3 determined will meet the new definition.

4 MR. ROBERT DAWSON: And there's also
5 beyond the existing claimants, those who were always
6 labelled as victims of catastrophic injuries prior to the
7 legislation, there are new claimants who fall within that
8 category now, I understand, and that's going to cost
9 roughly another \$30 million to provide enhanced benefits
10 to them.

11 Am I right?

12 MS. MARILYN MCLAREN: Not quite, on a
13 couple of points. First, we never really used an
14 internal definition of catastrophic injury. We have
15 taken this new legislation and reviewed all of our -- our
16 more seriously injured claimants to decide if, in our
17 judgement, they meet the new definition. So they were
18 not really previously determined to be catastrophically
19 injured. Since the legislation we have determined, to
20 the best of our ability, that they do meet the
21 definition.

22 With respect to the \$30 million that you
23 talked about, we believe we will need approximately that
24 much money to fund claims that have already happened,
25 people who have already been injured, but we have not yet

1 full assessed the extent of their injuries. A number of
2 those people will likely meet the new definition, and we
3 expect to need about \$30 million to fund the enhanced
4 benefits for them.

5 Going forward, the claims that have
6 happened extremely recently or have not yet happened, we
7 expect those claims to cost us an additional \$7 million a
8 year.

9 MR. ROBERT DAWSON: So if I do the math,
10 roughly speaking, the enhanced benefits under Bill 36
11 amount to a one (1) time cost of about 90 million, and
12 then the \$7 million a year going forward, as you
13 described?

14 MS. MARILYN MCLAREN: Yes.

15 MR. ROBERT DAWSON: And I know Mr. Palmer
16 wants to get in on this, so I'll give him a chance,
17 because these are more questions that arise out of your
18 spreadsheets.

19 When I look at these increased costs of
20 \$90 million, Mr. Palmer, would it be fair to describe
21 them as not particularly overwhelming in the sense that
22 MPI has not needed to seek an increase in the premiums to
23 cover those ra -- those increased co --

24 MR. DONALD PALMER: The increase, the \$90
25 million that you referred to, is about 8 percent of our

1 total unpaid claims reserve for PIPP costs.

2 So \$90 million is a lot of money, no
3 question, but a fairly small percentage. We were also
4 looking at a reserve release had we not made those
5 enhancements, so it was basically funded by that, what
6 would have been a reserve release.

7 MR. ROBERT DAWSON: So that explains why
8 you haven't come forward asking for a rate increase
9 because of Bill 36 and its costs.

10 MR. DONALD PALMER: In part. And the
11 same could be said for the ongoing cost, the \$7 million.
12 Our forecasts were such that we would have reduced -- or
13 we did reduce our forecast on a go-forward basis for PIPP
14 costs, and for other factors as well.

15 MR. ROBERT DAWSON: When I look at, as
16 you said, going forward, your forecasts and outlooks for
17 future years, the costs of Bill 36, although not, as I've
18 described them, overwhelming -- not overwhelming, they're
19 nonetheless reflected and have changed those forecasts
20 and outlooks.

21 Am I not right?

22 MR. DONALD PALMER: Yes, they have.

23 MR. ROBERT DAWSON: Would it be fair to
24 say then that Bill 36 costs will affect future net level
25 in -- or net income levels sufficiently that they have

1 affected this rate application?

2 MR. DONALD PALMER: To the extent that
3 all benefit levels affect ongoing rate and revenue
4 requirements and -- and will affect the pro formers going
5 forward, that -- that's true, sure.

6 MR. ROBERT DAWSON: Over the years, I
7 seemed to have derived a general planning principle that
8 MPI emplo -- employs. It seems that your department
9 especially prefers to avoid surprise increases in its
10 projected claims expenses.

11 Would that be fair to say as a general
12 planning princ --

13 MR. DONALD PALMER: In -- in general, we
14 do forecast, to the best of our ability, on a -- with a
15 sta -- a look to stability, yes.

16 MR. ROBERT DAWSON: I think you can go
17 for coffee with Mr. Kramer now.

18 MR. DONALD PALMER: He's not gone yet.

19 MR. ROBERT DAWSON: If he's your friend.
20 I could ask that question. And where is Dr. Hum when we
21 need him?

22 MR. DONALD PALMER: I will -- I will go
23 on record as saying Mr. Kramer is my friend.

24 MR. ROBERT DAWSON: And now I honestly
25 say, I remind the witness you are under oath, yes.

1 Ms. McLaren, we've heard reference to what
2 I've called this disinclination to be surprised as a
3 planning principle. Would it be fair to say that when it
4 comes to the -- well, when it comes to increased costs
5 comparable to those that are set out, or that arise as a
6 result of Bill 36, it would be MPI's preference not to
7 have these costs sprung upon them or surprised?

8 Would that be fair to say?

9 MS. MARILYN MCLAREN: Sure, that would be
10 our preference.

11 MR. ROBERT DAWSON: Would it also be the
12 case then that, in the context of Bill 36 when it was
13 receiving first reading on the 26th of May, 2009, in
14 fact, MPI was not surprised by the amendments that the
15 Government proposed?

16 MS. MARILYN MCLAREN: That's true.

17 MR. ROBERT DAWSON: In fact, MPI already
18 and specifically -- if -- if at any point you want to
19 turn to your lawyer and have conversations, that's fine,
20 I'll wait.

21 MS. MARILYN MCLAREN: I will. Thank you.

22 MR. ROBERT DAWSON: In fact, I was going
23 to say that as Bill 36 was receiving its first reading on
24 the 26th of May, MPI already and specifically knew what
25 those amendments would be and what increased costs would

1 be associated with them.

2 Am I not correct?

3 MS. MARILYN MCLAREN: We did.

4 MR. ROBERT DAWSON: And, in fact, as you
5 were suggesting, that makes sense because wouldn't you
6 agree with me that I suppose the Government if it had
7 wanted to in a fantasy world, and we're not picking this
8 current government, I'm using a hypothetical, in a
9 fantasy world, it could have crafted amendments that
10 could have imposed a crushing financial burden on MPI.

11 Isn't that right?

12 MS. MARILYN MCLAREN: That's a
13 possibility.

14 MR. ROBERT DAWSON: And you'd agree with
15 me that's it certainly would be reckless of any
16 government to introduce legislation that would impose
17 essentially that kind of financial burden upon one of its
18 Crown corporations?

19 MS. MARILYN MCLAREN: In a very general
20 philosophical sense, I think that's probably true.

21 MR. ROBERT DAWSON: In case you're
22 wondering, I'm certainly about to suggest that Bill 36
23 did that. I'm just pursuing the -- the notion of what
24 essentially this fantasy government might do.

25 And in fact, let's take the corollary of

1 that. It might be prudent for such a government to
2 determine ahead of time whether or not proposed
3 legislation would impose what I've described as a
4 crushing financial burden.

5 Wouldn't that be prudent?

6 MS. MARILYN MCLAREN: I certainly would
7 agree that it would be prudent for any person or
8 organization with the responsibility to make decisions
9 with potentially large financial impacts to understand
10 those before they make the decisions.

11 MR. ROBERT DAWSON: When it comes to the
12 information needed to determine those impacts that you've
13 described, in the context of Bill 36 now it seems to me
14 that MPI certainly has the information within its records
15 and files and computers, that would be needed to
16 determine the cost of implementing Bill 36.

17 Is that right?

18 MS. MARILYN MCLAREN: Yes, that's true.

19 MR. ROBERT DAWSON: And examples of that
20 kind of information might include, and we've sort of
21 covered this quickly, how many existing claimants would
22 be entitled to a retroactive lump sum payment?

23 MS. MARILYN MCLAREN: That could be one
24 of the questions or -- or one of the pieces of
25 information.

1 MR. ROBERT DAWSON: And that's
2 information that MPI would have, as opposed to other
3 members of the public or other parts of the Government.

4 Is that right?

5 MS. MARILYN MCLAREN: Sure, that's fair.

6 MR. ROBERT DAWSON: And another example
7 of that kind of information in the context of Bill 36
8 would be how many other claimants would fall within the
9 expanded definition of a catastrophic injury?

10 MS. MARILYN MCLAREN: In a general sense,
11 that would be true. In -- in a more specific sense, with
12 respect to Bill 36, they're -- they're really one and the
13 same. If you meet the definition of catastrophic injury,
14 you qualify for a higher permanent impairment payment.

15 MR. ROBERT DAWSON: I thought we were
16 almost going to talk about epistemological inj -- issues
17 here, but -- and another kind of example might be for how
18 long does actuarial sciences suggests that -- or indicate
19 that payments of expanded benefits for claimants would
20 have to go on?

21 That would be another piece of information
22 that MPI would have?

23 MR. DONALD PALMER: We do have mortality
24 and morbidity tables that would have the expected value
25 of -- of those, but we're not predicting a life

1 expectancy for any specific claimant.

2 MR. ROBERT DAWSON: I don't think we need
3 to read into too far, and I apologize for interrupting
4 the coffee to which I sent you.

5 You'd agree with me then that this kind of
6 detailed information that we've made reference to would
7 have been necessary to determine with some accuracy the
8 additional cost of claims and benefits under Bill 356
9 before it was introduced, right?

10 MS. MARILYN MCLAREN: Yes.

11 MR. ROBERT DAWSON: And we've already
12 covered this, but just for summary sake, that kind of
13 detailed information would not have been publicly
14 available except by -- through MPI, before publication of
15 this year's rate application.

16 Am I not right?

17 MS. MARILYN MCLAREN: I'm sorry, I'm --
18 I'm not following the reference to this year's rate
19 application.

20 MR. ROBERT DAWSON: Well, in this --

21 MS. MARILYN MCLAREN: Are you talking
22 about in terms of the claims forecast, and so on, that's
23 included in the material? Sure, that's fair.

24 MR. ROBERT DAWSON: In this year's rate
25 application, just because I was nodding and the record

1 won't show that, in this year's rate application, exactly
2 that kind of information appears. That's public. Now we
3 would know. But prior to that publication of that
4 information, those details would have been within the --
5 the private files of MPI.

6 MS. MARILYN MCLAREN: Except that the
7 public announcement was made prior to the filing of the
8 rate application, at which time the costing information
9 was shared with the public.

10 MR. ROBERT DAWSON: I'll take the
11 clarification. But the bottom line is is that, but for
12 the application process and information released as a
13 result of that, information about the costs of
14 implementing Bill 36 wasn't publically known before that.

15 MS. MARILYN MCLAREN: No, but that's the
16 point I was trying to make, that it became publically
17 known when the Government tabled Bill 36.

18 MR. ROBERT DAWSON: On the 26th of May,
19 2009, that's when the bill was tabled. Are we on the
20 same date?

21 MS. MARILYN MCLAREN: Yes.

22 MR. ROBERT DAWSON: And you're suggesting
23 that an individual at that point could have gone forward
24 and determined specific numbers, how they would impact
25 upon -- how -- how they would impact upon the forecasts

1 and outlooks of claims costs.

2 MS. MARILYN MCLAREN: Certainly, at --
3 certainly to the level that -- that you and I have talked
4 about here today. The government issued new release and
5 the new conference that day, when they announced Bill 36,
6 included an estimate of the number of people that -- that
7 we believed at this point qualified for the new
8 definition of catastrophic injury. It talked about the
9 \$14 million that would be payable immediately as an
10 increased permanent impairment payment. It talked about
11 the 35 million and the 30 million that -- that you and I
12 discussed here today, and the fact that it would be about
13 \$7 million or -- or 1 percent on Autopac rates on a going
14 forward basis. That was all part of the Government new
15 release that day.

16 MR. ROBERT DAWSON: And indeed the \$14
17 million to which you refer, I believe, is in the headline
18 of the new release.

19 MS. MARILYN MCLAREN: Subhead I think,
20 but I'm not sure.

21 MR. ROBERT DAWSON: If we go to an
22 earlier time though, prior to -- at any point prior to
23 the release, to the first reading on the 26th of May,
24 that information wasn't publically available though.

25 MS. MARILYN MCLAREN: Agreed.

1 (BRIEF PAUSE)

2

3 MR. ROBERT DAWSON: And indeed made
4 reference to the press con -- press release of the 26th
5 of May, 2009 relating to the introduction of Bill 36, and
6 also a press conference.

7 Am I not correct that you are quoted in
8 the press release, Ms. McLaren?

9 MS. MARILYN MCLAREN: I believe that's
10 true.

11 MR. ROBERT DAWSON: And you also were in
12 attendance at the press conference itself.

13 MS. MARILYN MCLAREN: I was.

14 MR. ROBERT DAWSON: And, obviously, be --
15 in order to be quoted, or in order to appear at the press
16 conference, you knew that Bill 36 and its contents were
17 going to be introduced on that date, on the 26th of May,
18 2009.

