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MANITOBA PUBLIC UTILITIES BOARD

RE:

MANITOBA PUBLIC INSURANCE  
DRIVER SAFETY RATING

Before Board Panel:

Graham Lane - Board Chairman  
Len Evans - Board Member

HELD AT:

Public Utilities Board  
400, 330 Portage Avenue  
Winnipeg, Manitoba  
April 21, 2009

Pages 907 to 1030

APPEARANCES

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1 --- Upon commencing at 9:01 a.m.

2

3 THE CHAIRPERSON: Okay, good morning,  
4 everyone. Welcome back. We've reached the closing  
5 remarks segment of the Hearing and first up, is Board  
6 counsel, Ms. Candace Everard.

7 MR. KEVIN MCCULLOCH: Mr. Chairman, if I  
8 could, before Ms. Everard starts, I had mentioned to her  
9 that I thought it was -- it would be appropriate to put  
10 on the record that Ms. McLaren is not able to be here  
11 this week, as a matter of fact; she's out of town. So  
12 the only member from the panel who will be assisting  
13 counsel for the rest of the week is Mr. Palmer.

14 THE CHAIRPERSON: That is fine. Now if  
15 we were the OEB, we would have a large giant screen on  
16 the side and we could watch her at great distance but we  
17 -- we are not.

18 Okay, Ms. Everard.

19

20 CLOSING SUBMISSIONS BY MS. CANDACE EVERARD:

21 MS. CANDACE EVERARD: Thank you, Mr.  
22 Chairman. Members of the Board, ladies and gentlemen,  
23 good morning. At the special Hearing held April 6th  
24 through 15th, 2009, the Public Utilities Board heard  
25 testimony addressing the proposed new Driver Safety



1 applying for changes to the approved 2009 compulsory  
2 vehicle rates.

3                   The Driver Safety Rating program has been  
4 designed with three (3) primary goals: the first, to  
5 provide higher reward for the safest drivers; the second,  
6 to provide stronger incentives for higher risk drivers to  
7 improve their behaviour; and the third, to improve  
8 drivers' understanding of how their driving behaviour  
9 affects the amount they pay and will pay for auto  
10 insurance.

11                   In implementing the new system, the  
12 Corporation has stated that it was critical to proceed  
13 cautiously to insure that the program that affects every  
14 Manitoba driver and vehicle owner is fair, equitable and  
15 provides some strong incentives for safe driving  
16 behaviour.

17                   The Corporation indicated that the  
18 intention is to introduce the new program in a way that  
19 will mitigate against otherwise immediate rate increases  
20 for high-risk drivers, thus providing an opportunity for  
21 such drivers to adjust their driving behaviour before  
22 they are assessed higher penalties.

23                   The Corporation also stated that it was  
24 equally important to reward long-term safe driving  
25 behaviour with lower rates immediately to increase public

1 acceptance of the new program. The rewards provided on  
2 transition were predicated on the premise that some sort  
3 of overall rate decrease would be necessary in the  
4 upcoming 2010 General Rate Application to be filed in  
5 June in the absence of less revenue brought about by the  
6 transition to DSR.

7           The Corporation has indicated that the  
8 current forecast for 2010/'11 and 2011/'12 provided at  
9 the last GRA indicated that an overall 2 percent rate  
10 decrease would have been the subject of the upcoming GRA  
11 to be filed in June, excepting for the effect on revenue  
12 through the DSR proposal.

13           The Corporation indicated that without the  
14 DSR program, the 2010/'11 net income projection was \$6.6  
15 million and the net income projection for 2011/'12 was in  
16 the order of \$27 million.

17           The Corporation further indicated that the  
18 emerging claims experience indicated that the new  
19 forecasts would be similar to the previous forecasts.  
20 The Corporation also confirmed on cross-examination that  
21 it will not be seeking a rate increase in the upcoming  
22 2010 GRA.

23           As a result of the transition to the new  
24 DSR scale, and in lieu of applying for a 2 percent rate  
25 decrease in the next GRA, the Corporation incorporated

1 rate decreases for the safest -- safest drivers into the  
2 DSR transition strategy while not increasing premiums for  
3 drivers with demerits.

4           The initial placement rules were forecast  
5 through the Corporation's rate model to calculate the  
6 impact on driver and vehicle premiums. The model used  
7 the 2009 approved driver and vehicle premiums.

8           The rate model indicates as a result of  
9 the transition an overall basic revenue decrease of some  
10 2.6 percent, or \$18.2 million. Upon transition, driver  
11 premiums are forecast to decrease by 31.3 percent, or  
12 \$11.3 million, and vehicle premiums are forecast to  
13 decrease by 1 percent, or \$6.8 million. As a result of  
14 the adjustments, the Corporation has indicated that 80 --  
15 85.9 percent of drivers will pay lower premiums.

16           As a result of the transition, certain  
17 drivers will benefit as set out in the response to  
18 question 2 posed by the Board in the Information Request  
19 exchange.

20           For example, individuals with five (5)  
21 merits, and five (5) years of claims-free driving will be  
22 transitioned to DSR Level 10, and that's approximately 46  
23 1/2 percent of drivers. This is at the top of the scale.

24           Upon transition it is proposed that the  
25 driver premium, which is twenty dollars (\$20) under the



1 existing system, will be reduced to either zero dollars  
2 (\$0) if an individual has a registered vehicle, or five  
3 dollars (\$5) if they do not. There will be no change in  
4 the vehicle premium discount of 25 percent.

5 Drivers with four (4) merits and five (5)  
6 years claims-free driving will be transitioned to DSR  
7 Level 9, and this is about 6 1/2 percent of drivers. It  
8 is proposed that upon transition, the driver premium,  
9 which is twenty-five dollars (\$25) under the existing  
10 system, will be reduced to either zero dollars (\$0) or  
11 five dollars (\$5), depending on whether the person owns a  
12 vehicle. The Corporation is proposing no change in the  
13 vehicle premium discount of 25 percent for these  
14 individuals.

15 Drivers with three (3) merits and five (5)  
16 years of claims-free driving will be transitioned to DSR  
17 Level 8, and this is just over 5 percent of drivers. On  
18 transition, the driver premium, which is thirty dollars  
19 (\$30) under the existing system, is proposed to be  
20 reduced to either zero dollars or five dollars (\$5).  
21 There will be no change -- or there is no change proposed  
22 in the vehicle premium discount again currently at 25  
23 percent.

24 Individuals who have zero merits and  
25 between one (1) and five (5) years of claims-free driving

1 will be transitioned to the DSR level that corresponds to  
2 their number of years of claims-free driving. These  
3 individuals will benefit to varying degrees through both  
4 lower driver premiums and higher vehicle premium  
5 discounts than that to which they are entitled under the  
6 existing system.

7                   Those drivers who are transitioned to  
8 twenty (20) demerit levels under the DSR system will  
9 receive a rate increase of seventy-four dollars (\$74).

10                   With respect to the RSR, or rate  
11 stabilization reserve, as a result of the transition to  
12 the new system the Corporation is forecasting to draw on  
13 the RSR in the order of some \$90.8 million in the years  
14 2009/'10 through 2013/'14, and that figure is derived  
15 from the answer given by the Corporation to Question  
16 22(b) posed by the Board in the Information Request  
17 exchange.

18                   With the introduction of the streamlined  
19 renewal process whereby a driver is required to renew  
20 their licence only every five (5) years, broker  
21 commissions are forecast to reduce to 2 1/2 percent from  
22 5 percent of premiums by 2011/'12.

23                   The impact of reduced broker commission  
24 mitigates to a degree the reduction in the RSR due to the  
25 DSR system. Over the years 2009/'10 through 2013/'14,

1 broker commissions are forecasted to fall by some \$41.2  
2 million.

3                   On a global basis with no assumed  
4 reductions in claims costs, the RSR is forecast to be  
5 \$201.8 million by 2013/'14 versus \$255 million if the DSR  
6 were not implemented. In effect, as a result of the DSR  
7 and the streamlined renewal process, the RSR is drawn  
8 down in the order of some \$53.2 million.

9                   The Corporation has stated that the use of  
10 the RSR funds would not have any implications on the rate  
11 protection afforded by the RSR as the amounts being drawn  
12 upon are in excess of the RSR range established by the  
13 PUB.

14                   In 2013/'14 the current Board-approved RSR  
15 range is between eighty-six (86) and \$132 million, and  
16 the RSR forecast is for a balance of \$201.8 million.

17                   The Corporation has stated in its response  
18 to Question 21 posed by the Board in the Information  
19 Request exchange that,

20                   "The short-term appropriation to  
21 transition the new broker commission  
22 and provide safe driving incentives  
23 does not affect the ability of the RSR  
24 to protect motorists from rate  
25 increases made necessary from non-

1                   recurring unexpected events."

2                   The Corporation did not provide forecasts  
3 through 2013/'14 setting out its overall financial  
4 strength, including details of the retained earnings of  
5 extension and SRE. The Corporation opined that any  
6 information, including financial information related to  
7 the competitive extension and SRE lines, was not germane  
8 to the DSR implementation.

9                   With respect to the financial results of  
10 the Corporation, the updated financial picture for  
11 2008/'09 was provided in this application. In the last  
12 GRA, as reflected in TI-12, Basic was forecasted to have  
13 a net loss of some \$2.5 million in 2008/'09, which  
14 included a transfer of \$17 million from the IIF, or  
15 Immobilizer Incentive Fund.

16                   In the current DSR filing, which reflected  
17 actual information to November 30th, 2009 and forecasted  
18 results for the last quarter of 2008/2009, the  
19 Corporation revised its prior forecast to reflect a net  
20 loss of \$5.3 million, and that is set out in TI-1.

21                   The updated forecast also reflected a  
22 reduction in claims costs of \$26.4 million attributable  
23 to lower comprehensive claims and reductions in claims  
24 reserves, as well as a \$5 million reduction in operating  
25 expenses due to delaying projects. And as well, there

1 was a revised estimate of investment income of \$49.7  
2 million, which was down from \$86.9 million, so a  
3 reduction of about 37.2 million.

4           The Corporation has provided to the Board  
5 by way of undertaking, and this is the Corporation's  
6 Exhibit 10, the fourth quarter unaudited results for the  
7 twelve (12) months ending March 31st, 2009. That report  
8 reflects a \$13.8 million improvement in net income for  
9 Basic, which is a forecasted net income of \$8.5 million  
10 for rate setting purposes, as opposed to the \$5.3 million  
11 dollar loss forecast in the DSR application.

12           Of note, the up -- the update indicated  
13 that investment income was further reduced by  
14 approximately \$45 million with only \$4 million in  
15 investment income having been realised by Basic.

16           The Corporation attributed the drop in  
17 investment income to four (4) major factors, the first  
18 being losses on foreign exchange, the second being  
19 realized losses on equity investments, the third being an  
20 impairment of write-downs on investments, the fourth  
21 being lower interest rates on reinvested funds. And the  
22 reference for those four (4) items are the transcript of  
23 this proceeding at page 867.

24           Even with the lower investment income, the  
25 Corporation still reflected an improved financial result

1 due to a further reduction in claims costs in the fourth  
2 quarter. This reduction was due to lower than forecasted  
3 comprehensive claims resulting from reduced theft counts,  
4 lower PIPP experience in the year, and an IBNR claims  
5 reserve reduction, the details of which will be provided  
6 at the upcoming GRA, and of course IBNR stands for  
7 incurred but not reported.

8           The Corporation has not yet revised its  
9 forecasts for 2009/'10 through 2013/'14 to reflect the  
10 experience in claims costs or investment income during  
11 the fourth quarter.

12           The forecasts also do not reflect any  
13 reduction in claims costs related to safer driving due to  
14 the DSR. In fact, the Corporation has not forecast any  
15 reductions in claims costs as a result of the  
16 implementation of DSR.

17           It has stated though that it holds the  
18 view that claims savings are more likely to be achieved  
19 as a result of the DSR system compared to the old system.  
20 The Corporation hopes that with better information  
21 regarding the financial impact of causing accidents and  
22 convictions, along with an improved method for measuring  
23 driver risk, drivers may be self-interested, forward  
24 thinking, and disciplined enough to consistently drive  
25 more cautiously.

1                   There is no evidence, however, from a  
2 behaviour modification research perspective that the  
3 Corporation can rely upon. There is, therefore, no  
4 reliable evidence to predict the timing or amount of any  
5 claim savings that may arise from the driver safety  
6 rating system.

7                   Section SM.5 of the DSR Application  
8 summarizes the technical foundation for the Corporation's  
9 DSR proposal. It outlines three (3) analytical stages as  
10 follows:

11                   The first is testing predictability. The  
12 Corporation used actual historical at-fault claims  
13 frequency experience for a recent insurance year  
14 stratified by the number of years free of at-fault claims  
15 and/or minor convictions at the start of that insurance  
16 year and confirmed that a driver's prior claims and  
17 conviction record is predictive of future at-fault claims  
18 frequency.

19                   A further at-fault claims frequency  
20 analysis stratified by the number of at-fault claims and  
21 minor convictions of the -- at the start of the insurance  
22 year and the year prior confirmed that the risk of claims  
23 occurring increases with the number of recent at-fault  
24 claims and minor convictions and that a scale-based  
25 approach to reflecting driver risk is more suitable than

1 a one-time penalty approach.

2                   The second analytical stage used by the  
3 Corporation was retrospective modelling. In this, the  
4 Corporation used actual historical at-fault claims  
5 frequency experience for the 2001 through 2006 insurance  
6 years, stratified by the proposed DSR level based on the  
7 Corporation's proposal for implementation and evolution  
8 of DSR rating and confirmed that at-fault claims  
9 frequently consistently rises as one moves from the top  
10 end of the merit side through to the bottom end of the  
11 demerit side of the DSR scale.

12                   Through repeated trials, this tool was  
13 instrumental in testing the effectiveness of competing  
14 DSR implementation plans before settling on that which  
15 the Corporation proposed in the Application.

16                   The third analytical stage was prospective  
17 modelling. The Corporation used the results of the  
18 retrospective modelling adjusted for expected differences  
19 in future initial DSR level placements, at-fault claims  
20 frequencies, conviction frequencies, earned drivers and  
21 earned vehicles to project the expected level of total  
22 driver premiums and total vehicle premiums by fiscal  
23 year, assuming implementation, on November 1st, 2009.

24                   A comparison of these results with the  
25 financial forecast from the last GRA, subject to the



1 2008/'09 fiscal year forecast being actualized up to the  
2 end of the third quarter, provides a sense of the  
3 expected bottom line impact of the DSR application,  
4 combined with the pending changes to the broker  
5 commission arrangement through the initial rating period  
6 under DSR and the outlook period beyond.

7           This financial forecasting made no  
8 provision for any change in the frequency or severity of  
9 claims which may arise as a result of DSR implementation,  
10 a possibility which remains an unquantifiable hope of the  
11 Corporation but not a stated objective of the DSR.

12           A driver's movement along the DSR scale is  
13 provided -- prescribed, rather, in the regulations set  
14 out in AI.1 of the Application. Penalties are assessed  
15 based on the seriousness of an offence. For example, an  
16 extreme conviction such as dangerous driving causing  
17 death is assessed at fifteen (15) demerits. A serious  
18 conviction such as impaired driving is assessed at ten  
19 (10) demerits. An at-fault accident carries five (5)  
20 demerits and all minor convictions are assessed at two  
21 (2) demerits.

22           Intersection safety cameras, also known as  
23 "red light cameras," are not incorporated into the  
24 proposed DSR design. This exclusion was based on three  
25 (3) things; firstly, the rationale that there is no way

1 to know who was driving the vehicle at the time of a  
2 camera infraction.

3 Secondly, it is not fair in the view of  
4 the Corporation to assign a higher risk to the driver who  
5 owns the vehicle. And thirdly, the survey results taken  
6 by the Corporation did not favour red light camera  
7 infractions as having DSR application -- implications.  
8 Pardon me.

9 The Corporation has confirmed though, over  
10 the course of the Hearing, that if the driver at the time  
11 of a red light camera infraction could be identified, it  
12 would be appropriate to include those infractions in the  
13 DSR system. And that's referenced at page 382 of the  
14 transcript.

15 Since the introduction of red light  
16 cameras in Winnipeg in 2003, the statistics of Highway  
17 Traffic Act convictions in the city has dropped. The  
18 evidence filed in this Hearing provides that, prior to  
19 the introduction of the cameras, the number of Highway  
20 Traffic Act convictions ranged from some forty-four  
21 thousand (44,000) in 2000 down to twenty-nine thousand  
22 (29,000) in 2001 and back up to about forty-one thousand  
23 (41,000) in 2002.

24 Since the introduction of the cameras in  
25 2003, the number of convictions has declined, ranging

1 from some thirty-two thousand (32,000) in 2003, to about  
2 twenty-one thousand (21,000) in 2007.

