MANITOBA PUBLIC UTILITIES BOARD

Re: MANITOBA PUBLIC INSURANCE COMPANY (MPI)
GENERAL RATE APPLICATION
FOR 2011/12 INSURANCE YEAR

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

HELD AT:
Public Utilities Board
400, 330 Portage Avenue
Winnipeg, Manitoba
October 26, 2010
Pages 2352 to 2509

APPEARANCES

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

THE CHAIRPERSON: Okay. Welcome back, everyone. So this is the beginning of closing statements, and as is our normal practice, we'll begin with the Board.

Ms. Everard...?

FINAL COMMENTS BY BOARD COUNSEL:

MS. CANDACE EVERARD: Thank you, Mr. Chairman.

As we know, we have now completed the evidentiary part of this public hearing with respect to the 2011/'12 General Rate Application, or GRA, filed by Manitoba Public Insurance. As such, the Board will soon deliberate over the Application for base rates and premiums charged for compulsory vehicle and driver insurance -- that is, rates for service for the 2011/'12 insurance year, which would take effect on March 1st, 2011.

As Board counsel, I take no position on the merits of any part of the Application or the positions taken by any of the parties. My role is to summarize the matters that are before the Board and that it may wish to consider in making its decision.

We know MPI is seeking approval for rates that will constitute an overall 4 percent decrease in premiums.  As well, it is seeking approval for a rebate of some $92 million, or 12.9 percent, on 2009/'10 vehicle premiums to be paid in fiscal 2011/'12.

The Corporation also proposes that Basic vehicle premium discounts for the driver safety rating, or DSR, levels 11 to 15 will increase by 1 percentage point going up the scale, so that vehicle premium discounts will range from 26 to 30 percent for those levels.

The Corporation also proposes driver licence premiums for DSR demerit levels of minus four (-4) to minus twenty (-20), increasing to a maximum of fifteen hundred (1,500).

The Corporation does not propose changes to service or transaction fees, but the Corporation does propose that its late payment structure be replaced with interest on overdue accounts beginning in 2012/'13.  This change, if granted, would impact those customers or insureds that adopt the quarterly time payment program. The rate proposed by the Corporation is 1.5 percent per month, to be compounded daily, which equates to an annualized interest rate of 19 1/2 percent.

The Corporation also proposes a decrease flowing from the rate decrease in permit and certificate fees from twenty-nine dollars ($29) to twenty-eight dollars ($28) for the year of the Application.

And, lastly, the Corporation proposes no change to the 40 per -- forty dollar ($40), rather, discount for after-market and manufacturer or dealer installed anti-theft devices.

The Corporation has advised that the 4 percent overall rate reduction that it is seeking is to be applied by improvements to the DSR program representing 2.1 percent, or 52 1/2 percent of the 4 percent decrease, while the remaining 1.9 percent rate decrease, or 47 1/2 percent of the overall decrease, is to be provided through the overall rate classifications impacting all vehicle owners.

In the Application, the average rate adjustment for each major vehicle class is as follows: for private passenger, a decrease of 4.27 percent; for the commercial class, a decrease of 2.82 percent; for the public class, a decrease of 8.21 percent; for motorcycles, an increase of 1.02 percent; for trailers, an increase of 9.81 percent; and for off-road vehicles, a decrease of 15 percent.  And this leads to the overall proposed decrease of 4.04 percent.

After consideration of insurance use and territory, and capping and balancing for experienced rate adjustments, the results were modelled by the Corporation to assess the impact of various rate and classification changes.

In total, the vehicle population for the year of the Application is nine hundred sixty-four thousand and eighteen (964,018) vehicles, which yield the requested rate changes as follows: six hundred and fifty thousand nine hundred and forty-eight (650,948) vehicles, or 67 1/2 percent, of the overall fleet would receive a rate decrease.  The vast majority of those receiving a decrease of 63 percent, which would be less than fifty dollars ($50).

In total, some two hundred and six thousand six hundred and thirty-six (206,636) vehicles, or 21.4 percent, would experience rate increases.  Of those, some one hundred and forty-eight thousand (148,000), or 72 percent, would have an increase of up to twenty dollars ($20).

Forty-eight thousand (48,000) vehicles, or 23 percent of those increasing, would have an increase of between twenty (20) and fifty dollars ($50).  Eighty-four hundred and forty-five (8,445) vehicles, or 4 percent of those with increases would have an increase of between fifty (50) and a hundred dollars.

That leaves about seventeen hundred (1,700) vehicles, less than 1 percent of those with increases, that would have increases of a hundred -- between a hundred and two hundred dollars ($200), while three hundred and fourteen (314) vehicles would have increases of two hundred dollars ($200) or more.

And then overall there would be about a hundred and six thousand (106,000) vehicles that would have no change in rates.

The Corporation has provided to the Board updated financial results with respect to its financial position for the 2009/'10 year that just ended, and as well for the current year of 2010/'11, and which have been reviewed in these proceedings.

We see that for the 2009/'10 fiscal year, MPI realized a net income of $89.8 million for rate setting purposes, which included a transfer of $2 million from the immobilizer incentive fund, IIF, compared to a forecasted income of $11.5 million, which included the same $2 million transfer.

So in other words, there's been an improvement of about $78.2 million for that year.  The change was attributed by the Corporation to an improvement in forecasted claims costs of 80 million, which reflected lower than forecast claims costs in all covers, but in particular, a reduction in claims liabilities due to an actuarial re-evaluation adjustment of 88 million.

This positive adjustment was offset by a decrease in market rates of interest, which increased claims liabilities by 83 million. Finally, favourable -- a favourable increase in PIPP costs of 53 million, and physical damage of 22 million, explained the overall decrease.

In addition to a reduction in claims costs, total expenses were also $1.8 million more than forecasted. There was no change in actual investment income from that expected at the last GRA of about 84 million.

With respect to the current year, 2010/'11, we know that last year MPI forecasted a net income of 8.5 million for our rate setting purposes. We see that there's an update now to that figure, up to 13.8 million, representing an improvement of about 5.3 million. And this improvement is a re -- is a result of an increase of earned revenues of 1.3 million, reductions in claims costs of 9.3 million, an increase in total expenses of 2.7 million, and a reduction of investment income of 2.6 million over that forecast last year.

And we have from the Corporation, as well, its second quarter report for the current year as of August 31st, 2010, and in that report the Corporation shows a net income of 67.3 million for the six (6) month period, compared to net income of 20 million during the same period last year, a 236 percent increase.

The revised forecast for the current year includes net income of approximately 42.2 million to the Corporation as a whole, of which 29.1 million is income for Basic. So in other words, Extension and SRE are -- are, combined, anticipated to earn about 13.1 million for the year.

This update, as I just stated, reflects 29.2 million for Basic in the current year, so that's an increase over the thirteen point eight (13.8) filed in the GRA, an increase of about 15.3 million.

And this change is due to a combination of a decrease in earned revenues of about 3 million, one point eight (1.8) of that is due to driver premiums, and one point two (1.2) due to service fees; an increase in claims costs of 1.8 million; an increase of expenses of about two hundred thousand (200,000), including a decrease of 1.4 million in operating expenses, which is offset by an increase in commissions of about 1.6 million, and an increase in forecasted investment income of about 20.2 million.

MPI does not, however, propose any changes to the pending application as a result of the second quarter report. And dealing with the year of the application, 2011/'12, we see that the Corporation is projecting in its financial statements, and as updated in the second quarter report, a net loss for rating purposes of 2 1/2 million. Total earned revenues are projected to be 778 million.

Of note, in this year's application is that the -- the Corporation assumes a vehicle upgrade factor of 2 1/2 percent for the year of the application. And this, of course, reflects the renewal of the vehicle fleet through disposal by motorists of older vehicles, and the purchase of newer vehicles. This also assum -- the application also assumes a volume or growth factor in the fleet of 2 1/4 percent.

Service fees are expected to be 20.9 million for the year of the application, which is a $5.5 million decrease from the 15.4 million now forecasted for the current year. Claims costs for road safety and loss prevention expenses are expected to increase by about 28.8 million to 755 million, compared to 726.2 million in the current year.

Other expenses are projected to be 118.1 million, a decrease of about nine hundred thousand for the year of the application, compared to the current year. And the projected underwriting loss for the year of the application is 95.1 million, while investment income is forecasted to be about 92.6 million.

The result is, on an overall basis, as I stated, the Basic program is expected to have a net loss of 2.5 million. And this overall result includes consideration of the proposed 4 percent rate decrease. With respect to the outlook period, the same is true. The Corporation has built into its forecasts the proposed 4 percent rate decrease. And as well, the revenue growth through the outlook period reflects both upgrade and volume factor increases, and increased premiums under DSR.

Over the period beyond the year of the rate application, the Corporation predicts increasing levels of positive net income for rate making. And in particular in 2012/'13, the Corporation is forecasting 6.6 million in net income. In 2013/'14, the Corporation is proposing -- or pred -- projecting rather, 33.4 million in net income. And in 2014/'15, the Corporation is projecting 49.3 million in net income.

As stated, these figures reflect the introduction of the DSR system, and anticipated forecast reductions in both driver and vehicle premiums, offset by reduced commissions to brokers. The forecast does not include any anticipated change in claims cost due to the introduction of DSR.

With respect to the RSR, or Rate Stabilization Reserve, the Corporation has confirmed again this year, the stated purpose of the RSR is to protect motorists from rate increases made necessary by unexpected events or losses arising from non-recurring events or factors. This is a similar definition to what we've heard in previous years, and is a guiding focus in establishing the appropriate RSR target for the Corporation. And that target has been unchanged since last year.

The existing Board-approved range for the year of the application was between seventy-seven (77) and 154 million, based on a risk analysis, or value at risk approach completed in 2006, indexed by the growth in gro -- gross written premium. The Corporation has provided a DCAT, or a Dynamic Capital Adequacy Test approach.

And based on the result of that analysis, the Corporation determined an RSR target point of about 184 million. The forecast balance in the RSR for the year of the application includes a $21 million upward adjustment, which arises from the reclassification in the investment portfolio as fair value, which will flow through the profit and loss statement under IFRS, or the International Financial Reporting Standards.

So with respect to the RSR balance then, and this is found in the material on the record, we saw for the 2007/'08 fiscal year a balance of 145 million after a $62.6 million rebate was paid, and an accounting transitional adjustment reduction of 22.7 million, including the IIF.

After the 2008/'09 fiscal year, we had a balance of 136.9 million, including the IIF. At the end of 2009/'10, there was a balance of 224.7 million, and the IIF now being fully depleted so the -- the proposal for the end of the current fiscal year is 167.7 million, which includes the $21 million IFRS adjustment that I mentioned, and payment of the proposed rebate.

The Corporation then proposes for the year of the Application, a closing balance of 165.1 million, projects a closing balance for 2012/'13 of 171.8 million, and for 2013/'14 a projected balance of 205.2 million. These results are somewhat adjusted by the second quarter report that's on file.

With respect to the overall financial wellness of the Corporation, we note in the annual report filed by MPI for the 2009/'10 year that it has indicated that an additional $20.9 million was transferred into its Extension development fund, or EDF. This fund is used to defray the annual driver licensing project costs that flow through the Extension line of business. The balance in that fund, as of the end of 2009/'10, was 4 -- $48.3 million.

As a result of a change in accounting policy on deferred assets, which requires intangible accidents to provide an economic return, the EDF balance was restated for past financial year ends of February 2009, which was an $11.6 million reduction, and for February of 2008, which was a $6.5 million reduction, for a total reduction to the EDF of 17.8 million.

The competitive lines of business have approximately $133.7 million in retained earnings before the transfer to the EDF, and -- so combined with the 224.7 million in Basic retained earnings, there is overall in the Corporation over 358 million in retained earnings as of the end of 2009/'10.

The Corporation has declined to file any forecast of retained earnings relating to Extension or SRE.

As part of the filing this year, we have from the Corporation an asset and liability allocation methodology review pre -- prepared by Deloitte, which was of course filed in response to the Board's order at least year's GRA, and we'll all recall hearing from Richard Olfert in oral evidence with respect to that report.

Mr. Olfert testified that the asset and lia -- liability allocation study and methodology were deliberately undertaken in a manner which is consistent with the cost allocation study that we had filed last year. He discussed the six (6) guiding principles with respect to the methodology.

The first five (5) are similar to those used in cost allocation, which are: fair and reasonable; practical and efficient; flexible and adaptable; acceptable in a regulatory context; consistent with industry standards; and as well, Deloitte added a sixth (6th) guiding principle to the asset and liability allocation, which is symmetry.

This principle acts as a link to the expanse allocation study, and recognizes that many of the assets and liabilities that are to be allocated are either related to, or created by, particular revenue and expenses.

Unlike the cost allocation methodology, which grouped costs into categories, the asset liability study was designed to deal with balance sheets, accounts on an account-by-account basis.

The first stage of the allocation process is to identify those accounts that are directly related to a line of business. These form a fairly small portion of the assets, only about 6 percent because the largest block of the Corporation's assets are investments, which cannot be directly assigned.

In terms of the $2.1 billion within the -- one (1) moment. Sorry, Mr. Chairman, I just wanted to clarify something with Mr. Cathcart to make sure that I didn't misspeak, and -- and he's right, I'm -- I'm not going to.

In terms of the two hundred (200) -- or, pardon me, $2.1 billion in liabilities of the Corporation, 85 percent of those can be directly assigned to Basic at Stage 1 of the allocation methodology.

In terms of equity, the RSR is allocated to the Basic line of service, and other equity accounts are assigned to the other lines of business. The only equity account that must be allocated is the accumulated other comprehensive income, or AOCI.

Pursuant to the methodology, anything that cannot be directly assigned to a line of business goes to a Stage 2 assessment. At Stage 2, the assets, liabilities and equities are assessed to determine what drives the balance account in order to select the correct allocator. Mr. Olfert cited an example of future -- or employee future benefits, which are allocated by a payroll ratio which allocates costs to each line of service.

The only ratio that cannot be allocated at Stage 2 is the investment ratio, which is used to allocate assets and liabilities to each line of business so that assets equal liabilities plus equity, and effectively make each line of business balance its accounts.

Two (2) attributes were used to conduct the study. The first was to maximize the assignability of accounts and minimize allocation; the other was to purify the general ledger accounts, and from there, Deloitte has suggested that the allocation methodology continue to be monitored moving forward, and as well, suggested the adoption of objective allocation measures rather than subjective ones.

Mr. Olfert also suggested that symmetry should be maintained, and as well, that a cost-benefit analysis be undertaken so that the quantum of dollars to be allocated would be sufficient to merit the additional complexity of the analysis.

As a result of the implementation of the asset-liability allocation methodology, there were five

(5) major changes from the prior allocation methodology based on a comparison of the new methodology to the current in the February 28th, 2010 Basic financial statements.

The first difference deals with accounts receivable, whereby there was a reduction of $31 million in accounts receivable away from Basic. This is because the new methodology includes other fees related to driver licensing and registration fees in the allocator which are not attributed to Basic.

The second change comes in property and equipment assets, where the allocation to Basic by the new methodology reduces the balance by 15.3 million. This is attributed to the introduction of the allocation of joint-use service centres.

The third difference is in the accounts payable and accrued liabilities, where the new allocation results in a $7.5 million decrease to this liability account. This reduction is due to changes in two (2) accounts, whereby one (1) is directly assigned to non-insurance and the other is allocated through the expense distribution ratio rather than being directly assigned to Basic.

The fourth major difference is related to the provision for employee future benefits, whereby, under the new methodology, there is a $13 million reduction in the allocation to Basic. This is due to the changing allocator, which, under the new methodology, is based on the payroll ratio, as I mentioned, and has an impact -- impact of shifting the larger portion of the liability to other lines of business.