19 MS. MARILYN MCLAREN: I did.

20 MR. ROBERT DAWSON: In terms of the
21 background to Bill 36, you'll recall that MPI was named
22 as a respondent in an application for judicial review
23 arising out of a decision of the Automobile Appeal Con --
24 or Automobile Injury Con -- Compensation Appeal
25 Commission relating to a claim by Mr. Fletcher. And

1 we're not going to get into the details of that, but I'm
2 going to suggest that you remember that particular
3 application for judicial review.

4 MS. MARILYN MCLAREN: I do.

5 MR. ROBERT DAWSON: And you may remember
6 that the Chief Justice of Manitoba denied that
7 application, but added in the last paragraph a ru -- a
8 description of the benefits under the then existing MPI
9 Act, and he said, quote:

10 "Whole -- it was wholly inadequate to
11 provide the essential level of personal
12 assistance for a victim of an injury
13 such as Mr. Fletcher."

14 Do you remember that?

15 MS. MARILYN MCLAREN: I do.

16 MR. ROBERT DAWSON: And those reasons, if
17 you would agree with me, reasons for decision, were
18 released on the 10th of November, 2009.

19 Am I right?

20 MS. MARILYN MCLAREN: I believe so.

21 MR. ROBERT DAWSON: And on the 26th of
22 November, so sixteen (16) la -- days later, the 26th of
23 November, 2008, at the Manitoba Legislature, the Premier
24 was asked a question in the House about the Fletcher
25 Decision.

1 Do you remember that?

2 MS. MARILYN MCLAREN: Not specifically.
3 I remember that it was on, or about, that date the
4 Premier said in the Legislature that he believed
5 improvements to the PIPP Legislation had to be made for
6 catastrophically injured people, and he'd asked the
7 Minister to take that -- take on that task.

8 MR. ROBERT DAWSON: If I can help you, I
9 think he said, that the Minister responsible for MPI
10 would review the decision.

11 MS. MARILYN MCLAREN: I believe so, yes.

12 MR. ROBERT DAWSON: And then on first
13 reading of Bill 36, so we're jumping now from the 26th of
14 November, six (6) months ahead to the 26th of May, 2009,
15 the Minister, that is Mr. Chomiak, referred to the
16 Premier's answer six (6) months earlier, and stated that,
17 quote, " A review has been done," and then introduced
18 Bill 36.

19 MS. MARILYN MCLAREN: I believe that's
20 true.

21 MR. ROBERT DAWSON: Now, speaking in
22 general terms, when Question Period unfolds, as it did on
23 the 26th of November, 2008, that is a question is posed
24 relating to the activities or the provis -- the
25 activities under the purview of a Crown Corporation, it's

1 my understanding, that the first thing that normally
2 would happen would be an Assistant Deputy Minister would
3 telephone, or email, the head of the department or agency
4 that's implicated in the question.

5 Is that your general understanding?

6

7 (BRIEF PAUSE)

8

9 MS. MARILYN MCLAREN: No.

10 MR. ROBERT DAWSON: What is your
11 understanding?

12 MS. MARILYN MCLAREN: Again, in a very
13 general sense, given the governance structure established
14 in the Manitoba Public Insurance Act, the communication
15 between the Minister and the Corporation, in my
16 experience, is between, you know, the -- the Minister and
17 the Corporation, in various forms at various times, some
18 -- you know, not -- sometimes to the Chairman of the
19 Board, sometimes to the President, certainly not an
20 Assistant Deputy Minister contacting the Corporation to
21 discussion -- to either discuss an issue or give
22 direction.

23 MR. ROBERT DAWSON: Well, I understand,
24 in this particular case of Bill 36, you did, in fact,
25 receive a communication; my information indicates merely

1 the Minister's office in late November, 2008.

2 Is that right?

3 MS. MARILYN MCLAREN: That -- I don't
4 know specifically, but that wouldn't be unreasonable,
5 given that the Premier had made comments in the House.

6 MR. ROBERT DAWSON: Now, speaking in
7 general terms, as opposed to what specifically happened
8 in this particular communication, the inquiry that comes
9 from the Leg, the Legislature, to the Crown Corporation
10 at that stage, usually is to ask for general, or
11 background information, that will guide the Minister in
12 deciding how to proceed.

13 Would that be a fair description, in
14 general?

15 MS. MARILYN MCLAREN: I think it's fair
16 to say, in general, that might be one (1) of a range of
17 things that might happen.

18 MR. ROBERT DAWSON: And other things that
19 will eventually happen will include the preparation of a
20 detailed background paper on the subject, and eventually
21 a formal Cabinet submission will be prepared.

22 Is that right?

23 MS. MARILYN MCLAREN: Again, being very
24 general, and not commenting on which organization may or
25 may not draft the background or the Cabinet submission,

1 generally that could be true, in some cases.

2 MR. ROBERT DAWSON: I think we can be
3 more specific in this instance, because I'll point you to
4 the Corporation's own filing in its motion to vary the
5 Order of the Board with respect of disclosure. It sets
6 out, among other things, an indication that in general
7 the Corporation would be the one that would prepare that
8 submission. So I don't know if this is a need for you to
9 be quite so vague on that point.

10 Do you want to reconsider?

11

12 (BRIEF PAUSE)

13

14 MS. MARILYN MCLAREN: No, I -- I -- I
15 stand by my comments that in general it -- it could
16 happen in a variety of ways.

17 Do you have the specific reference that
18 you'd want us to look to in this -- if you want to bring
19 this question to the specific case and look at what we
20 have on the public record, we can do that. But my -- I
21 understood the question, and therefore my answer to be,
22 in general, how are things like this done?

23 MR. ROBERT DAWSON: That was the
24 question, but we're moving in that direction, so we might
25 as well pull out the specific reference.

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(BRIEF PAUSE)

MR. ROBERT DAWSON: I apologize, Mr. Chairman. This is taking a little longer than I anticipated. I don't think we need to break, but if the Board wishes to break, that's up to them. I'm digging for it.

(BRIEF PAUSE)

MR. ROBERT DAWSON: I'm almost correct, but sufficiently wrong too, and confused us all. I'm making reference to the motion that the Corporation brought with respect to the DSR order and to vary that. I apologize.

(BRIEF PAUSE)

MR. ROBERT DAWSON: And oddly it doesn't -- I don't have a page number, but it is the part that talks about why the MPI -- it sets out what MPI would have to do in order to implement the order as it was originally released. And it begins by talking about -- and includes a reference to submitting the Cabinet --

1 Cabinet submission. So if that helps you identify it --
2 but that is not Bill 36, so I'm slightly confused.

3 MS. MARILYN MCLAREN: Okay. Right. It -
4 - it is very different. I mean, what we were talking
5 about is if -- because that order would require changes
6 to an existing regulation, we would have to prepare a
7 Cabinet submission laying out the issues for a Cabinet to
8 decide if in fact they would chose to make the changes to
9 their existing regulation.

10 So that would certainly have to come from
11 the Corporation in -- in that instance.

12 MR. ROBERT DAWSON: Okay. So just to
13 summarize, and I apologize for taking us off track, your
14 -- you -- your -- well, your office, you, received an
15 inquiry in late November 2008, connected to the question
16 that had been asked, ari -- in the Legislature on the
17 26th of November, about the Government's position in
18 light of the comments of the Chief Justice in the
19 Fletcher decision, right?

20 MS. MARILYN MCLAREN: Yes.

21 MR. ROBERT DAWSON: Information such as
22 the detailed information that we've outlined earlier, in
23 terms of the impact of implementing the benefit costs,
24 the enhanced benefit costs that arise under Bill 36, was
25 supplied to the Government by MPI at some point between

1 that call in Nov -- late November 2008, and first
2 reading.

3 Am I correct?

4

5 (BRIEF PAUSE)

6

7 MS. MARILYN MCLAREN: That -- that's
8 true. And I can narrow it down a little for you, based
9 on information that again has -- has been put on the
10 public record in this forum.

11 We knew before our fiscal year ended at
12 the end of February of '09, what the Government intended
13 to do and what we understood, the costs of their
14 intentions to be. That's why we were able to include
15 that in -- in our annual report for the fiscal year that
16 ended at the end of February 2009.

17 MR. ROBERT DAWSON: Thank you for that.
18 Your comment causes me to return to earlier testimony
19 that you gave in the context of this Hearing, when My
20 Learned Friend, Mr. Saranchuk, asked you about evidence
21 that you had given before this Board, in the context of
22 April 2009's Driver Safety Rating Hearing.

23 Do you remember that exchange with Mr.
24 Saranchuk, generally?

25 MS. MARILYN MCLAREN: I do. I do.

1 MR. ROBERT DAWSON: It would be correct
2 then to assume that when you gave evidence in April 2009,
3 you knew what the Government intended to do and what the
4 costs of implementing Bill 36 would be.

5 Is that right?

6 MS. MARILYN MCLAREN: That's right. And
7 the nature of the exchange between Mr. Saranchuk and
8 myself was related to the information that I shared
9 during that DSR Hearing in response to the Chairman's
10 question about whether or not I was aware of any
11 subsequent events, and whether or not any potential
12 subsequent events caused me to have any greater -- or any
13 less confidence in the forecasts that were before the
14 Board -- this Board through the DSR Hearing process.

15 This -- this wasn't a subsequent event and
16 our financials were very sound in my opinion, and that's
17 why the answer to that question posed by the Chairman, my
18 response was "no."

19 MR. ROBERT DAWSON: Well, let's go
20 through that if you don't mind. I wasn't planning on it
21 but we can cover it.

22 In the Board's varied order arising out of
23 the DSR Hearing, this Board complained that it did not
24 have information about changes that eventually became
25 Bill 36.

1 Am I right?

2 MS. MARILYN MCLAREN: Yes, that -- sure,
3 that's a reasonable characterization, I guess.

4 MR. ROBERT DAWSON: And it's my
5 understanding that the \$90 million price tag related to
6 the enhanced benefits and giving effect to Bill 36, is
7 not going to be charged to Extension and SRE obviously.

8 MS. MARILYN MCLAREN: That's right.

9 MR. ROBERT DAWSON: And it's certainly
10 not going to be charged to DVL.

11 MS. MARILYN MCLAREN: True again.

12 MR. ROBERT DAWSON: So the cost will
13 arise under Basic, am I right?

14 MS. MARILYN MCLAREN: It will -- has,
15 retrospectively has.

16 MR. ROBERT DAWSON: And the Corporation
17 accepts that the Public Utilities Board obviously has
18 jurisdiction to oversee Basic rates, right?

19 MS. MARILYN MCLAREN: Yes.

20 MR. ROBERT DAWSON: I've heard your
21 explanation as to why you answered the Chairman's
22 question in the way that you did, but I just want to be
23 absolutely clear. The reason that you didn't talk about
24 Bill 36 at the DSR Hearing in response of this Chairman's
25 question, had nothing to do with a possible complaint

1 that the subject matter was outside of the jurisdiction
2 of this Board.

3 Is that right?

4 MS. MARILYN MCLAREN: That's true.

5 MR. ROBERT DAWSON: And your -- your
6 answer was in response to the way that you interpreted
7 the particular question.

8 Is that right?

9 MS. MARILYN MCLAREN: Yes, that's right.

10 MR. ROBERT DAWSON: So I'm looking at
11 what I think is page 904 of the DSR Hearing, which is
12 also set out on page 20 of the DSR varied order. And you
13 don't have to turn to it certainly, but I'm just going to
14 quote here. The Chairman referred to news reports of
15 Bill 36 and then he asked if you were, quote:

16 "...aware of any subsequent events that
17 would affect the DSR by altering the
18 forecast material?"

19 Before we get into that, just -- does --
20 do you remember that quote?

21 MS. MARILYN MCLAREN: No, I don't
22 remember that he was asking about Bill 36. I believe he
23 was asking about the Premier's comments in the November
24 timeframe before that. When we were at the DSR hearing
25 there had been no Bill 36 tabled yet.

1 MR. ROBERT DAWSON: That would be
2 accurate to say when I -- I'm using, again, Bill 36 as
3 the shorthand, but certainly the Chairman was prompted to
4 go in that direction because of what he describes as
5 media reports relating to this -- what became Bill 36?

6 MS. MARILYN MCLAREN: That's fair.

7 MR. ROBERT DAWSON: So, again, the
8 question that he asked was, quote, if you were:

9 "...aware of any subsequent events that
10 would affect the DSR by altering the
11 forecast materially?"

12 So before we go on and talk about that,
13 that was the quote, do you remember that question?

14 MS. MARILYN MCLAREN: Yeah, definitely,
15 because the -- you know, the preface to that quote was
16 talking about the financials that we were asking the PUB
17 to use as the basis for making their decision on the DSR
18 application, so --

19 MR. ROBERT DAWSON: Well, in -- indeed,
20 when -- that's right. So let's go back and fill in these
21 vague words in the -- in the question as I've quoted it.
22 When the Chairman asked if you were aware of any
23 subsequent events, you agreed based on the context of
24 that particular exchange with the Chairman. What he
25 meant was, by subsequent events, that he's following the

1 February 2009 year end.

2 Is that right?

3 MS. MARILYN MCLAREN: Yes, or -- or
4 following the Corporation's decision to rely on the
5 financial forecast that formed the basis of the DSR
6 application. The -- the timeframes are very close on
7 those too, so just so we're clear, either of those would
8 -- would have been what was being referenced.