3           The Corporation has stated that it is  
4 having ongoing conversations with the Winnipeg Police  
5 Service relative to traffic enforcement and that the 2008  
6 conviction results would likely report higher enforcement  
7 levels. And that's referenced at page 380 of the  
8 transcript of this Hearing.

9           The DSR regulation allows for individuals  
10 on the positive side of the DSR scale to move up one (1)  
11 level for each clean or incident-free year of driving.

12           Individuals on the demerit side of the  
13 scale will move up on an accelerated basis with each year  
14 of incident free driving. In particular, an individual  
15 that has nineteen (19) or twenty (20) demerits will move  
16 up seven (7) steps with one (1) clean year of active  
17 driving.

18           Individuals with between sixteen (16) and  
19 eighteen (18) demerits will move up six (6) steps with  
20 one (1) year of clean driving. Individuals with between  
21 twelve (12) and fifteen (15) demerits will move up five  
22 (5) steps with one (1) year of clean driving.

23           Individuals with between eight (8) and  
24 eleven (11) demerits will move up four (4) steps with one  
25 (1) year of clean driving. Individuals with between

1 three (3) and seven (7) demerits will move up three (3)  
2 steps with a year of clean driving. And individuals with  
3 two (2) demerits will move up two (2) steps with one (1)  
4 year of clean driving.

5 New Manitobans who enter the system are  
6 automatically placed at DSR Level 0, but can provide a  
7 driver's abstract to the Corporation to support their  
8 placement on the scale at a higher level.

9 The DSR program will not eliminate the  
10 practice of high-risk drivers transferring ownership of  
11 their vehicles to family members in order to take  
12 advantage of higher vehicle premium discounts.

13 The Corporation has indicated, however, at  
14 the answer to Question 38(b) posed by the Board in the  
15 exchange of written questions, that the new program will  
16 make this practice less attractive since the drivers will  
17 not always drop from a full 25 percent discount down to  
18 no discount on all of their policies.

19 If a customer is only losing a five (5) or  
20 even a 10 percent discount, it may not be worth their  
21 while to transfer ownership back and forth.

22 The Corporation has also indicated that  
23 its current Enterprise Data Warehouse system with  
24 programming changes could be used to study this practice  
25 by tracking vehicles that are involved in at-fault

1 accidents to see what percentage of those vehicles have a  
2 different owner for the next insurance year. And the  
3 reference for that piece of evidence is at pages 860 and  
4 861 of the transcript.

5           It is provided in the Application at SM.1  
6 Attachment A that over the next four (4) years, the  
7 demerit penalties are forecasted to increase.

8           The Application also reflects that the  
9 merit side of the DSR scale will expand up to fifteen  
10 (15) merit levels over a number of years, and that the  
11 Corporation may seek to introduce higher levels of  
12 vehicle premium discounts, namely 27 1/2 percent at DSR  
13 merit Level 12 in 2012/'13, and 30 percent at DSR merit  
14 Level 13 in 2013/'14.

15           The Corporation has not sought the  
16 approval of this Board for any changes to vehicle and  
17 driver premiums beyond the transition year. Those  
18 premiums will be applied for and reviewed by the Board at  
19 future General Rate Applications.

20           The Corporation has, however, reflected in  
21 the Application details of what it may seek in the  
22 future. For example, at DSR demerit Levels 1 and 2, the  
23 driver premiums are currently forecast to transition from  
24 forty-five dollars (\$45) to a hundred dollars (\$100) by  
25 2013/'14.

1                   At DSR demerit Levels 3 and 4, the driver  
2 premiums are forecast to transition from forty-five  
3 dollars (\$45) to two hundred dollars (\$200) by 2013/'14.

4                   At DSR demerit Level 15, the driver's  
5 premium is forecast to transition from five hundred and  
6 ninety-five dollars (\$595) to fifteen hundred dollars  
7 (\$1,500) by 2013/'14.

8                   And at DSR demerit Level 20, the very  
9 bottom of the DSR scale, the drivers' premiums are  
10 forecast to transition from one thousand and forty-four  
11 dollars (\$1,044) by approximately five hundred dollars  
12 (\$500) per year to twenty-five hundred dollars (\$2,500)  
13 by 2013/'14.

14                   The Corporation has stated that it will be  
15 monitoring the experience of drivers at various DSR  
16 levels. The claims experience will be tracked by DSR  
17 level, and adjusted if necessary to ensure that risk is  
18 reflected in the DSR rates. The resulting adjustments  
19 will result in lower rates for safer drivers, and higher  
20 rates for higher-risk behaviour.

21                   The Corporation has acknowledged that  
22 there is nothing within the transition strategy for the  
23 DSR system that would prevent any sort of change to the  
24 balance between vehicle premiums and driver premiums on a  
25 going forward basis, and that such changes would likely

1 evolve through time. And that's referenced at page 852  
2 of the transcript.

3           The Corporation has acknowledge that it  
4 may prove challenging to move significant revenue from  
5 vehicle premiums onto driver's licence premiums in a way  
6 that would be fair, reasonable, and appropriate. The  
7 Corporation has accepted, however, that there may be  
8 merit for further research on this issue in due course.

9           Manitoba will be transitioning to a one  
10 (1) piece driver's licence document that encompasses all  
11 information currently held on the two (2) part licence.  
12 According to the DSR application, the licence renewal  
13 process will commence in the fall of 2009 and will be  
14 completed by the summer of 2010.

15           Further, while the physical licence will  
16 be issued for a five (5) year period, Manitobans will  
17 continue to make driver licence fee and premium payments  
18 annual, being rated based on their driving record in the  
19 preceding year.

20           In the Corporation's view, this will  
21 improve customer service by eliminating the need for  
22 driver's licence holders to visit an Autopac broker or  
23 the Corporation's customer service centre every year.

24           The Corporation has acknowledged that in  
25 the interim twelve (12) month periods between five (5)

1 year renewals, the role of the broker at the twelve (12)  
2 month point really ceases to exist, other than to accept  
3 cash or cheque payments from those who continue to pay  
4 that way. And that evidence is found at page 398 of the  
5 transcript.

6 The Corporation anticipates that there  
7 will be a reduction of broker business due to the new  
8 streamlined renewal process; however, some individuals  
9 will likely continue to renew their policies annually at  
10 the broker.

11 In that interim period between renewals,  
12 the broker will continue to receive an annual commission  
13 on the automobile insurance renewal even though the  
14 broker may not be required to process the renewal for  
15 that year.

16 Mr. Chairman, subject to any questions  
17 that the panel may have, those are my comments.

18 THE CHAIRPERSON: Thank you, Ms. Everard.  
19 I believe that Mr. Williams has changed places with Mr.  
20 Oakes.

21 Mr. Oakes, are you ready to begin?  
22

23 CLOSING SUBMISSIONS BY CMMG:

24 MR. RAYMOND OAKES: Yes, Mr. Chairman.  
25 Mr. Chairman, by way of introductory remarks, CMMG would



1 like to commend the Corporation on its excellent work in  
2 presenting the DSR application and this specific  
3 opportunity of reviewing the application in great deal  
4 over a two (2) week period at a special Hearing such as  
5 this.

6                   Specifically, the Corporation has done  
7 excellent work in the unification of its systems,  
8 recognizing increased areas of rewarding good drivers and  
9 minimizing dislocation that would otherwise accompany  
10 program change.

11                   As was evident by the course of our  
12 questioning of the MPI panel and our interrogatories, the  
13 Corpora -- or CMMG views that the DSR, however,  
14 perpetuates a significant flaw, and that is the problem  
15 for high-risk drivers registering their vehicles in  
16 another person, likely a family member's name.

17                   Again, to the Corporation's credit and as  
18 evidenced in their response in IR-138 of the Board, the  
19 Corporation did give some consideration to a proposal  
20 where the DSR would address focussing on driver premium  
21 as the basis for its merit and surcharge program.  
22 However, the Corporation did not go further to test and  
23 evaluate alternative role -- alternative models, and  
24 instead, adopted a somewhat dogmatic approach.

25                   Where the Corporation does itself a

1 greater disservice, however, is the somewhat disingenuous  
2 way they responded to questioning concerning this flaw  
3 and the lack of restriction on flipping plates, where  
4 instead of acknowledging the issue of manipulation, as  
5 they did in 2007's GRA and apparently inadvertently this  
6 year in an answer to an IR, instead of this frank  
7 acknowledgment, we saw Ms. McLaren postulate about the  
8 strength of the universality of this system that's  
9 existed since 1971, and how any other system would not  
10 only be contrary to the universality, but be convoluted  
11 with extensive administration costs.

12                 The Corporation admits that they have  
13 little or poor data upon which they could design any  
14 controls, nor did they even want to examine how much  
15 additional revenue would have been raised by having the  
16 poor drivers register the vehicles in their own names or  
17 having some controls on their use.

18                 Instead of acknowledging these limitations  
19 and agreeing to undertake that review and look more  
20 closely at this issue, the Corporation tried to hide  
21 behind a flag of motherhood and apple pie, and generally  
22 dismiss any criticism of their lack of effort in this  
23 area.

24                 Obviously, Mr. Chairman, the CMMG will  
25 request that this Board do order the Corporation to

1 perform a quantitative analysis of the additional premium  
2 revenue that is being avoided, with an examination of  
3 restrictions or a method such as the ICBC method that  
4 follows the vehicle that would capture the risk that  
5 these poor drivers bring to the system.

6           The CMMG is very concerned that twelve  
7 thousand one hundred and eleven (12,111) demerit drivers  
8 do not register a vehicle in their own name.

9           The CMMG wishes to thank Board council for  
10 following up on this area of cross-examination, and for  
11 their creation of the vehicle premium impact scenario  
12 filed as PUB Exhibit Number 11, which demonstrates the  
13 inequities arising from this loophole. Hopefully, with  
14 the computer enhancements that Ms. Everard referred to  
15 this morning, that will assist the Corporation in the  
16 future in dealing with closing that loophole.

17           The CMMG also has a concern that the  
18 Corporation is only paying lip service to their statement  
19 that every driver contribute a premium which is  
20 reflective of the risk that they bear to the system.

21           In our view, non-owners of vehicles only  
22 contributing some five dollars (\$5) a year is not a  
23 reasonable contribution, and someone with five (5)  
24 demerits only paying forty-five dollars (\$45) on the  
25 driver's premium is not reflective of the risk that

1 driver brings.

2                   With respect to the Corporations new  
3 commission arrangements with the insurance brokers, we  
4 are not of the opinion that there has been a proper  
5 containment of costs, and would refer to these  
6 arrangements with IBAM as sweetheart arrangements. We  
7 certainly don't believe they would be brokered with any  
8 of MIP's other industry partners or service providers.

9                   It's difficult to believe that they  
10 continue to pay commission on monies that are not even  
11 being collected by the brokers, and continue to pay at  
12 those -- at these scaled rates despite the decrease of 80  
13 percent of the work to be performed by the brokers.

14                   The CMMG is particularly concerned on this  
15 issue because we have been seeking some relief from the  
16 escalating commission respire -- spiral on increasing  
17 motorcycle insurance for a number of years. The  
18 streamlined renewal process represents an opportunity for  
19 MPI to creatively address this issue.

20                   We would ask the Board to assist MPI with  
21 action in developing alternatives for the sale of  
22 motorcycle insurance without the increasing sizable  
23 commissions which become even more bloated giving the --  
24 given the new streamlined process.

25                   Other relief would involve minimizing the

1 premium impact where one (1) person has the exclusive use  
2 of more than one (1) vehicle, and it is our submission  
3 that any change in the demerit status should be limited  
4 to one (1) vehicle.

5 In closing, Mr. Chairman, we wish to thank  
6 the Corporation, Board council, the Board, and our fellow  
7 Intervenors for their courtesy and consideration of the  
8 viewpoints expressed by the CMMG, and we, of course, will  
9 be, as in past years, making an Application for costs.

10 THE CHAIRPERSON: Thank you, Mr. Oakes.  
11 I guess we will move on to CAA. Ms.  
12 Wankling...?

13

14 CLOSING SUBMISSIONS BY CAA:

15 MS. DONNA WANKLING: Thank you. Good  
16 morning, Mr. Chairman, Member Evans, Board counsel, MPI  
17 panel, fellow Intervenors.

18 For the past week and a half, CAA has had  
19 the opportunity to be part of the Hearings for the new  
20 Driver Safety Rating Application. We would like to  
21 commend MPI for putting together a modelling ability to  
22 examine future potential driving risks on the basis of  
23 driver's past records using information that's presently  
24 in their data base.

25 However, CAA has some concerns with some

1 of the details of the DSR system stemming from the stated  
2 goals, and the manner in which the Corporation hopes to  
3 achieve its stated goals.

4 MPI indicated in their answer to PUB's  
5 Question 1-1 that the three (3) stated goals of the  
6 program are to:

- 7 1. Provide higher reward for the safest  
8 drivers;
- 9 2. Provide stronger incentives for higher  
10 risk drivers to improve their behaviour;
- 11 3. Improve driver's understanding of how  
12 their driving behaviour can affect the amount they pay  
13 for auto insurance.

14 Further to the stated goals, MPI suggested  
15 that the achievement of the goals would be measured by 1)  
16 improved relationship between rate charged and the risk  
17 presented by DSR category; 2) improved understanding of  
18 their customers; and 3) improved public acceptance.

19 From the stated goals and outcomes, we  
20 foresee the following issues: Under the category of  
21 improved relationship between rates charged and the risk  
22 presented to DSR -- by DSR category, the DSR system is  
23 based on the premises of rewarding good driving behaviour  
24 with lower premiums.

25 The first point of contention arises in

1 regards to the fact that upon transition, and up until  
2 2012, there appears to be no change to the rate discounts  
3 proposed that best drivers, i.e., those drivers with five  
4 (5) merits presently, would receive. This system  
5 maintains the status quo and offers no significant  
6 additional rewards to the safest drivers since most of  
7 the money paid by drivers is for the Basic vehicle  
8 insurance and not drivers' licences.

9           On the other hand, in fairness, it is true  
10 that the driver's licence premium for these same best  
11 drivers would be reduced from their present twenty  
12 dollars (\$20) to either zero or five dollars (\$5). In  
13 other words, they'll save from fifteen (15) to twenty  
14 dollars (\$20) per year.

15           In CAA's view, it would appear that the  
16 overall savings per driver in this category is relatively  
17 minuscule compared to the total costs that is paid for  
18 both insurance and driver's licence.

19           With regard to improved understanding of  
20 customers and public acceptance, throughout this Hearing  
21 we have heard that this DSR is being put forward in the  
22 best interest of both public policy and public  
23 acceptance. Much of the documentation for this DSR  
24 Application has reflected the numerous research  
25 initiatives undertaken by the Corporation to prove public

1 acceptance.

2 CAA's concern is that the entire DSR  
3 concept has been pre-sold to the public through MPI's  
4 extensive PR campaign without the public perhaps fully  
5 understanding the implications to their vehicle insurance  
6 premiums.

7 In fact, the public relations campaign  
8 might have done such a good job of convincing Manitobans  
9 of the merits of this new DSR program that public  
10 expectation is increasingly high in terms of the  
11 program's positive and cost-saving attributes, whereas  
12 the ability to actually deliver the perceived savings is  
13 not apparent upon further and closer examination.

14 Based on CAA's experience in this type of  
15 endeavour, the natural inclination is for people to  
16 answer the question, What's in it for me? The public  
17 expectation is that they'll save a ton of money because  
18 I'm a good driver. Since 97 percent of us are good  
19 drivers, according to MPI's acknowledgment, will a saving  
20 of fifteen (15) to twenty dollars (\$20) per year meet the  
21 public's expectation? We think not and we have the  
22 concern that this will present problems for the system in  
23 the future.

24 The lion's share of driving and insurance  
25 costs paid by 97 percent of all drivers isn't their



1 driver's licence; it is their Basic insurance. What many  
2 will not appreciate is that vehicle discounts towards  
3 their Basic insurance will be negatively impacted by  
4 minor Highway Traffic Act violations or any accidents for  
5 which they are deemed to be 50 percent or more  
6 responsible.

7                   CAA believes it will put a significantly  
8 different onus on the vehicle adjustment process where  
9 at-fault is being assessed. Whereas, in the past, the  
10 impact of the adjusting process was whether or not I paid  
11 for deductibles, now it would mean additionally that I  
12 could stand to lose a portion of the vehicle premium  
13 discount I pay.

14                   We believe that once the driving public  
15 gets an understanding of the impact of this new DSR  
16 system, their push-back or response could manifest itself  
17 in a number of ways.

18                   First would be argument and  
19 dissatisfaction with the at-fault assessment process.  
20 We've heard nothing to suggest that MPI is anticipating  
21 this or making the arbitration process any different than  
22 it is today. Today, unsuccessful appeals find their way  
23 to Small Claims Court. With the stakes being higher, we  
24 expect that public dissatisfaction with this process will  
25 grow.