Finally, the fifth difference is in the cash and investments line. Under the new methodology, this asset line results in an increased allocation to Basic of about $23 million. The reason for this increased allocation is simply by way of how the investment ratio works to balance the assets of the liabilities and equity side of the balance sheet for each line of business.

As a result of all of these changes, offset against one another, Basic net income is reduced by about eight hundred thousand dollars ($800,000).

We also heard from Mr. Olfert with respect to an update to the cost allocation methodology report that was filed last year. In particular, Deloitte was asked -- or the Corporation was asked, and in turn asked Deloitte, to do further research on the expense methodology to compare its effect to the budget amounts for 2010/'11.

The first step was to assess the budget

plans to see if there were changes that would affect the methodology. The second component was to review the purification adjustments to determine if they were still appropriate. The other component was to compare the allocators for 2010/'11 to 2009/'10.

The secondary work related to recalculating the allocation of expenses for the current year's budget. With respect to Directive 6 of the Board's Order which requested that the allocation of Level D costs of the cost allocation methodology be based on premiums written rather than claims incurred. Mr. Olfert testified that, in his opinion, the methodology and Corporation's application is in compliance with the Board's order.

Based on these refinements, the Level D costs allocated to Basic are reduced to 82.4 percent from the 86.9 percent, using the previous method. This translates to about $6 million out of Basic.

We also heard evidence from Mr. Olfert with respect to IFRS. And again, the Board had included in its last order a provision that MPI provide an update about IFRS recommendations received from its external consultant, together with an analysis and rationale for those recommendations, as well as its preliminary decisions with respect to IFRS elections.

The Corporation has completed its IFRS policy consideration and elections analysis, which was approved by the Corporation's Board of Directors in February 2010. A summary of the policy decisions and IFRS elections are found in AI.20, Part 1 of the filing.

The Corporation has confirmed that its 2009/'10 financial statements have been prepared on the basis of Canadian GAAP, or Generally Accepted Accounting Principles.

The adoption of the IFRS policies is not expected to impact the net income statement of operations, but will have a one-time impact on the RSR, as I advised earlier. This is the $21.1 million adjustment that arises from red -- redesignation of bonds.

Mr. Olfert testified, as well, that there are two (2) other elective transition adjustments to be considered on the initianal -- initial adoption to IFRS -- or, of IFRS. The first was related to the valuation of capital assets on the opening balance sheet at fair value. And MPI opted not to make use of that election. The second was in the area of employee benefits, and MPI opted to use its current practice.

Mr. Olfert also testified that there were two (2) non-discretionary transition adjustments that had to be made on transition to IFRS. The first one (1) relates to the requirements of IFRS to accrue short-term employee benefits that are not vesting. This resulted in an accrual of $3 million for sick-leave entitlement.

The second item relates to the componentization of fixed assets under IFRS. And the difference for IFRS, in this case, was not so material that an adjustment would be made.

Mr. Olfert also testified that the obligation to provide services to the Province for DVL or Driver and Vehicle Licensing is based on MPI's legislated operational mandates, and is not a contractual situation. His reasoning was that there was no term to the agreement with the Province, nor did MPI have the opportunity to refuse or negotiate certain terms. So Deloitte's conclusion was that there were -- that there is no onerous contract under IFRS.

The IFRS position papers prepared by Deloitte are in the filing and were also reviewed by KPMG, and both accounting firms agree that the policy decisions of the Corporation are in compliance with IFRS.

I'll comment then on the Corporation's investment income. We know from this year's Hearing, and this is the same as pre -- prior years, that investment income is a major component of the Corporation's income, and offsets its annual underwriting losses. The evidence reflects that the Department of Finance has ultimate authority over MPI's investments, although, there is a joint Investment Committee Working Group in which MPI participates, together with members from the Department of Finance.

The evidence also reflects that there are no members on the Investment Committee Working Group that are outside or independent investment experts. MPI has an investment policy statement, which it uses as a guideline for realizing gains based on the level of unrealized gains relative to the book value of the investments. The investment policy statement, or IPS was revised this year to incorporate an investment rebalancing policy, although, the Corporation has had that policy in place since 2005.

The investment rebalancing policy sets minimum and maximum ranges for investments and allows for an asset class to be outside the target range for up to six (6) months. The Investment Committee Working Group has the responsibility for rebalancing the Corporation's investment portfolio to within the weightings set out in the IPS.

The Corporation states that the members from the Department of Finance that sit on the Investment

Committee Working Group make recommendations as to changes in the portfolio weightings, but the final decisions for changes in the asset mix is done by the Department of Finance, as opposed to the Working Group or the Corporation.

The Corporation changed its asset allocation mix in June of 2008. The current target for public equities is 20 percent, and the target for private equit -- equities is 5 percent, for a total equity allocation of 25 percent. Prior to June of '08, the target for equities was 20.5 percent.

When the private equity allocation changed from a half a percent to 5 percent, the transition was expected to take a significant amount of time for due diligence, the selection of managers, et cetera.

The allocation to public equities was 13.6 percent as at February of 2009, mainly as a result of the global financial crisis. The allocation at April 2010 to public equities is 18.3 percent of the total portfolio.

MPI has indicated that it has committed to invest $135 million in a real estate investment fund. The Corporation is projecting investment income of approximately 92 million for Basic, as I indicated earlier, for the year of the Application, whereas its estimated underwriting loss is 95.1 million.

The size of the corporate portfolio for the year of the Application is projected to be 2.4 billion, comprised of 66.2 percent in long term bonds, 19.9 percent in equities, 2.4 percent in cash and short term investments, 9.9 percent in real estate, .3 percent in venture capital, and 1.2 percent in infrastructure.

The Corporation's investment portfolio is expected to grow to 2.8 billion by 2014/'15. In 2009/'10, the Corporation wrote down impaired investments totalling approximately $3 million.

With respect to DVL, or driver and vehicle licensing, we know that the Corporation treats it as a fourth line of business after the merger into the Corporation about five (5) years ago.

The funding that the Corporation receives for DVL is set out in a master agreement with the province, and historically, has been set at $21 million annually. The agreement allows for MPI to request adjustments in the amount, although there has been a shortfall over a number of years, which has been absorbed in the Extension line of business.

Accumulative losses for the last five (5) years from DVL, based on MPI's annual reports, have totalled just under $84 million. The funding for DVL is slated to increase to $28 million per year in April 2011, and this is based on a commitment from the provincial government.

This amount is intended to cover off the DVL operating costs, and as well, reimburse the Corporation for start up costs relating to the enhanced driver's licence, and Manitoba identification card. Another major DVL project coming down the pipe is the mainframe decommissioning project.

With respect to broker commissions, I have a few comments. MPI attributes two (2) major benefits resulting from the DVL merger, or attributes two (2) benefits to that merger, including the streamline renewal process, and reduced commissions paid to brokers.

The commissions paid for Basic transactions are slated to decline from 5 percent to 2.5 percent in 2012/'13, and we have evidence that a commission agreement was negotiated between the Corporation and the brokers through the Insurance Brokers Association of Manitoba.

The evidence also reflects that under the streamline renewal process, each insurable will have a broker of record, who will process the first renewal under a five (5) year term, and then will receive the commissions for all of the five (5) years that that policy is in place if there are no changes to the policy.

The evidence reflects that broker commissions paid on the Extension line is 18.5 percent. We have in evidence a series of reports from the superintendent of insurance over a lengthly period of time, which reflect that MPI has about 95 percent of the Extension insurance market in Manitoba.

We've also had evidence from the Corporation with respect to the business process review. There are projects funded under the business process review by the Extension development fund, which to date has had over $91 million allocated for such projects.

As well, there are projects to be funded by Basic of some 46.5 million, so the total being about 138 million.  There are no changes to the forecast provided by the Corporation since June.  And as well, there are no major new BPR projects planned; however, there is a new staff timekeeping system, and road safety projects on the horizon.

The evidence reflects that the PIFF -- PIPP infrastructure project is funded 100 percent by Basic, and the total costs for that are about two (2) hun -- or $22 million.  As well, the DSR program was funded 100 percent by Basic, and the costs for that were about $7.4 million.  For streamlined renewals, there's a partial funding by Basic of about 80 percent, and that is

$4.1 million. That's based on revenues with the driver's licensing going to Extension.

And, as stated, the costs of the enhanced driver's licence and the mainframe decommissioning are not charged to basic.

With respect to the PIPP infrastructure project itself, the Corporation has reported that it is in place and being used since September 2010. The Corporation has indicated that the costs are expected to be $27 million, and last year presented a business case that suggested that the expected benefits to arise from the project are about $42 million.

The Corporation anticipates, through its benefits realization model, savings of nine hundred and sixty-one thousand (961,000) in year 1, about $5 million in year 2, and about $6.6 million in year 3.

I also have some comments about capital expenditures. The evidence reflects that the Corporation's budget for capital expenditures for the current year is just over $30 million, of which about 13 million is for BPR projects. These were projected to be about 25.4 million in last year's GRA, but differences accrued mainly due to delays in some of the claims centres being established by the Corporation.

The evidence also reflects that -- that

there was a capital lease recovery of 4.5 million initially budgeted in 2009/'10, which is now included in 2010/'11 because the building is being completed this year.

The Corporation has also experienced a change in its accounting policy for 2009/'10, resulting in a writeoff of deferred development costs of about $17.8 million in Extension.  This writeoff related to the mainframe decommissioning to the extent of about 10.5 million in total over 2010/'11 and 2011/'12.

The Corporation has also filed evidence that its building at King Street, a former claims centre, has been donated to a community group.  The appraised value of that building was $1.1 million, and, in the view of the Corporation, the community benefit of the donation overshadowed any economic gain that would be gleaned from selling the property on the open market.

The Corporation has also indicated that 1075 Portage has been sold, which is of course a former DVL property, and that the gain experienced by the Corporation as a result of that sale will be recorded in its income statement and attributed to DVL.

We've also heard evidence about a change in the capitalization policy of MPI, which was to take effect March 1st, 2009.  In particular, the -- the threshold on furniture and equipment, including computer equipment, would rise from five hundred (500) to five thousand dollars ($5,000). The amount would be capitalized if the cost of the individual asset, including taxes, exceeds the new -- the new threshold. MPI has incorporated this change in the forecast put before the Board, and there has been a -- a minor impact reflected in PUB/MPI-2-36(d).

With respect to operating expenses, we've seen that the operating expenses attributable to Basic have increased to $50.2 million in the current year from $45.9 million last year, and are projected to increase somewhat to $50.9 million in the year of the Application. The increase is partly attributable to higher amortization costs from improvement initiatives which increase by $7 million per year over a five (5) year amortization period beginning in 2009/'10.

Salaries are a major component of the Corporation's operating expenses, representing approximately 59.4 percent of the total operating and claims expenses in the year of the Application. The compounded annual growth rate of clerical workers for 2009/'10 compared with 2010/'11 is 5.4 percent, which is above inflation. The reason is, because of the new claims centres, there is a lesser need for the lower paid positions of Level 1 and Level 2 clerks.

As well, the compounded annual growth rate for all employees for 2009/'10 compared with 2010/'11 is 5.17 percent, which is well above inflation. The reason is that -- because of the 2.9 percent collective bargaining increase agreed to by the Corporation, and as well the 3.5 percent incremental increase as workers move up the pay scale.

With respect to staffing levels, we are beginning to see a decrease for the Basic line of business, and this is reflected in TI.9, decreasing from some nineteen hundred and ninety (1,990) full-time equivalents at March 1st of 2009, to about nine hundred and five (905) full-time equivalents as of March 1st, 2010.

The March 31st, 2010 staffing level provided at last years GRA was about twenty-one hundred and thirty-six (2,136) in -- individuals, and was revised to nineteen hundred and five (1,905) this year. This reduction is mainly due to the completion of BPR projects and re -- represents approximately a $6.5 million decrease, most of which is attributable to the non-Basic lines.

We also heard evidence this year from a witness called by the CMMG, or Canadian Coalition, right.

I knew that was wrong. The Coalition of Manitoba Motorcycle groups -- it's good we're around wildlife claims, because I was kind of a deer in the headlights there for a second.

This was in response to a recommendation made by the Board at last year's GRA, at which MPI filed a study to deal with the jurisdictional review and related strategies to reduce wildlife claims. MPI has indicated that it has approximately ten thousand (10,000) wildlife claims annually, with fifty-eight thousand (58,000) over the last six (6) years. And attributed claims costs relating to those claims have ranged from 20 million to 25 million in 2009, in physical damage costs, and as well, bodily injury costs that have averaged approximately 1.7 million annually.

MPI has provided a map reflecting the areas where wildlife claims have occurred, and -- and states that this is a Province-wide issue. MPI has ci -- cited several cost mitigation measures that are not cost effective to implement. MPI has advised that it is working collaboratively with police on enhanced speed enforcement in the city during the active wildlife period.

As well, with respect to wildlife collision prevention, the Corporation's spending focus to date has been on public advertising to generate awareness of the risks associated with wildlife collisions on Manitoba roads, particularly, during the months of October and November, when wildlife are most active.

In 2009, the Corporation also contributed funding towards the purchase of two (2) variable message boards for use within the City of Winnipeg to alert motorists to high collision zones within city limits.  In 2010 these variable message boards will be deployed on a rotational basis around the city in high collision incident areas.

As stated, we heard from CMMG witness, Nicholas Beaudoin, of Dion Durrell and Associates, an actuarial firm.  Mr. Beaudoin testified about the allocation of wildlife claims costs, and stated his view that accidents with wildlife are similar to accidents involving a vehicle and cyclist, or pedestrian, and recommended that the loss attribution -- attribution methodology rule reflected in paragraph 1(b) of his report be amended following on the Board's order in 97/05, relating to loss transfer.

He further testified that an implementation of his proposal was a matter of public policy, and in his view, would lead to a 9.4 percent decrease in projected motorcycle rates for the year of the application.

With respect to claims incurred, we've heard a significant amount of evidence. We know that the claims experience rate adjustments are made by the Corporation by looking at historical data and projecting that data into the future to determine the expected costs of claims for all the different categories, in order to achieve revenue neutrality.

The $647.4 million of claims incurred forecast is a part of what determines the overall rate level change indication. The experience adjustments are based on the experience for the different categories, and are ultimately re-balanced for revenue neutrality so that the overall rate level change indication is realized.

Claims incurred are forecast to be 619.2 million for the current year, and 647.4 million for the year of the application. A breakdown of the composition of Basic claims incurred is found at Schedule 1 of TI.13.

As reported in prior year's GRAs, Basic continues to enjoy favourable net runoff on PIPP claims liabilities. For 2009/10 the total net undiscounted favourable runoff totalled $87.4 million, which consisted of a favourable experience of 51.7 million, and changes in valuation assumptions of $35.7 million.

The cumulative Basic total net PIPP

undiscounted runoff during fiscal years 2005/'06 through 2009/'10 has been favourable for each insurance year, aggregating to about $403.4 million.

The full extent of favourable runoff for 2010 has been reflected in the current GRA. The Corporation has indicated that there is no -- that there are no systemic reasons for the year over year favourable runoff.

The Corporation has further indicated that it cannot provide assurances that in the current year it will not be affected by more significant favourable Basic runoff.

The changes in valuations are a result of actuarial reviews that are undertaken at various times during the year. A thorough review of the assumptions, including loss development factors, the PFAD, or provision for adverse deviation ratios, et cetera, and methodology related to the review of policy liabilities, is done in the months of November and December, based on figures as at October 31st.

This review is performed by Ernst & Young, LLP, using inputs provided by the Corporation. An update to the review is done by Ernst & Young in March, based on the figures as at February 28th year end.