9 MR. ROBERT DAWSON: And you've sort of
10 touched on that now when you said -- the quote goes on to
11 say:

12 "Were you aware of any subsequent
13 events that would affect the DSR by
14 altering the forecast materially?"

15 Any earlier in your exchange with the
16 Chairman, he had elaborated on what he meant by forecast.
17 He said the forecast of future net income levels.

18 Would that be your understanding of the
19 question?

20 MS. MARILYN MCLAREN: Yes. And at that
21 point we were confident that, not only in our mind and
22 not publically known, that the cost of Bill 36 had been
23 incorporated. In our considerations, we believed that,
24 all else being equal, including things like accelerated
25 auto theft savings, reduction in our expected cost of

1 PIPP claims before consideration of Bill 36, all of those
2 combined left us with very strong confidence that our
3 financials were -- continued to be sound. They -- that -
4 - in our strong belief, the PUB could rely on them in
5 determining the DSR rate application, and there was
6 nothing known to us that would change us from that
7 perspective, that the financials were in good shape and
8 financial forecasts before the Board could be relied on.

9

10 (BRIEF PAUSE)

11

12 MR. ROBERT DAWSON: So you've interpreted
13 the Chairman's question as being: Can we rely upon the
14 forecasts? Is that, very roughly speaking, what you
15 think it is?

16 MS. MARILYN MCLAREN: Maybe we could just
17 read it in.

18 MR. ROBERT DAWSON: Why don't we do that.

19 MS. MARILYN MCLAREN: This is contained
20 at page 20 of Board order 98/'09, and the quote is from
21 the transcript, where the Chairperson says:

22 "Well, we'll turn to that in the GRA.
23 Have there been any subsequent events
24 following the February year end which
25 are expected to affect future net

1 income levels sufficiently to affect
2 the DSR application in itself?
3 I'll give you an example. In the
4 media, it was reported the Government
5 had indicated an intention to bring
6 forward a bill that would improve
7 situation for victims of accidents that
8 suffered catastrophic injuries. To our
9 knowledge, we're not aware of any
10 details of that. But you're not aware
11 of any subsequent event that would
12 affect the DSR by altering the forecast
13 materially?"

14 My response at line 21:

15 "Agreed, we were not aware of any."

16 And I could have continued to say anything
17 that would affect the DSR by altering the forecasts
18 materially. That was my response to the question posed.

19 MR. ROBERT DAWSON: Can you understand
20 how the Board might think that a \$90 million price tag
21 that later is attached to Bill 36 would have altered the
22 forecast materially?

23 MS. MARILYN MCLAREN: I can understand
24 how someone might think that before they came to
25 understand that the \$90 million had been included already

1 in the forecast.

2 MR. ROBERT DAWSON: But when you answered
3 the Chairman, you didn't think it was -- well, it wasn't
4 something that you decided that you would disclose at
5 that time.

6 Is that right?

7 MS. MARILYN MCLAREN: Well, as I've said
8 on the record in these proceedings, it's -- it's not the
9 Corporation's role to announce government's intentions
10 with respect to legislative change. And the question was
11 answered honestly and fully truthfully with respect to
12 the question that was posed. We were very confident that
13 no subsequent events were in the horizon that would
14 effect the DSR. That was the question, that was the
15 answer, clearly through my exchange with Mr. Saranchuk
16 oh, lo, those many weeks ago.

17 I understand the Board's difficulty in
18 understanding my answer. That's why I took it upon
19 myself to include a fairly lengthy explanation in my pre-
20 filed testimony as part of these proceedings in the
21 filing.

22 I -- I think I understand their
23 perspective, I think I've answered it adequately. I
24 stand behind the answer that I gave and -- and I hope
25 through this process, the exchange with Mr. Saranchuk,

1 and now this with yours and my comments in my pre-filed
2 testimony, people will better understand mine.

3 MR. ROBERT DAWSON: Well, I'll leave it
4 to My Learned Friend, Mr. Saranchuk to test the question.
5 What I'm interested in is the passing comment that you
6 made that it's not your job essentially to reveal
7 government policy.

8 You remember just saying that?

9 MS. MARILYN MCLAREN: Sure. Maybe a
10 little bit casually worded, but it would certainly be
11 inappropriate for anyone but the Government to announce
12 that sort of thing.

13 MR. ROBERT DAWSON: And that's because
14 you treated the information relating to the \$90 million
15 cost of what would become Bill 36 as confidential, right?

16 MS. MARILYN MCLAREN: Certainly.

17 MR. ROBERT DAWSON: And that was
18 confidential even insofar as the PUB was concerned.

19 MS. MARILYN MCLAREN: Yes, I guess. And
20 further to that point, on the very first day of these
21 Hearings, the Chairman made comments about tho -- you
22 know, the -- the -- part of their practice and process is
23 confidential exchange of information that, you know, that
24 we have certainly accepted and would consider in the
25 future.

1 But absolutely back when, you know, during
2 the DSR Hearing and -- and every point that we have been
3 before this Board for a Basic Autopac Rate Application,
4 information has been made public or it hasn't been
5 disclosed. So if we go forward with a somewhat different
6 process, that's new for this proceeding.

7 MR. ROBERT DAWSON: After you made your
8 answer to the Chairman, the Corporation made no attempt
9 through Board counsel to alert it to the fact that there
10 might be confidential information that it could seek?

11 MS. MARILYN MCLAREN: No, we did not.

12 MR. ROBERT DAWSON: And the Corporation
13 also did not inform the Minister's office that the
14 regulator was seeking information that might be released?

15 MS. MARILYN MCLAREN: I haven't said that
16 and I don't think I would comment on what I did or didn't
17 do with respect to the Minister's office --

18 MR. ROBERT DAWSON: Well, I'm asking you
19 the question, what you did or didn't do with respect to
20 the Minister's office, so let's have a comment.

21 MS. MARILYN MCLAREN: No, I am not
22 prepared to comment. I think any conversations of
23 something like that between the Minister and the
24 Corporation would be confidential.

25

1 MR. ROBERT DAWSON: So let's get this
2 clear. It's confidential if you have information that
3 the Board might think is useful in preparing a order, in
4 this case at the DSR Hearing in connection with what
5 became Bill 36. That was confidential, right?

6 MS. MARILYN MCLAREN: Again, context is
7 really important. If -- again, let's, please, if we can
8 for a minute or two (2), go back to the very general and
9 non-specific and hypothetical situation that, you know,
10 at some point, maybe some government might decide to do
11 something that would have a financial infac -- impact on
12 the Basic compulsory program, maybe we would know about
13 it, maybe we hadn't incorporated it into our financials,
14 maybe the PUB was going to rely on those financials, that
15 would be a problem for everyone concerned.

16 And -- and given what I know today about
17 opportunities provided by this Board as an ongoing part
18 of their practice, would make sense to me today to share
19 that kind of information. But that's all hypothetical
20 and it doesn't reference the particular situation.

21 The -- the key point in this issue of the
22 cost of Bill 36, is that the \$90 million was known and
23 booked and in our financials before the end of the year.
24 It was there. There was no uncertainty related to
25 potential changes to PIPP benefits. That's the key point

1 in this situation.

2 MR. ROBERT DAWSON: I think we have your
3 testimony. And again, I'm going to tell you that I'm
4 going to leave it up to My Learned Friend, Mr. Saranchuk
5 to deal with the accuracy of that testimony.

6 What I'm more concerned about is the
7 labelling of information confidential, with respect to
8 disclosure to this Board. So, I'm going to go back to
9 the question that I asked you, which is: After your
10 testimony, before this Board in the context of the DSR
11 Hearing, when the Chairman asked you that question, and
12 when you did not include in your answer reference to what
13 you considered to be this confidential information, did
14 you, or did somebody within the Corporation contact the
15 Minister's office to inform him of this problem?

16 MS. MARILYN MCLAREN: You characterize
17 something as a problem, I didn't. I was answering a
18 question about the reliability --

19 MR. ROBERT DAWSON: Well, let's not use
20 the word "problem," then --

21 MS. MARILYN MCLAREN: -- of the DSR --

22 MR. ROBERT DAWSON: Well, let me clarify
23 this, and so we can move this along as fast as possible.
24 Instead of using the word "problem," let's make reference
25 to the fact of -- that did you report to the Minister's

1 office, you or someone in the Corporation, after giving
2 that evidence, did you report to the Minister's office
3 that the question had been posed, that it might have
4 elicited confidential information, and that you chose not
5 to ill -- not to provide it for the reasons that you've
6 explained?

7 MS. KATHY KALINOWSKY: Mr. Dawson, and
8 Mr. Chairman, at this point, I'll intervene. I'm going
9 to say that Ms. McLaren has already stated once on the
10 record that she's not intending to answer that question.
11 That question, as she indicated, is based on Cabinet
12 confidences that exist between Cabinet Ministers and also
13 in their discussions with senior members of either the
14 Crown Corporation or the bureaucracy, that is covered by
15 a long standing tradition of Cabinet confidences under
16 common law. That has recently been codified under FIPPA,
17 and we will not be responding to that question.

18 MR. ROBERT DAWSON: Mr. Chairman, I'm
19 going to move for an order from the Board requiring the
20 Witness to answer the question. The basis for the
21 request is as follows.

22 First of all, I'm not asking for
23 confidential information. I'm not asking what was said;
24 I'm asking whether or not it happened. So, that's the
25 first thing. I'm asking for meta-information. I'm not

1 asking for the information itself, and I have no
2 intention of going beyond that. I just want to know if a
3 call was placed.

4 It might be in the context of that call,
5 that Ms. McLaren said, you know, we should hide this
6 stuff from the PUB. It might be in the context of the
7 call that the Minister's office said, hide that
8 information from the PUB. I don't plan to explore that
9 because then I would be trespassing upon the public
10 interest immunities. But, I do want to know whether or
11 not that call was placed.

12 My Learned Friend, when she makes
13 reference to FIPPA, when she makes reference to long
14 standing client confidences, is making our life very
15 difficult here. In the motion that she filed -- or
16 rather, in the motion that the MBA had filed on the
17 context of disclosure, we had asked for certain
18 information. And then My Learned Friend made her reply
19 on behalf of the Corporation, and that was when she
20 introduced, really what I will suggest is the irrelevant
21 topic of the Freedom of Information Act. And in my
22 response, because of course, a reply to her response is
23 confined to what she said, I pointed out that even if FIA
24 that is the -- or FIPPA, rather, the Freedom of
25 Information Act did apply, this Board was not bound by

1 those rules.

2 In fact, the answer lies in section 10.2
3 of the Manitoba Evidence Act. There's a specific
4 provision dealing with allegations of client confidences.
5 And I'm not suggesting necessarily that we want to argue
6 that now. In fact, we're dangerously close to the break
7 point. And I'm prepared to raise that argument and go
8 into it in detail. But it might be that the Board would
9 like to give initial guidance, or perhaps indicate that
10 it would like to hear argument on that point.

11 We could then take a break. Perhaps Ms.
12 Kali -- My Learned Friend, Ms. Kalinowsky and I could
13 come to some arrangement, but I do stress that I'm not
14 asking for specific information, I just want to know --
15 it's essentially saying, you know, are there cars on
16 Portage Avenue right now. I don't want to know how many,
17 I don't want to know their colour, I don't want to know
18 which way they're driving, I just want to know certain
19 facts about information that I could ask. Thank you, Mr.
20 Chairman.

21 THE CHAIRPERSON: Thank you, Mr. Dawson.
22 We'll take a short break right now while I confer, and
23 we'll get back to you.

24

25 --- Upon recessing at 2:29 p.m.

1 --- Upon resuming at 2:39 p.m.

2

3 THE CHAIRPERSON: Okay. Welcome back.

4 Given the qualification given by Mr.

5 Dawson that he does not seek what was said, that is, he
6 does not seek the contents of any communication, just
7 whether a communication was made, therefore, in our view,
8 FIPPA doesn't enter into the picture. Cabinet
9 confidentiality will not be breached, and Ms. McLaren
10 should simply answer his question.

11 Do you want to put it again, Mr. Dawson?

12 MS. KATHY KALINOWSKY: I -- I'm sorry,
13 but I thought when we took the break there that I would
14 be given a chance to reply. I gave an objection, Mr.
15 Dawson responded. Mr. Dawson introduced a new piece of
16 legislation. I believed that I had an opportunity to
17 reply.

18 MR. ROBERT DAWSON: You know, Mr.

19 Chairman, I know we're running out of time, but the usual
20 reality in civil litigation is that a party makes its
21 objection, there's a response, there's a ruling. The
22 fact that she forgot, left out something, this is
23 unfortunate. But I don't know about you, Mr. Chairman,
24 but I've got Oprah at four o'clock and I'd like to be
25 watching.