1                   Secondly, we anticipate that the impact to  
2 the system could be an increase in the number of drivers  
3 who go to Court to fight traffic tickets.

4                   And thirdly, while buyback activity today  
5 doesn't appear to be that significant, we believe that  
6 this too could increase.

7                   It's interesting to note that in all of  
8 this process of rewarding safer drivers and increasing  
9 the ability to track drivers and monitor their  
10 improvement, the buy-down activity of an accident can  
11 still be implemented well after the date of an actual  
12 collision.

13                   It seems to CAA that this flies in the  
14 face of the intent to increase driver's ability. In  
15 other words, if I can buy my way out of whatever happened  
16 two (2) years previously and eliminate its effects on my  
17 DSR record, why wouldn't I do that as long as it makes  
18 sense financially?

19                   Regarding the issue of attitude, during  
20 this Hearing, considerable discussion occurred around the  
21 subject of attitude. We heard that when drivers engage  
22 in "bad" behaviour, attitudes must change. As Ms.  
23 McLaren noted, it would be nearly impossible to influence  
24 attitude unless the consequence was "immediate,  
25 repetitive and guarded against extinguishment."

1                   Presently the charges that are levied  
2 against bad driving, namely Charge 1 and Charge 2, are  
3 closer to the issue of being more directly related to the  
4 behaviour. It is true that the person doesn't get hit  
5 with these added costs until the following insurance year  
6 and in this regard, it may be more affective if MPI  
7 followed the Saskatchewan model and had the surcharges  
8 applied immediately at the time. However, even that may  
9 be in doubt in terms of changing attitudes and ultimately  
10 behaviour over the long term.

11                   A study done in Ontario in 2003 referenced  
12 by Mr. Williams found that most drivers do adapt their  
13 driving behaviour so that the crash rate drops  
14 significantly about a month after receiving demerit  
15 points, but after that point there was no difference in  
16 crash rates.

17                   Furthermore, MPI acknowledged it's not  
18 confident that driving behaviour will change because you  
19 can't measure the change. Specifically, in the words of  
20 Ms. McLaren, where you come from an insurance rating  
21 system where you know you're on solid ground is with  
22 respect to the predictive nature of the data, not in  
23 terms of actually formally being able to expect to and  
24 measure any specific behaviour change in individuals.  
25 CAA asks then whether the second stated goal, namely

1 stronger incentive for bad drivers to improve, is a valid  
2 goal for the Bonus-Malus overhaul.

3 In CAA's view, the DSR Program will not  
4 meet the stated goals for the following reasons:

5 The majority of saving in the DSR system  
6 is through the reduced driver licence premium,  
7 representing a dollar value saving of fifteen (15) to  
8 twenty dollars (\$20) annually to Manitoba's best drivers.  
9 Upon transition, drivers with five (5) merits, the safest  
10 drivers, will not benefit from the new system until 2012  
11 and will, therefore, not receive any higher rewards as  
12 stated in goal number 1.

13 In regards to goals number 2 and 3, in  
14 CAA's view, the Corporation may have inadvertently,  
15 through their public acceptance campaign, affected public  
16 perception to the point of where individuals are  
17 expecting much more in terms of savings than the program  
18 can deliver, leading to a decrease in public acceptance  
19 and opening the door to a host of other problems.

20 Finally, we fail to see how a stronger  
21 incentive for bad drivers to improve is a valid goal for  
22 the Bonus-Malus overhaul when studies show that driving  
23 behaviour improves for the first month following an  
24 accident, and then subsequently reverts to previous  
25 behaviour thereafter. Also, the Corporation admits to

1 being unable to measure behavioural change, so how do we  
2 know the DSR is working?

3 But an even larger issue that CAA is  
4 seeking an answer to is an understanding of how this new  
5 driver safety rating system integrates with MPI's rate  
6 setting methodology as we know it today.

7 We know that today the rate setting  
8 methodology centres around the vehicle, what type, what  
9 use, what territory, et cetera. So how will the  
10 predictive nature of the driver safety rating system  
11 integrate with rate setting?

12 What's the future interplay going to be  
13 between weightings associated with the two (2)? Will it  
14 be 90 percent weighting giving to the current vehicle  
15 methodology and 10 percent weighting given to the driver  
16 safety ratings? Will it be 50/50? Could it be 10  
17 percent/90 percent? Might rates eventually be based  
18 totally on a driver's safety rating, never mind the  
19 vehicle?

20 Furthermore, if MPI has the independent  
21 ability to alter, tweak, or change things within the  
22 driver safety rating, like the size of the scale, the  
23 steps on the scale, the rate at which drivers move  
24 through the scale, the infractions that cause movement on  
25 the scale, and the monetary value of each of these

1 factors going forward, it might even negate the need for  
2 a General Rate Application and a public examination of  
3 the cost of insurance in this province.

4 CAA too is aware that the funding of this  
5 driver safety rating has implications on the RSR and is  
6 in effect drawing down the RSR. We also noted that Ms.  
7 McLaren alluded to the RSR and the future of the RSR,  
8 suggesting that there may be other ways to consider  
9 dealing with financial risk and that this would be  
10 discussed in the next General Rate Application.

11 Our recommendation, therefore, to this  
12 Public Utilities Board is to hold the decision on the  
13 driver safety rating application until it can be  
14 considered in conjunction with the 2010 GRA so that we  
15 can better appreciate the relationship between driver  
16 safety rating, vehicle rate setting, discussion about the  
17 RSR, and total money collected for Basic insurance, which  
18 will comprise the General Rate Application.

19 We wish to thank the Board, its advisors,  
20 the MPI panel, and the other Intervenors for the  
21 courtesies extended to CAA during the course of this  
22 Hearing. Thank you.

23 THE CHAIRPERSON: Thank you, Ms.  
24 Wankling.

25 Mr. Williams, are you ready to begin?



1 humbled by the succinct and effective way that my  
2 friends, my -- the other Intervenors have presented their  
3 arguments, both elegantly and -- and quickly.

4 I regret to say that that will not be my  
5 approach this morning. Lest you despair at the size of  
6 the outline, which I understand is -- is not -- is  
7 possible, I do want to ensure the Board that we've fooled  
8 around with these outlines for the last three (3) or four  
9 (4) Hearings, and we think that they're helpful.

10 What we've done in this case is we've  
11 included some extensive quotes from the transcript just  
12 to add context, and do not fear that I will read this  
13 word for word, but it's to help position the arguments to  
14 a -- to a fair degree.

15 And just to assist the Board, you should  
16 have been given a few aids to the closing argument. One  
17 (1) is the lengthy one (1), which is the outline. And  
18 then the others are a series of -- three (3) of them are  
19 exhibits from this proceeding, or part of this  
20 proceeding. The fourth is some specific recommendations.  
21 And when the appropriate time arises I'll raise my hand  
22 and I suggest that you refer to them.

23 Mr. Chairman and Board Member Evans, just  
24 by way of introduction, in preparing the closing  
25 submissions on behalf of our clients we took the



1 opportunity to go back a few years, and to look at that  
2 Hearing that seems to have faded so much from our  
3 collective memory but the loss transfer Hearing.

4           And we think a lot of the important stages  
5 for this Hearing were really -- were really set out in  
6 the discussion in the loss transfer Hearing, and I know  
7 the Board is familiar with it, but at the risk of  
8 sounding somewhat sycophantic, I am going to just  
9 highlight a few of the points that were -- were made in  
10 that proceeding because I think they've guided the  
11 submissions of CAC/MSOS in this proceeding.

12           And again, without reading the quote, in  
13 the loss transfer Hearing the Board took the trouble to  
14 point out that the issue of the -- of the Bonus-Malus  
15 system is, obviously, a longstanding one (1).

16           Back in the long ago days of Judge  
17 Kopstein and his inquiry, at that point he was outlining  
18 the potential and the need to allow the Bonus-Malus  
19 system, as it was then known, to evolve and -- into  
20 something that became a more useful indicator of  
21 insurance experience. So that's, obviously, a theme that  
22 we're going to be talking about today.

23           That impetus and -- and the need for  
24 change, but also the impetus for change in my clients'  
25 submission got a significant momentum boost in this

1 decade with the merger with driver and vehicle licencing.

2                   And certainly, we'd seen it before but  
3 certainly in the Board's discussion in the loss transfer  
4 Hearing and subsequent in -- in subsequent General Rate  
5 Applications, we're seeing the message from the Board  
6 that it -- it conceives of what we now call a Driver's  
7 Safety Rating, not only as a more useful indicator of  
8 insurance risk, but also as a positive tool to achieve or  
9 enhance motive -- driver behaviour change.

10                   And so, that's a -- that's a key point and  
11 -- and certainly, it's been consistent in -- in earlier  
12 Board decisions but we think it's achieved increased  
13 prominence since loss transfer and the subsequent General  
14 Rate Applications.

15                   And another key point that was bayed in  
16 the loss transfer Hearing and it's set out right at the  
17 bottom of page 1 of -- of the outline, was the Board was  
18 quite conscious to recognize the interplay between the --  
19 the first party insurance system and the Bonus-Malus  
20 system, the -- the relative rules that it assigned at  
21 least in that -- that decision and making the point that  
22 its conclusions in the loss transfer Hearing might have  
23 been different in the absence of the Bonus-Malus program.

24                   It's an important point that my clients  
25 wish to emphasize, that interplay between the -- those

1 systems. And we would argue, that's even more the case  
2 now that driver and vehicle licensing has merged with the  
3 -- with MPI. The interplay within the system is of  
4 increased importance.

5                   Just going to page 2 of the outline --  
6 outline. And again, I -- I've put in some relative --  
7 some quotes more for context, the Board's making the  
8 point that the largest factor in its view in accident and  
9 injuries is driver behaviour and that while weather and -  
10 - and road conditions may be a factor, they are factors  
11 to be addressed by drivers.

12                   THE CHAIRPERSON: Mr. Williams, just for  
13 a second.

14                   Mr. Saranchuk or Ms. Everard, for advice,  
15 would it be easier for Mr. Williams if we took this  
16 outline as an exhibit?

17                   MR. WALTER SARANCHUK: I don't really --  
18 I don't believe that you can at this juncture. The  
19 Hearing is, from the evidentiary standpoint, is over.

20                   THE CHAIRPERSON: We could just put it  
21 straight into the record though.

22                   MR. WALTER SARANCHUK: Without calling it  
23 an exhibit, I don't know how you can, other than to take  
24 it for advisement purposes as being an outlined submitted  
25 for the Board to follow in considering the argument of My

1 Learned Friend. But I don't know that it could be  
2 considered as part of the evidence as such.

3 MR. BYRON WILLIAMS: Mr. Chairman --

4 THE CHAIRPERSON: No, I understand.

5

6 CONTINUED BY MR. BYRON WILLIAMS:

7 MR. BYRON WILLIAMS: Yeah, Mr. Chairman,  
8 my recommendation is certainly there's nothing in this  
9 outline that's not on the public record. I'm making  
10 reference to some of these. It's certainly open to the  
11 Board to look at past decisions. It's just providing  
12 some -- what are, in our view, helpful references to the  
13 Board.

14 And don't worry, I'm not going to read it  
15 all if you're fearing that a -- that -- that we'll be  
16 here forever, but I think that it will give the relative  
17 page numbers that will assist the Board in -- in working  
18 its way through this.

19 Just turning to page 3 of the outline, Mr.  
20 Chairman, and Ms. -- and Board Member Evans. The key  
21 message that my clients took from the Bonus-Malus --  
22 excuse me, the loss transfer Hearing, and the first point  
23 is something that's no surprise. Driver behaviour is a  
24 key element in both the frequency and severity of  
25 accidents.

1                   And also a real desire on the Board --  
2     from the Board to reform the existing Bonus-Malus system,  
3     both to achieve a more useful indicator of insurance  
4     experience and also a more effective mechanism to  
5     motivate driver behaviour.

6                   In the context of this Hearing, my clients  
7     have taken those two (2) basic principles. The more  
8     useful indicator of insurance experience, for that,  
9     they've used the -- the name "fairness" and this is on  
10    page 3 of the outline, Mr. Chairman.

11                   In terms of a more affective mechanism to  
12    -- to motivate improved driver behaviour, they've used  
13    the shorthand "loss prevention". And those are two (2)  
14    of the key criteria by which my clients have assessed  
15    this program.

16                   Given the specific nature and timing of  
17    the MPI process, they've added a third major criteria,  
18    which they describe as regulatory and fiscal prudence,  
19    and that's towards the bottom of page 3 of the outline.

20                   And in essence, my clients'  
21    recommendations on this -- on this application in terms  
22    of its merits will be on the basis of those three (3) key  
23    criteria.

24                   We will, in the course of our arguments,  
25    also address other arguments, transparency; appropriate

1 measures of program success; the appropriate relationship  
2 between driver premium and vehicle insurance, and I know  
3 Mr. Oakes has a lot to say on that; issue -- an issue  
4 flowing from the loss transfer, should DSR continue to  
5 relate to vehicle insurance for the vehicle insurance  
6 discount.

7                   Moving to page 4 of the outline, we expect  
8 that there's -- and maybe I'm wrong on this and others  
9 will have more to say on extension. For my client, we --  
10 we're not going to spend a lot of time on that in -- in  
11 the course of this proceed -- this argument, except for  
12 to say that it appears to be a benefit to the extension  
13 program through driver safety rating.

14                   And -- and basically, in drawing that  
15 conclusion, we note that the extension appears to track  
16 basic rating for the purposes of a -- of discounting, and  
17 that was something that came up in cross-examination by  
18 Ms. Bowman.

19                   So we're not going to -- to belabour that  
20 point, but that's just in terms of extension. We do see  
21 a relationship and some benefit flowing to extension from  
22 driver safety rating.

23                   At a high level my clients are  
24 tremendously excited about this proposal. They see it as  
25 something that offers a tremendous opportunity. Their

1 objective in these closing submissions will talk about  
2 ways to improve the existing drivers -- the existing  
3 Bonus-Malus system, and also, in the longer term,  
4 recognising that this is a dynamic process, they want to  
5 set the stage for further analysis and consideration,  
6 which may lead to additional changes in the future.

7                   Now, as -- as the Board can -- can tell,  
8 and I'm on page 4 of the outline, there was a lot of  
9 trees killed in the preparation of this outline, and I do  
10 apologize for that, but it is important not to lose the  
11 forest for the trees.

12                   So I'm going to start out, and maybe this  
13 will let Mr. Kruk go for his early lunch, with really an  
14 overview of -- of the position of CAC/MSOS. And while my  
15 clients have some material criticisms of the DSR  
16 application, at the conceptual level they see this  
17 concept as a material step forward from the perspective  
18 of fairness and transparency, although they see room for  
19 improvement.

20                   My clients also acknowledge that there's  
21 going to be some challenges and inconsistencies perhaps  
22 in the transition to where this program should be, but  
23 they do want to point out that they see significant merit  
24 in the Corporation's expressed desire to launch this  
25 program with a bit of a bang by providing a prompt reward

1 for the safest drivers, as they are ultimately defined,  
2 while giving higher risk drivers a more gentle transition  
3 in terms of -- in the -- in the path, the higher  
4 additional driver premiums for those with demerits.

5           And I note from -- Mr. Oakes has talked  
6 about whether there's enough reward, but conceptually, my  
7 clients are very supportive of the idea of starting this  
8 program with some material rewards for the safest  
9 drivers. We'll have some comments on who those safest  
10 drivers are and how they should be defined a bit later.

11           Another thing my clients wish to applaud  
12 MPI for is their approach to consumer consultation, and  
13 we've called it the take-it-to-the-mall approach, noting  
14 also the website commentary, the use of public opinion  
15 polling, focus groups, and the solicitation of comments  
16 from interested parties. That's something that my  
17 clients think is -- is noteworthy and should be  
18 commended.

19           So those are the happy things. On more  
20 guarded note, they see the -- and I'm moving to page 5 of  
21 the outline -- my clients do see driver safety rating as  
22 having the potential to materially affect driver  
23 behaviour, but they are concerned that this potential is  
24 neither fully acknowledged or likely to be fulfilled in  
25 the absence of future actions, both by the Corporation



1 and by others including those responsible for Highway  
2 Traffic Act enforcement. And we're going to spend a fair  
3 bit of time on that in the course of this proceeding --  
4 this submission.

5                   The other significant concern my clients  
6 have is from the perspective of regulatory and fiscal  
7 prudence. And they have material concerns in approving  
8 this Application outside of a General Rate Application.

9                   And that's especially the fact given the  
10 uncertainty relating to a) the material deterioration in  
11 the Corporation's investment income even in the last  
12 quarter of the fiscal year; depending reconsideration  
13 about the methodology and level -- and also be the  
14 pending reconsideration of both the methodology and level  
15 of the rate stabilization reserve.