Both the review of policy liabilities as of October 31st, and February 28th or 29th, are provided, when completed, to KPMG to be audited by their actuaries, and this is done -- this is a review done under auditing guideline 43, which forms a part of KPMG's audit.

There are two (2) other reviews done in the months of May and August based on figures as at April 30th, and July 31st, respectively. These reviews are done by the Corporation's internal actuarial department, and are not reviewed by the external actuary, or the KPMG actuarial specialist.

Mr. Neil Parkinson of KPMG, who testified before this Board, spoke to the work of KPMG's actuarial specialist in reviewing the claims liabilities of MPI.

Mr. Parkinson noted that MPI's actuary has been consistent in their approach to forecasting of claims liabilities, noting that the reserves as a whole -- noting the reserves, as a whole, to be consistently conservative, or prudent.

> "In reality, it is an uncertain type of an estimate to make, and it's probably appropriate [he stated] particularly in an entity without a lot of capital to run too close to the line on it as well."

And that's a quote from him at the

transcript, page 1462. Mr. Parkinson further stated that:

"As long as one is consistently conservative within a region -- reasonable range of estimates, if the approach is consistent there is little if any impact on the reported income in any given period."

He states that:

"You will still get some variations in claims costs as you can estimate as best you can, but how it turns out isn't always necessarily quite the way you thought. In fact, I would suggest it's almost guaranteed that it's not going to be as forecasted.

So in some years [Mr. Parkinson states] you will have different levels of favourable runoff, or in fact, can have negative runoff, as well, for various insurers.

And that evidence is found at pages 1465 and 1466 of the transcript.

Speaking to the implications of conservatism, Mr. Parkinson stated that:

"To the extent that you prove to be conservative with estimates, it means greater financial strength. In other words, the built-in redundancy in the claims liabilities implies that there is an unrecognized surplus in the organization, but of course, the RSR is understated by the same amount."

As well, Mr. Parkinson states that:

"You may hope, or expect, to continue to see favourable runoff in the future."

And that is also from his evidence at page 1466 of the transcript.

In addition, with respect to the filing we see that PIPP benefit enhancements were incorporated for those individuals with catastrophic injuries. MPI had initially estimated the unpaid claims liability relating to these enhancements to be some $91 million, and this is what was recorded in the 2008/'09 fiscal year.

The estimate has fluctuated, and is now estimated at about $75 million. The best estimate to use for the purpose of the 2010 GRA, was the balance as at February of 2009 of the $91 million, which was based on a high level analysis. And the best estimate to use for the current GRA is the balance as of February 2010 of $75 million, which has been based on a more detailed analysis of claims files. These are best estimates because the claims, in part, are future-oriented.

And the Corporation has stated on the record that the PIPP enhancements are expected to result in an additional $7 million of claims costs per year going forward.

Just one other brief topic, Mr. Chairman, before I close my remarks. We heard some evidence from the Corporation late yesterday in response to some questions that you had posed regarding inter-provincial trucks, and in particular, if I heard the evidence correctly, the Corporation has stated that inter-provincial trucks have the option to opt in or out of the Basic program. This does seem different than the universal mandatory program that the Board understood to be in place, and it's my understanding that the Board was previously unaware of the opt-in/opt-out provision.

MPI has stated that interprovincial trucks could be plated in Manitoba but not insured by MPI, at least not under Basic. This suggests that the trucks may be insured by insurers other than MPI, and possibly outside Manitoba, and possibly suggests the subrogation of claims by MPI against other insurers.

MPI's evidence also reflected that it has not analysed the degree of linkages between interprovincial truck drivers with Manitoba licences and those with plated Manitoba interprovincial trucks.

It may be useful for the Board to understand this issue more fully, and I -- I don't know whether MPI will comment on it in its closing, but it may do so. It may be helpful, just as a suggestion, for the Board to learn of the extent of this practice, what regulation provides the authority for this situation, and also when or if the Board has been made aware of this in the past.

In conclusion, Mr. Chairman, I've attempted to comment on the main issues that arose this year. There are certainly other issues, I'm sure, that I have not commented on. Certainly I would like to thank the Board, as well as the Intervenors and MPI, for their cooperation extended throughout the last eleven (11) hearing days, and, subject to any questions, Mr. Chairman, that you may have for me, those are my comments.

THE CHAIRPERSON: Thank you very much, Ms. Everard. We'll move on now to CMMG. Mr. Oakes, are you ready to begin?

CLOSING SUBMISSIONS BY CMMG:

MR. RAYMOND OAKES: Certainly, Mr. Chairman, and thank you for that.

In this General Rate Application, the CMMG has brought forward a number of significant concerns. Although the required rate and requested premium increases are more moderate than other years, still a significant percentage of motorcyclists are facing double-digit increases.

At page 1838 of the transcript, Mr. Palmer confirmed that more than 14 percent of the motorcycle major class is facing increases of more than a hundred dollars ($100).

As well, we noted the phenomenon of the distribution of losses of motorcycles, which was confirmed to be unique to the motorcycle experience. It included the infamous statistic that ten (10) claims culminate in more than 50 percent of the losses. We suggest to the Board that that unique phenomenon is not properly accounted for in the methodology of MPI.

With respect to that motorcycle experience, the fact that frequency is declining was confirmed at page 1838 of the transcript. From 69.89 percent in 2002 for motorcycles, it's declined to 49.71 percent in 2009.

When we look, Mr. Chairman, at Pre-ask 3, we see another prejudicial situation that needs remediation. I'm speaking about the comparison of projected versus actual losses and premium for the motorcycle major class that was reviewed in Pre-ask number 3 and reviewed at page 1843 of the transcript.

When we look at those six (6) years, we see that the actual losses are less than forecast in four (4) out of the six (6) years identified there. Two-thirds of the time, the Corporation is wrong, and wrong in a method and manner that prejudices motorcyclists and costs them more than their fair share.

MPI, as in many aspects of the Corporation, is far too conservative and doesn't take into account the trend for less frequency, and takes in far too much premium two-thirds (2/3) of the time.

We look at two (2) of the years where they took in roughly $4 million more than were the actual losses, and yes, there is a -- a debit to be taken from that for the share for operational expenses for some twelve thousand nine hundred (12,900) vehicles, but it's certainly not $4 million.

When we look at the average of the six (6) years, the difference is that the Corporation took in $8 million more than what the actual losses turned out to be.

Now Mr. Chairman, you might say that that reflects some give and take, insurance isn't an exact science, but when you look at sums of 4 million, and 8 million for a class of twelve thousand nine hundred (12,900) insured, which represents approximately 1 percent of the total overall vehicle population, that would be the same as the Corporation collecting an extra couple of hundred million or more for private passengers insurance. It is a huge amount of money, and it's certainly only going one (1) way, two-thirds (2/3) of the time.

Now moving from the issue of the experience and the methodology MPI to a central issue that the CMMG first raised before the Board some three (3) years ago, and that's the situation with respect to wildlife.

The losses attributable to deer collisions are most disturbing, both for overall private passenger and motorcyclists. Given the small premium base, those of the motorcyclists, the exposure of $1.1 million to motorcycles annually has to be addressed.

What has MPI proposed to do? Well, Undertaking 21 specifies what their plans are at present, and really, Mr. Chairman, it's not much. Since 1972 their -- their action has been mostly a few PSAs, some public service announcements.

Now they're sitting with conservation. They've come up with a Bambi map, and as expressed at page 1850 of the transcript, "That's about it."

MPI wouldn't tell us what steps they have that are contemplated. They wouldn't tell us what acceptable levels of in -- of investment in alternatives, such as corridors, fences, and the like, would be. They won't tell us what they've discussed with the government.

They haven't performed any cost benefit analysis, and that's confirmed in CMMG Interrogatory 1-9, and also at page 1864 of the transcript. And it is contrary to what My Learned Friend has summarized this morning about MPI's standpoint on the issue. They haven't performed the cost benefit analysis.

With respect to the -- the situation, the Board is in appreciation of the nature of wildlife collisions, and the Board has said in Board Order 169/09 at page 61, as referred to in the transcript of this hearing at page 1856, this problem is equiv -- equivalent to the car theft problem the cor -- the Corporation and Manitobans have experienced, and yet, we have no action.

The Corporation jumped to the pump to spend twenty (20) or $30 million to deal with car theft, which was about a $30 million problem similar to the wildlife issue, but there's no funding to address the wildlife issue.

I suggest, Mr. Chairman, MPI has an obligation to address this, and motorcyclists, and other motorists, shouldn't have to sustain multi-million dollar losses that can be prevented. If they can't act, Mr. Chairman, I suggest that the consequences have to fall to other than the vulnerable road user in this situation.

And then we look at the situation overall, and this was the issue that we brought actuarial expertise to bear on, and that's the issue of allocating costs. We saw, especially with the introduction of PIPP, with its expensive benefits, that motorcyclists were disadvantaged in the pooling of pedestrian cyclists claims.

The motorcyclists harm to pedestrians and cyclists is almost nil, and I refer you in that respect to page 3 of the report of Dion Durrell, CMMG Pre-ask 1-14, and the specific numbers are, the cost of private passenger stri -- striking pedestrians and cyclists is significant, at thirty-eight million nine hundred and forty-two thousand four hundred and fifteen (38,942,415) in the years 2005 to two hundred (200) -- to 2009. The same number for motorcyclists is a paltry two thousand three hundred and ninety-eight dollars ($2,398).

When we look at the situation of motorcyclists striking wildlife, MPI cries cross-subsidization when CMMG suggests pooling of these claims. That's especially hard to fathom, Mr. Chairman, especially after it generally is not involving the fault of motorcyclists.

Deers dart out, they reverse direction, they're often only a few steps off the road. The whole contention of MPI, and we've heard it before, is that motorcyclists deserve to shoulder these losses because, and it's hard to fathom them saying that in this day and age, but motorcyclists enjoy the more comprehensive benefits of PIPP claims.

Mr. Chairman, no one enjoys accident benefits. No one enjoys being hospitalized, having skin lacerated, bones broken, having to learn to walk again, and then to add insult to injury, the Corporation unfairly charges these premiums.

The criteria set out in Board Order 169/05 should have remedied the -- that. It should have dealt with that false argument brought forward that motorcyclists are enjoying these enhanced PIPP claims.

The issue was examined by the actuarial experts at Dion Durrell. They expressly reviewed the criteria in relation to the Board order, and this issue. The transcript is uncontroverted in terms of dealing with the applicability of the criteria set out by the Board in 169/05.

The conclusion that actuarial principle of consistency should be addressed in the same manner as pedestrian cyclists, and I refer to the testimony of Mr. Olfert, the -- MPI's expert from Deloitte & Touche, he talked about the issue of symmetry. Granted, it was in certainly a different context, but when you review his comments about consistency and symmetry, I think that they bear application on this issue.

We re -- reviewed the Board Order 97/05 -- sorry, Mr. Chairman, I previously indicated 169/05, it was 97/05 -- and we looked at page 52 of that Board order. It talks about testing the new model, the fault allocation model that was developed and commenced in the 2007/'08 insurance year.

The Board order reads:

> "As to testing the new model against the Board's established criteria, the Board notes criteria 1, will a premium be based on this claims costs approach be actuarially sound, statistically advised?"

Mr. Nicolas Beaudoin testified that it absolutely would be actuarially sound, statistically based.

"Would the model be fair?"

He -- he says that he perceives in -- that it would definitely be a fair cost allocation between the different types of vehicles.

And the Board expressly indicated that:

"The size of the vehicle will no longer be the determining factor in allocating costs. The owners and operators of all vehicle types will be treated the same in a multi-vehicle accident, no matter what types of vehicles are involved."

They -- Mr. Beaudoin went onto testify the system was administratively feasible, and that his conclusions were, to be fair, that the same types of accidents, whether involving pedestrians, cyclists, or wildlife, should be dealt with on the issue of consistency and fairness.

A few comments about the testimony of Mr. Nicolas Beaudoin of the firm of Dion Durrell. I would suggest to you, in re-reading the transcript, you'll find his answers are reasonable, polite, well informed.

When asked, he went into detailed

responses with numerical backup of the questions posed by Board council. He was polite. And I think that that's a trademark of actuaries from my dealing with him over the years. He never overly criticised MPI's methodology. He commented on SAAQ, the capping of losses, said that was a fair and reasonable response, and said also that MPI's five (5) and ten (10) year averaging was fair and reasonable.

MPI, on the other hand, was very disappointing in their pro -- approach on cross-examination that I found to be immature, out of line, and inappropriate for a public forum of this type. MPI attacked Mr. Beaudoin's professionalism, suggesting he didn't employ professional standards. The personal attack continued, even nitpicked about not using designation initials behind his name as if there was a question about his credentials.

Certainly, even other Intervenors' counsels were disturbed with that type of treatment, and that was evident in Mr. Dawson's cross-examination. The situation is certainly different than if Mr. Pelly had been a witness in these proceedings. I can certainly say that in the years that Mr. Palmer has testified as a witness in these proceedings he's never been treated in that fashion. Counsel at one point tried bullying him, telling him that was only to answer "yes" and "no." I'm not going to comment on -- on that any further.

The approach though shouldn't be totally surprising given the defensive rhetoric often exhibited certain issues in these hearings by the Corporation. We have a situation in this case where an Intervenor has presented a very narrow alternative method of allocating costs and addressing a rating issue and critiquing the methodology of MPI.

The response is defensive, includes a personal attack, and you can almost hear the Corporation saying, It's our ball, how dare you suggest new rules for the game. I suggest that, as the Board did in 2005 in the Board order, the Board has a duty to refine the rules of the game where it finds discriminatory treatment and unintended prejudicial consequences and omissions that make logical sense to fix.

Mr. Chairman, turning to the issue road safety. Again, the record of MPI is disappointing. We've seen annual levels of some two hundred thousand dollars ($200,000) spent by the Corporation in this problematic area. This year, some two hundred and fourteen thousand (214,000), some eighty-one thousand (81,000) of that being motorcycle specific initiatives other than safety training.

I'd suggest to you that those numbers are paltry compared to other initiatives, car theft, which was important, but spent $30 million on an initiative would had no application at all to motorcycles.

Mr. Chairman, at present there's no research budgeted or contemplated. There's no new programs or initiatives for motorcycles. There's no response to previous Board orders asking for a stepped-up safety campaign to address motorcycle losses. I'd suggest that, overall, MPI gets a failing grade for investment in motorcycle safety and in response to the wildlife problem.

One (1) way to remediate some of the effects of the lack of MPI's effort in those areas is to at least stop the prejudicial effect by addressing the pooling issues for cyclists, pedestrians, and wildlifes (sic) overall.

Mr. Chairman, I've made no comment on some of the other serious issues examined by this general Rate Application, and partly that's out of a concern not to duplicate the very worthwhile efforts of other Intervenors. I'd suggest to you overall though, after listening to this evidence, that if the Corporation's prepared to give a rebate to Manitoba ratepayers of some 12.9 percent, that the fair number is likely much, much higher than that, given the conservatism noted in all aspects of the Corporation's rate making.

And with those comments, I'll finish my cross-examination and ask for leave to submit our bill of costs at the appropriate time.

THE CHAIRPERSON: Thank you, Mr. Oakes.

We're just going to take about a ten (10) minute break, and then we'll come back with CAA. Okay. We're coming back with Mr. Dawson.

--- Upon recessing at 11:19 a.m.
--- Upon resuming at 11:36 a.m.

THE CHAIRPERSON: Okay, Mr. Dawson, from Manitoba Bar Association.

CLOSING SUBMISSIONS BY CBA/MBA:

MR. ROBERT DAWSON: Thank you, Mr. Chairman. In preparing my submission for this closing argument, I spent a lot of time reviewing the work that my client has undertaken before this Board over the years.