1 THE CHAIRPERSON: Ms. Kalinowsky, what
2 were you going to say?

3 MS. KATHY KALINOWSKY: Yes, well, this --
4 this isn't exactly whimsical for the Corporation. And
5 no, I didn't forget. I -- it was my understanding that I
6 would have an opportunity.

7 Subsequent to the de -- the question is,
8 as I understand it, is subsequent to the DSR hearing did
9 the Corporation advise the Minister about the exchange
10 that occurred on the transcript, from the question that
11 was posed by you.

12 The problem with that question, as it's
13 posed, is that Mr. Dawson and the MBA is asking for
14 information; whether there is a communication in and of
15 itself is information itself, without disclosing what
16 particularly the -- the actual contents of it is.

17 By answering, Yes, the Corporation is
18 effectively telling the information that was between the
19 CEO of this Corporation, and the Minister. By answering
20 the question that was posed, either a "yes" or a "no,"
21 the Corporation will have to, in essence, disclose the
22 contents of the discussion, because of the specificity of
23 the question.

24 We've already stated that the CEO and the
25 Minister do have discussions and we, accordingly, ask

1 that this continue -- that this level of discussions that
2 occur between the Minister and the CEO and President of
3 MPI continue to remain closed and subject to confidence.

4 It's very important that Cabinet
5 confidences are protected. It allows government and MPI
6 to have an open discussion about options. It allows
7 government and MPI to consider positions prior to public
8 discussions. It allows government to express concerns to
9 the Corporation that may or may not be valid. It allows
10 government and MPI to discuss whether possible
11 initiatives should go forward. It allows government to
12 proceed with its decision without MPI's views being made
13 public unless the government particularly wants those
14 views to be made public.

15 MPI can be an advisor and can be one (1)
16 source of input to the government on a number of
17 different aspects of information that government has to
18 consider. It is not the only source of the government
19 policy making decision.

20 And finally, and very importantly, it
21 allows for MPI to share confidential information to the
22 government and the government to receive that information
23 without having to worry that the information is indeed
24 disclosed.

25 THE CHAIRPERSON: Thank you.

1 Mr. Dawson, would you kindly remind all of
2 us of your question so that we can assess if it is as
3 simple as we think it was?

4 MR. ROBERT DAWSON: I think the easiest
5 expression would be as follows:

6 At any point after Ms. McLaren answered
7 your question, Mr. Chairman, in the context of the DSR
8 Hearing such as that is set out at page 20 of the Varied
9 Order that this Board released in connection with the DSR
10 rating hearing, did the Corporation inform the Minister's
11 office of the fact that that question had been posed or
12 that that information had been sought?

13

14 (BRIEF PAUSE)

15

16 THE CHAIRPERSON: We'll just take another
17 couple of minutes.

18

19 --- Upon recessing at 2:44 p.m.

20 --- Upon resuming at 2:52 p.m.

21

22 RULING:

23 THE CHAIRPERSON: First of all, thanks
24 are due to Ms. Kalinowsky and Mr. Dawson for clarifying
25 our understanding of what went on and led to our initial

1 statement.

2 Okay. If the Board's understanding is
3 incorrect and Mr. Dawson is, indeed, seeking to learn the
4 content of any communication, then the Board finds that
5 the information being sought need not be provided by MPI.

6 If, however, Mr. Dawson simply wants to
7 know if contact was made, then the question should be
8 answered. The question in that case would be:
9 Subsequent to the DSR Hearing, was Ms. McLaren in contact
10 with the Minister's office?

11

12 (BRIEF PAUSE)

13

14 MR. ROBERT DAWSON: And just for the
15 record, Mr. Chairman, I completely accept the second,
16 that is the latter point and that is the question
17 although it would not necessarily just be whether Ms.
18 McLaren was in contact, would be the Corporation,
19 somebody on behalf of the Corporation.

20 But I -- I think the Board and I at least
21 are of the same mind.

22 THE CHAIRPERSON: So the question
23 includes no content.

24 MS. MARILYN MCLAREN: But as you stated
25 it, Mr. Chairman, it's an extremely broad question.

1 Since the DSR Hearing ended have I been in touch or
2 anyone from the Corporation been in touch with the
3 Minister's office? Yes, we have.

4 THE CHAIRPERSON: Okay, Mr. Dawson.

5 MR. ROBERT DAWSON: Let's be clear that
6 when she says 'have we been touch', she's -- we're
7 talking obviously about the context of the question that
8 is set out on page 20 of the Varied Order, just to be
9 clear.

10 Obviously, there has been routine contact.
11 So that was the question. The question that I formulated
12 before we took this break so that the Board can
13 deliberate, again, I'm not asking for the answer. I
14 don't have in my back pocket twenty-seven (27) followup
15 questions.

16 In fact, Oprah waits. I've got -- ready
17 to move on to new topics but this is the question. I
18 just want to know, after Ms. McLaren appeared here, had
19 that exchange with the Chairman, did she inform the
20 Minister's office of the fact that that question was
21 asked.

22 That's all I'm looking for.

23 THE CHAIRPERSON: We're not prepared to
24 go that far. We're prepared to leave it as subsequent to
25 the DSR Hearing. Subsequent to that particular Hearing,

1 was Ms. McLaren in contact with the Minister's office?

2 I think she's answered that.

3 MS. MARILYN MCLAREN: I have been.

4

5 CONTINUED BY MR. ROBERT DAWSON:

6 MR. ROBERT DAWSON: Okay. So we have an
7 answer as to whether or not you informed the Minister's
8 office and just to remind myself, the Corporation didn't
9 contact the Board or Board counsel to discuss ways of
10 introducing confidential information in a way that
11 wouldn't necessarily be put before all of the Intervenors
12 or the public?

13 MS. MARILYN MCLAREN: I'm sorry. I did
14 not fully hear and understand the first part of your
15 comment or question but specifically related to, Did the
16 Corporation or its counsel approach the Board to discuss
17 confidential sharing of information? No, the Corporation
18 did not.

19 MR. ROBERT DAWSON: Thank you. You'd
20 agree with me at least from the wording of the Board's
21 original -- or rather Varied Order relating to DSR, that
22 the Board had been left with the impression for one
23 reason or another that no \$90 million enhanced benefit
24 package was about to be announced?

25 MS. MARILYN MCLAREN: I -- I'm not going

1 to comment on the Board's impression. You know, there's
2 very detailed, very expansive orders on the record.

3 MR. ROBERT DAWSON: You'd at least agree
4 that the Board issued its original DSR order on the basis
5 of, among other things certainly, the answer to your
6 question that appears in transcript form on page 20 of
7 the Varied Order?

8 MS. MARILYN MCLAREN: Sure, that's fair.

9 MR. ROBERT DAWSON: And you'd also agree
10 with me that at least in respect of the -- anticipating
11 the cost of the enhanced benefit package that the Board's
12 original order, at least even as the Board itself would
13 agree, was inadequate?

14 You can choose a different adjective,
15 problematic.

16 MS. MARILYN MCLAREN: I'm sorry I didn't
17 follow. The Board's order was inadequate?

18 MR. ROBERT DAWSON: The original order
19 that the Board had made was based upon information that
20 had been put before it during the course of the DSR
21 Hearing, right?

22 MS. MARILYN MCLAREN: Yes.

23 MR. ROBERT DAWSON: And part of the
24 information that was put before it, or in this case,
25 perhaps as far as the Board seems to be concerned, not

1 put before it, related to the \$90 million cost of what
2 became Bill 36, correct?

3 MS. MARILYN MCLAREN: I'm not sure
4 exactly what the Board would have considered inadequate
5 or not. The comments in 98-09 -- 98-08 talked about
6 their difficulty in understanding the context of my
7 comments.

8 MR. ROBERT DAWSON: Would you agree with
9 me that this Board cannot effectively discharge its
10 oversight obligations when all of the material
11 information that it requires is not before it?

12 MS. MARILYN MCLAREN: That's a fair
13 comment but again, in my view and what I was trying to do
14 with my answer to the Chairman in this instance, was to
15 provide assurance, the Corporation's assurance that the
16 financials were strong. There was nothing subsequent or
17 unknown that would change the financials and, therefore,
18 change the perspective on the DSR Order.

19 MR. ROBERT DAWSON: Again, I -- I leave
20 it to My Learned Friend Mr. Saranchuk to explore the
21 accuracy of your comment.

22 I'm just asking you if you'd agree with me
23 that the Board can't effectively discharge its oversight
24 obligations when all material information isn't before
25 it?

1 MS. KATHY KALINOWSKY: Sorry, Mr. Dawson,
2 I'm going to object there. That's a legal question and
3 the witnesses are not here to answer or argue in law.

4 MR. ROBERT DAWSON: Elaborate.

5 MS. KATHY KALINOWSKY: You were asking
6 about the Board's jurisdiction. The Board's jurisdiction
7 is an area of law. It's an area of jurisprudence.

8 The witnesses are here to testify with
9 respect to MPI's Application for rates.

10 MR. ROBERT DAWSON: Well, Mr. Chairman,
11 here we are again. Oprah is going to be on the VCR. The
12 question that I've posed is a fairly simple one. It's
13 whether or not, if the Board doesn't have material
14 information, whatever that might be, the Board can't do
15 it's job. For some reason My Learned Friend thinks that
16 my question requires an exploration of the legal basis of
17 the jurisdiction of the Board.

18 I'm not asking whether or not the Board
19 needs to have DVL. I'm not trying to even define what
20 material information is. I'm just saying, can the Board
21 do it's job unless all material information is before it?

22 So I'm now asking, again, for an Order, or
23 Direction from the Chair asking -- requiring the witness
24 to answer this question. The Board -- can the Board
25 effectively discharge it's oversight obligations when all

1 material information, whatever that might mean, is not
2 before it?

3 MR. WALER SARANCHUK: Mr. Chairman,
4 perhaps just to assist. Can My Learned Friend Mr. Dawson
5 indicate whether he is asking for Ms. McLaren's opinion?

6 MR. ROBERT DAWSON: Thank you for that
7 clarification request, Mr. Saranchuk. And indeed, I'm
8 asking this witness for her view on that particular
9 subject. I'm not asking the witness to draw a legal
10 conclusion, or to definitively state what the law is with
11 respect to that. That, as My Learned Friend Ms.
12 Kalinowsky points out, is a legal question.

13 MS. KATHY KALINOWSKY: And -- and with
14 that caveat then, that it's not an opinion, but merely
15 her views in general, then Ms. McLaren can answer the
16 question.

17 MS. MARILYN MCLAREN: That's a reasonable
18 view, I would share that view.

19

20 CONTINUED BY MR. ROBERT DAWSON:

21 MR. ROBERT DAWSON: Thank you. No need
22 to bother you, Mr. Chairman, but thank you for standing
23 ready.

24 We're moving along happily. Less
25 controversially, Ms. McLaren, there are three (3) lines

1 of business that comprise, generally speaking, MPI's
2 operations: one (1) is Basic, second, Extension in SCR --
3 SRE rather, and the third, DVL. Would that be accurate?

4 MS. MARILYN MCLAREN: We generally refer
5 to four (4) lines these days; each of the three (3)
6 insurance lines, and the non-insurance.

7 MR. ROBERT DAWSON: Three (3) or four
8 (4), that'll be fine. Now as President of MPI, you will
9 receive a salary. And before we even get to that, I want
10 to stress, I have no intention of asking what the salary
11 is, I have no intention of exposing it, or suggesting
12 that you should be paid more or less. It's just a ploy
13 to move us forward. So, as President of MPI you receive
14 a salary.

15 Am I right?

16 MS. MARILYN MCLAREN: Yes.

17 MR. ROBERT DAWSON: She responds
18 greedily. She did not. The salary pays you for your
19 work in connection with Basic, Extension and SRE and DVL,
20 is that right?

21 MS. MARILYN MCLAREN: Yes.

22 MR. ROBERT DAWSON: And when you receive
23 your biweekly payroll deposit, there's obviously only one
24 (1) deposit, not three (3) or four (4) to reflect each of
25 those lines?

1 MS. MARILYN MCLAREN: That would be true.

2 MR. ROBERT DAWSON: Now, I suppose it
3 would be possible, although I'll certainly concede time
4 consuming and ultimately pointless really, to attempt to
5 segment your paycheck in proportion to the time that you
6 wear your hats for the various duties in terms of those
7 various lines. I suppose it would be possible, wouldn't
8 it?

9 MS. MARILYN MCLAREN: Yes.

10 MR. ROBERT DAWSON: And let's shift gears
11 slightly. I assume that when the Board of Directors of
12 MPI meet, they convene in a conference room or a
13 boardroom?

14 MS. MARILYN MCLAREN: Yes.

15 MR. ROBERT DAWSON: And their meetings
16 will consist of issues that relate to all three (3), or
17 as you're describing, four (4) lines of the business;
18 namely, Basic, Extension, SRE, and DVL, is that right?