16                   In fairness my clients note that there's  
17 also uncertainty the other way. There is an apparent  
18 material improvement in claims costs but, again, there's  
19 uncertainty associated with that that has not been tested  
20 in a General Rate Application.

21                   So in terms of the Application itself, my  
22 clients are recommending that the final determination be  
23 deferred until further information is provided during a  
24 General Rate Application.

25                   On the assumption -- or if the -- the

1 Board in its wisdom determines that the proposed DSR  
2 Application is fiscally prudent, my clients will be  
3 recommending sub -- at that General Rate Application that  
4 it be granted as framed.

5 Just a note, my clients will also be  
6 outlining a number of points for future argument or  
7 future examination in subsequent proceedings.

8 The last comment by way of overview, let -  
9 - and for the sake of argument, let us assume that the  
10 Board may decide to defer a decision. Some might argue,  
11 well, why have this Hearing? Why not just do it in the  
12 context of a General Rate Application?

13 My clients want to go strongly on the  
14 record as saying, Whatever the outcome of this decision  
15 this has been a very valuable process, both to give  
16 appropriate time for my clients to understand and  
17 deliberate about these issues, and also to suggest areas  
18 for future inquiry.

19 At page 7, Mr. Chairman and Board Member  
20 Evans, I've set out the concept of driver safety rating  
21 as understood by CAC/MSOS. And I won't spend long on it,  
22 but I believe there's some value in highlighting this  
23 because a bit later in our argument we're going to go  
24 back and look at some of the program in terms of what it  
25 says it does in term -- as compared to what it -- what it

1 actually appears to be doing going out into the future.

2           As my clients look at the concept of a  
3 DSR, there's a number of core concepts, or key concepts,  
4 that they see lie at its heart. One (1) is the  
5 implementation of a better measure of risk, statistically  
6 verified. A second is a -- also a simplified  
7 categorization of risk. Everything flows from one's  
8 position on the scale.

9           There's also other important elements of  
10 the DSR in terms of quicker rewards in terms of merits in  
11 theory, and also the opportunity to move quickly -- more  
12 quickly through the lower echelons of the scale.

13           As my clients understand the intent of  
14 this program over the long term, they see it as moving  
15 towards a more equitable treatment of drivers based upon  
16 their behavioural and performance risk, providing  
17 enhanced benefits for low risk behaviour.

18           An important intent over the long term is  
19 to moderate the impact of a single accident on good  
20 drivers, and we'll comment upon this later in our  
21 discussions and see whether examples such as taken from  
22 PUB 1-46 or CAC 1-8 actually bare that out. The program  
23 also talks about enhanced consequences for high-risk  
24 behaviour.

25           Another key element to this program and

1 one (1) that CAA may take odds with or take umbrage with  
2 is, this Corporation, by eliminating the surcharges, is  
3 trying to send a message that there needs to be a more  
4 sustained message of need to amend high-risk behaviour  
5 through movement up and down the scale.

6                   There's -- there's obviously another  
7 intent over the long term -- not an intent because the  
8 Corporation doesn't go this far. It speaks about the  
9 prospect of improved driver behaviour. It certainly  
10 doesn't promise it.

11                   Is -- is CAC/MSOS -- moving to page 8 of  
12 the outline -- looks at the Corporation's intent over the  
13 short term. We see -- and the transition period -- we  
14 see three (3) or four (4) key elements to that.

15                   One (1) is that there is a modest carrot  
16 and -- and I believe Mr. Oakes was arguing this morning  
17 that the carrot was too modest. And there's a suggestion  
18 that the -- the Corporation will be rewarding low-risk  
19 drivers first, both through driver's premium, then  
20 ultimately through the enhanced vehicle discount.

21                   There's a real emphasis and a core element  
22 to this program is on extensive personal communication  
23 and we'll have more comment upon that. The stick, what  
24 MPI now calls additional driver premiums for those with  
25 demerits, will be phased in over time. A modest carrot

1 right off the start; the stick not for a little while.

2           And obviously, in the short term, this is  
3 not revenue-neutral. Over the long term, the Corporation  
4 obviously argues that, with the reduced broker  
5 commissions, it'll be close to a wash but in the short  
6 term, there's no doubt that this is not revenue neutral.

7           Just on page 8, for one (1) further second  
8 and I'll -- rather than go through the quotes, I'll refer  
9 you to my conversation with Mr. Palmer around page 484.  
10 There's no doubt that the -- while the existing Bonus-  
11 Malus program has served Manitobans well, there's need  
12 for improvement.

13           It's a program that is often confusing and  
14 if you turn your mind back to my cross-examination of Mr.  
15 Palmer, even in seeking to simplify the program to  
16 explain it to me, there were numerous charges whether on  
17 considering what -- what quantum of surcharge would come  
18 into effect or when one gets demerits and to what  
19 purpose.

20           The existing program, as well, is a source  
21 of considerable frustration and aggravation to -- to some  
22 consumers. We have used the words "dinging", my clients  
23 have, quadruple dinging throughout I think if you do the  
24 count, leaving aside the deductible.

25           And there's also -- it's a source of

1   aggravation to those drivers who've driven well for many  
2   years and then feel that they're unduly punished for --  
3   for one lapse of attention.

4                   And certainly, my clients will argue --  
5   moving to page 9 of the outline -- that as compared to  
6   the current system, this is a better system, certainly in  
7   these four (4) areas: the improved measurement of risk,  
8   improved clarity, one (1) less ding, and the potential  
9   for enhanced vehicle discounts.

10                   Mr. Chairman and Board Member Evans, I --  
11   I've set out, at the bottom of this page kind of the --  
12   the seven (7) areas that a -- that I -- I intend to  
13   subsequently cover. I won't go through those right now  
14   but in terms of reading in those to the record but where  
15   I want to start is the issue of regulatory and fiscal  
16   prudence.

17                   And my clients have two (2) central  
18   questions here. Is it consistent with regulatory best  
19   practice and fiscal prudence to approve a revenue  
20   reduction outside the confines of a General Rate  
21   Application at this point in time? And secondly,  
22   assuming that a revenue reduction is considered fiscally  
23   prudent, should the Corporation's Application be approved  
24   as filed?

25                   And we also will make, at the end of this

1 submission on this particular area, make a small point of  
2 clarification and address the issue of whether the  
3 revenue changes proposed are exclusively targeted to the  
4 safest driver, and my clients will -- will argue that  
5 they are not.

6                   Moving to page 11, we've set out the  
7 question that I posed on the previous page. And to  
8 highlight the thrust of my clients' concerns, we're  
9 looking at a material revenue reduction, depending on  
10 where in the record you look, somewhere between seventeen  
11 (17) and \$18 million, about 2.6 percent of the premium,  
12 and at a time of material uncertainty, the investment  
13 income -- uncertainty about where the RSR will be at the  
14 end of the next General Rate Application, even in terms  
15 of its methodology, or its actual range.

16                   And also as I adverted to just a few  
17 minutes ago, what's going on on the claims costs side?  
18 There appears to be material improvements. How reliable  
19 are those forecasts? Is the Board prepared to accept  
20 those reserving practices that lie at the heart of much  
21 of them?

22                   And our concern is that this material  
23 revenue reduction at a time of material uncertainty is  
24 being brought to the Board outside of the context of a  
25 General Rate Application, a General Rate Application that

1 would allow for a complete and independent testing of the  
2 Corporation's assumptions, and which would provide  
3 clarification of its intentions with regard to the RSR.

4           And I'm not criticizing MPI for doing  
5 that. The Board talked about the process. But -- and  
6 it's certainly -- this is a Hearing that was referenced  
7 in the last General Rate Application, but my clients'  
8 caution in endorsing it is given that it's not coming in  
9 on a revenue neutral basis, and given these material  
10 uncertainties, that they're reluctant to do so.

11           They're reluctant to do so because they're  
12 not sure that it's fiscally prudent. They're not sure  
13 that this is best regulatory practice. And they're also  
14 concerned about the possibility that there might be a  
15 rate ricochet, a revenue reduction related to the Driver  
16 Safety Rating Application followed by a subsequent  
17 revenue increase at the General Rate Application. And my  
18 clients are concerned both because they fear that that  
19 may lead to consumer backlash, as well as consumer  
20 confusion.

21           The Board is well aware of the record.  
22 I've put in a reference from the transcript at page 12 of  
23 the outline in terms of the investment income.

24           Back at the time of the GRA for '08/'09, I  
25 think we were looking closer to \$100 million than to \$50



1 million. In the DSR Application itself, based upon the  
2 third quarter we're looking in the range of \$50 million  
3 and, of course, it appears now that it's in the range of  
4 only \$4 million.

5               So my clients are concerned both with the  
6 material change in net income related to investment  
7 income, but also just as concerned with the rapid change  
8 in that net income, and they understand that part of that  
9 has to do with the downgrading of certain investment  
10 assets.

11               At page 12 of the outline -- excuse me,  
12 page 13, my clients talk about the marked decline in the  
13 Corporation's assets, and that's made quite evident in  
14 MPI Exhibit number 10, especially on page 5. And again,  
15 my clients talk about the untested improvements in claims  
16 costs on this page.

17               In terms of what is best regulatory  
18 practice, my clients just want to point out to their  
19 understanding -- and I'm moving to page 14 of the outline  
20 -- there is no precedent for approving a revenue  
21 reduction outside the context of a General Rate  
22 Application, certainly not in my clients' understanding.

23               And they -- and they point on this point  
24 just from regulatory best practice, it's instructive  
25 perhaps to look at what MPI did, and this is set out in

1 the outline on page 14.

2 MPI says, and they said this at page --  
3 confirmed this at page 50 of the transcript, that before  
4 they bought -- brought this application to the Board,  
5 they had to be assured of the reliability of its  
6 forecast, and certainly, my clients commend that.

7 At page 549 of the transcript, MPI also  
8 confirmed that it would not have brought this revenue  
9 reduction application to the Board unless it was  
10 confident that it would not be bringing forward a  
11 subsequent rate application in the -- in the following  
12 General Rate Application.

13 And that's well and good, and that's  
14 reasonable, and that's consistent with good corporate  
15 practice, and certainly consistent with good regulatory  
16 practice.

17 The dilemma -- moving to page 15 of the  
18 outline -- and the challenge is that the Public Utilities  
19 Board has been inadvertently no doubt left by MPI in the  
20 position where it -- it, unlike MPI, can't be assured of  
21 the dependability of the forecast, and it may be left  
22 with doubts that it might approve a revenue reduction in  
23 May, only to follow that up with a revenue increase and a  
24 rate increase in November.

25 And the -- the point we're -- I'm simply

1 and inelegantly trying to make, Mr. Chairman and Board  
2 Member Evans, is that MPI certainly felt it was incumbent  
3 upon itself to satisfy itself that its forecasts were  
4 dependable. It felt it was important to make sure that  
5 there wasn't going to be a subsequent rate increase in  
6 the General Rate Application. And it would be only fair  
7 and only appropriate and only consistent with good  
8 regulatory practice for -- for the Board to be able to be  
9 in that same position. It can't rely upon MPI, and  
10 that's not a criticism of MPI, that's just not consistent  
11 with good regulatory practice, in my clients' submission.

12           And my clients certainly feel that --  
13 going to page 15 of the outline -- that Ms. McLaren, in  
14 her evidence, was indirectly supportive of this point.  
15 She confirmed, at page 550, that the only way the PUB can  
16 be assured of the dependability of -- of the MPI forecast  
17 is through a General Rate Application. And, in fact, she  
18 said she wouldn't argue with that, outside of the General  
19 Rate Application, there's really no other mechanism to  
20 test that dependability and reasonableness.

21           Moving to page 16 of the outline, Mr.  
22 Chairman, I -- I've spoken of ricochet. I think we're  
23 all agreed that that's not desirable. Mr. Palmer and I  
24 had a bit of a discussion. I -- I tried to lead him  
25 farther than he was prepared to go, at page 548. That

1 will be the first time ever I've done that.

2                   So he didn't agree that -- that having a  
3 rate reduction, or revenue reduction related to DSR  
4 followed by a subsequent rate increase in a General Rate  
5 Application would be confusing to consumers, but he was  
6 prepared to agree that it would mute the signals to  
7 consumers.

8                   And Ms. McLaren, I think, actually went  
9 farther, and I've already stated this at page 549. She  
10 said if she had any doubt that there would be a  
11 subsequent rate increase, she wouldn't have brought this  
12 application, and I think that's very compelling evidence,  
13 Mr. Chairman and Board Member Evans.

14                   Turning to page 17, and this is an  
15 important question, and -- and just to go back to the big  
16 picture for just one (1) second, Mr. Chairman, my clients  
17 have -- have a lot of good things to say about this  
18 proposal. They would rather see it implemented sooner  
19 rather than later, but they've come to a conclusion that  
20 they -- they can't in good conscious -- conscience  
21 recommend it until the -- the fiscal prudence test has  
22 been checked off.

23                   And on page 17, my clients have -- have  
24 asked the question, whether the negative impacts of a  
25 potential further delay are outweighed by considerations

1 of fiscal prudence and regulatory best practice.

2 And Ms. McLaren clarified her comments on  
3 day 6 of the Hearing but on day 3 of the Hearing, we  
4 talked about additionally the date -- the November 1st  
5 date and she said there's nothing magic in that date.

6 She went on, on day 6 of the Hearing, to  
7 talk about the February 1st, 2010, decision and she made  
8 the point and I think she made it well, that if -- if  
9 that rate is gonna be in place by February 1st, 2010,  
10 that -- that it was important for the Board to -- to  
11 provide that information to MPI by May of 2009.

12 And she made it -- two (2) or three (3)  
13 points that I've set out, in fairness to her, what I  
14 understand to be her submissions on -- or argument or  
15 evidence on this point. One is that she thought it would  
16 be unfair to the staff if they were pushing -- preparing,  
17 yet there was a risk that the -- that the -- that the  
18 Board might change the -- the proposal.

19 She also spoke about the real need to do  
20 the program right and that she didn't want to have  
21 shortened training, abbreviated communications or a lack  
22 of full and complete planning. And -- and she also said  
23 that they had a lot of work to be done to get things  
24 ready for February 1st.

25 And I -- I think she -- she made that

1 point well and my clients don't dispute that. What they  
2 do dispute though is whether there's any magic in that  
3 February 1st, 2010, date. Again, my clients would rather  
4 have the DSR coming sooner rather than later but they  
5 don't see any magic in that particular day.

6                   Just on page 18 of the outline, Ms.  
7 McLaren also talked about why she wanted to start the  
8 program off with a -- a positive initial message and  
9 signal to good drivers. And we think this is an  
10 important point, Mr. Chairman and Board Member Evans,  
11 because one (1) of the options that has been thrown  
12 around, by MPI for example, is if you're concerned about  
13 fiscal prudence, if you're concerned about -- that  
14 there's too much of a drain on revenues, we'll knock off  
15 the reward perhaps for those good drivers, those drivers  
16 in the eight (8), nine (9), ten (10) range.

17                   So -- so that's one (1) of the options but  
18 -- but elsewhere in her evidence, she talked about why it  
19 was important to signal to those drivers that DSR was  
20 going to be a good program for them. And at page 877,  
21 she talked about the -- using the vernacular to try and  
22 kick start the program and not wanting to miss the  
23 opportunity to -- to reward good drivers -- good drivers  
24 who arguably have been, based upon the results of -- of  
25 the DSR analysis at least, paying too

1 much as compared to higher risk drivers.

2                   And CAC/MSOS certainly want to make the  
3 point that they accept her point that the best way to  
4 make this program work, a good way to make this program  
5 get out of the gates in the proper way, is that kick  
6 start, that reward to the safer drivers.

7                   So just to sum up here, CAC/MSOS accept  
8 the Corporation's rationale for needing as much notice as  
9 possible but they question whether there's any magic in  
10 that February 1st, 2010, date. In their view, there's  
11 nothing on the record which would suggest that deferring  
12 the program rollout to a few months beyond that would  
13 undermine the program and that they would argue that  
14 there's no magic in any particular date.

15                   Just turning very quickly to pages 19 and  
16 20 of -- of the outline, CAC/MSOS did look at some  
17 different options for rolling -- for rolling out the  
18 program in a way that might put a little less pressure on  
19 the revenue reduction. And you don't need to go to them  
20 now but if -- if you do flip to page 20, we'll -- we've  
21 set out a list of some of the options that we did look  
22 at.

23                   And we actually began to try and estimate  
24 the impact of these different options in terms of revenue  
25 reduction. But my clients ultimately rejected that

1 approach because they consider the core concept strong  
2 and also the core rollout strong and any option that they  
3 looked at seemed to undermine either one (1) of those --  
4 the two (2) key goals, either rewarding safest drivers or  
5 phasing in the consequences for poor drivers.