Since I assumed conduct of the Manitoba Bar Association's annual intervention in these hearings, there have been two (2) major and recurrent themes that my client has explored.

First, there is the ongoing concern about the way in which the Manitoba Public Insurance Corporation handles claims by victims of personal injuries arising out of the operation of motor vehicles, and that concern is really twofold. One (1) aspect relates to whether or not a victim receives all of the benefits to which he or she is entitled by law.

The other aspect recognizes the problems that many people have in navigating the claims system and advancing their position as clearly and as forcefully and as fully as possible.

Of course, in the tort era that preceded today's no-fault system, lawyers were the ready helper for victims of personal injuries. Their special training and advocacy skills advantaged claimants when dealing with the large monopoly that is the Manitoba Public Insurance Corporation.

With the introduction of the no-fault system, of course, most claimants could no longer retain lawyers, and such claimants then had to take on claims on their own. And it's been a concern of my client that these self-represented claimants may therefore be denied benefits to which the law entitles them, and, to put it directly into the context of these rate-setting hearings, self-represented clients -- or claimants, rather -- may therefore be denied benefits that the applicant anticipates before this Board as claims expenses, which in turn justify the fixing of insurance premiums at certain rates.

In other words, if insurance rates are set in the expectation that certain benefits will be paid, and if those benefits never end up being paid out, the insurance rates will be a -- will have been fixed at the wrong number.

While the handling of claims by victims of personal injuries has concerned my client over the years, the Manitoba Bar Association has also taken up the overriding public interest of the vital role that this Board plays as an effective regulator of the applicant. Given the applicant's operation as a statutory monopoly, the Board fulfills an essential function as a proxy for competition, and this has been a phrase that has been used and accepted by the Corporation over the years.

To the end that the Board requires information in order to fulfil its role, my client has consistently supported demands for disclosure and cooperation.  From these broad, historical themes almost of personal injury claims and the regulatory role of the Board, let me turn now to my client's submissions that specifically arise out of this year's hearing.

In the course of my cross-examination of the MPI witness panel yesterday, I canvassed two (2) areas in which the evidence suggests that the applicant is not doing enough to keep an eye on its expenses.

The first area dealt with subrogation, which, at page 2145 of the transcript, Mr. Palmer defined as the assumption of an insured person's right of recovery against the party that caused the insurable loss. Mr. Palmer went on to explain at page 2146 and 2147 that, without subrogated recovery, the claims expense would be written off and effectively add, in a general way, to the overall expenses of the Corporation. Subrogated recovery is, therefore, a good thing for ratepayers.

However, the evidence shows that, despite this understanding, the Corporation does not effectively track the success of its subrogation efforts. By this I mean that the Corporation knows how many subrogated claims it sues on and how many times it wins, but, as the transcript shows at pages 2167 to 2168, the Corporation does not know how many times it is able to collect on a judgment, or how often it loses a lawsuit, or how many times it abandons a subrogated claim, or how often it settles a claim.

Admittedly, Mr. Palmer told me that the Corporation tracts dollar numbers, but this gives only a general overview of the process.

I suggest that if you want to know the value of all subrogated claims, and how much money you recover through subrogation, the Corporation still lacks essential measures about the effectiveness of its efforts.

For example, has it wasted legal fees on claims that were abandoned? Has it settled claims too early, or for too little? Are the employees tasked with pursuing subrogation in need of training, or replacing? Dollar figures only get you so far; actual statistics would get you much further.

Now my client is well aware that this Board does not enter into the micro-managing of the Corporation's affairs, but the subject of subrogation is one (1) of those that interests the Board in these proceedings.

The cross-examination that I undertook yesterday aimed to show that, in testing whether or not subrogation efforts are successful, the metrics, or measurements that the Corporation uses are inadequate, and that fuller and better measures should be adopted. I submit that it is difficult for the Board to assess the impact of subrogated recovery upon insurance rates without a useful statistical base from which to start.

So subrogation is an area in which I submit that the Applicant is not able to speak meaningfully about its expenses, and external legal services is another such area.

The Board will recall that at pages 2172 to 2174 of the transcript, I had asked Ms. McLaren about external legal services.  Specifically, I had explored the Corporation's decision not to tender out its work, or make requests for proposals.

Earlier in my cross-examination of Ms. McLaren, she had acknowledged that different lawyers will bill for their work in different ways, and at different rates, even where those lawyers have comparable experience and skills.

Although recognizing at page 2,174 line 12 of the transcript, that requests for proposals insure a competitive rate, Ms. McLaren also stated and acknowledged that there are other ways to obtain such rates.  In its filed materials before the Board, and in its direct and redirect examination, the Corporation's witnesses, however, did not explain what those other ways are.

Given that the Corporation makes regular use of tenders for such work as external consulting on the business process review, and given Ms. McLaren's acknowledgement that requests for proposal are one (1) way to ensure competitive legal rates, the question remains unanswered, how the Corporation works to control its expenses and costs for external legal services.

I now turn to the business process review, and specifically, the PIPP infrastructure initiative. Succinctly, of course, my client would characterize this as nothing more than a mammoth and expensive undertaking as a result -- that has resulted in some glorious spring cleaning of the PIPP household. But the cleaning did nothing to improve the overall foundation, and structure, of the house where PIPP lives.

Twenty-two point three million dollars ($22.3) have been spent, and many years have passed, and as a result the PIPP infrastructure inifi -- initiative has, I suppose, resulted in shiny new computers, intricate flow charts converted into software, the work flows, and the retraining of the people who carry out the commands that the technology spits out.

The paperless environment that the answer to Manitoba Bar Association First Round Information Request number 23 describes, is efficient, but what does it really do for the claimant. I suggest that it does very little.

In response to my questions, Ms. McLaren told me that the new work flow erect -- or work flows, rather, erect safeguards to ensure that steps are followed in order to look out for the interests of claimants, but at the same time, the new system has not introduced any help resources for persons making claims for personal injuries arising out of the operation of motor vehicles.

It has not changed the intake script that call centres use so that it might be easier for claimants to understand what it actually takes to file a claim, or how to get assistance in advancing their claim.

My client would stress here that this is not some crass bid to get more business for personal injury lawyers.  In fact, throughout the years, and indeed again in this year, the Board will recall that the Bar Association's repeated submission is that lawyers are only one (1) of the possible helps that claimants could use.  There are community resources and many non-lawyers who would be quite capable of helping unsophisticated or inexperienced claimants.

Now, it's arguable that these new, fancy workflows might even have made things worse.  There's a certain comfort that can come from the notion that software oversees the steps in a claim and anticipates what should happen next. It's also comforting to know that a thick manual lays out the procedures to follow.

However, as page 2185 of the transcript shows, there are gaps in those supposed monolithic details. While Ms. McLaren acknowledged that claimants should have the opportunity to comment, for example, on information that an internal reviewer will consider in deciding a review application, there are no specific instructions that this new workflow has set up and that these new manuals contain that would tell a reviewer when or how to contact a claimant, and there can be no way to ensure that information going to a claimant will be anything other than a biased summary of what that reviewer thinks.

To echo a submission that my client has made in past years, I submit that, as wonderful as the efficiencies in the new PIPP infrastructure initiative might be, there are significant concerns that remain about the way in which the Corporation handles claims from victims of personal injury.

There are other comparable institutions, such as the Workers' Compensation Board here in Manitoba, and many other comparable insurers and other providers of benefits across Canada and the world, that could serve as a model and reference for the Corporation.

Bureaucratic efficiency is one (1) thing, but ensuring that claimants receive the benefits to which they're entitled and for which insurance rates in this hearing are fixed, is the real goal.

The last subject of these closing submissions arises out of the disclosure fight that reached its climax during my cross-examination yesterday. After literally years of refusing to answer those questions, the Corporation seems to have suddenly snapped yesterday and simply dumped out the information that had been sought.

Now, in many ways, I recognize that yesterday was a David and Goliath fight. Of course, MPI has a legal department that expends millions of dollars every year, it has tens of lawyers to back up its general counsel appearance here, it has a back row to support her once she starts speaking here, and of course, over here, there's just me.

Now I see how MPI might see itself as the underdog in this fight, but it still remains troubling that this kind of a dispute has to arise. My client has always taken the view that it's unfortunate, if not wasteful of resources, including the Board's time, that compulsory steps should have to be taken in order to obtain information in support of these proceedings.

The lesson that my client and I would certainly urge the Board to take away from yesterday's unfolding of events is that it should not at any time be inclined to back down in any way from doing whatever's necessary to fulfil its statutory mandate as the regulator of the Manitoba Public Insurance Corporation.

In many ways, the Board, like the Intervenors, are the insistent child who seems to have to ask and ask and ask long enough until, finally, the parent gives in.

Now the imagery of that sentence alone should be troubling. A regulator should not be cast as the child who has to ask a parent. A regulator should not have to plead for compliance and cooperation from the very body that it is legally charged to oversee. The public, as this Board well knows, relies upon this Board to disgeorge -- discharge its statutory mandate.

With that, and by way almost of valediction, it's left for me to thank this Board on behalf of my client for granting Intervenor status to the Manitoba Bar Association. I will add personally that I'm always impressed by the preparation and attention that this Board and its members give and have given to these proceedings before it, and it's always been a highlight of my litigation calendar to participate in these annual hearings.

I should also like to thank Board counsel, chiefly being Ms. Everard this year, but also Mr. Saranchuk in the past years. Their quiet guidance has always proven helpful to me over the years.

And I'm also indebted to my colleague, especially Mr. Williams, and to other Intervenors who have over the years secretly tutored me from the novice that I was in my first year when I asked such penetrating and insightful questions as what does RSR stand for. I'm obligated by the Board's rules to indicate that an application for costs by my client will follow in due course. And failing any questions from the panel, that concludes my submission. Thank you.

THE CHAIRPERSON: Thank you, Mr. Dawson. Now, Ms. Everard, I don't think we've seen the Manitoba Used Car Dealers Association, Mr. Roberts. I'm not sure whether --

MS. CANDACE EVERARD: No.

THE CHAIRPERSON: -- he's aware that we're into the closing statements or not, but he's capable of reading the transcripts because they're on every day. So if he's not here we'll assume he's not coming.

MS. CANDACE EVERARD: I agree, Mr. Chairman. I haven't heard from him. And I don't think the other Intervenors have either. So, yeah, I'm sure that Mr. Roberts is familiar with the procedure having been involved a number of times before, and if he intended to make a submission I'm sure he would be here, so.

I think CAA is ready if we wish to hear from them now, and then take the lunch break, that might be appropriate with the Board's permission.

THE CHAIRPERSON: Yes, that would make the best use of time.

Ms. Peters...?

CLOSING SUBMISSIONS BY CAA:

MS. LIZ PETERS: Thank you. Thank you, Mr. Chairman and to everyone for allowing CAA the opportunity to participate as an Intervenor in this process. As you may know, this is our 16th year as an Intervenor in the Rate Application process and we have been involved since MPI was in financial difficulty, and when the government of the day first required the Corporation to report to the PUB on this annual process.

And since CAA's been present at these hearings, we -- we've been present since there was the need to rebuild the RSR from 1996 through '99, and as an Intervenor in more recent years, it's been our intent to advocate for making the overall operations of MPI effective and efficient so that all ratepayers in the province are paying fair and reasonable rates, but also so that they receive a level of service that meets their needs regardless of their situation.

And through the process, CAA has tended to be on the critical side, pointing out areas of opportunity and calling for action.  But don't forget we've also supported many of the actions of our public Corporation.  As I just mentioned, we supported the need to build up the RSR to get the Corporation back on solid ground and we've also supported the development of AutoPac On-line, making the entire system more efficient for ratepayers and for the Corporation.

This is just a bit of the history of our involvement.  And for the pro -- purposes of this year's Application, some of the underlying issues CAA will make comment on include the allocation process, prospective versus retrospective results, staffing levels, executive compensation, government funding of DVL, interprovincial trucking, family transfers, the rebate methodology, donations, and the RSR.

So I'll just begin with the allocation

process. So sixteen (16) years ago there were no questions about an allocation process because the overall health of the Corporation was what mattered most. We know that, over the years, benefits from the Basic line of business have flowed supporting other lines of business.

Those benefits could be, for example, the sharing of support staff who are paid for by Basic lines of insurance. Now, in the past, these reciprocal benefits, in the form of financial transfers, have flowed back to Basic as a means of compensation. But in the last three (3) years, when the RSR for Basic reached its peak of its allowable level, the reciprocal agreement seemed to end.

The problem is the benefits still flow from Basic to other lines of business, Ex -- Extension in particular, but transfers back to Basic have ceased and financial information about Extension insurance have been very closely guarded.

As MPI has added its other divisions, none would be possible without Basic and none would be able to afford the expensive modern equipment if it operated independently. By tacking on to the Basic framework, other lines of business like Extension have essentially got a free ride when it comes to many of the normal costs a normal business would face.

Of particular interest, when asked by Board council if other lines of business, Extension, SRE, and DVL, are there subordinate to, and to aid, the Basic line of business, Ms. McLaren disagreed, calling them stand-alone and independent. Further, when asked if in her opinion each Extension, SRE, and DVL could stand alone, Ms. McLaren said, Absolutely, without a doubt.

Well, that is definitely her educated opinion. The question no one can answer is if without being linked to Basic insurance, could MPI's Extension insurance continue to prosper and command a near monopoly in the market. The record of other insurers coming into this marketplace, and then leaving, indicates otherwise.

The bottom line is Basic insurance is not being fully compensated for the service and support it provides. That means the compulsory insurance rates paid are without question impacted adversely, and that's why it's ironic that the PUB has to ac -- has access to only information about Basic but not other lines of business.

CAA questions whether Basic is receiving the, quote, "proper transfer price" for sharing of resources, and we recommend that the PUB look further into the proper allocation methodology to ensure the Basic insurance, that's the one that we all are required to pay, is not being shortchanged.

Pro -- CAA found the discussion on the prospective versus retrospective results quite interesting.  There's no doubt that they've been dealt with at these hearings in the past.  This is always, and always will be, because of the need to be reasonable to all parties in the hearings, and CAA recommends that the PUB continue to use the best and most current data, and not only just quote numbers in the bank.

Staffing levels.  While MPI has integrated its business, modernized its computer systems, and even its buildings over the past several years making the Corporation definitely more efficient, we expected to see some reductions in the staffing levels as a result of these efficiencies, but we have definitely not seen those reductions, and, once again, we have a promise that those reductions will be coming.

We recommend that the PUB look into this issue, and take the continued growth of staff into consideration in its findings.

Executive compensation.  CAA does not wish to get into a debate over what should or should not be the -- a proper, or appropriate, compensation level for senior officials at MPI, but as a country and as a province, we've just been through some quite challenging times economically, and I've -- we -- we've seen many other businesses and organizations scaling back in this area, so we do recommend to the PUB that they take this also into consideration, and consider the direct compensation and benefits given to executives at MPI.

Government funding for DA -- DVL. CAA, as in the past, strongly objects to having motorists fund the shortfall of the cost of operating the DVL by MPI, as the suggestion that Basic doesn't pay for it just doesn't cut it, since we all know at the end of the day it is the motorist who will be footing the bill. To have a funding shortfall by government of over $80 million is not proper, and does need to be corrected.

Interprovincial trucking. CAA has great difficulty in Basic customers paying any part of the interprovincial trucking business because it provides no benefit to them. We recommend that PUB continue to examine this issue on a go-forward basis.

Family transfers. CAA accepts that, at this moment, family transfers are not a huge issue. We do, however, believe that it is vital to stay on top of this issue, particularly as the DSR rolls out fully and transfers will likely become a larger issue in the years ahead.