19 MS. MARILYN MCLAREN: Yes.

20 MR. ROBERT DAWSON: And when during the
21 course of a single meeting the topic changes from one (1)
22 of those lines of business to another, clearly the
23 Directors don't move into a separate conference room
24 that's somehow dedicated to a specific line of business,
25 right?

1 MS. MARILYN MCLAREN: Right.

2 MR. ROBERT DAWSON: And again, I suppose
3 it would be possible, although I grant you to be silly,
4 to build three (3) or four (4) identical conference rooms
5 to be used by the Directors as they move from topic to
6 topic, wouldn't it?

7 MS. MARILYN MCLAREN: Yes, that would be
8 silly.

9 MR. ROBERT DAWSON: And it's not so much
10 also that they would have different topics that they will
11 cover, or that you, as President, have different areas of
12 business that you have to distinctly work on. There are
13 times when the various lines of business will overlap in
14 terms of their consideration.

15 Isn't that right?

16 MS. MARILYN MCLAREN: Yes.

17 MR. ROBERT DAWSON: And it would also be
18 fair to say that one (1) line of business will impact
19 another sometimes in terms of the overall considerations
20 that are necessary for the governance of the Corporation?

21 MS. MARILYN MCLAREN: Okay, that's fair.

22 MR. ROBERT DAWSON: And we've already
23 established, and can move fairly quickly, that the Board
24 has jurisdiction and oversight in respect of Basic, the
25 Basic line of business.

1 Is that right?

2 MS. MARILYN MCLAREN: Yes, that's right.

3 MR. ROBERT DAWSON: But MPI does not
4 accept, nor is it indeed the fact that the Board has
5 jurisdiction with respect to Extension and SRE, and DVL.

6 Is that right?

7 MS. MARILYN MCLAREN: That's right.

8 MR. ROBERT DAWSON: MPI has consistently
9 rejected the Board's repeated recommendation that MPI
10 support the expansion of the scope of MPI's oversight to
11 -- or of the PUB's oversight to include, for example,
12 Extension and SRE, and DVL, isn't that right, or aspects
13 of it?

14 MS. MARILYN MCLAREN: Yes, that's right.

15 MR. ROBERT DAWSON: I understand that MPI
16 held a meeting for a discussion of all of the Board's
17 recommendations that arose out of last year's order,
18 that's Order 157/'08.

19 Is that right?

20 MS. MARILYN MCLAREN: Can you repeat the
21 question?

22 MR. ROBERT DAWSON: Sure, and I -- if it
23 helps you and you want to pull it out, I'm referring to
24 MBA/MPI First Round Question 20. I'm calling it the
25 forced reply because it's the reply that the MPI made as

1 a result of the Board's order requiring disclosure after
2 the MBA motion so.

3 MS. MARILYN MCLAREN: I -- I have it.

4 MR. ROBERT DAWSON: All right. So I'm
5 asking, as it says there clearly, MPI held a meeting to
6 discuss all of the Board's recommendations that were set
7 out in last year's GRA order?

8 MS. MARILYN MCLAREN: Actually what it
9 says is that a number of employees met to discuss all
10 matters in the Order, including a consideration of this
11 particular recommendation referenced in the question.
12 There were a number of meetings, not just one (1).

13 MR. ROBERT DAWSON: Fair enough. And
14 when you're talking about those recommendations, one of
15 the recommendations that it considered was the Board's
16 request for support for its expanded oversight role.

17 Is that right?

18 MS. MARILYN MCLAREN: Yes.

19 MR. ROBERT DAWSON: Am I right to infer
20 that it was a rather informal meeting? Let me clarify
21 and tell you, there were no minutes produced?

22 MS. MARILYN MCLAREN: Yes, that's true,
23 there were no minutes.

24 MR. ROBERT DAWSON: And would it be fair
25 to say that those in attendance gave -- well, I will use

1 the label cursory consideration, and allow you to correct
2 me, of this particular recommendation?

3 MS. MARILYN MCLAREN: I would not use the
4 word "cursory."

5 MR. ROBERT DAWSON: What word would you
6 use?

7 MS. MARILYN MCLAREN: I would refer you
8 to the next question and answer.

9 MR. ROBERT DAWSON: Which talks about no
10 new factors were considered?

11 MS. MARILYN MCLAREN: No new factors for
12 consideration were included in the Order, and no new
13 factors for consideration arose otherwise. There's a
14 difference between not considering factors, and no
15 factors arising.

16 MR. ROBERT DAWSON: So the Board's -- the
17 Board -- the Board was silly in not setting out factors,
18 so that's why MPI didn't want to think up any factors of
19 its own.

20 Is that right?

21 MS. MARILYN MCLAREN: Your
22 characterization, not mine.

23 MR. ROBERT DAWSON: Is there any
24 explanation why those gathering to consider the Board's
25 recommendation with respect to expanding its oversight on

1 DVL and SRE, and Extension, is there any explanation as
2 to why no one could come up with considerations of those
3 new factors?

4 MS. MARILYN MCLAREN: I wouldn't describe
5 it that way. I would say that those at the meeting found
6 no basis to -- for the employees anyway, no basis for
7 those employees to recommend to the balance of the
8 Corporation a changed position.

9 MR. ROBERT DAWSON: No one in that group
10 that had done any research or conducted research and
11 prepared a report, did they?

12 MS. MARILYN MCLAREN: I don't believe any
13 reports were circulated at the meetings.

14 MR. ROBERT DAWSON: And no one went
15 through specifically and outlined the advantages,
16 generally, that might flow as a result of the increased
17 oversight that the Board was recommending?

18 MS. MARILYN MCLAREN: Again, let me
19 remind you that this was a repeated recommendation and
20 questions like that, you know, may have been considered
21 earlier on in earlier years when this recommendation
22 first came forward. The basis of the conversation and
23 discussion and consideration this year was whether
24 anything had changed or changed sufficiently to warrant a
25 different position on the part of the Corporation.

1 MR. ROBERT DAWSON: So as soon as
2 everyone was of an agreement that nothing was new, they
3 moved on to the next topic.

4 Is that pretty much it?

5 MS. MARILYN MCLAREN: That's a reasonable
6 characterization, I suppose.

7 MR. ROBERT DAWSON: Another one of the
8 recommendations that the Board had -- had made was a
9 request for oversight of DVL operations.

10 Do you remember that in last years Order?

11 MS. MARILYN MCLAREN: I do.

12 MR. ROBERT DAWSON: And I understand that
13 that recommendation also came up for consideration at the
14 same meeting that we've been talking about, is that
15 right? And if you're flipping, this is MBA-123, in the
16 forced replies.

17 MS. MARILYN MCLAREN: Again, there --
18 certainly we didn't cover off everything in the Board
19 Order in one (1) meeting. There were more than one (1)
20 meeting. Whether this one came up at the same meeting as
21 the jurisdictional one, I -- I really can't say.

22 MR. ROBERT DAWSON: Would it be right to
23 say that nothing new came up, so as a result it too
24 received fairly cursory consideration?

25 MS. MARILYN MCLAREN: Again, I don't

1 accept the use of the word "cursory." It was not a
2 matter of looking at each other to say whether or not we
3 believed anything new came up. What was involved was a
4 substantive discussion of the extent to which anything
5 had surfaced which warranted a different consideration.

6 MR. ROBERT DAWSON: So in respect of this
7 one (1) too, there would have been no research that was
8 conducted in anticipation of those meetings?

9 MS. MARILYN MCLAREN: Well, let me tell
10 you a little bit about this particular consideration
11 because as we reviewed this part of the Order, it was
12 with the understanding -- and, I guess, maybe not in the
13 middle of yet -- but with the understanding and full
14 expectation that we would be involved in developing and
15 proposing a new or revised cost allocation model.

16 And in the Corporation's view that -- that
17 this issue, with respect to the clear legislated mandate
18 to review and approve rates for Basic insurance, and only
19 Basic insurance, is clearly the PUB's mandate and
20 responsibilities with respect to the Corporation limited
21 to that, given the context of your questions earlier, and
22 my responses and conversations through these proceedings
23 for quite some length of time, at times work effort
24 overlaps lines of business, and at times people are --
25 would be extremely challenged to keep track of exactly

1 what they were working on.

2 The more important point from the
3 Corporation's perspective is that often when they're
4 working on a task, that one (1) task, the output of which
5 is shared by lines of business so it's not something that
6 could even be tracked if -- if in fact that, that was a
7 decision to do that.

8 So with the respect to understanding the
9 PUB's mandate to scrutinize and be confident that the
10 costs of delivering the Basic Program are fair and
11 reasonable and, therefore, rates charged are fair and
12 reasonable, really does come down to cost allocation.

13 And the conversation around this
14 particular issue was really conducted along those lines
15 at these meetings, with respect to the fact that we had
16 some level of confidence that this would move the issue
17 ahead and perhaps cause the PUB to rethink its position
18 on this, if it had greater assurance that it had full
19 understanding and ability to make decisions based on a
20 full recognition and understanding of the costs being
21 assigned to Basic, both directly and through a new
22 modified, tested, and transparent cost allocation
23 methodology. So that was some of the context of the
24 discussion around this particular item at these meetings.

25

1 MR. ROBERT DAWSON: I think we can build
2 and ultimately close on some topic relating to that. You
3 -- you've emphasised the way in which there is overlap
4 and then how it is desirable, at least if -- and correct
5 me if I'm wrong -- how it is desirable that the PUB have
6 some assurances with respect to costs under Basic as it
7 may relate to other areas.

8 Am I so far summarizing very, very
9 generally what you've just said?

10 MS. MARILYN MCLAREN: Absolutely. I -- I
11 think it's essential that the PUB have -- have confidence
12 in it's understanding and ability to rule on the
13 appropriateness of costs charged to the Basic.

14 MR. ROBERT DAWSON: And you'd agree with
15 me then it would follow, I suppose, that where the Board
16 feels that it doesn't have this assurance and this
17 understanding of related or other lines of business, that
18 the orders that it's crafting are effectively
19 artificially ignoring the overlap that exists between the
20 different lines of business?

21 MS. MARILYN MCLAREN: I wouldn't agree
22 with that at all. We have a cost allocation methodology
23 that deals with those things. It -- it has a methodology
24 for sharing the costs consumed by more than one (1) line
25 of business, has had since the beginning of time,

1 certainly has had a formal one (1) since the early to mid
2 '90s, less than ten (10) years after we got into this PUB
3 review and approval of Basic Autopac rates.

4 Is it the best we could possibly do? No.
5 I think what we have proposed with the work that Deloitte
6 did is -- is definitely better, but that's the heart of
7 dealing with the PUB's need to make appropriate decisions
8 for its legislated mandate as it exists in the
9 Corporation's view, that the -- the heart of their
10 ability to do that is -- is a robust, transparent, and
11 reliable cost allocation methodology.

12 MR. ROBERT DAWSON: The -- that works on
13 the assumption only that the cost allocation formula is
14 acceptable and understood by the Board in the same way
15 that the Corporation does, isn't it?

16 MS. MARILYN MCLAREN: I -- I suppose that
17 could be true of a number of things discussed in this
18 forum and ultimately ruled on if --

19 MR. ROBERT DAWSON: So let's go to that
20 higher level then. Where the Board has a view that's
21 different than the Corporation, for example on the cost
22 allocation formula or other things, who wins?

23 MS. MARILYN MCLAREN: Well, I guess with
24 respect to rate making purposes, the PUB would win.
25 There was -- for example, even with respect to IFRS there

1 was a conversation earlier in these proceedings that the
2 PUB may adopt accounting treatment for rate making
3 purposes that may, in effect, some -- at some point be
4 different than the Corporation's IFRS policies that --
5 that would be adopted.

6 Conceptually, I guess the same could be
7 true for cost allocation, but I wouldn't advocate for
8 something different like that in either situation. I
9 would hope that we would find some common ground.

10 Something else that -- that I put on the
11 table through these conversations earlier in the
12 proceedings was that if, in fact, the Board approves and
13 adopts a modified cost allocation methodology, the
14 Corporation would certainly be prepared to specify in its
15 external auditor's work plan and work done by the
16 external auditor to potentially, even significantly, but
17 -- but at least moderately, enhance the effort related to
18 testing the appropriateness of the Basic compulsory
19 statements because that's where the cost allocation
20 methodology really hits home.

21 That's where it matters, when the
22 financial statements of the Basic plan are audited. Are
23 the costs brought in there for financial statement
24 purposes a true reflection of the costs?

25 So if, in fact, we end up with a new cost

1 allocation methodology, we would expect likely that we
2 would do more to demonstrate adherence to that new
3 methodology.

4 MR. ROBERT DAWSON: So your answer, in
5 essence, is the Board will win in a dispute over areas
6 that fall within its jurisdiction, relating in this case,
7 for example, the -- the example that we used for the cost
8 allocation formula.