6           Now my clients certainly would argue  
7 ultimately that we want to have serious consequences for  
8 poor drivers, or higher-risk drivers I think is -- but  
9 they see some advantages to the -- to the program,  
10 phasing that in over time conceptually, giving a bit of a  
11 fresh start, and giving drivers the opportunity to change  
12 their behaviour before the not more punitive but the more  
13 serious consequences of the additional driver premiums  
14 come into play.

15           Just turning to page 21 of the outline,  
16 and not at the risk but at the certainty of being  
17 repetitive, but just to make sure that I -- that I make  
18 my point clear, my clients would rather have this, the  
19 DSR Application sooner or later, but they don't want to  
20 endorse it unless it's fiscally prudent.

21           They don't want to undermine the rollout  
22 of the program in terms of training and communications.  
23 And they don't want to introduce it in a fashion that  
24 they -- that may undermine an auspicious debut.

25           In their way, the only way to do that is



1 through a GRA to address the fiscal prudence, build in  
2 enough lead time to enable well organized rollout, and  
3 implement the program conceptually as designed by MPI.

4 So they would recommend on this point that  
5 the decision be deferred until the General Rate  
6 Application, and that assuming that the -- in the context  
7 of a Rate Application, the revenue reduction is  
8 considered fiscally prudent, the Application be accepted  
9 as filed.

10

11 (BRIEF PAUSE)

12

13 MR. BYRON WILLIAMS: Just turning to page  
14 22 of the outline, Mr. Chairman and Board Member Evans, a  
15 small point of clarification, and this may be -- I may be  
16 clarifying on the record my clients' misunderstanding.  
17 I'm not sure if I'm clarifying anyone else's  
18 misunderstanding.

19 But we've -- my clients have often heard  
20 this proposal spoken of as a targeted rate reduction for  
21 safest drivers. And certainly my clients agree that when  
22 we look at the driver premium reduction ranging from  
23 fifteen (15) to twenty-five (\$25) as set out in PUB 1-2,  
24 there is a significant benefit going to those drivers at  
25 the levels 8 to 10 on the DSR rating scale.

1                   But even on that point, my clients would  
2 suggest that even on that point it appears that the  
3 drivers at eight (8) merits are actually getting a bit  
4 more benefit than -- in terms of premium, driver's  
5 premium reduction than the drivers at ten (10) merits.

6                   But the other point, moving to pages 23  
7 and 24 of my outline, that my clients want to make for  
8 clarification is that there are other changes in revenues  
9 associated with this Application. And in my clients'  
10 views those other changes in revenues are not exclusively  
11 benefiting the safest drivers.

12                   One (1) of them, set out on page 23,  
13 you'll see that a number of drivers will be receiving  
14 material discounts in their vehicle insurance premiums  
15 from five (5) to 15 percent as a consequence of the  
16 transition rules as my clients understand them. But as  
17 my clients understand PUB -- the response to PUB 1-2, it  
18 is not always the safest drivers who will be getting the  
19 biggest relative discount.

20                   You can look at drive -- compare, for  
21 example, drivers with five (5) merits and five (5) years  
22 claims free or drivers with five (5) merits and four (4)  
23 years claims free, and I've got a typo there -- well I --  
24 no, it's not a typo. There's no increase in their  
25 vehicle discount.

1                   Yet drivers at lower levels, including  
2 drivers who have gone zero (0) years claims free, those  
3 at Level 5 and zero (0) years claims free, Level 4 and  
4 zero (0) years claims free, or Level 3 and zero (0) years  
5 claims free are getting substantial discounts. And  
6 again, we would argue certainly on behalf of our clients  
7 that these are not the safest drivers.

8                   Likewise, you can point to someone who has  
9 zero (0) merits and one (1) claims-free year who will be  
10 getting a 5 percent decrease, about twenty-five thousand  
11 (25,000) drivers, and we've put the references for that.

12                   The other point my clients want to make,  
13 turning to page 24 of the outline, is that the -- there  
14 will be some effect, as we understand it, flowing -- in  
15 terms of a reduced accident surcharge in the 2010/2011  
16 year.

17                   And Mr. Palmer testified to that effect on  
18 day 6 of the Hearing. He talked about there being -- and  
19 this is set out on page 24 -- there being about a \$4  
20 million reduction in revenues due to a reduced driver  
21 accident surcharge.

22                   And our simple and modest point, again, on  
23 this, going down to page -- the reference on page 503 and  
24 504 on this page of the outline, is that this type of --  
25 the elimination of the surcharge, as it begins to take

1 effect in 2010/2011, would disproportionately benefit  
2 high-risk drivers.

3 We're not saying it's a bad thing. We're  
4 merely pointing out that the revenue reductions are not  
5 exclusively benefiting the safest drivers.

6 Turning to page 26 of the -- of the  
7 outline, and my clients want to spend a bit of time  
8 talking about what they consider a disturbing trend in  
9 terms of enforcement, and this was certainly captured in  
10 my cross-examination, I hope it was captured in my cross-  
11 examination of the MPI Panel on day 4 of the Hearing.  
12 And the Chairman also had some interesting questions  
13 about this, on -- on the final day of the evidentiary  
14 portion of the Hearing on day 6.

15 We've asked the question, is the issue of  
16 enforcement relevant to the present and future DSR  
17 applications from the perspective of fairness or loss  
18 prevention? The answer from my clients' perspective is  
19 absolutely, yes. And I'm -- I'm going to outline in the  
20 next few minutes why we think it's important and relevant

21 But first I want to highlight from an  
22 excerpt from PUB response MPI 1-32. This -- what this  
23 presents is the deterioration or the reduction in Highway  
24 Traffic Act convictions in Winnipeg for the years 2000 to  
25 2007. And you can see, looking at that on page 26, the

1 high point of that was actually eight (8) years, the  
2 first year, year 2000, with convictions under the Highway  
3 Traffic Act being in excess of forty-four thousand  
4 (44,000).

5 By 2007 they're roughly half that. Again,  
6 Mr. Palmer said that not all the data might not be in,  
7 but he said there's no disputing that there's a trend in  
8 terms of reduced Highway Traffic Act convictions in the  
9 City of Winnipeg, and he said one (1) possible  
10 explanation for that is reduced enforcement.

11 Moving to page 27 of the outline, again  
12 you see a deteriorating -- let me rephrase that. Again  
13 you see here, and what -- what this is, this is pulled  
14 from the MPI evidence itself, and it sets out what they  
15 presented as infraction counts from the retrospective  
16 model.

17 And again, look at the year 2001. There  
18 you see at-fault claims being some thirteen thousand  
19 (13,000) less than convictions, close to forty thousand  
20 (40,000) for at-fault claims versus convictions at fifty-  
21 three thousand (53,000), so a material difference with  
22 at-fault claims being less and convictions being higher.

23 Now, this is not for the City of Winnipeg,  
24 of course, this is for the -- for the -- the province as  
25 a whole. The trend is even more marked in the City of

1 Winnipeg, about a 20 percent difference.

2                   By 2006 you see that that 20 percent  
3 difference in terms of frequency of low severity  
4 convictions versus frequency of at-fault claims has  
5 disappeared, and, if anything, low severity convictions  
6 are -- in the province as a whole, are a bit lower. The  
7 big problems in the -- in the city of Winnipeg,  
8 obviously, but when it's translated to a provincial  
9 perspective, there's still a material change in the  
10 relative relationship.

11                   I want to turn to page 29 of the outline  
12 on this point, Should We Care. Is the issue of enfor --  
13 enforcement important either in the context of this  
14 application or in the context of -- of our broader  
15 mandate, or this Board's broader mandate to make  
16 recommendations to -- to government.

17                   Certainly, my clients think this Board  
18 should care. First of all, and -- and this was really  
19 referenced in the Chairman's discussion with Ms. McLaren  
20 on day 6. There appears to be a widespread issue, from  
21 my clients' perspective, with relatively risky behaviour.

22                   And one needs only to look at the survey  
23 of driver behaviour and risk profiles, and to look at the  
24 respondents admitting to speeding in very high  
25 percentages, in the range of 62 percent in -- in urban

1 environments and 64 percent in -- on the highways.

2                   And we all know the relationship between  
3 speeding and both accident severity and frequency. And  
4 my clients say we should care, and Ms. McLaren has the  
5 best evidence on this, because one (1) of the key ways to  
6 trade -- to amend and to change driver behaviour is  
7 through enhanced enforcement.

8                   She states that expressly at page 887 of  
9 the transcript:

10                   "One (1) of the best ways to change  
11 behaviour is to increase the insis --  
12 the perceived risk of being caught."

13                   To a similar effect at page 622.

14                   But what we do know about road safety and  
15 driving behaviour is that behaviour changes as the  
16 perceived risk of being caught breaking the law  
17 increases.

18                   Despite that fact, going back to that tro  
19 -- those troubling statistics, the overall level of  
20 convictions within the city are approximately half of  
21 what they were seven (7) or eight (8) years ago, and  
22 there's a relative decline in the -- in the relationship  
23 between the number of convictions versus the number of  
24 accidents.

25                   We think these -- these factors have

1 direct ramifications for this proceeding. One (1) is  
2 from the fair -- there's a few elements of the fairness  
3 perspective. My clients certainly believe that this  
4 reality leads to unfairness to those not in low  
5 enforcement environments; two (2) drivers in two (2)  
6 different jurisdictions behaving in exactly the same  
7 manner but receiving less consequences in terms of  
8 conviction demerits and the DSR scale.

9           And if -- if one (1) went back in time and  
10 magically increased enforcement, it wouldn't be much of a  
11 leap to suggest that if we're going back to pre-2000  
12 enforcement levels in Winnipeg, there would likely be  
13 less aggregate merits and more aggregate demerits.

14           Another ramification for the driver safety  
15 rating application and the model going forward is it  
16 leads to some uncertainty. And again, I tried to get Mr.  
17 Palmer to bite on the word "randomness," but he wasn't  
18 going with me, but at page 698 he -- he put it in -- in  
19 more valid terms.

20           "The trends you've identified don't --  
21 doesn't seem to be random. There's  
22 some -- there's some uncertainty going  
23 on. There are some assumptions that go  
24 into what the traffic enforcement will  
25 be. And if the enforcement is at a



1 level different than we're -- we're  
2 anticipating, there's some uncertainty  
3 there, yes."

4 A third, and perhaps the -- the key  
5 element in terms -- certainly an important element in  
6 terms of fairness is the -- the trend in terms of  
7 convictions has given my client some uncertainty in terms  
8 of the rele -- of whether the relationship between  
9 accidents being five (5) demerits and minor convictions  
10 being two (2) demerits is truly the best fit.

11 As my clients understand the MPI evidence,  
12 and I'll direct the Board's attention to pages 685 to 693  
13 of the transcript, MPI indicates that it tested some  
14 twenty (20) model variations of the relationship between  
15 accidents and convictions. And it tested these models  
16 through its retrospective model -- application of the  
17 models to the years 2001 to 2006.

18 And it concluded that its current proposal  
19 relating to the relationship between accidents being five  
20 (5) demerits and minor convictions being two (2) demerits  
21 was the best fit, and that's set out at pages 692 and 693  
22 of the transcript.

23 Mr. Palmer also was forthcoming, though,  
24 in indicating that there are also some other  
25 relationships that were also pretty decent fits,

1 including those with the closer relative relationship  
2 between accidents and convictions.

3 My clients' concern on this point, Mr.  
4 Chairman, is accepting that there was a material  
5 reduction in rela -- in the relative proportion of  
6 convictions, especially in the city of Winnipeg as  
7 compared to accidents, that material reduction appears to  
8 be at the same time over the same time frame as MPI was  
9 peering over which it was testing its retrospective  
10 model.

11 And so my clients are concerned what, if  
12 anything, did this -- effect did this have on the  
13 analysis? We're not concluding this, but we're asking  
14 some questions. Was there some significant, in quotation  
15 marks, I believe this is the statistical term,  
16 "structural change" occurring during the analysis period  
17 such as a decrease in enforcement in the Winnipeg area.

18 Secondly -- the second question is: If  
19 driving behaviour did not change as a result of the lower  
20 level of enforcement, for example so that in Winnipeg  
21 accidents were the same but convictions were halved, just  
22 a question. I'm not sure what the accident trend was.

23 What, if anything, does this do to the  
24 reliability of the weighting of prior accidents?

25 Third question: Is it possible that the

1 observed infractions are overweighted relative to the  
2 base case simply due to the fact that the number of  
3 infractions that's underwrite -- reported?

4           And my clients then -- if this is on the  
5 record, they apologize, but they ask whether a structural  
6 change test -- statistical diagnostic test has been  
7 performed. If so, what did it find?

8           I want to be clear here. My clients are  
9 supportive of including both these relationships. They  
10 think they have a material predictive value, and they're  
11 not saying that this proposal is not a relatively good  
12 fit, but based upon the enforcement information and the  
13 material change in circumstances, my clients do have some  
14 questions whether this relative weighting is the best  
15 fit.

16           In terms of why, if at all, the  
17 enforcement issue is relative -- or relevant to this  
18 Application, my clients have a point they wish to make in  
19 terms of loss prevention as well.

20           The Corporation has been quite expressed  
21 in indicating that it wants to roll out driver safety  
22 rating with a bang. It wants to give it the best  
23 possible chance for success. I've got "succession"  
24 written there, but I think "success" would be a better  
25 word.

1           My clients' concern, recognizing that this  
2 is not all within the Corporation's control, is that a  
3 key element in -- of enabling driving safety rating to  
4 positively impact driver behaviour, i.e., heightened  
5 enforcement, does not appear to be in place.

6           We recognize, certainly from my clients'  
7 perspective, that this is not within the control of MPI  
8 but we observe that it certainly weakens its loss  
9 prevention potential.

10           My clients' recommendations in the area of  
11 enforcement are three-fold. First of all, if a  
12 structural change test has not been performed -- and  
13 again, if it has, my client -- I certainly apologize for  
14 that, especially if it's on the record. A structural  
15 change test should be undertaken and a -- and parameter  
16 estimates for the post-break period should be used,  
17 assuming that the sample size is adequate and a single  
18 break point is found.

19           Whatever the -- the results of any such  
20 test, my clients believe that the relative relationship  
21 between convictions and accidents should be the subject  
22 of further study and reporting back to the Board,  
23 including the future filing of comparative models.

24           And we think certainly, from my clients'  
25 perspective, that relates directly to the Board's

1 jurisdiction to determine whether the rates are just and  
2 reasonable. It -- it certainly should be satisfied that  
3 a -- that the -- the proposed mix and the rates that flow  
4 from it are not necessarily the best fit, but certainly  
5 amongst the best fits.

6                   Finally, my clients believe and, again,  
7 this is going more to the moral authority of the Board  
8 than its expressed jurisdiction that the -- would -- they  
9 would recommend that the PUB recommend to the City of  
10 Winnipeg, the Province in -- of Manitoba and MPI, that  
11 the roll out of DSR be associated with an enhanced  
12 commitment to highway traffic enforcement and that MPI be  
13 directed to report back to the PUB on what, if any,  
14 options it has considered with its partners to enhance  
15 and support increased highway traffic enforcement both  
16 within and outside the city.

17                   Turning to page 34 of the outline and  
18 we're just rolling along, Mr. Chairman, now. We're  
19 making good progress. We'll get Mr. -- Mr. Kruk out to  
20 his lunch, I'm hopeful. And I note that Ms. Desorcy is  
21 here.

22                   My clients have raised or intend to  
23 address the issue of fairness from a number of  
24 perspectives and I've set them out at page 34. And  
25 again, these are the criteria by which my clients have

1 assessed the overall fairness of the Corporation's  
2 application, going back to the -- the language of Mr.  
3 Justice Kopstein or -- or the language of PUB Order 9705,  
4 the loss transfer. Fairness is a shorthand word for a  
5 more useful indicator of insurance experience.

6           And I'm going to flow through these  
7 questions, starting at page 35. The first question my  
8 clients asked is: In theory, do the proposed rating  
9 variables, being prior at-fault accidents and prior at --  
10 prior convictions, have value in better reflecting risk?

11           And, really, there's no denying this and  
12 not just as demonstrated by the Corporation's research,  
13 but as confirmed by Mr. Palmer or CAC/MSOS Exhibits  
14 Number 7 and Number 8. There is a wealth of research,  
15 empirical research, to suggest that there was a  
16 statistically significant relationship between counts of  
17 traffic accident involvements, counts of prior -- counts  
18 of prior traffic accidents and citations for groups of  
19 drivers. No debating.

20           The second question my clients asked was:  
21 Was the methodology in examining predictive variables  
22 sound? And you've heard -- generally, my clients' answer  
23 to this and we'll elaborate on it is, yes, although there  
24 is a caveat.

25           At a high level, my clients would suggest

1 that the -- the practice undertaken by MPI appears to be  
2 generally consistent with what's set out in the  
3 literature. They do note two (2) important things that  
4 are missing. MPI tested information on different models  
5 for fit. That -- the actual results of that testing is  
6 not on the public record.