The DSR program. We have listened

intently as MPI presented evidence that, when fully ruled out over the next five (5) years, the DSR program will find six (6) out of ten (10) Manitobans to be in the range required to receive twenty-six (26) to 30 percent discounts on their insurance.

That means that 60 percent at the top of the rating scale will be supported by the bottom 40 percent on that rating scale, so CAA questions the reasoning behind this balance because we don't think it makes economic sense.

Rebate methodology. CAA questioned the method of rebate the very first time MPI wrote cheques to its customers. CAA believes the costs associated with employing this method of rebate is unnecessary, and recommends that the PUB considers suggesting an alternative way be investigated. Possibly this rebate could be reflected against the balance at the time of renewal, rather than by mail.

Donations. Now, I've already stated that the decisions made by the Corporation that impact rates are of great interest to CAA. For the most part, we trust and respect that MPI knows best, but we do question MPI's reasoning behind the donation of the old King Street service centre to the community group.

The decision is quite similar to an

incident that took place almost a decade ago. If you recall, in 2000 MPI planned to make a $21 million donation to Universities in Manitoba.

While CAA believes funding higher education in our province should be a top priority, we believe that that priority li -- lies within the government to fulfill. It was, and by no means is a responsibility of Manitoba's Public Insurance Company according to the Act laid out before them.

Upon learning of that planned donation, CAA Manitoba applied public pressure to MPI to reverse its decision, arguing financial support of post-secondary facilities was not in MPI's mandate to provide motorists with high quality insurance -- insurance coverage at a fair and reasonable price. We said MPI had no right to do anything with repairs monies that -- other than provide them with insurance.

In the end, we all know MPI backed off that misguided decision, and instead gave a rebate to ratepayers. Now the reason I bring that up today is not only to point out why a large SR -- RSR leaves the door open for misuse, but also to point out a similar misuse earlier this year. That was when they donated the old service centre to Ma Mawi, an Aboriginal group that provides counselling and prevention services.

The question we have is who gave MPI that -- MPI that right to give away repairs money. Much like CAA support of government funding higher education and making it a priority, we also believe funding groups like Ma Mawi should receive priority, and funding from government, but by donating this building, essentially an asset of ratepayers, CAA believes MPI once again stepped outside of its mandate and made a financial decision that impact, or could impact, our rates. It was worth about $1 million, and that million dollars should have either been reinvested or, better yet, could have been re -- rebated to ratepayers.

On the RSR, since our role as an Intervenor in these proceedings, CAA has been at the forefront of the discussion of the RSR for the Basic insurance program. Because we were around during the tougher economic times, for the most part we have supported MPI's conservative approach to any and all rebates, and we've encouraged the Corporation to keep a close eye on the current economic conditions, weather events, underwriting results, physical damage costs, et cetera, and as a result, MPI's resources steadily climbed.

Of course, we appreciate insurance companies are always vulnerable to the unexpected, and having a significant reserve can cushion the blow if an unforeseen weather event were to happen. But at the end of the day, the RSR has only continued to grow, and for the most part has never been used for the purpose for which it was accrued.

We believe that, given this fact, that PUB should consider rebating ratepayers an additional $50 million above what MPI has proposed. We believe that would still leave the Corporation in a very comfortable position of security, and they would still be in the range of 96 to $100 million to deal with those unforeseen events that they need to plan for.

So those are our closing statements. While we touched on a variety of issues, please let me emphasize that the way ratepayers' money is managed and spent is by far the most concerning to CAA Manitoba.

With that being said, Mr. Chairman, we wish to thank the Board, its advisors, the MPI panel and other Intervenors for the courtesies extended to us during these hearings.

And just one (1) last point: We will continue to advocate on behalf of Manitobans. We do appreciate being able to sit and be a part of this process. We look forward to hearing what the Board decides. Thank you.

THE CHAIRPERSON: Thank you very much, Ms. Peters. We appreciate CAA's attendance and participation.

We will have our break now, and does Mr. Williams know that he'd be up at one o'clock?

MS. CANDACE EVERARD: He knows he's up this afternoon, and I don't know that he'll know what the return time is, but I'll undertake to get in touch with him between now and 1:00 and ask him to be here at 1:00, ready to go.

THE CHAIRPERSON: Okay. We'll see you at 1:00. Thank you.

--- Upon recessing at 12:02 p.m.
--- Upon resuming at 1:04 p.m.

THE CHAIRPERSON: Okay, welcome. Mr. Williams, for CAC Manitoba and MSOS, whenever you're ready.

CLOSING SUBMISSIONS BY CAC/MOS:

MR. BYRON WILLIAMS: Yes, and thank you, Mr. Chairman. And just before I start I'm going to request the Board's indulgence. You'll note I'm not wearing a jacket. It's not for symbolic reasons. I'm not getting down to my shirt sleeves or, nor is it any sign of disrespect to the Board. I've merely forgotten my jacket at home, so I'll -- I'll ask for your indulgence with no disrespect intended.

THE CHAIRPERSON: There's no problem. We'll probably lose our jackets in a half an hour or so when it starts warming up here again.

MR. BYRON WILLIAMS: My -- my tie might be going sor -- shortly afterwards as well, Mr. Chairman. I'm just teasing. And certainly for the Board's assistance, there's two (2) documents that I've provided to the crowd of Intervenors still in the room, as well as the Board advisors and to -- to MPI.

One is just a document called, "CAC/MSOS supporting materials." All materials already on the record, which I may make reference to in our closing submissions. And secondly, is an outline of the closing submissions of CAC Manitoba. I may stay fairly true to it or I may deviate from it, but hopefully it will provide the transcript references which may be of some valuable to My Learned Friend, Ms. Kalinowsky, and -- and to the Board in its deliberations.

And before starting, one (1) -- one (1) final note is that in terms of the transcript I've employed it in two (2) ways. If I'm paraphrasing someone, I'll put the transcript reference. I won't portray it like it appears in the transcript, Ms. Everard asking the question and MPI replying, so.

And then in -- when I've attempted to cut and paste, and faithfully reproduce the transcript, I've done it in that second fashion, which is with the question and the answer. Mr. Chairman, I also -- and, Dr. Evans, I'm also to pass on the regrets of Ms. DeSorcy and Ms. Wheiss. Both -- both organizations are in the midst of their annual general meetings, and especially with regard to the Manitoba Society of Seniors it's a very important one which is taking place this week.

My clients did ask me to start with -- and I'll start with the heading, "Monopoly rate regulation and the captive consumer." And in a way -- it's on page 1, and it's really a repeat of -- of something that's -- that's common knowledge to -- to all of us, but sometimes it's helpful and important to remember why we're here. And certainly, it's my client's submission that in the case of Manitoba Public Insurance, and the situation of its customers on the Basic side, this is the classic equation for a rate regulation. These are the circumstances where rate regulation is particularly important.

We've got automobile insurance, Basic

automobile insurance, compulsory automobile insurance, which is, for many Manitobans, whether they're from my hometown of Souris, rural Manitoba, or even in the city, truly is a basic necessity to fully participate in society.  And we've got a statutory, if not a natural, monopoly.

In that situation, when there are no easy substitutes in terms of alternative options to this basic necessity, we have customers who are essentially captive to the monopoly, price -- the -- they -- its circumstance of price in -- in elasticity.  In the absence of rate regulation or government regulation the monopoly could essentially charge very high rights -- rates because con -- the only options open to consumers are to pay, or to park.

So it's a situation where you've got vulnerable consumers, and we've also got a situation, and Mr. Chairman, you adverted to it in your questions yesterday, where in the late 1980s we had a bit of a crisis in terms of public con -- confidence in the rate setting process in Manitoba.

So that's what we have here today, a need for regulation, a need for transparent rate regulation, to protect consumers in the absence of a competitive market.  But as we look at that, and recognize that, it's important, especially when we get to issues such as cost allocation, and issues of transfer pricing and affiliate relations, that there are, despite the fact we're in a regulated monopoly, there are still market-based tools that may be useful as we look at this -- as we look at this hearing as a whole.

Turning to page 2 of my outline, I noted as well, Mr. Chairman, in your closing remarks -- or your pre-closing closing remarks yesterday, I -- I think you used words to describe this Rate Application as a seemingly simple task.

And really what -- what could be a more pleasant Rate Application to face, at least at first glance, a 4 percent rate reduction, a $92 million RSR rebate. As I pose a rhetorical question: Can giving money away be that hard?

But of course this Rate Application is not so simple, and it's not so simple for two (2) reasons. Again, the first reason I identified, again was I think referred to in The Chairman's remarks yesterday, because the first question that ar -- arises, and it certainly arose for me as I came into this hearing in late September, and it arose for my clients when we began to pro -- prepare them for this hearing.

They asked: Are these numbers real? Is

this a actuarially indicated statistically sound Rate Application? Or is this a political Rate Application, given the -- the October 4th deadline of 2011, approximately, in terms of a provincial election.

And with no -- it -- without imputing anything to the character of MPI's current executive, or their Board, obviously that's been a historic concern. Rates were not always set in a statistically sound and actuarially indicate -- cated way. To a certain degree, they were certainly politicised.

And that issue has surfaced even during this decade. Certainly we had the concern in one (1) particular year, with the Corporation appearing to budget for less than a break even position. So that's one (1) reason why my clients don't see this as a simple task.

The second is that there's a questioned begged ultimately by this Rate Application, and I've got that on the -- the second -- the third heading on page 2. The Corporation is -- seemingly has a plethora of riches, and certainly it would appear that there's been an over collection of revenues, and a failure to break ever over the -- over the -- certainly the short term, middle term, in the sense that the Corporation's made a lot more money, as a whole, than -- than it appears, with the benefit of hindsight, to have needed.

And certainly it's important to understand that if the $92 million rate rebate is granted, RSR rebates over the last four (4) years will total -- excuse me, over the last six (6) years will total over a quarter of a billion dollars, some $273 million, leaving aside the time value of that money, and I put the transcript reference for that calculation.

Of course, to be fair to the Corporation some of the elements of the rebates over the last six (6) years have been transferred down from Extension and SRE. But certainly from my client's perspective, if the rate indicators are to be trusted, it would appear that the Corporation is not breaking eve -- even over time, and that Basic over the past few years is overcollecting to some degree, and that's, of course, a concern to my clients and certainly to the regulatory process.  And consumers always enjoy a rebate, but our clients' stated preference is, rather than to have a rebate, they'd prefer to have that money stay in their pocket in the first place.

And so an important part of this discussion for our clients in this Hearing is to try and understand the root causes of that over-collection.  Was it purely good luck?  Are there some systemic issues?

And before going to the overarching

questions on that point I do want to co -- commend the Board advisors who always do a good job. But I think in this particular Hearing they've done an exemplary job in -- in helping certainly this lowly Intervenor get a better sense of some of the issues relating to what's going on, in terms of the actuarial techniques and estimates, and I -- I think they deserve certainly my clients' appreciation for that.

So as my clients look at this application they ask themselves five (5) overarching questions. First, is this a politically motivated RSR rebate and rate reduction. Second, should the applied-for 4 percent rate decrease be granted. Third, should the applied-for $92 million rebate be granted. Fourth, are all consumers and classes of consumers being treated fairly. And fifth, what other direction -- directives or recommendations might the regulator consider.

And just to -- to toy with the Board to a certain degree, some of my recommendations on behalf of our clients are right in the text of the document, a few appear at the end as well. We were trying to be responsive to as many of the questions that the Board raised as possible, so some of those are tagged on at the end.

Turning to page 4 of the outline, and to page 5, we cite some of the key statutory authority. I don't need to repeat the Crown Corporation's Public Review and Accountability Act for you. I wouldn't dare. But one (1) important note as we all look at this Hearing, and I think it's an important statutory inter -- in -- interpretation principle, if we -- we know that the Public Utilities Board only has jurisdiction in terms of rate setting over the rate bases and premiums charged with respect to compulsory driver and vehicle insurance, but my clients are certainly mindful of Section 26(5) of the Act, which uses broader language than compulsory driver and vehicle insurance.

It gives the Board the jurisdiction, as well as in considering all the factors set out in Section 26(4), to consider all elements of insurance affecting insurance rates. Not just rates and premiums charged with respect to Basic, all elements of insurance coverage affecting insurance rates, not just Basic rates.

So that's something important that the legislature in its wisdom has given to the Board, a tool as it looks at the complicated relationship between Basic and other lines of business. At page 5, I cite my two (2) favourite sections, on behalf of my clients, of the Public Utilities Board Act, Section 77 and 82(1), where they really set out those hallowed words, those magic words that have -- have come to mean so much in the regulatory process, speaking to concepts such as just and reasonable, unjust or unreasonable, unjustly discriminant and unjustly discriminatory.

And certainly the Board in its comments yesterday asked our representations to be made in the context of a just and reasonable rate in the public interest. And certainly, from my clients' perspective, I want to give the Board some -- some sense of how they look at that issue at page 6 of the outline, what we call on their behalf the just and reasonable balancing act.

What do you those words mean, "just and reasonable, discriminatory?" What is their relevance to this proceeding? First of all, my clients certainly look at the concept of just and reasonable as speaking to fairness between captive consumers and a monopoly in the -- in the public interest.

The basic principle -- it's been recognized by the courts for many years -- consumers should pay no more but no less than their just and reasonable rate, recognizing that we -- there has to be protection for the Corporation's financial integrity.

A second core principle captured by that idea of discrimination is that there must be -- not be discrimination among consumers or between classes of

Basic consumers. And that certainly has relevance to concepts like driver safety rating, certainly some of the issues raised by My Learned Friend Mr. Oakes as well.

The rates that consumers pay should reflect the risks/costs that they bring to the system, and that's certainly how my clients interpret that phrase.

So turning to page 7 of the outline, our clients, when they look at the concept of a just and reasonable rate in the current proceeding, will really be looking at four (4) central questions.

In terms of fairness between Basic consumers and the Corporation, there -- the threshold question that they will ask in this hearing is: Are the forecasts for costs and revenues reasonably reliable? They might not ordinarily ask it in that order in this hearing, but in this particular hearing it's -- it's -- it's of some import, especially given our clients' concerns about overpayment over the last few years.

Secondly, they will ask themselves: Are the costs, revenues, assets and liabilities of the different lines of businesses appropriately attributed? Not allocated, not assigned. Are they appropriately attributed?

Third, they will ask themselves: Are

forecast costs reasonable and prudent? Along the theme of non-discrimination between different classes of consumers, they'll ask themselves: Are vehicle owners paying a reasonable share of the costs they bring to the system -- individually, but more particularly, as members of a class?

At page 8, my clients begin their commentary on the issue of whether the forecasts for costs and revenues are reasonably reliable. The Chairperson asked yesterday: How much weight should we give to the Corporation's forecasts? In this particular proceeding, based upon the evidence of the last six (6) years, and based upon the evidence that has come to light in this hearing, my clients are of the view that the Corporation's forecasts for claims incurred should be used with considerable caution for the purposes of rate setting.

To the extent that the Corporation's forecasts of claims incurred should be used carefully, it certainly is my clients' views that the forecasts are more likely to overstate the costs than to understate the costs, and that is particularly the case with regard to PIPP, and the two (2) key lines of PIPP that we'll get into some discussion of a bit later.

In terms of the revenue forecasts, without offering too much comment, in the context of this hearing, my clients are prepared to accept the Corporation's revenue forecasts are reasonably reliable.

As we look at the focus on the Corporation's track record in terms of forecasting claims incurred, there are two (2) important concepts that my clients will ask the Board to keep analytically near at hand.

The first is the concept of bias, and certainly Mr. Palmer assisted me with it, suggesting that an unbiased forecast is one that, on -- where, on average, the estimate equals the actual over a longer period of time.