9 Is that right, that you would say that,
10 where the Corporation has a different view within the
11 Board's jurisdiction, the Corporation will accept the
12 Board's decision on that area?

13 MS. MARILYN MCLAREN: Sure, and I think
14 the RSR target is a pretty good example of that.

15 MR. ROBERT DAWSON: We know the
16 Corporation's position with respect to some of the
17 recommendations but would see the Board's jurisdiction
18 expanded as far as the Board is concerned.

19 Let me ask you the same question. Where
20 the Board feels that, in order to do its job, it needs to
21 expand its jurisdiction and asks for the Corporation's
22 support relating to that, who wins that dispute when the
23 Corporation doesn't agree?

24 MS. MARILYN MCLAREN: Well, when -- when
25 one (1) party asks another party for its support and the

1 other party declines to provide it, I wouldn't even
2 characterize that as a dispute. It's -- it's not at all
3 the same as talking about who has authority for decision
4 making with respect to Autopac rate making.

5 MR. ROBERT DAWSON: Would your answer
6 change if it were the expressed position of the Board
7 that by not having whatever it is seeking in its
8 recommendations approved and supported by you, that it
9 feels that its orders almost have enforced blinkers on
10 it, for example, artificially ignoring the overlap that
11 exists between the various lines of business?

12 MS. MARILYN MCLAREN: No, there is no
13 artificial ignoring overlap. The -- there is a
14 recognized methodology in force today to account for and
15 allocate the costs of the overlapping functions. The
16 methodology might change.

17 MR. ROBERT DAWSON: Let's -- let's not
18 get hung up on that one then. Let's just abstract it
19 even further. Let's say that, where the Board feels that
20 in order to discharge its obligations of oversight on
21 regulation, it has to address considerations that go
22 beyond mere Basic and has to look at the overall
23 operations of the Corporation, when it seeks the support
24 of the Corporation to pursue those sorts of objections
25 and the Corporation declines to provide that support, I'm

1 going to suggest there we have a dispute, although
2 technically we'll say a conflict.

3 Who ultimately wins?

4 MS. MARILYN MCLAREN: Taken to the
5 ultimate decision making, I guess it would end up in the
6 Court of Appeal.

7 MR. ROBERT DAWSON: But the Corporation
8 certainly has not and has no plans of taking any of these
9 issues to the Court of Appeal, does it?

10 MS. MARILYN MCLAREN: But the Corporation
11 doesn't view the PUB's recommendations to the Corporation
12 in this regard as a dispute, so, you know, I mean I think
13 that -- that's really not what we're dealing with here.

14 The Board has made some recommendations.
15 It has recommended that we support its position. We have
16 declined to do that. It's -- that's -- we can't -- that
17 in itself can't be a dispute that ends up in the Court of
18 Appeal, no.

19 MR. ROBERT DAWSON: Although it's not a
20 sexy issue that we're going to find on the front page of
21 the newspaper, does it not concern the Corporation that
22 the perception may arise among at least some members of
23 the public that the Corporation chooses when to support
24 and assist the Board and when to comply with its orders?

25 MS. MARILYN MCLAREN: I'm sorry, there's

1 never been an instance of us choosing when to comply with
2 an order.

3 MR. ROBERT DAWSON: I also used comply or
4 assist with its orders, and by that I meant support the
5 Boards recommendations, and there have been plenty of
6 those instances.

7 MS. MARILYN MCLAREN: And the first part
8 of that question now is related to public perception --

9 MR. ROBERT DAWSON: Is -- is -- is --

10 MS. MARILYN MCLAREN: -- in some fashion?

11 MR. ROBERT DAWSON: In a rather direct
12 fashion, is not the Corporation concerned, or has the
13 Corporation ever turned its mind to the prospect that the
14 public view of the position that the Corporation takes in
15 respect of Board recommendations may not be favourable to
16 the Corporation?

17 MS. MARILYN MCLAREN: No, to this point
18 in time the -- the Corporation has not been concerned
19 about that. The PUB, to my knowledge, in its public
20 communications has made statements about how it would
21 prefer to have more information on certain topics.

22 It has never made the case that we are
23 failing to comply with its orders or failing to comply
24 with the legislation as it exists. And I think the
25 public is sophisticated enough to know the difference. I

1 think they're sophisticated enough to know that in
2 administrative processes in tribunals such as this there
3 will be different perspectives and different opinions.

4 I think they absolutely expect a
5 corporation like ours to comply with the law, both in the
6 spirit and the letter of the law, and I'm confident that
7 we do that.

8 MR. ROBERT DAWSON: And you're confident
9 that you do that so long as the law is the way that the
10 Corporation interprets it.

11 Is that right?

12 MS. MARILYN MCLAREN: The Corporation and
13 others. Complying with the law is pretty
14 straightforward, and, as I said, to my knowledge the PUB
15 has never told us they think we're not.

16 MR. ROBERT DAWSON: I think the rest can
17 wait for my closing submission. Thank you, Mr. Chairman.
18 I close my cross.

19 THE CHAIRPERSON: Thank you, Mr. Dawson.
20 I believe we're over to Ms. Everard.

21 MS. CANDACE EVERARD: Thank you, Mr.
22 Chairman. Mr. Saranchuk has a few questions for the
23 panel. I do not have any additional questions, but I
24 just wanted to let the Board know that Mr. Williams has
25 advised that he won't be returning today, and whatever

1 additional questions he was thinking of asking are not
2 essential and, therefore, he will forego any additional
3 cross-examination of the panel.

4 So once we hear from Mr. Saranchuk, I
5 think that's it. The other Intervenors, I believe, have
6 completed their respective cross-examinations.

7 THE CHAIRPERSON: Thank you.

8 Mr. Saranchuk...?

9

10 (BRIEF PAUSE)

11

12 RE-CROSS-EXAMINATION BY MR. WALTER SARANCHUK:

13 MR. WALTER SARANCHUK: Yes, I just have a
14 few questions to ask. I am -- I am referring, in the
15 first instance, to the quarter -- the latest quarterly
16 financial report.

17 Ms. McLaren, perhaps you can just confirm
18 with reference to pages 5 and 8 being rough -- commentary
19 and the statement of retained earnings, commentary
20 related to, and the statement of retained earnings, that
21 indeed the retained earnings for the Corporation as at
22 August 31, 2009, as per the latest quarterly repor --
23 quarterly report, namely, MPI Exhibit number 13, amounts
24 to \$314,807,000?

25 MR. DONALD PALMER: That's correct.

1 MR. WALTER SARANCHUK: And that is
2 comprised of \$147,309,000 on the Basic side, and
3 \$167,498,000 on the competitive lines side?

4 MR. DONALD PALMER: That's correct. And
5 just a breakdown on the competitive lines, that's broken
6 down between retained earnings and the Extension
7 Development Fund.

8 MR. WALTER SARANCHUK: Yes, thank you.
9 Now, Ms. McLaren, this is probably for you. We, in the
10 past, have had some very general discussion about the
11 percentage of the Extension business purchased by the so-
12 called Basic customers, if you will, and we talked in
13 terms of somewhere in the order of low nineties for terms
14 of percentage.

15 Can that information or can that
16 percentage be quantified whereby you can provide that by
17 way of an undertaking?

18 MS. MARILYN MCLAREN: Likely, if we had a
19 more specific question. Percentage of Basic customers
20 that also buy any one (1) or more extension products?
21 What exactly are you looking for?

22 MR. WALTER SARANCHUK: Yes, essentially
23 that, but also if you could break it out in terms of the
24 extension alone as well as -- as opposed to the SRE. So
25 it would be the competitive lines, and then come --

1 Extension and SRE.

2 MS. MARILYN MCLAREN: Numbers of policies
3 in each line of business?

4 MR. WALTER SARANCHUK: Percentages,
5 generally.

6 MS. MARILYN MCLAREN: Percentage of Basic
7 --

8 MR. WALTER SARANCHUK: Of -- of all the
9 Basic insurance customers, what percentage purchase
10 extension insurance from MPI?

11 MS. MARILYN MCLAREN: And you mentioned
12 SRE.

13 MR. WALTER SARANCHUK: And -- yes, only
14 because you asked whether I'm interested in that. I'm
15 looking at the overall percentage of Basic customers that
16 purchase Extension insurance. And then, if you can give
17 us the information as to SRE, then that's fine too, but
18 we're more interested in who purchases the Extension
19 coverage to reduce the deductible and increase the third
20 party liability.

21

22 (BRIEF PAUSE)

23

24 MR. DONALD PALMER: Yeah, we -- we've got
25 the numbers and we might be able to get them fairly

1 quickly. I can tell you of the eligible customers,
2 because not all eligible customers are -- or not all
3 customers can buy Extension. It's only essentially
4 private passenger vehicles, and some other commercial
5 groups, but -- but limited.

6 Approximately 90 percent buy a third party
7 liability, and probably 80 -- low 80 percent would buy a
8 deductible buy-down.

9 MR. WALTER SARANCHUK: So in terms of the
10 90 percent purchasing third party liability, can you give
11 us an idea of how much of the market share MPI has?

12 MR. DONALD PALMER: We have filed reports
13 from the Superintendent of Insurance in the past. We
14 don't have the numbers specifically by coverage. But, of
15 the total -- total written premium, we're probably 95
16 percent.

17 MR. WALTER SARANCHUK: All right. Thank
18 you.

19 THE CHAIRPERSON: If you don't mind, one
20 (1) thing I'd be interested to know would be the number
21 of non-corporate passenger vehicles -- non-corporate
22 passenger vehicles that have the Extension coverage of
23 any nature, related to the passenger vehicle, of course?

24 MR. DONALD PALMER: Those would be about
25 the 80 to 90 percent that I talked about, depending on

1 whether you're talking third party liability, Extension,
2 or a deductible buy-down.

3

4 (BRIEF PAUSE)

5

6 MS. MARILYN MCLAREN: Maybe just a little
7 bit of further information. I personally have not
8 checked this recently, but when I used to check it
9 frequently this was always true and I have no reason to
10 believe that it's changed. The competition sells
11 packages, especially since the move to the no fault
12 program. You -- we are selling our additional liability
13 coverage at very, very low prices. They don't sell just
14 liability coverage, or just a deductible buy-down;
15 they'll sell a package.

16 So if you accept that premise, you know,
17 look at the numbers Mr. Palmer talked about as 80
18 percent/90 percent, that means, the way I think about it
19 is that about 10 percent basic insurance rate payers buy
20 nothing. Just the basic, they don't buy any Extension.
21 That is the ones from above the 90 percent.

22 And 10 percent buy a package from a
23 competitor, potentially, or -- or -- and then those who
24 buy one (1) but not the other from us -- like, fewer
25 people buy the deductible buy-down than buy liability.

1 So if you think about this from a personal perspective,
2 people who can handle a five hundred dollar (\$500) hit if
3 they get in a crash, are prudent enough to extend their
4 liability coverage if they use the vehicle out of
5 province or who knows for what reason. So those are the
6 people who would buy liability coverage from us, but they
7 would not buy down their deductible.

8 So you've got some people who don't buy
9 anything. You've got some people who only buy liability
10 from us, because no one else really sells it on that
11 basis, and then you've got some percentage who are buying
12 a package from competition.

13

14 CONTINUED BY MR. WALTER SARANCHUK:

15 MR. WALTER SARANCHUK: But generally
16 speaking, we're talking about the percentages quoted by
17 Mr. Palmer, those are in respect of motorists who own
18 passenger vehicles and are eligible for the Extension
19 coverage if they want it?

20 MR. DONALD PALMER: Yes.

21 MR. WALTER SARANCHUK: All right. So now
22 having heard that, would you agree that, generally
23 speaking, Mr. Palmer or Ms. McLaren, that MPI does have a
24 corner on the market?

25 MS. MARILYN MCLAREN: Certainly, we sell

1 more Extension coverage than others do.

2 MR. WALTER SARANCHUK: And would you
3 agree that, in general terms, given those percentages,
4 that you have a monopoly? In general terms? I'm not
5 saying 100 percent, I'm saying do you agree or do you
6 disagree that that that constitutes a monopoly?

7 MS. MARILYN MCLAREN: Well, the way I
8 think about monopoly, and I think this is -- I think Dr.
9 Hum talked about it from this perspective, it -- you
10 know, there -- there is no lack of choice on the non-
11 Basic part of the coverages. So I -- I really do not use
12 the word "monopoly." We sell the majority, a significant
13 majority.

14 We are dominant players in the
15 marketplace. There is competition. There is choice.
16 And, on that basis, I -- I don't think the word
17 "monopoly" is appropriate.

18 MR. WALTER SARANCHUK: And so can I
19 interpret your answer as meaning that, because it's not
20 100 percent, it's not a monopoly?

21 MS. MARILYN MCLAREN: It -- it -- and
22 it's also not forced.

23 MR. WALTER SARANCHUK: No, but we're
24 talking about, you know, ease of access, for example. I
25 mean, I'd really like to know whether you essentially are

1 saying that, because you have no 100 percent corner of
2 the market, if you will, that, therefore, you don't have
3 a monopoly?