7           And secondly, the -- MPI apparently also  
8 tested the relative value -- "merit" is the wrong word,  
9 but the relative value of different types of convictions  
10 in terms of test -- in terms of their predictive ability,  
11 namely -- we'll speak to that in a second. Again, that  
12 information, to my understanding, is not on the record in  
13 a fashion in which it can be tested.

14           But going to my first point that the  
15 methodology is generally consistent with the literature,  
16 again, the best way to do this is not to be -- to listen  
17 in mind-numbing detail to my submissions, but, a review  
18 of the literature as set out in CAC/MSOS Exhibits 7 and 8  
19 I think will provide some helpful indicators in terms of  
20 the analytic approach taken in terms of best practices.

21           The one (1) caveat is it's got -- they've  
22 got good reviews of the North American literature. I  
23 think a notable exception, or -- is they don't have some  
24 of the very valuable literature from Australia or from  
25 Europe.

1                   But at a high level, we're confident that  
2 your review of that literature will satisfy you that what  
3 -- that most studies tested a variety of different  
4 predictive variables, and different relative mixes of  
5 predictive variables. And I've added some detail there,  
6 and certainly a literature review can assure you of that  
7 as well.

8                   And studies like Haueru I think used -- H-  
9 A-U-E-R-U -- used like seventeen (17) different models.  
10 So there's a variety of testing, not just to see one (1)  
11 which has a pretty good fit, but a relative ranking.

12                   Did MPI do that? Turning to page 7 -- 37  
13 of the analysis. It appears to have done so, and Mr.  
14 Palmer spoke of this at page 685 and 686 of the  
15 transcript. And actually gave my clients some comfort in  
16 the fact that they had done so.

17                   My clients' discomfort, of course, is that  
18 the results of that analysis was not filed in support of  
19 the Application. So that's something that left my  
20 clients uncomfortable and, certainly, in future  
21 Applications we think that type of analysis would be  
22 valuable.

23                   Turning to page 38 of the outline, and Mr.  
24 Palmer confirmed this at page 726. The Corporation  
25 actually looked at at least three (3) main categories of



1 convictions and tested their relative merit, or value, in  
2 predicting future accidents, presumably with the view to  
3 testing whether they should each be assigned two (2)  
4 demerits.

5                   And so my clients take some comfort that  
6 at least a preliminary analysis on this point was done.  
7 Again, though, that material was not filed in support of  
8 the Application. That would be something helpful in the  
9 context of future Applications.

10                   Turning to page 39 of the outline --  
11 sorry, Mr. Chairman. I note Ms. Desorcy's here, and I've  
12 done her the great discourtesy of failing to share a copy  
13 of my outline with her, so I'm just going to see if the  
14 MPI panel would like -- or the back row could share one  
15 (1) with her.

16

17                   (BRIEF PAUSE)

18

19                   MR. BYRON WILLIAMS: Anyways we'll --  
20 turn to page 39 of the outline. The question we asked  
21 there --

22                   THE CHAIRPERSON: If you need an extra  
23 copy we can easily run one (1) off.

24                   MR. BYRON WILLIAMS: If Mr. Gaudreau has  
25 a second, that would be great. I appreciate it.

1 THE CHAIRPERSON: Very good.

2 MR. BYRON WILLIAMS: I don't think we  
3 need to stand down though, Mr. Chairman. I don't --  
4 thank you, Mr. Gaudreau, and I know it's not in your --  
5 Mr. Gaudreau, I know it's not in your job description.

6 THE CHAIRPERSON: Everything is in Mr.  
7 Gaudreau's job description, Mr. Williams.

8 MR. BYRON WILLIAMS: Page 39 and, Mr.  
9 Chairman, we go through these questions in -- because we  
10 think these are important questions for the Board to ask  
11 from the -- from the -- the fairness perspective. Does  
12 the MP -- MPI data support the theory? Does it suggest  
13 that the propo -- proposed variables and value in better  
14 reflecting risk? And really, there's no doubt of that and  
15 that -- the Board's analysis in SM5 is -- is quite  
16 persuasive, including Mr. Palmer's favourite table on --  
17 on page 12 of SM5.

18 Again, my clients do have some concerns  
19 about reduced enforcement and the possible effect in  
20 terms of the best fit, and they also have some concerns  
21 about scale but, generally, Section SM5 is generally  
22 persuasive.

23 Turn to page 40, is there an appropriate  
24 relationship between the proposed var -- variables? And  
25 I've stated this already under the enforcement heading.

1 Generally, yes, from my clients' perspective, it appears  
2 to be a reasonable fit, although my clients do have  
3 questions about whether it's the best fit and whether  
4 accidents are unduly weighted.

5                   And I've merely put in a quote from pages  
6 692 and 693 of the transcript, suggesting that the --  
7 that there are other approaches that also provided a  
8 relatively decent predictive fit.

9                   A more important criticism of the MPI --  
10 or an equally important criticism of the MPI approach, as  
11 represented in this Application, appears at page 41 of  
12 the outline.

13                   We've asked the question there: Is the  
14 proposed rating scale an appropriate reflection of the  
15 expected risk of the various stages of the driving --  
16 driver's rating scale?

17                   And my clients' cautious conclusion on  
18 this point is that, (1), it is likely that the current  
19 composition of DSR Number 10 is overly aggregated, in  
20 that it fails to differentiate declining levels of risk  
21 for those drivers with more than ten (10) years claims  
22 free; and secondly, my clients are also of the -- the  
23 view that there likely should be more steps in the scale,  
24 at least out to fifteen (15).

25                   And ultimately, that may be where the

1 Corporation wishes to go. My clients would take the  
2 position that the evidence on the record to date suggests  
3 that this -- that would have been a good place to start.

4 I have a bit of a discussion of this at  
5 page 42 of the outline, and on this page we -- we make  
6 the point based upon our -- our cross-examination of Mr.  
7 Palmer at pages 640 -- really 647 through 649, that the --  
8 - the drivers getting -- driver rating scale at number  
9 10, the merit level is too highly aggregated.

10 And a general rule of thumb, of course,  
11 Mr. Chairman, is that -- that one risks -- one aggregates  
12 drivers with like characteristics. And what MPI  
13 confirmed in our discussion with them at pages 649 and --  
14 and 650 is that, really, that -- that big pot of -- of  
15 ratepayers set out at scale number 10 is not an  
16 aggregation of like risk.

17 These certainly are the safest -- safer  
18 drivers, but MPI, in subsequent analysis, and this is  
19 reflected in the quote at 649, established that there  
20 were material differences within this group as one (1)  
21 goes down from ten (10) to eleven (11) years claims free,  
22 from eleven (11) to twelve (12) years claims free, out to  
23 fifteen (15) years claims free.

24 So certainly, from my clients' perspective  
25 and from the perspective of fairness, those consumers who

1 have been -- who have gone eleven (11) to fifteen (15)  
2 years claims free but who have been lumped into the ten  
3 (10) years claims free are, certainly, in the wrong place  
4 on the scale, and based upon their relative risk being  
5 unduly -- or paying more than their relative risk.

6 Mr. Chairman, I hadn't handed out -- and  
7 perhaps if I could have just a five (5) minute break to  
8 refresh myself. We're making good time, but if that  
9 would be appropriate, Mr. Chairman?

10 THE CHAIRPERSON: That is fine, Mr.  
11 Williams.

12

13 --- Upon recessing at 11:23 a.m.

14 --- Upon resuming at 11:38 a.m.

15

16 THE CHAIRPERSON: Anytime you are ready,  
17 Mr. Williams.

18

19 CONTINUED BY MR. BYRON WILLIAMS:

20 MR. BYRON WILLIAMS: Thank you, Mr.  
21 Chairman. I promised you that in addition to the two (2)  
22 tonne outline of argument, there was some shorter aids to  
23 the closing argument.

24 The first one I would refer you to is  
25 actually an excerpt from CAC/MSOS Exhibit 5, and the

1 title on this is Data From Table Page 3 SM-5.

2 Just to recap where we were, the question  
3 we were addressing is whether the proposed rating scale  
4 was an appropriate reflection of the expected risk of the  
5 various stages of the driving rating scale.

6 I've previously offered some comments in  
7 terms of merit Level 10 being too highly aggregated, and  
8 to a similar effect in my clients' submission there's  
9 important evidence on the record suggesting that the  
10 initial scale simply had, and has, too few steps.

11 And it's a bit of a complicated  
12 explanation, and so if you turn to page 43 of the outline  
13 I'll give you the highlights, and then in support of it  
14 I've put some excerpts from the transcript.

15 The initial scale, as the Board is aware,  
16 has thirty-one (31) elements; One (1) -- ten (10)  
17 positive in terms of merits; zero and -- as well as neg -  
18 - min -- twenty (20) demerits.

19 And the Board doesn't need to turn there,  
20 but for the Board's reference in SM-5, page 9, MPI sets  
21 out how it calculated those thirty-one (31) initial  
22 steps, and I won't bore you with the details, but you may  
23 -- you'll have to take my word for this.

24 A key element of that calculation, and MPI  
25 has confirmed that in cross-examination which I'll refer

1 you to, was its determination that, on average, an  
2 additional clean year provided a decimal zero (.0) -- and  
3 I've got it misspoken here, decimal zero -- misspelled  
4 here -- .007 change in terms of the scale.

5           And if you go to Table -- the data from  
6 Table Number 3, SM-5, and we confirmed this in cross-  
7 examination, essentially what -- how MPI calculated that  
8 point -- that figure was by taking the at-fault claims  
9 frequency for the zero claims free years, being 0.103,  
10 minus the at-fault claims frequency for the ten (10) or  
11 more years, being 0.029, and then dividing it by the  
12 number of years, and it came up with .074.

13           So that's all well and good except for the  
14 problem is, of course, when we go back to that -- that  
15 figure, ten (10) or more years, we recognize that this is  
16 a -- that highly aggregated collection of drivers. This  
17 isn't just drivers with the claims frequency of -- or  
18 clean -- number of clean years of ten (10). This is also  
19 drivers with a number of clean years of eleven (11),  
20 twelve (12), et cetera.

21           And MPI has also confirmed that there is a  
22 statistically significant difference in their claims  
23 frequency going out to fifteen (15) clean years.

24           And so the point, Mr. Chairman, and Board  
25 Member Evans is: If the -- the line ten (10) or more was

1 actually just ten (10), it's -- it's extremely likely  
2 that the at-fault claims frequency would not be point  
3 zero two nine (.029), it would be significantly higher.

4           And -- and you can just see that. If you  
5 look at this table, you can see in the early years of the  
6 number of clean years on the table, there's quite a -- a  
7 change from year-to-year in the at-fault claims  
8 frequency. A big drop from year zero to year one (1),  
9 down to about year four (4) and then the numbers become  
10 much more stable and a lot less than point zero zero  
11 seven (.007).

12           Yet that's not captured by this -- the MPI  
13 analysis and, again, you see at ten (10) or more years,  
14 they've got this steep decline of zero point zero one  
15 five (0.015) on this table.

16           And I put this to Mr. Palmer at page 661  
17 of the transcript and that's at page 43 of the outline.  
18 I reference this sharp decline in year ten (10) in terms  
19 of at-fault claims frequency. And Mr. Palmer quite  
20 rightly correctedly -- corrected me as I hoped he would.

21           And as you pointed out previously, that's  
22 a much larger group that it -- there is some spread of  
23 risk within that. So I wouldn't say that all of a sudden  
24 at ten (10) or more, it has a large decrease. There's  
25 probably some gradual decrease in the at-fault claims



1 frequency as each clean year is added to the data.

2                   And the -- the thrust of my clients'  
3 argument on this point, Mr. Chairman, MPI's come up with  
4 a figure of point zero zero seven (.007) which is  
5 essential to its calculation of the initial scale; that  
6 figure is probably a bit too high -- probably point zero  
7 zero six (.006). Now that sounds like a small point but  
8 it suggests that there should be a meaningful increase in  
9 the number of steps on the scale.

10                   Now I realize that that's a somewhat  
11 cumbersome and complicated explanation, so, I've included  
12 in the next four (4) pages some relevant excerpts from  
13 the transcript and just at page 44, in the middle of the  
14 bulleted section there, you can see that MPI's confirming  
15 that this figure of point zero zero seven (.007) was the  
16 figure used in the development of the scale.

17                   Moving over a couple pages, you -- you --  
18 at page 46, the bullet in the middle, you see the quote  
19 that I just referenced you and Mr. Palmer, essentially,  
20 correcting me and saying that -- that while the -- the  
21 table suggests a sharp drop from nine (9) years claims  
22 free to ten (10) years claims free, it's much more  
23 gradual.

24                   So those are the -- the -- my clients'  
25 submissions on that point. I -- I leave it to you to --

1 to review at your -- at your leisure.

2                   Turning to page 48 of the -- of the  
3 outline, there's a couple of points I just want to  
4 highlight from that -- that -- that submission.

5                   From a fairness perspective, what that  
6 analysis suggests is that the drivers at DSR 10 are  
7 getting a -- I've got the words "big". We should strike  
8 out that word but they're getting a boost from groups  
9 with lower risk, i.e., those at fifteen (15), fourteen  
10 (14) and thirteen (13). And it also suggests that the  
11 scale should be smoothed and expanded.

12                   And certainly that's my clients'  
13 recommendation, that strong consideration be given to  
14 expanding upward elements of the scale, relatively  
15 rapidly.

16                   As I said, generally my clients think the  
17 -- the Corporation's analysis in SM 5 was strong. This  
18 is one (1) area of weakness, and the Board certainly --  
19 my clients are not as worried about this particular  
20 Application, but they suggested it leads to the  
21 importance of moving more quickly to expand that scale.

22                   Turning to page 49 of the outline, and  
23 this is almost primarily by way of summary, we asked the  
24 question: Is it possible that the methodology, the  
25 proposed variables, or the relationship between the

1 proposed variables, could be improved?

2                   And the starting point for this discussion  
3 falls from words of Ms. McLaren at -- at page -- pages  
4 670 and 671, and she subsequently confirmed them in  
5 discussion with the Chairman on the last day of the  
6 Hearing. And she talked about this proceeding being --  
7 driver safety rating being really, as it evolved, as dyna  
8 -- dynamic concept, with room to expand in the future,  
9 whether that's through additional merit levels, changes  
10 to the discounts, increases to the surcharges.

11                   And I've got this bullet at the -- towards  
12 the bottom of page 49. The -- the concept's open for  
13 discussion: What moves you on this scale? How much does  
14 it move you? What are the rates associated with your  
15 placement on -- on the scale? All those -- all of those  
16 things will be dynamic into the future, based upon the  
17 dialogue between the government, MPI, and the Board.

18                   And as we anticipate moving into this  
19 dynamic process, moving to page 50 of the outline, my  
20 clients have some -- some recommendations for future  
21 proceedings, some of them are procedural, some of them  
22 are -- are substantive.

23                   Procedural wise, my clients think it's  
24 essential, and I've talked about this before, that MPI  
25 report on the various models and variations and the

1 relative fit, and report on the specific elements within  
2 the models that it has tested. And that argument's  
3 almost self-evident. It would give us better confidence  
4 that the results are just and reasonable, and also help  
5 to point out a way for the -- the program to evolve in  
6 the future by relative comparison between these -- these  
7 different models.

8 My clients believe that in the future  
9 serious consideration should be given to the relative  
10 relationship between accidents and convictions.

11 As I said before, a lot of this is  
12 empirical. We're uncomfortable with the -- with the  
13 material change in circumstances relating to the decline  
14 in enforcement over those material years.

15 Some of it is philosophical. My clients  
16 see an analytical difference between convictions and  
17 accidents, not -- and I have to be careful here, it's,  
18 you know, in some cases a accident is a result of  
19 reckless behaviour and quite probably leads to an  
20 accident and a conviction. But my clients' certainly see  
21 some element of con -- convictions being related to  
22 willful misconduct, risky behaviour, whereas they see  
23 acci -- accidents being disproportionately comprised of  
24 errors in judgment, a performance area -- error, or  
25 simply bad luck.

1                   And my clients are uncomfortable, both  
2 empirically and philosophically, with the -- the weight  
3 given to accidents versus convictions. They'd certainly  
4 like to see in the future some consideration given to a  
5 better fit through perhaps less relative weighting to  
6 accidents.

7                   And I've talked about this briefly with  
8 Mr. Palmer, and I'm not sure the record has made it  
9 clear, but my clients think as well that consideration  
10 should be given in the future to the merits of not just  
11 looking at frequency of accidents as a predictive  
12 variable, but also by severity as specifically measured  
13 by injury to -- to one's self.