I would note, simply to say -- to note that definitions may differ somewhere -- somewhat. I think Mr. Kramer, in his response to inquiries by My Learned Friend Ms. Everard, used that concept of bias a little more liberally, denying allegations of bias on the grounds that some of the forecasts were higher than the original -- some of the results were higher than the original projected, some of them were lower, a little more casually than Mr. Palmer.

The other important concept is autocorrelation, the concept -- and again, this is more colloquial language -- that the results are not independent and are more likely to repeat the preceding result. For example, an under-forecast is more likely to be followed by another under-forecast.

And certainly when my clients look at the Corporation's track record at -- in terms of claims incurred, and they look at the evidence that has come to light in this hearing, both in terms of the first and second quarter results, as well as the advice of the ex -- external consulting actuary, or actuarial specialists, they think that those issues or concerns about bias and auto-correlation, may arise.

Turning to page 9 of the -- the outline, my clients begin to set out some of their concerns in terms of how much weight should be given to the Corporation's forecast in this proceeding, and we did provide a little excerpt form the -- the record, a smaller book, and at the first yellow tab you'll see the -- CAC/MSOS Exhibit 12, which sets out the results of the financial forecast methodology.

The table's fairly self-evident. We went through it in cross-examination. I will not belabour it. It sets out the pla -- particular loss year going from the year 2000 at the top to the most recent year at the bottom, the initial financial forecast in terms of claims incurred, and then the actual results.

And of course, the trend that becomes apparent starting in 2004 or so, is -- is that the initial financial forecast in each of the years from 2004 through 2009 is higher than the actual results.

Now, the percent variance changes, but clearly there's a pattern over these last six (6) years with the Corporation's initial financial forecast suggesting higher claims incurred than actual results.

And certainly part of this may be a -- a function of circumstances, but one has to wonder if there's something deeper driving it.

Why does this matter?  Well, obviously from the regulator's perspective, given the reliance it places on the financial forecast methodology for setting rates to break even over the long term, if a regulator relied on these results over the last six (6) years, the result would be a significant overpayment from consumers, all other things being equal.

And indeed, what we do know is that when we average the results in terms of the over forecast claims incurred as compared to actual, there's been a material over-forecast over the past, and I say in my notes five (5) years, but it would be -- and that's -- that's accurate.  That was calculated by the cor -- Corporation to be minus 10 percent.

And this was -- the point underlying this material over-forecast was a material over-forecast that PIPP incurred over the past six (6) years, and certainly the Board's Information Request, I believe it was PUB-1-9(b), made this evident as -- as does the transcript.

Ms. Everard -- My Learned Friend Ms. Everard confirmed in cross-examination that the accumulated undiscounted Basic total net PIPP runoff during fiscal years '05/'06 through '09/'10 has been favourable for each insurance year, and aggregates to about $400 million.

If we turn in our little book of handouts from the hearing, one (1) yellow leaf -- leaf over, we see the CAC/MSOS Exhibit 13, and what this did -- this exhibit did, and again we went through it in cross, at transcript pages 217 and 218, was basically look at the Corporation's results in terms of PIPP projection versus PIPP actual, and collision projections and collision actuals, since the onset of PIPP, since 1994 at the bottom all the way up through to 2009/'10.

And if you look at this table carefully, in terms of PIPP, you'll see an interesting trend that certainly you wouldn't expect would -- or would raise some concerns in terms of auto-correlation.

You see three (3) years where the PIPP pro

-- the first three (3) years being '94/'95 through '96/'97, where PIPP projections were higher than PIPP actuals. Then you see a string of seven (7) years where PIPP projections are either -- are -- are either equivalent to or less than the actuals, running from 1997/'98 to '04 -- '03/'04. Then you see the last six (6) years, six (6) years in a row where -- where PIPP projections are higher than PIPP actuals.

And certainly, from my clients' perspective, this raises concerns of auto-correlation, of systemic bias within the methodology that -- that will lead to these overestimates, and for the results of one year being -- if -- if it's a -- a year following an over-forecast, being more likely than not to be an over-forecast in the subsequent year.

Now, certainly Mr. Palmer sought to address these concerns in my cross-examination for him -- of him. It might have been last Wednesday, and I -- I listened very carefully, and he outlined four (4) different factors underlying the variations from projection to actual.

And, as I note at the bottom of page 9, he suggested that all these four (4) factors sometimes actually pull in opposite results (sic), all influencing these actual results.

And I gave Mr. Palmer a fair degree of leeway in that cross-examination, because we were interested in his answers. But at the end of the day, I think it's fair to say that none of his explanations substanti -- substantively addressed what appears to be an indicia of bias and auto-correlation.

And certainly, my clients tried to make their concerns starkly evident with the hypothetical which appears on the next leaf over, the hypothetical coin toss. That's CAC/MSOS Exhibit 11-1. Here you see a coin toss where the sophisticated methodology employed by CAC/MSOS in estimating -- in guessing the result was simply to make our future guess based upon the results of the last coin flip. If the previous result was a head, the past result was a -- we forecast the next flip would be a head as well.

And what -- certainly what Mr. Palmer confirmed with me, you can see here that there are seventeen (17) coin flips, and using that very simplistic methodology, my clients were actually right fifteen (15) out of seventeen (17) times doing this one way, and fourteen (14) out of seventeen (17) times the other way.

Now, with a fair coin toss, on average, you would have expected my clients to be right eight point five (8.5) times, half the time. So really, this begged the question of what was going on in this exhibit. And the only point I want to make by referring you to this is that these results mimic the Corporation's record in claims incurred.  Remember, there was three (3) years of over-forecast, seven (7) years of under-forecast, six (6) years of over-forecast.

And again, this -- our clients tried to replicate that by using heads as over-forecasts and tails as under-forecasts.

So my clients certainly tried to test the concept of auto-correlation, and in the next leaf over, which is the CAC/MSOS Exhibit 4, you see a Pre-ask posed by my clients, asking the Corporation to confirm that, if you did non-parametric tests to see if there was an issue of auto-correlation, that from this statistical test, positive auto-correlation was indicated.

Now, it was very interesting to my clients, because the Corporation declined to -- to respond to this inquiry, or declined to conduct the test. The Corporation's reasons for doing so are set out on page 2 of the response, but certainly from my clients' perspective, we can draw an -- certainly it's open to the regulator to draw an adverse inference from the Corporation's refusal to conduct these fairly basic non-parametric tests.

I'm on page 10 of my outline, Mr. Chairman and Dr. Evans, about the -- the first bullet, which is about two-thirds (2/3) of the way down.

Certainly, my clients' working hypotheses entering this hearing was that it was -- based upon past experience, both in terms of claims incurred and PIPP for -- projection versus actuals in particular, it was reasonable to assume that the Corporation's claims incurred in this proceeding were more likely to be lower than forecast, than above forecast.

In my client's respectful submission, that hypothesis has been reinforced in the course of this proceeding. I'd like to claim some credit for it. I'm sure other of My Learned Friends would as well. But I -- I have to give that credit to Board counsel, who I think, again, did a -- a fine job in -- in making this point.

Why do we -- did my clients suggest that the -- the results of this hearing reinforce the sense that the Corporation is more likely to over-forecast? Still staying on page 2000 -- page 10, we see the 2010/'11 developments to-date. Between April 30th, 2010, and July 31st, 2010, a favourable PIPP runoff of just over 38 million, and that's also set out in PUB Exhibit 12-1.

Now, of course that runoff could be

reversed, and -- and the question was put to the Corporation, and they provided a candid answer. The Corporation's expectation is that it wouldn't expect a reversal of the large 17 million '05/'06 favourable runoff, and Mr. Palmer's response to that is set out on pa -- bottom of page 10.

The Corporation later, as I set out on page 11 of the outline, again indicated that it does not expect a reversal of the favourable runoff. And I think if one is concerned about the pendulum swinging, and certainly that was the thrust of the -- the Board's comments yesterday, one (1) can take some solace from past results, and the year to date results.

And I think -- I didn't wish to belabour it, but the Corporation's response to Undertaking 10, MPI Exhibit 31, I think, also provides some solace in that regard.

More importantly, perhaps, in this proceeding is that we have indevent -- independent verification of the Corporation's consistent conservatism, tending towards the upper range of reasonableness. A mouthful, but I think it's reflective of the evidence of the KPMG witnesses, and also as reflected in the letter of the KPMG actuarial specialist, which I believe is Exhibit 18.

Some of the notable quotes from that analysis by the actuarial specialist of KPMG are set out at page 11 of this outline:

"The approach followed..."

The first one is:

"The croach -- the approach followed..."

I think we're missing the word, "is". Is:

"...a conservative approach that tends to result in favourable developments in most years."

Going on:

"We expect the two (2) major Basic AutoPac lines, accident benefits/weekly benefits, and accident benefits/other benefits index, to continue having favourable del -- developments similar to the outcome of the last few years."

There's an interesting con -- quote about consistency and cookie jars that I thought was just kind of cute, so I left it in there. Going onto the third quote:

"Mr. Christie's total claims liabilities is closer to the top end of our range of real -- reasonableness.

He tends to select assumptions that result in estimates that, in aggregate, are at the upper end of our range of reasonableness. The overall picture is still at the upper end of the range in aggregate, both at the Basic level, and the total corporate level."

That last quote was from Mr. Parkinson, not from the actuarial specialist. So not only do we have independent verification of consistent conservatism, we also have in certain circumstances, claims liabilities, selected claims liabilities, which in the view of the KPMG actuarial specialists are above the range of reasonableness.

This is first hinted at in the act -- internal audit actual -- actuarial support memo. For some lines of business the selected claims liabilities are above our range of bus -- reasonableness. Subsequently, MPI Exhibit 34 identified the two (2) categories above the KPMG range, which were accident benefit/weekly benefits, and accident benefit/ other benefits.

What are the implications of the Corporation's approach? The implications are that cla -- PIPP claims incurred are more likely to be below actuals as compared to above actuals. Mr. Parkinson talked about this in a conversation with My Friend, Ms. Everard, and he talked about the result being a stronger balance sheet.

And later on in the quote, which I included because I thought it was helpful, the converse of that would be that if you set your liabilities $50 million lawyer -- lower the retained earnings would be $50 million higher. Our -- our clients' conclusion from this -- and we -- we don't offer judgment in terms of the Corporation's motivations, and certainly there's no intent to suggest that there's any conspiracy or any plan in that way.

But the Corporation's systemic approach to claims incurred, in particular, claims incurred -- PIPP claims incurred, the implications of this consistent conservatism are that there is more money in the Corporation's pocket. There's an over-collection. And, again, while there's always that concern that the pendulum may swing, the evidence from the first two (2) quarters coupled with some pretty telling insight from the KPMG actuarial specialist, suggests that while there's no certainties, we can have some confidence that the most likely result is the Corporation over-forecasting PIPP claims as opposed to under-forecasting.

At page 13 of our outline, on behalf of our clients, I -- I seek to outline -- I probably have mislabeled this.  Rather than key methodological concerns, I -- I think I would re-label it as key methodological issues.  And I -- I think my clients' issues in this regard actually go back to last year's ge -- General Rate Application.

And the Board had the benefit of hearing from one (1) of the most gifted econometricians in Canada, and certainly in our respectful submission, Dr. Simpson.  And I think that he -- he had a message in terms of the lack of empirical rigour, in his view, in terms of DCAT.  And, again, maybe I'm choosing my words a little too cavalierly.  I think he was pointing to unrealized opportunities, in that the Corporation could be providing better information to itself, better information to the regulator, by employing more sophisticated methodologies.

Modern -- the modern empiricals mathematics have come a tremendous way in the last -- since Dr. Hum and Simpson wrote their papers about Monte Carlo simulations in the late 1970s.  And we see that -- that regulators whether they -- or excuse me, utilities, whether they're Manitoba Public Insurance or Manitoba Hydro, may have some challenges in keeping up to base --

up-to-date with the most current tools.

And so again I'm going to strike the words "lack of empirical rigour," and instead insert failure to -- to fully utilize the best available tools. So that's the starting point of my clients' concerns, and it parallels their concerns in -- with regard to Manitoba Hydro.

A question my clients would ask, rhetorically, in terms of the tools that the Corporation uses are: Do the linear and exponential methodologies provide any real insight?

Certainly from my clients' perspective, they provide very little to the Intervenor, and we don't get the sense from MPI that it makes particular use of them. We could be wrong, but that's certainly our -- our sense of the issue.

A reality that, certainly, I'm -- I'm sure was well familiar to most in the room but not to my clients, was that the skewed distribution in terms of the Corporation's distribution of claims liabilities, and, again, to most I'm sure it was self-evident, but the Corporation made this point in its cross-examination by Ms. Everard, that its aggregate distribution of claims liabilities is skewed, such that the mean estimate is higher than the median estimate.

And there was an important moment in this hearing, as set out at the bottom of page 13, when my -- My Friend Ms. Everard asked:

"Well -- well tell us -- give us a sense, at approximately what percentile within this distribution, is the mean, or the best estimate?"

And the Corporation wasn't prepared to venture, or to speculate on that. And certainly from a regulator's perspective, certainly from an Intervenor's perspective, that sense of where it was in the distribution, I think, would be of some consequence to the regulator in terms of making its decisions.

At the top of four (4) -- page 14, we talk about the absence of stochastic modelling, and the -- really the first four (4) paragraphs on page fur -- 14, I put in kind of a explanation of stochastic modelling that appears on the transcript. Really the first five (5) paragraphs.

For the -- for the purposes of my submission, the point is really in the second paragraph, you -- doing this modelling exercise, whether Monte Cristo, or otherwise, you can get a sense of what the distributions of outcomes look like, and gets confidence intervals to get an idea of an expected range of outcomes.

And Ms. Everard put the question to the Board in terms of whether or not stochastic modelling is currently employed by the Corporation in the Basic's claims incurred forecasting process, and the Corporation -- Corporation's answer was that it is not currently employed. That transcript reference is page 761.

And the importance of that, of course, goes back to the question posed on the previous page. Stochastic modelling would give one a better sense of the distribution of the mean, or the best estimate. And again, Mr. Palmer was alive to that possibility, and he noted, going to page 15 of the transcript, that as a Corporation becomes more sophisticated in their claims forecasting approach, this is something that they may incorporate.

And certainly our clients see this type of information, this modernization of the claims forecasting approach, as something that can be an in -- important outcome of this process.

A final concern from my clients, in terms of statistical methodology, is set out on page 15. And we've heard a lot of talk in this hearing about structural breaks, and auto-correlation. Some of it has come from me, but not all of it. Certainly, Mr. Palmer describes the changes in '05/'06 as a structural break in the transcript at page 2118.

And certainly with issues of auto correlation -- let me back up. In the sense of that dialogue, certainly our clients' experience with other regulated utilities in other jurisdictions is that in the context of a discussion about structural breaks, and context of a discussion about auto-correlation, one would have ex -- in -- in the context of forecasting, one would have expected the Corporation to perform some basic statistical tests.

A structural break test is a test on data to see if something underlying the data has changed during the sample period. And if one concludes that there is a structural break, one may conclude that it's not appropriate to look at the whole data sample.

Certainly those type of tests do not appear to be -- have been done, and certainly my clients posed Information Requests suggesting that they -- the responses to which, suggesting that they were not done.

Non-parametric tests are those lovely tests which really have the potential to give insight into skewed distributions, and again, our understanding is that those type of tests were not done.

So in terms of forecasting, certainly my clients' recommendations are -- are set out at page 16. We recommend that the Corporation (sic) expressly find that the Corporation's forecasts in terms of claims incurred are to be used with caution for the purposes of rate setting in this proceeding, recognizing that the Corporation's history over the past six (6) years, supported by the evidence of the first two (2) quarters of this year, and supported by the external actuarial specialists employed by KPMG, suggest that the forecasts of claims incurred are more likely to be over-estimates as -- as compared to under-estimates.