4 MS. MARILYN MCLAREN: Sure, but also with
5 -- with emphasis on your other phrase about ease of
6 access. You know, I mean there is very, very few Autopac
7 agents in this province who don't offer an alternative.

8 MR. WALTER SARANCHUK: Are there any who
9 do not offer Extension insurance?

10 MS. MARILYN MCLAREN: No.

11 MR. WALTER SARANCHUK: Now in the past,
12 while I -- and I want to understand that I fully
13 appreciate the limitation on the Board, Public Utility
14 Board's legislative mandate. But in the past, there's no
15 question, if I may -- may use that the phrase, that the
16 Board -- MPI rather, has been somewhat reluctant and has
17 demonstrated some reticence -- reticence in disclosing
18 financial information relating to Extension and SRE line
19 of business?

20 MS. MARILYN MCLAREN: Outlook forecast
21 information, yes.

22 MR. WALTER SARANCHUK: Now, also in the
23 past, if I recall correctly, over the years a couple of
24 the reasons have been, again, aside from the
25 jurisdictional issue, well, we don't want to lose

1 competitive advantage, it's commercial sensitive
2 information.

3 Given the extent to which MPI does have a
4 corner on the market for the Extension business, do those
5 two (2) considerations still hold water?

6 MS. MARILYN MCLAREN: Sure they do in the
7 Corporation's view, yeah.

8 MR. WALTER SARANCHUK: Why?

9 MS. MARILYN MCLAREN: Because it is a
10 competitive market and circumstances can change. People
11 -- companies enter and leave for any number of different
12 reasons, and the competitive environment can change with
13 little notice, and based on information that they
14 consider important or they consider that they have
15 tomorrow or they don't have today, whatever.

16 I mean, I think -- I think Manitobans are
17 well served by the program. I think we are an
18 environment where, unlike other jurisdictions, where
19 competitive automobile insurance as a whole is regulated,
20 it doesn't make sense, it's not appropriate, it's not in
21 our Extension customers' best interests to have
22 information disclosed that competitors are not subject to
23 the same disclosure and not accountable in any sort of
24 regulatory framework for how they might use that
25 information, or, in fact, what their own information is.

1 MR. WALTER SARANCHUK: Isn't it a fact,
2 and I'm going by recall here, that in the last two (2),
3 three (3), four (4) years information was provided by MPI
4 to show that the Extension business sold by its
5 competition was somewhere in the order of a million
6 dollars?

7 MS. MARILYN MCLAREN: No, I think it's
8 closer to about \$10 million --

9 MR. WALTER SARANCHUK: All right.

10 MS. MARILYN MCLAREN: -- 8 to 10 million,
11 I think, from the Superintendent of Insurance reports.

12 MR. WALTER SARANCHUK: All right, so of
13 there's an order of 8 to \$10 million, how does that
14 compare to MPI's figures? You can talk historically.

15 MS. MARILYN MCLAREN: Sure. Extension is
16 a little over \$100 million. SRE is maybe approximately
17 half that.

18 MR. WALTER SARANCHUK: And so what's the
19 competitive advantage that you're concerned about?

20

21 (BRIEF PAUSE)

22

23 MS. MARILYN MCLAREN: There is
24 competition. They make decisions. They decide when to
25 enter, they decide on what basis to enter. Sometimes

1 they come in, stir things up and then leave again, you
2 know. So I mean, I think the competitive situation can
3 change and that's what it is that the Corporation would
4 be concerned about and believes it would need to protect
5 the interests of those ratepayers from what would be
6 characterized as certainly not a level playing field.

7 MR. WALTER SARANCHUK: As you know,
8 banks, financial institutions, insurance companies
9 provide, from time to time, forecasts, one (1) year,
10 three (3) year, five (5) year forecasts as to what they
11 anticipate will be the result of their business
12 undertaking in that period of time. That could well be
13 considered as being commercially sensitive, but these are
14 forecasts. So there's not anyone who's going to hold
15 them to these forecasts.

16 Why would the Corporation not agree to
17 provide kind of information to the Public Utilities Board
18 in respect of the Extension side?

19 MS. MARILYN MCLAREN: Well, I -- you
20 know, I guess in the example that you gave, whether it is
21 the banks do it or insurance companies do it, they would
22 be doing it as peers in a competitive marketplace,
23 regulated by, you know, whichever, OSSFI or -- or
24 whatever. So it's a level playing field. If we are
25 disclosing information about competitive lines of

1 business, unlike anyone else competing with us, I think
2 that's not appropriate.

3

4

(BRIEF PAUSE)

5

6 MR. WALTER SARANCHUK: You say "not
7 appropriate." Why would it be inappropriate for you to
8 provide, say at the next GRA, a forecast for the Public
9 Utilities Board that you anticipate that in the year
10 2011/'12 insurance year you expect to make a hundred and
11 fifty (150) -- you sell \$150 million worth of Extension
12 insurance.

13

Is there a problem with that?

14

15

MS. MARILYN MCLAREN: Forecast of
revenues only?

16

MR. WALTER SARANCHUK: That'd be a --

17

18

MS. MARILYN MCLAREN: Would that be
helpful to the Board?

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MR. WALTER SARANCHUK: Well, I'm asking
you what would be a -- would it be a problem for you to
provide estimates to the Board of what you anticipate
will be the results on the Extension side, say one (1) or
three (3) or five (5) years out, over an outlook period,
generally in terms of premiums written, overall expenses
and a forecasted bottom line? Is there any issue there?

1 MS. MARILYN MCLAREN: I think it's the
2 bottom line, right? It's the forecast bottom line that--

3 MR. WALTER SARANCHUK: Well, then just
4 give the premiums and the expenses.

5 MS. MARILYN MCLAREN: Yeah. Well, I
6 don't think -- you know, it -- it -- it doesn't do our
7 Extension customers any good to introduce the potential
8 for volatility in that market when we would be sharing
9 information and allowing other -- allowing competitors to
10 make decisions based on that information when they're not
11 subject to the same rules of the game.

12 MR. WALTER SARANCHUK: Putting yourself
13 in the shoes of the CEO at Wawanesa, if it saw -- if he
14 saw that, in 2011/'12, MPI estimated that it was going to
15 take in \$150 million worth of premiums and it was going
16 to have \$125 million dollars worth of expenses, and it
17 thought that it would make \$25 million on that side, if
18 you were at Wawanesa are you saying that you would have
19 then some sort of competitive advantage?

20 MS. MARILYN MCLAREN: He might decide to
21 change his mind and enter the auto extension business in
22 Manitoba. He's not there today.

23 MR. WALTER SARANCHUK: So that's what
24 your concern and, if I can put the term, fear is?

25 MS. MARILYN MCLAREN: It -- it really is

1 a conceptual and a principle-based argument against doing
2 it. It's from a position of principle and conceptual
3 framework. If there was some sort of regulatory
4 framework for anyone entering into extension automobile
5 business in this province, that would be fair game.

6 MR. WALTER SARANCHUK: What -- do you
7 know what other companies sell to non-corporate and non-
8 rental pass -- non-rental passenger vehicle owners?

9 MS. MARILYN MCLAREN: For the most part--

10 MR. WALTER SARANCHUK: Of course, I'm
11 talking about Extension insurance.

12 MS. MARILYN MCLAREN: It -- it's, for the
13 most part, similar to what -- most of it is really
14 extended liability and -- and deductible buy-down, things
15 like that. Generally speaking, there is -- we have a
16 more comprehensive set of products on the Extension line
17 of business, a broader array of coverages available to
18 people than the competition the last time I checked.

19 MR. WALTER SARANCHUK: Given that you are
20 going to be a little more generous in terms of the
21 commissions to be paid to brokers for sale of Extension
22 coverage, would you not consider that a greater incentive
23 to sell that product?

24 MS. MARILYN MCLAREN: The fact that, as
25 far as I know anyway, our commission on Extension is

1 higher than others pay on commission on Extension?

2 MR. WALTER SARANCHUK: Well, in effect,
3 you are going to be paying them more, I understand, in
4 this new arrangement that you've made with them for the
5 sale of Extension coverage?

6 MS. MARILYN MCLAREN: Well, more than we
7 used to, have been now for, I guess, about a year, we've
8 been paying more than we used to. I'm not sure that it's
9 more than anyone else pays. But, sure, that was
10 purposeful. I think we've talked about it here in the
11 past, it was purposeful on the part of the Corporation.

12 Without having done that, we would be -- I
13 think we would have been at more risk of losing some of
14 that business through the staggered renew -- through the
15 streamlined renewal process.

16 MR. WALTER SARANCHUK: You know that the
17 PUB takes into account, whether you like it or not, the
18 MPI's overall financial wellness. What assurance can the
19 Board derive when it looks at the Extension and SRE
20 history and what assurance can it derive that those two
21 (2) lines of business will continue to be profitable?

22 MS. MARILYN MCLAREN: I think the
23 historical perspective is something that the Board should
24 use as indicative of future intention. I think the
25 stability that has been demonstrated for about ten (10)

1 years now in the Extension line of business -- Extension
2 did lose money for several years in a row back in the mid
3 '90s. That has been turned around significantly, which
4 has been demonstrated in the annual reports.

5 I guess more to the Corporation's point on
6 this, and recognizing you said whether we like it or not,
7 the Board does take it into account, I guess I would take
8 it to the other side of that and say, and -- and if it
9 doesn't, then what, right.

10 If -- if the Corporation really has some
11 financial challenges with this Extension book of
12 business, I -- I can say pretty confidently, as long as
13 I'm president, we won't be here talking about a transfer
14 of funds from the RSR to -- to boost up Extension
15 retained earnings.

16 So -- and that's the issue that we've
17 always had is, I understand the concept of looking at the
18 overall financial strength, but then what? What does
19 that mean? What do you with that knowledge or position
20 or assessment?

21 MR. WALTER SARANCHUK: Just before I let
22 go of that one (1) area that I broached with you, would
23 the Board -- I'm sorry, would MPI be prepared to review
24 its position and in terms of future filings give this
25 Board, the Public Utilities Board, some forecasts in

1 respect of future operations of the Extension side?
2 Anything?

3

4 (BRIEF PAUSE)

5

6 MS. MARILYN MCLAREN: We will take that
7 under advisement. We will revisit the position.

8 MR. WALTER SARANCHUK: Okay. And let me
9 ask you, with reference to the evidence that you just
10 gave about so long as you are the CEO there won't be any
11 transfers from, I think you said, the Basic side to the
12 Extension side, that doesn't mean the reverse is true,
13 does it?

14 MS. MARILYN MCLAREN: No, not
15 necessarily. You know, we -- we made some statements in
16 one of the IRs about perspectives or considerations with
17 respect to transfers from Extension lines to Basic RSR.

18 MR. WALTER SARANCHUK: And let me just
19 ask you: Goal Number 5, which is set forth in your
20 annual report and the quarterly financial reports, is,
21 quote:

22 "Retained earnings and rate
23 stabilization reserve will be
24 maintained within established target
25 levels." End of quote.

1 But if you've got something that comes to mind in a
2 different way?

3 MS. MARILYN MCLAREN: No, I think the
4 only things that we have handy that come to mind are --
5 are the costs of the -- the initiatives that are related
6 to Basic that we've talked about here before.

7 MR. WALTER SARANCHUK: Okay. So that on
8 an overall basis it wouldn't reach \$200 million but
9 you're thinking that in terms of the Basic side, would
10 that be some \$77 million?

11 MS. MARILYN MCLAREN: Yes, that's right.

12 MR. WALTER SARANCHUK: And the transfer
13 into the Extension Development Fund is something in
14 excess of that by some \$15 million.

15 Is that correct?

16 MS. MARILYN MCLAREN: That sounds about
17 right. The Extension Development Fund isn't paying any
18 of the costs of the Basic projects.

19 MR. WALTER SARANCHUK: But they are
20 business -- process review projects?

21 MS. MARILYN MCLAREN: Definitely.

22 MR. WALTER SARANCHUK: So we are looking
23 at something in the order of a hundred and sixty-nine
24 (169), \$170 million, as opposed to the two hundred
25 thousand (200,000) that I -- \$200 million that I had -- a

1 hundred and -- \$169 million as opposed to \$200 million
2 that I had mentioned? Which --

3 MS. MARILYN MCLAREN: No.

4 MR. WALTER SARANCHUK: -- doesn't include
5 mainframe decommissioning?

6 MS. MARILYN MCLAREN: No. And -- and I
7 don't think you can just take the 79 million that's been
8 in the EDF so far and assume that that's -- you know, I
9 mean there -- there may be other things funded through
10 there that are not part of BPR. There may be more money
11 added to pay in excess of that to cover BPR. We don't
12 have that information here, we haven't been talking about
13 that.