14                   And again, part of that's philosophical.  
15 My clients are of the view that not all accidents are the  
16 same. A fender bender, again, on an icy day with no  
17 serious consequences is, under this system, given the  
18 same consequence, five (5) demerits, as a accident at  
19 unsafe -- relatively unsafe speeds. And my clients are  
20 uncomfortable with that.

21                   There's not much on the record on this  
22 point, but if -- if the Board turns to pages 673 to 675  
23 of the transcript at some later date, you'll see that  
24 there is some evidence from Australia, suggesting that  
25 this variable severity as I've called it, is measured by

1 injury to self, has some value as a predictive variable.

2 I think MPI argued in the course of the  
3 Hearing, it was somewhat dismissive of this concept, both  
4 in conversation with my friend, Ms. Everard, and in  
5 conversations certainly with -- with myself. One (1) of  
6 the arguments, it -- it appeared to use was that you know  
7 -- you don't know what you'll hit and that's a -- that is  
8 a -- severity may merely be a function of -- of who you  
9 hit.

10 And there obviously is some truth to that,  
11 but I think MPI has confirmed, on -- on this record, that  
12 the majority of collisions, as we understand it, are  
13 either car on car or car on truck. Certainly, that's our  
14 understanding of the evidence. They'll -- they'll  
15 correct us if I've misunderstood it. And that's at pages  
16 664 of the transcript at -- and through to pages 666.

17 Mr. Chairman, these next few pages I will  
18 go through very quickly. These are really elaborating on  
19 the point that there might be room for an improvement  
20 through the relative weight given to accidents versus  
21 minor convictions, and I -- I've put some references to  
22 the transcript. Certainly in the literature, traffic  
23 convictions -- and that's at the top of page 51 -- are  
24 seen more as a reflection of risk taking, whereas -- as  
25 you go to the middle of pages 771 -- there's certainly a

1 recognition that accidents are -- are in part a -- on  
2 occasion -- frequent occasion, a consequence of risk  
3 taking, but there also more reflective of performance  
4 skills.

5                   And again, we put some on -- moving on to  
6 page 52 -- some -- some point -- some evidence suggesting  
7 that there is similar predictive value from -- from these  
8 two (2) factors, raising again not a -- whether the --  
9 the five (5) versus two (2) demerit allocation is the --  
10 the best going forward into the future.

11                   Turning to pages 53 and 54. Again, here's  
12 just the transcript, in terms of the discussion, in terms  
13 of severity as a predictive value, severity being  
14 measured by injury to self. And I put in a fuller  
15 reference here because Mr. Palmer had some cautionary  
16 words on this subject and I didn't wish to be unfair to  
17 him.

18                   Moving on to page 66, here's an easy one.  
19 Are the proposed rates as applied for directionally  
20 consistent with the proposed Driver's Safety Rating  
21 scale? Absolutely. That's been the thrust of the  
22 Corporation's argument. There's no disputing that.

23                   Tougher question appears on page 56. Do  
24 the proposed rates appropriately reflect the predicted  
25 risks of the various stages of the Driver's Safety Rating

1 scale? And I think, maybe it's not a tougher question.  
2 I think the answer, based upon both Ms. Everard's cross  
3 in the early days of this Hearing, as well as Mr.  
4 Saranchuk at pages 861 and 862, is, No, they don't. And  
5 the Corporation's been frank on that as I understand it.  
6 They see Driver Safety Rating as a -- a directional  
7 guide, but they raise a -- what -- certainly serious  
8 policy concerns about how far down that path one (1) can  
9 go while still enabling continued access to the system.

10           So my clients have no doubt that based  
11 upon this analysis, the safest drivers, those on a  
12 current analysis up at the -- what should be Level 15,  
13 fifteen (15) years claims-free, continue to pay more than  
14 their relative risk. They would also say, again and this  
15 is a point they've made previously, there's too many  
16 drivers grouped in that Stage 10, and it blurs the  
17 distinction between drivers with lower relative risk  
18 being those thirteen (13), fourteen (14), fifteen (15)  
19 years claims free.

20           Just in terms of fairness, my clients  
21 would also point out transition rules, in their  
22 perspective, under penalized high risk drivers they're --  
23 in the sense that there's an adjustment. And "penalize"  
24 is probably the wrong word. And they would argue even  
25 over time this system is likely to under reward low risk



1 drivers. My clients, like MPI, are -- struggle with the  
2 issue of how far down this path one goes while preserving  
3 access to the system.

4 I make very brief reference to other  
5 fairness issues at page 57, Mr. Chairman and Board Member  
6 Evans. We won't elaborate. The record is fairly clear,  
7 but there are some issues associated with new drivers out  
8 of province. And the -- my clients is -- is outlined by  
9 Ms. Bowman in her cross-examination on Day 3, would also  
10 point out that the impact of demerits per accident is not  
11 evenly distributed among merit points. And by that we  
12 mean that with the same accident it takes certain  
13 drivers, depending on where they end up on the scale,  
14 longer to get back to their -- the status pre-accident.

15 In terms of fairness, my clients  
16 acknowledge that this is a system that is not perfect.  
17 They see material potential for improvement but compared  
18 to the old system they see conceptually it is a material  
19 improvement. And certainly they emphasize that serious  
20 consideration should be given to the expansion of the  
21 upper limits of the scale and heightened rewards.

22 I've got a short section at page 59 of the  
23 outline, titled "Look at the Long Term." And the  
24 question posed is: Is a projected long-term development  
25 of the program consistent with the stated objectives of

1 MPI?

2                   And for the Board just to follow along on  
3 this point, there's two (2) small points I want to make  
4 here, it might want to return to another of the handouts  
5 that I provided to you; that is PUB/MPI-1-46. It's not  
6 the corrected version, and I apologize for that, but I  
7 don't think directionally the conclusions would be  
8 materially different. Certainly MPI will correct me if I  
9 do so.

10                   But Ms. Everard in the early days of this  
11 Hearing, which seems so long ago now, made an important  
12 point in her discussion on this Information Request. And  
13 certainly if the Board recalls my initial conversation,  
14 in terms of the concept of Driver Safety Rating,  
15 certainly my clients' understanding was that it offered  
16 greater opportunities for drivers to bounce back from the  
17 relative impact of adverse effects, maybe it be an  
18 accident or a minor conviction.

19                   And what the Board did in this Information  
20 Request was ask MPI to look at what happens under certain  
21 scenarios. And if one goes through perhaps to pages --  
22 let's start about Example 4, which is about page 6 of  
23 this exhibit, or this Information Request, what these  
24 examples do is essentially compare drivers under two (2)  
25 scenarios, under the old Bonus-Malus system, versus the

1 DSR system.

2                   And Example 4 makes this point eloquently.  
3 A driver -- and again there's some small changes to this,  
4 based upon the revised undertaking, but at the top on --  
5 on Example 4 there's a driver who has no incidents in the  
6 seven (7) years, who was put on the scale at zero. And  
7 you see that their treatment under the program is  
8 relatively consistent over the next seven (7) years, with  
9 surprisingly, perhaps, a driver who goes seven (7) years  
10 accident free actually doing a little bit better under  
11 the old system than the new system.

12                   What's interesting, and my -- my first  
13 point on this though, is look what happens to this driver  
14 if they have a -- not a terrible experience, but a couple  
15 of unfortunate accidents a couple years out, one (1) at-  
16 fault claim and one (1) low severity conviction, and then  
17 seven (7) -- take them through for the next seven (7)  
18 years. And you certainly have a material change with,  
19 again, the driver under the -- under the old system  
20 performing relatively -- doing relatively better, and in  
21 fact, bouncing back quicker.

22                   So the point my clients wish to make --  
23 and if you -- one goes through the tables, that point is  
24 -- is continued I think with increasing emphasis as -- as  
25 one gets out into the scenarios. And the point my

1 clients simply wish to make on this is while they -- they  
2 certainly support Driver Safety Rating as a concept and  
3 they recognize that this is -- we're only looking at  
4 approval of this program for the -- the -- essentially  
5 the 2010 to '11 year, if you look at how the -- the  
6 Corporation has charted this program kind of to rollout  
7 in subsequent years, there are some concerns with how  
8 it's anticipated to rollout, in that it may be harder for  
9 -- at least based upon this analysis -- for drivers who  
10 have a little bit of bad experience to bounce back as  
11 quick. And that would be contrary to certainly how my  
12 clients would have expected this program to work.

13                   A similar point is made in another one of  
14 the handouts that my -- my clients have offered; that's  
15 just the excerpt from CAC/MSOS Exhibit Number 4. You've  
16 probably got one (1) with some messy handwriting on it,  
17 and I apologize for that.

18                   It looks at -- at this issue from almost  
19 the opposite perspective. Rather than looking at a  
20 driver with pretty good experience -- it's the CAC/MSOS  
21 Exhibit Number 4 -- again, it compares the Bonus-Malus  
22 Program to driver safety rating and it asks: What about  
23 -- what about if we take this da -- we -- this driver and  
24 give them at-fault claims in the first and second year,  
25 what would happen to them under the two (2) programs.

1                   And surprisingly, again, this is a driver  
2 given that, you know, at-fault claims, one (1) accident  
3 in the year before transition, and then at-fault claims  
4 in the first and second year, under the current program,  
5 the Bonus-Malus Program, that driver fairs relatively  
6 worse. And -- and this is, I guess from clients'  
7 perspective, again, a cautionary note, as we look to how  
8 MPI contemplates this program, rolling out over time.

9                   One (1) of the messages my clients'  
10 thought driver safety rating was supposed to send was  
11 enhanced consequences for poor drivers, and that's not  
12 apparent from this selected example from CAC/MSOS Exhibit  
13 Number 4.

14                   And I'd note on the -- the -- my clients  
15 had been concerned that perhaps maybe this -- this result  
16 was biassed because of the transition issues, so on day -  
17 - the last day of the Hearing they got MPI to update it,  
18 assuming DSR as of November 2013. And certainly, the  
19 numbers were closer, but again, under the current  
20 program, a driver who had accidents in the year before  
21 transition and at-fault claims in the first and second  
22 year, performed relatively -- did relatively better under  
23 the -- under the DSR. And again, if -- if the message is  
24 enhanced consequences for higher risk behaviour, one won  
25 -- wonders if the proper message is being sent.

1                   So I guess my clients' conclusion, they  
2 don't have a recommendation here, but that this is  
3 something that should be carefully watched in the future.

4                   Mr. Chairman, I'm -- there's a -- the next  
5 few pages are merely excerpts from the -- from the  
6 transcript relating to that point. My -- my next subject  
7 is page -- is at page 62.

8                   And I'm at the Board's discretion. I'm  
9 guessing that I probably have about forty-five (45)  
10 minutes to go. I can finish up or if the Board wishes  
11 for a -- a brief break, I can -- I'll -- I'll do as -- as  
12 the Board directs.

13

14   (BRIEF PAUSE)

15

16                   THE CHAIRPERSON:   How long a break do you  
17 need right now?

18                   MR. BYRON WILLIAMS:   I'm -- I'm not --  
19 you know, Mr. Chairman, I can -- I can keep going.

20                   THE CHAIRPERSON:   Well, we are just  
21 thinking for the benefit of all the parties here, it  
22 might be better if you just went through to a conclusion.

23                   MR. BYRON WILLIAMS:   Yeah, that's fine.

24

25   (BRIEF PAUSE)

1                   MR. BYRON WILLIAMS:   Mr. Chairman, just  
2 turning really to pages 62 and on, I address some of the  
3 key questions related to loss prevention, going back to  
4 the Loss Transfer Hearing, the issue of being more  
5 effective in motivating driver behaviour.

6                   And I've set out, by way of outline on  
7 page 62, three (3) or four (4) questions that my clients  
8 have posed. Really the -- the substance starts at page  
9 63 with the issue: Can and should the loss prevention  
10 impact to the Driver Safety Rating program be measured?

11                   And -- and we spent some time on this, Mr.  
12 Chairman, because if one looks at what we -- the  
13 Corporation's response to some of the early  
14 interrogatories of the Public Utilities Board, or even  
15 its initial statements in the first day of the Hearing,  
16 the Corporation was expressing a -- in -- in our  
17 respectful view, a -- a fair bit of reluctance, some  
18 trepidation in terms of the ability to -- to measure the  
19 impact of this program.

20                   And certainly, like the Corporation, my  
21 clients realize that it's not an easy task, that there  
22 will be confounding variables that have to be analysed  
23 and explained. But the -- their bottom line is  
24 absolutely, it can and must be measured, and they would  
25 strongly urge that the -- the Board get guidance from MPI

1 before approving this program in terms of how it will be  
2 measured.

3                   And again, while MPI's suggested some  
4 legitimate reservations, there is experience from  
5 elsewhere and even from MPI's own evidence suggesting  
6 that there are measurable impacts that can be measured.

7                   And again, the points my -- my clients  
8 wish to make and we -- they've spent a lot of time  
9 talking about the literature review in the course of this  
10 Hearing, both in terms of some of the exhibits on the  
11 record being CAC/MSOS Exhibit Number 7 and Number 8 and  
12 also in discussing with MPI their understanding of the  
13 literature. Because while -- while the Corporation does  
14 express some reservations, in my clients' views, the  
15 literature is much more rich than MPI may have believed,  
16 in terms of the potential to measure the -- the effective  
17 or programming.

18                   I've got some examples here. Certainly,  
19 we're aware now and Mr. -- My Friend, Mr. -- well,  
20 actually, My Friends from CA say -- CAA mentioned this  
21 this morning. There's evidence on the record in terms of  
22 the short term impact of demerits on driver behaviour.  
23 That's actually Canadian evidence reproduced in the  
24 Lancet.

25                   There's evidence in terms of the short and



1 long term introduction of demerit point programs, which  
2 is analogous in my clients' view, and there's -- that was  
3 certainly discussed between Mr. Palmer and myself with  
4 reference to some of the European literature.

5           There's a wealth of evidence in terms of  
6 how rela -- different driver improvement initiatives  
7 affect driver behaviour, especially flowing from  
8 California. And again from my clients' perspective, that  
9 kind of analytic approach is analogous to what the  
10 Corporation would be attempting to do here. Again  
11 flowing especially from California, there's a lot of  
12 evidence in terms of the relative cost benefit effect of  
13 certain interventions. Again analogous.

14           And -- so those are just some examples.  
15 And what I have done here in a couple of the pages of the  
16 transcript that are -- of the outline that follow, is  
17 include references from the transcript where there's a  
18 general high level discussion of the literature which  
19 sets that out.

20           And that takes us roughly -- you can read  
21 those references at your leisure -- that takes us roughly  
22 to page 67, the Loss Prevention Question Number 2: Does  
23 the Driver Safety Rating program have the potential to  
24 become a meaningful loss prevention initiative? Can its  
25 potential be enhanced?

1                   Certain -- my clients' answer to that is a  
2 somewhat cautious yes, but it's not clear that that  
3 potential will be achieved. And we've set out what we  
4 think is a helpful description of the Corporate --  
5 Corporation's perspective.

6                   And the Corporation strikes a cautious  
7 tone at page 636 of the transcript. It does -- will  
8 Driver Safety Rating have a loss prevention effect? The  
9 Corporation states cautiously: The jury would still be  
10 out in terms of to what extent or when any such actual  
11 crash reduction directly attributable to the program may  
12 occur. And we understand that caution. We also  
13 understand from the literature that while there is some  
14 evidence of short-term affects of these programs, the  
15 sustainable of these affects is in question.

16                   My clients' concern though, and the reason  
17 they wish to emphasize this point, is they perfectly  
18 understand the Corporation's understandable desire not to  
19 inflate expectations in terms of the loss prevention  
20 effect. But their concern is that given this  
21 understandable desire not to overstate or inflate the  
22 loss prevention benefits of the program, my clients are  
23 concerned that the Corporation is really missing an  
24 opportunity, or has not fully articulated the potential  
25 A) to establish appropriate measures in terms of loss



1 that: Reinforcement needs to be credible, i.e., the --  
2 I've misspoken in my notes, but it speaks to the issue of  
3 enforcement. There has to be a realistic credible way to  
4 reinforce this through the risk of -- of apprehension.

5           In -- in terms of -- of testing the Driver  
6 Safety Rating Program against these criteria or the -- we  
7 see some elements already in place in terms of immediacy.  
8 There are, and sometimes we forget this, immediate  
9 consequences of the accidents, although not all  
10 necessarily flowing from the -- from the Driver Safety  
11 Rating Program. There's the trauma of the accident; the  
12 inconvenience, goodness knows I've experienced that; the  
13 deductible if it's an at-fault accident; and there --  
14 then there is on this -- my clients certainly applaud  
15 under the new Driver Safety Rating Program, the letter  
16 setting out the -- the impact on -- on one's merits and -  
17 - and demerits as a consequence of the accident, as we  
18 understand their proposal. So there are already in place  
19 some immediate consequences.