Certainly my clients would invite the Board to direct the Corporation to conduct an independent review of its forecasting methodology. We suspect what it will find is that there are many elements of the forecasting methodology that are sound, but that there are other tools that can be used that can provide better insight to the regulator, to Intervenors, and to the Corporation for the purposes of rate setting.

Certainly my clients -- this is not really a recommendation, but we'll -- we will be looking for additional insight from the actual -- actuarial specialists employed by the external auditors in future proceedings. And certainly, recognizing the practicality of it may be a problem, my clients certainly would look forward to audited looks at the quarterly financial statements. And there's an illuminating discussion between the Chairman and Mr. Parkinson that we've set out there.

Mr. Chairman and Dr. Evans, turning to page 17 of the outline, we asked the questions: Are costs, revenues, assets and liabilities appropriately -- appropriately attributed to different lines of business? And I just want to start with an overview of where my clients are going in this section.

Certainly it's their view, and it's a concern, that the potential for cross-subsidy between a regulated and unregulated line of business must be a matter of an ongoing concern for regulators. And my clients note that cross-subsidization can occur through a variety of vehicles: transferring costs to the regulated utility; transferring revenues to the non-regulated utility; or the failure, in my clients' submission, to recognize a material benefit provided by the regulated utility to the unregulated utility for which it is not appropriately compensated.

Within the limitations of their analytical construct, CAC Manitoba and MSOS are prepared to accept that the cost allocation formula presented by Deloitte and the asset liabilities are not unreasonable. Unfortunately, from my clients' perspective, by virtue of the lim -- limits in terms of the terms of retainer to Deloitte, viable alternative analytical constructs were not considered, and unfortunately, by virtues of the limits of the terms of retainer of Deloitte, central questions were not asked.

So my clients -- it's not a quibble. My client's abiding concern with the approach recommended by the Corporation is not within the narrow walls of the Deloitte cost allocation, is with the alternative me -- methodologies not considered, the central questions not asked.

And to -- to highlight the importance of being alive to cross subsidy, my clients in the middle of page 17 merely re -- report a quote by the Alberta Energy and Utilities Board about the importance of avoiding subsidization of non-regulated operations by regulated operations. And the -- the Alberta Energy and Utilities Board in that quote makes a really important point.

> "To that end, [going to the last sentence] it is necessary that all utility transactions are transparent to regulatory oversight."

And transparency I know is a central

concern to my friends at CAA. It's a central concern to my clients as well, and -- and we can't underscore enough the importance of that principal enunciated by a fellow regulator.

The potential for cross subsidy I -- I think has been well canvassed in this -- this Hearing. It flows from the reality of captive consumers with no close substitutes for a highly priced service such as automobile insurance. And in my cross-examination of Mr. Parkinson he highlighted the points that this is a captive audience with nowhere else to go. And he made the point at the top of page 18 that demand is relatively inelastic.

I've talked already about how cross subsidization could take place. Just above closely integrated operations here's our clients -- here's the abiding concern in the context of a rate regulated utility in a relationship with non-regulated utilities.

If one  is able to shift cro -- costs or benefits from an unregulated entity to the regulated entity, and then recover those increased costs and rates, one has enhanced the competitive position of the company in the unregulated marketplace without injuring the returns of the regulated company.

Of course, that sort of transaction may

not injure the returns of the regulated company but it would certainly injure the interests of the captive consumers. And it would also certainly injure the interests of consumers in the competitive marketplace too, because it would stack the decks against competition. And that's the underlying concern of my clients in this process.

In terms of the issue of -- of the subsidy, in the context of MPI and its very closely integrated operations with Extension, SRE, and DVA, that issue must be understood and recognized, looking a) at the closely integrated operations and also the material benefit that Extension draws from -- from Basic.

And, Mr. Chairman, what I propose to do is I'll go through this section. It'll take me another -- a few minutes. And then I think that'll be probably a good time for a brief break. Everyone looks like they're with me so far, though, so.

And, again, there's no dispute that Manitoba Public Insurance has a closely integrated operation with its other lines of business. There's products of Extension which are closely integrated being merely enhancements to the Basic Program.

We've recognized the purchase of compulsory Basic insurance and Extension can be done at the same time, at the same location, as part of the same transaction, using the same system. KPMG made an important note in this proceeding that cashflows are interdependent based on the highly integrated nature of the business.

And we've seen a splendid illustration of how closely Basic and Extension are integrated, and the Corporation's response to CAC/MSOS-1-58, which is set out in the -- the book of documents. And that looked -- that Application set out approximately sixty-five (65) plus FINEOS, F-I-N-E-O-S, sixty-six (66) applications central to Basic operations. Approximately sixty-two (62) of those, all but four (4), were shared with another component of the organization.

And many of these applications, CARS, which goes to the -- the operation of the -- the claims estimating system, AutoPac online, or IWCS, which goes to the -- the claims renewal, central operations, and -- and the point my clients would like to make is that these are operations that were needed by Basic, and certainly other lines of business have certainly benefited from their relationship to Basic in that they are able to make use of the central applications.

At page 19 we talk about the material benefits flowing to Extension from its relationship with

Basic.  The ultimate benefit is market share, and when one looks at the Manitoba auto insurance marketplace, it's a very curious phenomenon.

This Board will be familiar with the Payday Loan proceedings where we had concerns about a marketplace in which there were two (2) large firms constituting 70, 80 percent of the marketplace.  This -- that raised concerns for captive consumers.

Well, what about the Manitoba Public Insurance marketplace?  By statute, by operation of statute, obviously, Manitoba Public Insurance has 100 percent of Basic Compulsory for very good policy reasons.

The evidence in this proceeding suggests it has in the range of 95 percent of the Extension market, and that somewhere in the range of 90 percent of Basic customers purchase some sort of Extension insurance from Manitoba Public Insurance.

We also know, thanks to CAC/MSOS Exhibits 18-1, et cetera, that this marketplace has been increasingly concentrated over time.  In the late 1980s, certainly, private insurers in the Extension marketplace didn't have a huge share of the market, but their relative growth over the last twenty-two (22) years has been far slower than that of the Manitoba Public Insurance so-called competitive lines.

So this is a very curious type of marketplace where real market power is ex -- exerted by Manitoba Public Insurance. And the point is that Extension would not be in this position but for the material benefits it gains from Manitoba Public Insurance, it's relationship with Basic. And we set those out, some of them, at the bottom of page 19. Deloitte tells us that Extension leverages the existing customer records, and customer points of contact, flowing to MPI through the Basic man -- monopoly.

MPI has confirmed that one (1) of the material benefits is the convenience of one (1) stop shopping with no additional forms. MPI's concern -- confirmed that Extension benefits from its association with the well-known Basic brand name of Manitoba Public Insurance, and that's in the transcript at pages 1,775, and additional examples are at page 1,746.

> "Manitoba Public Insurance has confirmed that Extension benefits, from its association, not only with the well-known brand name but a popular brand name, Manitoba Bubi -- Public Insurance."

And we know that it's a popular brand name because Manitoba Public Insurance has told us so. In terms of Basic, between three (3) and four (4) strong supporters there are, for every one who's not.

I don't -- page 20 and 21 I set out a helpful discussion on this point, flowing from a discus -- discussion of The Chairman with Mr. Parkinson from KPMG. I don't mean to repeat this discussion, I mean -- I simply mean to highlight it for the Board's information, and to point out that Mr. Parkinson, who was a helpful witness to the Board, certainly was alive to the material benefits flowing to Extension from the one (1) stop shopping reality of its relationship with Basic.

And again, I leave that for the Board's reading. I'm sure you'll memorize it at your leisure, set out at pages 20 and 21 of the outline.

So why are my clients concerned with the Deloitte approach to cost allocation, and asset and liability allocation? And again, my clients' concerns with regard to the narrow confines of that allocation study were expressed last year, and certainly Deloitte and the Board have responded to them.

Moving beyond the confines of that, though, my client's threshold concerns with Deloitte are, first of all, that viable conceptual alternatives were simply not considered. And certainly, we posed the question to Deloitte, on two (2) separate occasions, about whether they had examined affiliate -- affiliate relation codes used by other regulators such as the Ontario Energy Board, or by utilities on a voluntary basis in Alberta. And their answer was no.

And I want to spend a couple of minutes to talk about the concept of an affiliate relationship code. And certainly the Board, based upon prior proceedings, can take judicial notice of common features of these codes, but those codes are also referenced in CAC/MSOS-2-9, which is the Alberta Energy and Utility Board decision.

I'm not saying that the concept is directly analogous to the Manitoba Public -- on behalf of my clients, we're not suggesting that it's directly analogous to the Manitoba Public Insurance situation. For example, we're not arguing for strict separation of management.

But conceptually, the point my clients wish to make is that there are other regulatory ways to look at these issues rather than by simply focussing on cost allocation. And one (1) example -- and there are others of this -- are these type of affiliate relation codes. And certainly my clients believe that the objectives and certain methodologies within these codes have a lot to represent -- a lot to recommend themselves to the Board's considerations.

Now the Chairman had a discussion with the witness from Deloitte about affiliate relationship codes, and it would be far from me to ever try and correct the -- the Chairperson, but certainly that discussion was in the context of protecting consumers in the competitive marketplace, and certainly that's a legitimate purpose of these codes.

But it also has to be recognized that another key purpose is to keep captive ratepayers unharmed. They operate on a dual purpose: keeping captive ratepayers unharmed, while enhancing the competitive marketplace. And certainly, conceptually, I think that's an idea that consumers and the regulator may have of some interest.

What's also interesting about these methodologies, and certainly the -- that was hinted at in my discussion with Deloitte -- is that they really set out a transparent mechanism for sharing services and resources. There's a documentation often in these processes, of the type, quantity, and service to be shared. Certainly there -- there -- one could conceptually oblige affiliates to agree to comply promptly with requests for information from a regulator.

What's particularly interesting about

these mechanisms, though, is how they share resources. In many cases, they start from a -- a market-based approach. They set a transfer price based upon requiring a utility to charge no less than what -- what a -- what might be charged in a reasonably competitive marketplace. Even in the absence of full market rates, there's -- there can be provision to charge no less than fully allocated costs.

In fairness to the Corporation, many of these affiliate codes do allow for the -- some approach to allocating shared corporate services, often on a fully allocated basis.

The simple point again is that there is a different way of looking at the relationship between MPI and its lines of businesses other than cost allocation. Hydro's an example of that. Hydro and Centra have a different type of relationship, analytically and -- and structurally than -- than Manitoba Public Insurance.

So that's one of our central concerns with the Deloitte approach.

The other key question is that, in our respectful submission on behalf of our clients, there were key questions that Deloitte was never asked to answer.

I think this -- the record of this hearing has conclusively demonstrated that there are material benefits flowing to Extension from its relationship with Extens -- with Basic.

Deloitte was never asked to calculate, or to put a price on the advantages in the competitive marketplace flowing to non-Basic lines of business, such as Extension, from their relationship with Basic. Transfer pricing with affiliate -- affiliated tran -- firms was not a specific area of their -- their focus, and the concept was not explored in any detail.

Indeed, Deloitte was not aware whether transfer prices seek to have regulated utilities charge market prices for the services they repr -- they provide.

Deloitte was never asked to perform a calculation of the investment required for an adjacent business, such as Extension, to be financially and operationally independent, self-sufficient of Basic.

Deloitte was not asked to calculate, or put a price on the stand-alone costs of an unregulated business, such as Extension, developing their own information databases, and build -- and systems, either through internal construction or purchasing in the fair market.

And again, there was an interesting discussion on this with The Chairman and Mr. Olfert would

I -- which I've set out at pages 17 -- 17 -- set -- set out at the bottom of page 23.

Turning to page 24 for a moment, I just want to go back to Bruce and Abby, that somewhat tortured hypothetical that I put to Mr. -- Mr. Olfert, oh so long ago, in this hearing.

There was an interesting discussion on behalf of my clients that we held with -- with Mr. Olfert, and we agreed at page 1276 on the broad ambit of what a subsidy could be. It would be a subsidy if the price charged was either less than the incremental cost, or greater, underlining the word greater, than the stand alone cost.

That discussion with Mr. Olfert though demonstrated that there's a wide gap in judgment in terms of what could be fair and reasonable, ranging from just above incremental, one dollar ($1) above incremental, all the way up to stand alone.

And what's interesting about the Deloitte analysis, and certainly, on my clients' perspective, a question that was not asked that should have been asked, is they looked at incremental, they looked at pro rata, they never looked at stand alone costs, and certainly we think that was an analytical flaw in their retainer.

Certainly Deloitte did a fine job

within their analytical constraints, but cer -- my clients' perspective we considered it a well researched but impoverished analysis.

At the bottom of page 24, I attempt to define free ride, but I call it a fee ride, so I'd like to edit that, and put in the word free ride:

"A relationship in which a person or party receives the benefit, but provides no compensation to the party providing the benefit."

And certainly from my clients' perspective, a gap in this whole discussion is that there's no recognition of the material advantage flowing to Extension from its relationship to Basic, nor any expressed compensation for that.

Just to finish up on this line, Mr. Chairman, and I've got just two (2) or three (3) more pages in my outline, things will move much quicker in the second half. Certainly, in the Board's discussion through counsel, one could see some reticence, or perhaps concern, in terms of the commissions offered to brokers in terms of Extension.

My clients will not go there, except for they wish to express, at page 25 of their outline, a discomfort with the Basic broker commissions. My clients recognise that Basic broker commissions are set by regulation, but the corth -- Corporation in this hearing has been forthright in acknowledging its role -- its lead role in negotiating commissions.

The -- the thrust of my clients' discomfort, and at the risk of oversimplification, is that where it appears that brokers will be experiencing an 80 percent reduction in their workload when streamline renewal is fully ruled out, but ex -- experiencing only a 50 percent decline in commissions from Basic.

And certainly, from my clients' perspective, they have a concern that the commissions flowing to brokers from Basic are excessive. And the concern underlying that, and this goes to this whole issue of -- of understanding this complex relationship between Basic and Extension, they're concerned that Basic consumers are being asked to pay an excessive amount in premiums in order to assist the Corporation in retaining its dominant market share in Extension.

And, again, I have to give the Corporation credit for candour. They're made no secret of the fact in the course of this Hearing that they considered themselves to face a business risk from the Extension side as they moved into a stream -- the streamline renewal process. And Ms. McLaren has said this on a number of occasions. She said at page 1,693 of the transcript that it's fair to say that streamline renewal had the potential to hurt our Extension business. We wanted to make sure it didn't happen. Again, I'm paraphrasing.

We don't want it, I've -- I've inserted my own brackets, competitive auto insurance to be any bigger. We certainly would not be loo -- looking to lose market share. And, again, my clients are looking with a jaundiced eye on Basic broker commissions given that reality.

Turning to page 26 of the outline. I hope it's been apparent, both from my clients' Information Requests and some of the cross-examination, that they are uncomfortable, from an analytic basis, in applying the -- in terms of any cost allocation going forward in -- in this way. Generally, again, we've expressed the concerns about Deloitte, but assuming that it's accepted, on a going forward basis the costs will be allocated on the cons -- those which cannot be directly assigned, on the concept of who benefits.

And, agai -- one (1) exception to this rule will be with regard to mainframe decommissioning, where the Corporation, in fidelity to its word, intends to assign those costs to non-Basic lines, notwithstanding its assertion that the Basic line will benefit.

And Ms. McLaren, in her discussion with me on this subject, which I think I managed to mangle somewhat, did note that there was an analytical disconnect in terms of this going forward treatment. She also identified that the costs around this project were uncertain, although they were not un -- unsubstantial.