14 You -- you know how much is in the EDF,
15 you know how much we spent that has run through the EDF,
16 and you know what the Basic project costs have been.
17 That's really all you've got. You can't really add those
18 two (2) together.

19 THE CHAIRPERSON: And that doesn't
20 include capital expenditures either, does it?

21

22 CONTINUED BY MR. WALTER SARANCHUK:

23 MR. WALTER SARANCHUK: Does that include
24 capital expenditures?

25 MS. MARILYN MCLAREN: Yeah, it would,

1 yeah.

2 MR. WALTER SARANCHUK: Could you just
3 refresh our memories? What is the purpose of the
4 Extension Development Fund?

5 MS. MARILYN MCLAREN: We'll just read it
6 to you. Just give us a sec.

7 MR. WALTER SARANCHUK: I'm surprised you
8 have to have to refresh your memories.

9 MS. MARILYN MCLAREN: Well, Mr.
10 Saranchuk, we found that varying even slightly from the
11 particular words can sometimes cost us.

12

13 (BRIEF PAUSE)

14

15 MR. WALTER SARANCHUK: While that is
16 being sought, let me ask you the -- whether or not you
17 agree that the cost allocation report filed by Deloitte,
18 or at least Deloitte's cost allocation report as filed by
19 the Corporation, does contemplate increased allocation of
20 those costs to the Basic side in respect to DVL, about \$4
21 million?

22 MS. MARILYN MCLAREN: Definitely more
23 costs, and about \$4 million. If, in fact, we had used it
24 '09, it would have cost Basic about \$4 million more. I'm
25 not sure that all 4 million would have come from DVL, so

1 to speak, but Basic would pay about 4 million more if we
2 had used it in '09.

3 MR. WALTER SARANCHUK: So let me ask you
4 then, to whom or to what independent entity would MPI
5 then have to account for the continuing BPR costs,
6 particular pertaining to DVL?

7

8 (BRIEF PAUSE)

9

10 MS. MARILYN MCLAREN: Can you repeat the
11 question?

12 MR. WALTER SARANCHUK: Yes. To whom or
13 what independent entity does MPI have to account to in
14 respect of continuing BPR costs, particularly as
15 pertaining to DVL?

16 MS. MARILYN MCLAREN: Just like every
17 other aspect of the Corporation other than Basic
18 compulsory rate -- I mean there -- there's a range of
19 bodies to whom we're accountable -- clearly, the
20 government.

21 We are accountable to the government for
22 every aspect or -- of administration, of the legislated
23 responsibilities that we've been given by the
24 legislature, the Standing Committee of the Legislature.
25 The Auditor General pays attention to what MPI is doing.

1 So there -- there's a range of other
2 bodies to whom we're accountable, but specifically, with
3 respect to our -- the -- the satisfaction with which we
4 achieve the -- with which we administer the programs
5 given to us to administer is the government's job to
6 assess that and the broader part of that within that
7 would be the Standing Committee of the Legislature on
8 Crown corporations.

9 MR. WALTER SARANCHUK: And you interpret
10 that as being independent?

11 MS. MARILYN MCLAREN: Independent from
12 the Corporation? For sure.

13 MR. WALTER SARANCHUK: Even though the
14 Corporation is a Crown agency?

15 MS. MARILYN MCLAREN: But a Crown agency
16 that operates within a very specified legislated mandate.

17 MR. WALTER SARANCHUK: Mr. Palmer, you
18 had some reference there to the EDF?

19 MR. DONALD PALMER: Sure. The EDF fund
20 project's undertaken to maximise the opportunities
21 presented by the 2004 merger of the Corporation and the
22 division of driver and vehicle licensing.

23 MR. WALTER SARANCHUK: Thank you. Now
24 just a couple of questions to wind up. Ms. McLaren, if
25 the Corporation has not already done so, is it prepared

1 to undertake any discussion at all with government
2 relative to the expansion of PUB oversight, or is that
3 something that MPI rejects totally out of hand?

4 MS. MARILYN MCLAREN: I guess I would
5 answer that by saying the Corporation's position has not
6 changed as we put in the record when we filed this rate
7 application.

8 MR. WALTER SARANCHUK: And, of course,
9 MPI appreciates that in a situation involving a Crown
10 agency whose operations are essentially -- I'll use that
11 word advisedly given your evidence -- a monopoly, the
12 public interest is best served by an independent proxy
13 for competition, namely in independent administrative
14 tribunal.

15 Do you agree with that?

16 MS. MARILYN MCLAREN: No, I don't, not
17 for what are, in your words, essentially monopolies.

18 MR. WALTER SARANCHUK: If we delete those
19 words and say, "in respect of the operations of MPI,"
20 would you agree?

21 MS. MARILYN MCLAREN: I would say with
22 respect to the compulsory monopoly Basic insurance
23 program oversight of this administrative tribunal, the
24 Public Utilities Board, has been good for Manitobans,
25 good for ratepayers, good for the Corporation. But it's

1 a -- a compulsory program, it is a monopoly and that's
2 the basis on which I believe that it has worked well for
3 the ratepayers, for the stakeholders.

4 MR. WALTER SARANCHUK: I have no further
5 questions, Mr. Chairman.

6 THE CHAIRPERSON: Thank you very much.
7 Oh, Ms. Kalinowsky...?

8 MS. KATHY KALINOWSKY: A couple of things
9 to close off with here. During Mr. Saranchuk's exchange
10 the back row piled up a number of undertakings. It looks
11 much more ominous than it actually is. There's -- there
12 are only six -- six (6) of them, so I wanted to hand
13 those out and have those marked as exhibits.

14 I also want to remind Mr. Dawson, I see
15 him sitting at the back there, but there -- there is one
16 (1) outstanding item that I believe that he said that he
17 would clarify and that's with respect to the Order of the
18 Board with respect to the motion that the Manitoba Bar
19 Association put forward for the disclosure of the minutes
20 from the FINEOS Users Group.

21 MR. ROBERT DAWSON: Just to be clear,
22 there's a pending order from the Board requiring MPI to
23 produce an answer to Manitoba IR-146 and I've repeated in
24 Second Round and, obviously, that information is no
25 longer required. So to the extent that we moved that,

1 we're prepared to withdraw it, although technically I
2 think the Board made the order. So Ms. Kalinowsky has
3 moved to vary the order so I suppose on overall we can
4 just drop that and she can withdraw her variation.

5 MS. KATHY KALINOWSKY: I concur.

6 THE CHAIRPERSON: Hearing no opposition.

7 MS. KATHY KALINOWSKY: Okay. With
8 respect to that, I do have the exhibits to be marked here
9 and we can pass them out afterwards but I didn't want to
10 go behind Board Counsel while he was conducting his
11 cross-examination.

12 But Exhibit Number 46, I would recommend
13 be Undertaking Number 41, which is the correcting of the
14 degrees of freedom in CAC-1-28; Exhibit Number 47 would
15 be Undertaking Number 45, which is Transport Canada Road
16 Safety.

17

18 (BRIEF PAUSE)

19

20 THE CHAIRPERSON: Ms. Kalinowsky, while
21 they're passing out to the others, just to move things
22 along, Undertaking 41 is...?

23 MS. KATHY KALINOWSKY: Would be, yeah,
24 the correction of the degree of freedoms and I would
25 suggest that be marked as MPI Exhibit Number 46.

1 THE CHAIRPERSON: Okay.

2

3 --- EXHIBIT NO. MPI-46: Response to Undertaking 41

4

5 MS. KATHY KALINOWSKY: And Undertaking
6 Number 45, which is Transport Canada Road Safety 2010
7 Vision Targets for Motorcyclists, I would recommend that
8 be marked as MPI Exhibit Number 47.

9 THE CHAIRPERSON: Okay.

10

11 --- EXHIBIT NO. MPI-47: Response to Undertaking 45

12

13 MS. KATHY KALINOWSKY: Undertaking Number
14 42, which is the 5 percent significance level for non HTA
15 units, I would recommend that be marked as MPI Exhibit
16 Number 48.

17

18 --- EXHIBIT NO. MPI-48: Response to Undertaking 42

19

20 MS. KATHY KALINOWSKY: Undertaking Number
21 44, which is a comparison of actual versus projected
22 motorcycle incurred losses, that should be MPI Exhibit
23 Number 49.

24

25 --- EXHIBIT NO. MPI-49: Response to Undertaking 44

1 MS. KATHY KALINOWSKY: And finally,
2 Exhibit Number 50 would be Undertaking Number 43 which is
3 the recent Gartner Implementation Report.

4

5 --- EXHIBIT NO. MPI-50: Response to Undertaking 43

6

7 THE CHAIRPERSON: Closed on an even
8 number, 50.

9 MS. CANDACE EVERARD: Mr. Chairman, I was
10 just going to propose for the record a process which
11 could be used if there are any questions arising from
12 these exhibits that have just been filed.

13 I think the intention is that on Monday
14 the 9th when we return, it'll be closing comments by
15 myself and most of the Intervenors and I'll come back to
16 that distinction in a moment, but what I'm thinking is,
17 if anybody has questions for those that aren't here --
18 they can read this in the transcript -- those questions
19 should be put to the Corporation in writing by noon on
20 Thursday and then the Corporation should respond by the
21 end of business on Friday.

22 That gives each side a day and a half and
23 then closing -- people can review the answers over the
24 weekend and closings on -- on Monday.

25 It's just a proposal for comment by those

1 that are interested or may wish to make comment. But I -
2 - it's my thought that there should be some process in
3 place before we all leave today.

4 THE CHAIRPERSON: Do we have a sense
5 whether the Board and the Intervenors will all be able to
6 make closing statements on Monday?

7 MS. CANDACE EVERARD: The plan, Mr.
8 Chairman, is that I will make my closing first off,
9 followed by Mr. Williams, Mr. Dawson, CAA if they have
10 closing comments, which I think they will.

11 And then Mr. Oakes will be out of province
12 on Monday. So there was a discussion between Mr. Oakes
13 and Ms. Kalinowsky that he could make his closing on the
14 morning of Thursday, the 12th, on an understanding
15 between the two (2) of them with respect to content, and
16 then Ms. Kalinowsky will make her closing thereafter on
17 the 12th. So that's the -- the game plan going forward.

18 THE CHAIRPERSON: Okay. That sounds
19 fine. Thank you.

20 MS. KATHY KALINOWSKY: And if -- if Mr.
21 Palmer could just briefly talk to Undertaking Number 43
22 which is the Gartner Implementation Report?

23 MR. DONALD PALMER: The Gartner
24 Implementation Report was -- talked about all BPR
25 projects so we have gone through this Report and -- and

1 essentially redacted any of the non-Basic -- Basic
2 projects from this.

3 So, for instance, if you go to page 4 of
4 the handout, you will see a big black box. That is not a
5 photocopy error or -- or one (1) that there are -- that
6 the printing just didn't show up. It's been redacted
7 from the report because it is a non-Basic project.

8 THE CHAIRPERSON: Okay. Thank you.

9 Ms. Kalinowsky, assuming that there are
10 some questions that may come out of this round here,
11 you're saying, Ms. Everard, that they're supposed to be
12 in by Thursday?

13 MS. CANDACE EVERARD: It's just a
14 suggestion Mr. Chairman, thinking we have three (3)
15 business days after today before we reconvene on Monday.
16 So give a day and a half to each side, that's my only
17 thinking and I'm -- it's just a suggestion.

18 THE CHAIRPERSON: Will you have enough --
19 will MPI have enough time to be able to respond on the --
20 I guess it will only leave only Friday.

21 MS. KATHY KALINOWSKY: All depends on how
22 many questions there are. If there's only a handful of
23 questions, yes, there is time to respond.

24 If there's significant numbers of
25 questions, then, no, there won't be time to respond.

1 That's all I can answer in response to your question,
2 sir.

3 THE CHAIRPERSON: Well, then we'll work
4 on the assumption that all goes well because it might be
5 then if there are any questions, they come in earlier
6 than Thursday too. So we may have that advantage, as
7 well. After all, this is only Tuesday. It's only
8 Tuesday. Okay.

9 So this brings to an end the evidence.
10 Are there questions or --

11 MS. CANDACE EVERARD: The only question
12 would be if Ms. Kalinowsky has any re-direct.

13 THE CHAIRPERSON: I'm sorry, Ms.
14 Kalinowsky. Do you have any re-direct?

15 MS. KATHY KALINOWSKY: No.

16 THE CHAIRPERSON: It seems like a popular
17 answer at this stage.

18 Okay. This brings to an end the evidence
19 phase of the Hearing. The Board thanks MPI's panel, and
20 -- and the witnesses we had, and the presenters, and all
21 participants, whether direct or indirect. We fully
22 understand all the work that goes on to allow this
23 Hearing to proceed. Filing of all this information so
24 quickly is quite helpful. It's a good contribution to
25 the Board's understanding of the situations.

1

2 --- Upon adjourning at 4:11 p.m.

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6 Certified correct,

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10 _____
Cheryl Lavigne, Ms.

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