20           What about repeated signalling? And this  
21 is where Ms. McLaren would acknowledge, and she does that  
22 at page 621 of the transcript, she certainly argues that  
23 driver safety rating serves a role there. It's -- it's  
24 doing something like that -- that's one (1) of the thing  
25 -- I'm quoting from her:

1                    "Tat's one (1) of the things that a  
2                    program does because it's a scale and  
3                    because there is movement on the scale  
4                    through time."

5                    And she also points out that communication  
6                    has some value in this regard.

7                    And I have to -- to say on behalf of my  
8                    clients, Mr. Chairman, that that's something that MPI  
9                    persuaded them of in the course of this proceeding. My  
10                   clients felt some initial reluctance to see the  
11                   elimination of the surcharges. As they understood the  
12                   MPI's analysis and the -- the desirability of repeated  
13                   messaging, they -- they came to appreciate the -- the  
14                   concept of a movement on the scale rather than a one (1)  
15                   time only impact from at-fault accidents. So there are  
16                   elements of -- of potential behaviour modification in  
17                   terms of repeatedness found in this driver safety rating  
18                   program already.

19                   What about structure reinforcement? And  
20                   again, Ms. McLaren has something thoughtful to say on  
21                   this point. She points out that research shows that the  
22                   behaviour tends to return to longstanding previous  
23                   patterns in the absence of structured reinforcement to do  
24                   otherwise. And so in the discussion at page 69, and I --  
25                   I won't take you through it, but I went through with her

1 some, you know, how do you -- what is the key to  
2 structured re -- reinforcement. And she certainly  
3 thought communication and publicity had its role, but I  
4 think Ms. McLaren was quite adamant, hopefully I said  
5 that -- adamant -- adamant on the point. I'll get my  
6 friend, Ms. Bowman, to spell it.

7                   What's the key to structured  
8 reinforcement? One (1) of the key elements in -- and I  
9 bolded that, increased traffic en -- enforcement  
10 certainly would do that.

11                   So, again, my clients recognize that  
12 that's not within the purview, but they see that as a  
13 central element if this program is going to -- to work  
14 and -- and to achieve its potential, that there needs to  
15 be a renewed commitment to enforcement, especially in the  
16 city of Winnipeg.

17                   Just a few more points on -- on the -- the  
18 potent -- go -- going to page 70 of the outline, the  
19 potential loss prevention effects of this program. And  
20 there's some great European literature on this, Mr.  
21 Chairman, which certainly I'd recommend to MPI and others  
22 interested in terms of the reading. We certainly talk  
23 with Ms. McLaren about deterrence, both general  
24 deterrence -- that's at page 7 of the outline -- of -- of  
25 all ratepayers, but also specific deterrence in terms of

1 those who receive merits or demerits.

2                   And again, there is some informa --  
3 information from the Lancet article referred to on the  
4 record, in terms of the short-term impacts, in terms of  
5 changing behaviour from merits or demerits.

6                   Something that's a -- no one really wants  
7 to talk about is the concept of selection, selection  
8 being -- essentially making it much more difficult for  
9 very high-risk drivers to -- to continue to drive. And  
10 there are very important policy issues at stake there.  
11 My clients certainly are -- are reluctant to see anyone  
12 driven off the road by auto insurance premiums.

13                   But it is important to acknowledge, and  
14 certainly the literature makes this very apparent, that  
15 an important loss prevention initiative is selection.  
16 And the literature's quite interesting in this regard,  
17 and certainly there's reference to the study of Marsden &  
18 Peck (phonetic) on the record.

19                   Selection, i.e., putting high-risk drivers  
20 off the road has two (2) -- two (2) effects. One (1) is  
21 just by reducing their presence on the road of -- of the  
22 very highest risk drivers, to which the response always  
23 is, Yes, but they'll drive while disqualified. And  
24 that's clearly the case in many -- many circumstances.  
25 What the literature also suggests though is while they

1 may drive while disqualified, they drive better. They  
2 don't want to get caught.

3                   And I'm not saying from a public policy  
4 and -- and certainly my clients aren't anxious to walk  
5 down this path but they -- they think we should at least  
6 be aware to the -- to the implications.

7                   I've put down and I don't see my client  
8 frowning -- frowning too much on that point, so she'll  
9 tell me if I have to add more cautionary words. I put  
10 them to other potential loss prevention effects:  
11 Motivation to do better, and also, motivation to -- to  
12 take remedial training that reduces ones demerits.

13                   In terms of our recommendations in terms  
14 of loss prevention, going to page 71, we can't reinforce  
15 enough our comments regarding enforcement. My clients  
16 are really of the view that there's a lot the Corporation  
17 can learn from looking what other jurisdictions have  
18 looked at and done and studied, especially in the driver  
19 safety improvement literature.

20                   Again, it's not directly on point but  
21 there's analogies that -- that can be drawn in terms of  
22 how much impact a letter has, how much impact a warning  
23 has. There's a whole -- there's -- there's a pretty  
24 sophisticated science that has developed around this.

25                   And the other part -- and -- and Ms.



1 McLaren has, in the last day of the Hearing or the second  
2 last day of the Hearing, indicate a willingness to  
3 discuss this, at least on a trial project, was further  
4 consideration, research in terms of the behavioural  
5 modification impacts of driver training itself. Does it  
6 improve performance or behaviour? If so, is there some  
7 merit in a less than clever twist on words -- is there  
8 some value in allowing drivers at the -- towards the  
9 bottom end of the scale to buy their way back, not only  
10 by good behaviour, but by taking a -- effective driver  
11 training courses.

12                   And I may come to a -- a cite of that --  
13 that perspective from the transcript; I apologize for not  
14 having it right at hand. Again, there's some interesting  
15 research from Europe into the strengths and weaknesses of  
16 that approach and it's -- I -- I think quite  
17 appropriately, the jury's still out on that point.

18                   Just a small point my clients want -- want  
19 to look at. Just to mention, they don't really take  
20 issue with it but in the short-term, there will be --  
21 certainly with the elimination of surcharges and as we  
22 transition to -- to the higher additional driver premiums  
23 for those on -- with demerits, there will be in the  
24 short-term, less significant consequences for some  
25 drivers who are involved in at-fault accidents. And I

1 put some -- I put some statistics on the record from  
2 pages 498 of the transcript.

3           Annually we can expect between 6 or 7  
4 percent of drivers to get that -- whether it's the best  
5 mechanism or not, the accident surcharge is a message  
6 about loss prevention and the consequences of at-fault  
7 accidents. And as we transition into the new program,  
8 assuming it's -- the rates are approved, in the short  
9 term some of that signalling effect will be lost.

10           Now, my clients just wanted to put that on  
11 the record. They don't object to it. They have some  
12 sympathy for the kind of the fresh start and the gradual  
13 transition approach of MPI, but they just wanted to note  
14 that point.

15           Hopefully, the last single page handout  
16 that the Board has received from my clients is a one (1)  
17 pager, Suggestions Regarding Renewal Notices and  
18 Statements of Account.

19           Ms. McLaren right at the start of the  
20 Hearing talked about the need for improved  
21 communications, something she's certainly quite proud of.

22           And my clients at a high level want to,  
23 first of all, commend MPI for engaging plain language and  
24 communication expertise. And also conducting user  
25 testing to evaluate and improve the materials, and

1 certainly they've made some efforts to do so.

2           And certainly my clients feel that the  
3 prototypes, whether they're found at AI-2 or PUB-1-11 are  
4 a significant improvement over the current forms,  
5 especially the graphical representation of the DSR scale,  
6 and the use of colour to highlight certain areas.

7           However, while my clients comment MPI for  
8 doing the user testing, they certainly felt -- feel that  
9 MPI could have listened a little more closely to some of  
10 the comments made.

11           And we'd refer you to MPI Exhibit number  
12 11 where there's a lot of useful feedback, some of which  
13 was incorporated but much -- or excuse me, some of which  
14 has not been whether it's related to the font being too  
15 small, the language -- or the language and terminology  
16 being unclear or confusing.

17           The clients also have a concern, and as  
18 the Chairman will be aware, my clients, especially CAC,  
19 work extensively with new consumers in Manitoba, new  
20 entrants to the marketplace from outside of Canada.

21           And my clients certainly have concerns  
22 about how easily these documents would be understood by  
23 people with either limited English by virtue of being  
24 some newcomers to the country, or more limited literacy  
25 skills.

1                   So in the little handout that my clients  
2 have provided, they provided some suggestions regarding  
3 renewal notices and statement of account; one (1)  
4 relating to the type of font that should be used;  
5 identifying language that is difficult to understand,  
6 whether it's driver premiums, licence charge, et cetera;  
7 concerns about literacy skills and those with limited  
8 skills in English, et cetera. So hopefully, those will  
9 be incorporated in future iterations of this issue.

10                   In terms of measurement of the program  
11 success, which appears at page 74 of the outline, Mr.  
12 Chairman, as a general comment, and we've already spoken  
13 to this, my clients certainly believes the Corporation  
14 has been cautious, perhaps overly cautious, in outlining  
15 ways in which it proposes to measure changes in  
16 behaviour.

17                   My clients are also of the view that the  
18 Corporation has not been sufficiently explicit in  
19 defining measurable outcomes, not just for changes to  
20 driver behaviour but in terms of changes to public  
21 acceptance, public understandability, or relative driver  
22 risk.

23                   And there is an Information Response to  
24 this, I forget which one it is. I'm guessing PUB-1-3.  
25 It's near the start of the PUB Information Request where



1                   select a certain number of specific  
2                   questions and we'll continue to track  
3                   the answers through time."

4                   Certainly from my clients' perspective,  
5 they -- they believe that that should have been in place  
6 before this Hearing. They would recommend, certainly,  
7 that this be in place prior to the program's inception  
8 and shared with this Board and with Intervenors so that  
9 there are ways to -- to measure that.

10                   Turning to page 77 of the outline, I had a  
11 similar conversation with Mr. Palmer in terms of the --  
12 the measurement of risk and the drivers. And at pages  
13 634, turning to -- excuse me, turn to page 78 out of the  
14 -- of the outline in terms of measurement of driver  
15 behaviour, in pages 634 through 641 there was some  
16 discussion of this, and Mr. Palmer indicated, towards the  
17 bottom of the outline on page 78, that they'll -- the  
18 Corporation will continue to keep an eye on the research  
19 and also have their own data that they will measure. And  
20 it appears that he's referring to their measure with  
21 regard to unsafe speed, trend lines, seat belt trend  
22 lines, and impaired driving trend lines.

23                   And again, my clients' point is -- is that  
24 those measures should be expressed and set out prior to  
25 embarking upon what they hope and expect will be a

1 successful adventure in driver safety rating.

2 A few quick points to conclude. Turning -  
3 - or the last point before my conclusion, turning to page  
4 80 of the transcript. And, Mr. Chairman, there's been  
5 some really important discussion in this proceeding, much  
6 of it led by Board council, also a significant amount of  
7 it led by My Friend, Mr. Oakes, on the issues of, a) the  
8 relative contribution, the drivers premiums as compared  
9 to -- to insurance premiums should be making in terms of  
10 the Corporation's revenues.

11 And Mr. Saranchuk had a very interesting  
12 discussion with Ms. McLaren at -- at page 852 of the  
13 transcript about the opportunity to rethink and revisit  
14 past practices and look at this issue anew with -- with a  
15 little more rigorous and analytical perspective.

16 And certainly, my clients, they're not in  
17 a position to conclude whether the relative relationship  
18 is appropriate or not. They just don't think a  
19 sufficient study has been devoted to that, and again, CAA  
20 I believe spoke to that, as well.

21 And my clients believe that that's an  
22 important matter for future study, which Ms. McLaren, I  
23 believe, indicated they would and we certainly support  
24 that.

25 Going to page 81 of the outline, CMMG had

1 some really interesting comments and both through the  
2 presenter, Mr. Houghton, and through the cross-  
3 examination and submissions of Mr. Oakes, about -- about  
4 the -- the issue of whether one's driving -- or whether  
5 one's risk as reflected in the Driver's Safety Rating  
6 scale should be reflected exclusively through drivers  
7 premiums or whether the practice that has been long in  
8 place and long-cherished by consumers in -- related to  
9 vehicle discounts should continue as a partial element of  
10 the positive consequences of good driving behaviour.

11           And again, the Board -- this discussion  
12 was highlighted in the loss transfer Hearing and we've  
13 actually set out -- my colleague, Ms. Bowman, has set out  
14 what I -- I would commend to the Board is a very  
15 thoughtful analysis of the record and summarizing the  
16 arguments between the parties, starting at page 81.

17           Cutting to the chase on this one, my -- my  
18 clients are turning probably to page 83 of -- of the  
19 outline. My clients certainly find some intuitive appeal  
20 in the idea of simplifying the program by eliminating one  
21 of those dings that -- and having everything tracked and  
22 in basis of one's driver's licence.

23           They also see some analytical simplicity,  
24 perhaps not clarity, in terms of again having the vehicle  
25 insurance reflect the -- exclusively the vehicle risk and



1 the rating territory and its usages and the driver's  
2 licence reflect the -- the relative risk brought to the  
3 equation by low or high-risk driving behaviour. So at an  
4 intuitive level, my clients see something attractive to  
5 this concept.

6 But as a -- they certainly listen with  
7 interest and to the -- to the submissions of, and the  
8 evidence of MPI on this point and my clients are very  
9 aware of -- of some key concerns and, frankly, at this  
10 point in time, what appear to be key barriers potentially  
11 to moving to such a program.

12 And again, some of these key questions are  
13 set out on page 83 and certainly MP -- you can see my  
14 clients sitting firmly on the fence on this issue because  
15 they -- they certainly found the issue raised by MPI  
16 compelling. What drivers should be making up this \$33  
17 million shortfall? And are there consequences perhaps to  
18 new drivers in terms of their ability to access the  
19 program? So -- so that's a concern.

20 My clients are also concerned about  
21 dislocation and they were intrigued by Ms. McLaren's  
22 evidence at page 568 of the transcript and her suggestion  
23 that attempts to prevent gaining the system resulted in  
24 overcharging consumers.

25 So that's -- now my clients aren't aware

1 of a lot of evidence on the record to that effect, so  
2 that's something on which they believe certainly further  
3 study and data would be required.

4           The bottom line with this and I've -- I've  
5 taken -- or Ms. Bowman has taken us through more  
6 rigorously the kind of key criteria like transparency,  
7 fairness, loss prevention and fiscal prudence. My  
8 clients' bottom line, their conclusion, is that there is  
9 insufficient evidence on the record to decide this issue.

10           And they've identified areas where they  
11 consider additional information is required. And Mr. --  
12 Mr. Saranchuk went through some of these areas in -- in  
13 terms of his cross-examination of the MPI panel on the --  
14 later in the Hearing.

15           How many drivers are currently gaming the  
16 system or not paying their share and what is the impact  
17 of that? Which drivers should be making up the shortfall  
18 and what will be the consequences to them? How is the  
19 differential risk of high-risk drivers best reflected?

20           What are the Corporation's scenarios in  
21 terms of these -- the apparent overcharging of -- of  
22 families resulting from efforts to eliminate gaming the  
23 system? And what would be the impact of the proposal on  
24 the large majority of consumers who have one (1) or fewer  
25 vehicles per driver?

1                   CAC/MSOS think this is an important issue.  
2 They look forward to further debate. They agree with MPI  
3 that this is not one (1) to solve in this Hearing and it  
4 may be that further reflection reinforces the status quo  
5 but in my clients' view, that's a -- a debate for another  
6 day.

7                   Conclusion, Mr. Chairman, I want to go  
8 through all ninety-seven (97) recommendations. I'm just  
9 teasing. At page 86, I just want to reiterate. My  
10 clients are -- they think there's a lot in the MPI work  
11 on this proposal to commend it. They like many of the  
12 proposed ways to transition in this program but they have  
13 serious concerns about its fiscal prudence and they  
14 recommend deferring consideration of the Application  
15 until that can be tested. I've outlined some key  
16 questions as well, Mr. Chairman.

17                   Subject to any questions, those are my  
18 clients' submissions.

19                   THE CHAIRPERSON: Thank you, Mr.  
20 Williams. It is a very thorough brief. Appreciate that,  
21 as we appreciate the briefs from the other Intervenors.

22                   That brings to a close this segment of the  
23 Hearing and we will look forward to MPI's final comments  
24 on Thursday. And if it would suit the various parties  
25 around the table, would starting at 10:00 work for you,

1 Mr. McCulloch?

2 MR. KEVIN MCCULLOCH: That wouldn't  
3 present any problem for me, Mr. Chairman. Even starting  
4 at 10:00, I doubt that I will take us to quarter to 1:00.

5 THE CHAIRPERSON: We will see. Okay, we  
6 will see you all on Thursday. Thank you.

7

8 --- Upon adjourning at 12:45 p.m.

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12 Certified correct,

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17 Cheryl Lavigne, Ms.

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