And my clients are never really keen to embrace more cost to the Basic side, but certainly from an analytical perspective, they have a bit of concern with this approach going forward. They don't believe Deloitte has examined this approach. And certainly my clients would make the point that to the extent the Corporation establishes that Basic benefits for main -- mainframe des -- decommissioning and provides a reasonable allocator, which my clients understand has not yet been analysed, my clients would certainly be inclined to look at what they -- a more consistent approach to allocating some of these costs to Basic.

Interprovincial trucking subsidies. My clients can only reiterate the concerns the boy -- boards have raised in prior years. On this general area the -- the die may be cast in terms of Deloitte. But certainly from my clients' perspective the cost and asset allocation proposals should give -- be given only interim approval for the purposes of rate setting, only for the 2011/'12 year.

If the Corpora -- if the Board wishes to go further and entrench Deloitte -- the Deloitte approaches, certainly my clients would suggest that they be reviewed every four (4) years unless there's further direction of the Board. And we think that's consistent with the longstanding advice of -- to have external regular cost reviews. And we put some references in terms of the evidence of KPMG to that effect.

Certainly my clients take some responsibility for not seeking external reviews at an earlier date, and, to that extent, they and the Corporation have been a little bit asleep at the switch. From my clients' perspective though, we've outlined our analytical concerns with Deloitte. And certainly, we would recommend that MPI be directed, after consultation with the PUB advisors, to address those missing big questions.

Are there other mechanisms other than cost allocation that can best protect Basic consumers? And, again, an affiliate code per se is not the mechanism, but some of the concepts from it may be of some value.

Another big question. Are there benefits being conferred on Extension which Basic has not been expressly com -- compensated for? What are the costs of the Extension standalone application? Should that be taken into account in allocating costs between Basic and Extension? What are the costs of the Extension business on a standalone basis? Should that be taken into account in attributing benefits to Basic and other lines of business?

In terms of mainframe decommissioning, that MPI be asked to revisit that issue, including the extent to which Basic benefits, and to propose an allocator to bring forward for the next consideration, the next GRA, and MPI be asked to revisit lack -- the interprovincial trucking issue as well.

Mr. Chairman, I think we can move much quicker in the second half, but I'd suggest a ten (10) minute break if that would suit the Board.

THE CHAIRPERSON: That's fine, Mr. Williams. Thank you.

--- Upon recessing at 2:20 p.m.

--- Upon resuming at 2:38 p.m.

THE CHAIRPERSON: Whenever you're ready, Mr. Williams.

MR. BYRON WILLIAMS: Just for the Board's reference, I'll be picking up at page 28 of the outline, and one (1) more yellow leaf over would be CAC/MSOS-1-168, an excerpt from the alcohol crash problem in Canada.

THE CHAIRPERSON: What page did you say you were picking up from, in your outline?

MR. BYRON WILLIAMS: Page 28.

THE CHAIRPERSON: Yes.

CONTINUED BY MR. BYRON WILLIAMS:

MR. BYRON WILLIAMS: Turning to fairness -- another aspect of fairness between Basic consumers and the Corporation, are forecast costs reasonable and prudent. And certainly, as my clients reflect on our participation in this Hearing, much of our participation on behalf of our clients has been on issues related to forecasting and the appropriate determination of the cost, revenues, et cetera, between various lines of business.

My clients, to their regret, not spending as much time as perhaps they should have on issues of road safety and -- and key indicators -- excuse me, of other cost control issues other than road safety and key indicators. So my comments in this area are really just going to focus primarily on -- on those two (2) areas.

And I have to say, from my clients'

perspective, that for the first time in a long time, in terms of the road safety issue, they're -- they're feeling pretty encouraged coming out of this -- this Hearing. By -- not by the results, as I'm going to talk about in a few minutes, but -- but by the Corporation's expressed desire to renew its road safety vision.

And although you can't always tell from our closing submissions, my clients have a tremendous amount of admiration for some of the things that MPI has done over the last few years, the vigour with which they've approached issues like integration, issues like WATSS, issues like immobilizers. So you may not always get that feedback, but...

So I think my clients, for that reason, are feeling encouraged in what they see, a heightened interest from the Corporation in this regard. And certainly as you move forward in this area, certainly, my clients would expect to rigorously test you, but also, our clients have made it clear to me that if consumers have to pay a little bit more in this regard, that's something that -- that they think is a tremendous investment, both socially and -- and in the long term, economically.

So that's the -- the good news, and the -- and the happy news. My clients currently see a material unrealized area of opportunity in terms of cost prevention in the area of road safety. I'm going to start with outlining some concerns, and then talk a little bit about opportunities, and -- and then go back to one (1) additional concern.

And certainly, the Board can have reference in this discussion both for the respon -- the response to CAC/MSOS-1-168, and the outline.

When we look at the TIRF study, the alcohol crash problem in Canada 2007, I think at the big picture we can certainly make an argument, a reasonable and compelling argument, that while other jurisdictions in Canada have made modest strides towards that target of 40 percent reductions in terms of fatalities and serious injuries, that's not the case in terms of Manitoba, certainly when one -- one looks at deaths related to impaired driving.

And -- and in fairness to the Corporation, I think the point we will make is that, generally, Canada has shown some -- made some modest strides, and certain jurisdictions, clearly Ontario being one (1) of them, have made strides, but other jurisdictions apart from Manitoba have not. And if you went through that entire report in detail, the prairie provinces do not paint a pretty picture in that regard.

So when we look at this report, just a reminder to the Board, and this is set out at page 8 of the report, which is -- its double sided, that you have to use some caution when looking at the numbers with regard to serious injuries, and that's set out at the second-last paragraph of that page.

Because TIRF suggests that, in the case of a number of jurisdictions including Manitoba, the number of drivers in serious injury crashes might be underestimated. That's why, certainly, we're focussing on the fatally injured persons.

The results at a -- at a very high level for Canada are set out on -- on -- at table 3.6, which is page 34 in the -- in the excerpt that you've been hand -- handed, and again, the simple point with Canada, and you can see it either in table 3.6 or figure 3.12, is that there -- there, I think, have been what we would characterize as modest improvements, although when you get into the regional breakdown you'll -- you'll note that most of the improvements tend to be in jurisdictions such as Ontario, and perhaps Quebec.

But that's kind of the national picture at a -- at a high level. In terms of Manitoba, to remind the Board, the information that we think is particularly relevant is on page 102, which is both table 7.4 and figure 7.2.

And essentially, what table 7.4 does, that's page 102, table 7.4, it's on the inside -- and what it does is look at the baseline years 1996 through 2001, against Manitoba results since then.

And the clear message you can take from this is, notwithstanding the objective of 40 percent reduction in fatalities, whether one looks at a three (3) year comparison, the three (3) years being '05 through '07, a six (6) year comparison being 2002 through 2007, or just 2007 compared to baseline, the relative position of Manitoba in terms of fatalities has not improved.

Again, this is not just an MPI issue, it's a Manitoba issue, but the -- the hard, cruel reality is that too many Manitobans are dying in accidents in which alcohol -- motor vehicle accidents in which alcohol plays a factor.

And, for the benefit of the Board, at page 29, I've set out the baseline you see, the baseline being thirty-six (36) alcohol deaths on average, and 32.7 percent of all deaths being alcohol related.  And then you can -- based upon calculations performed on the record, you can see the -- what's happened in recent years.  If one looks at the six (6) year period from '02 through '07, on average, forty (40) deaths higher than the baseline, and 36.2 percent being -- involving alcohol.

In the three (3) year period of '05 through 2007, still on page 29, you see again forty (40) deaths on average, and around 35, 36 percent alcohol related deaths as a percentage of all deaths involving these motor vehicle accidents. And 2007 was a particularly grim year, with forty-six (46) des -- deaths, 42.2 percent related -- of the total related to alcohol.

Graphically, and -- and perhaps with Manitoba's small popu -- or relatively small population, you would expect these numbers to bounce around, but Figure 7.2 graphically charts the trend, and again, I think a reasonable inference is that there has been no material improvement compared to baseline.

Simply for the Board's information, it may want to turn over to page 118, which provides the Ontario results. And I won't dwell on them. That's 118, which is Figure 8.2, graphically represents that, but it does show a -- a different trend.

Flipping over one (1) more page in the excerpt to 134, you'll see the Quebec results. Now I'm not an expert in this area. I've been more reticent in talking about the Quebec results, because I think their alcohol testing percentages are quite a bit lower. So I think, when you look at those figures, you might want to read them more carefully. But I -- I think, certainly with Ontario, you can see -- and just to back up, I think Quebec tests less than 70 percent of fatalities, so that might be a -- a methodological concern. But Ontario's numbers I think clearly show a different trend from Manitoba's.

Staying on the outline at page 29, just at the bottom, our clients' concern in terms of road safety, impaired and -- and why we're welcoming a renewed approach, renewed vigour by the Corporation. We note a concern that in both '08/'09 and '09/'10, the road safety budget was underspent. Now, normally my clients don't mind budgets being underspent, but in these areas, these tend to be grounds for concern. And again, the budgets are relatively modest, but the underspending was not, being minus 18 percent in '08/'09 and minus 29 percent in '09/'10.

Our clients have canvassed this in other years. They also are concerned with the -- the number of fatalities related to the lack of occupant restraint. We weren't able to get the data on the record in this year's proceeding that we normally do, probably because I didn't think to ask the questions soon enough. But certainly, for next year's proceeding, moving to the top of page 30, we think it's important to get updated information for the Board on impaired driving, occupant restraint and speed-related fatalities and serious injuries, and get a sense of the Manitoba dynamic. In other words, get a sense of it broken down by territory or rural and urban.

So those are some serious concerns of my clients, but my clients again see a real opportunity, and that flows as set out at the top of page 30. The literature review presented by the Corporation -- and much of it appears in -- I think in the response to PUB -- I -- I won't -- I won't dare come out with their -- their response. I -- I can't recall it. It might be 1-10. But the record of this proceeding shows a well-documented array of step programs which show promise in addressing the devastating social and economic cost of accidents.

In terms of impaired driving, some really interesting results that have un -- of Quebec in the 1990s, and out of Massachusetts showing the reduction in high risk behaviour. And in a variety of US jurisdictions, some really interesting results in terms of occupant-restraint usage.

And as Ms. McLaren confirmed in our discussion, there's no reason to think these types of programs won't work in Manitoba.

How do these step programs work in theory? The concept being, you want to catch more offenders, but perhaps more importantly, you want to increase, in everyone's mind, the risk of apprehension. But as MPI sets out in its Exhibit 37, only significant visible enforcement will increase the perceived risk of apprehension.

What do we know, though, and again MPI Exhibit 37 provides an -- a really, I think, interesting analysis of, evaluation of RoadWatch, particularly impaired driving in --in the '08 or '09 year, and what -- what it tells us on the very first page of that document is that, compared to the 1998 through 2002 baseline, there's actually a slight decline in the percentage of drivers who believe that it is somewhat, or very likely, they will be stopped. Not a huge one. I don't want to overstate it, but that's cause for concern.

And we note from that same exhibit that the highwater mark of vehicles stopped goes back almost a decade, way back to 2001, and again, that suggests a need for a bit more love for these programs, which at least the empirical resert -- research presented by Manitoba Public Insurance suggests can be extremely valuable tools.

A concern, as well, when you look at the existing RoadWatch expenditures is the under-representation of the city of Winnipeg Police, and I went through that discussion with MPI yesterday in very high level detail.

Certainly we're glad that the city of Winnipeg Police are -- are back at the table, and they're engaged in some interesting pilot projects, but it is counter-intuitive that -- that RoadWatch is investing significantly more in enforcement for both the RCMP and the city of Brandon police, as compared to the city of Winnipeg police.

It's not a judgment on the city of -- of MPI, it's an identification that -- that we need more from the city of Winnipeg, notwithstanding there are other pressing concerns. Assuming cooperation from police agencies, there is material unrealized potential in terms of road safety loss prevention.

The other loss -- or excuse me, the other kind of cost control, cost efficiency point, my clients wish to talk about relates to key indicators. And certainly, my clients' point, based upon their experience with other regulated utilities, is that there is something we can -- we can benefit from by the refinement of key indicators, and the development of internal corporate targets for rate setting purposes, and for measuring efficiency.

And I want to distinguish what my clients mean as compared to what's currently in TI.5, which may be some value to other participants in -- in the hearing, but my clients are -- are less interested in comparisons with other jurisdictions.

They're more interested in understanding trends over time within Manitoba Public Insurance, and in understanding, and setting targets to which Manitoba Public Insurance could be held to account.

It would not be fair to say that the Corporation presented my clients' thoughts -- or responded to my clients' thoughts in this area with a standing ovation. That would be an overstatement of their position.

They weren't overwhelmingly effusive, but I think the Corporation was open to the concept, and was prepared to acknowledge that there may be some value in looking at these key indicators of internal changes over time. And, Mr. Kramer, I -- I hope I've got his four (4) -- I wasn't sure if it was three (3) or four (4), but I think he identified three (3) or four (4) of these indicators which may offer some insight in the Corporation relative to looking at efficiency over time.

And I've set those out there again.  And if I've put in one (1) more than I should have, he'll no doubt correct me offline.

And Ms. McLaren, again, was prepared to acknowledge that from a regulatory perspective, going to the bottom of page 31, there may be some value in having a series of commonly defined indicators that offer some insight into the relative efficiency of the Corporation, recognizing that there are other broader measures by which the Corporation measures its performance as compared to its original objectives.

The last comment of my clients at the top of page 32 in terms of cost control are what they observe to be relatively generous se -- settlements with regard to the repair industry and internal staff.  And we haven't done the work tha -- that we should have in terms of comparing those to the industrial wage, particular in 2009, where -- where I think it -- it grew much more slowly.

But we merely note that it reinforces our case theory in terms of the re -- relatively positive position the Corporation finds itself in.  That, at a time when many public servants are experiencing a wage freeze, Manitoba Public Insurance was able to offer relatively generous settlements to the repair industry --

industry and its own staff.

And in our clients submission, that merely underscores the wealth of resources at the Corporation's disposal. In terms of recommendations in this area, we -- we think certainly that the Corporation deserves some kudos for what it expresses is -- is its desire to have a emerging focus -- renewed focus in this area.

But we think it certainly is open to the Board to find that the activities of MPI to date, in terms of road safety, suggest that there is a material unrealized opportunity to reduce both the social and economic costs of accidents.

Certainly there's been some modest steps in terms of additional step programming in the current year, and the Corporation should be directed to file evaluations of these programming, including impaired driving, which -- which is an older program, rural occupant-restraint, and speed and wildlife.

Certainly as part of the GRA our clients are looking for updated information regarding fatalities and -- and serious injuries related to impaired driving, occupant restraint, and speed related incidents, both on a -- with some sort of regional breakdown, and certainly would like to see that a very helpful report, the alcohol crush -- crash problem, re-filed.

An important point on page 32. It's a longstanding debate in terms of our clients and Manitoba Public Insurance, in terms of looking at these programs. And if the Corporation, which appears to be intending to move more aggressively into step programming, we think it's incumbent upon it to provide to the regulator a business plan relating to the proposed enhanced activities.

Including -- included in that business plan would be an in -- an economically based justification of the total quantum of expenditures as well as an economically based justification of the Corporation's particular mix of investments in terms of STEP programming, in essence, in the environmental sphere, a need for an -- alternatives to, justification. We think that would be very helpful.

This isn't a recommendation, but I've canvassed this wi -- with my clients. Certainly, if there was a cost-effective plan to enhance road safety coupled with the commitment of enforcement agencies to expand step programs in targeted areas, we don't see that yet, but if there was, my clients certainly would be prepared to endorse, certainly an additional 1 percent, or perhaps more, built into per -- in -- built into rates.

Our clients didn't do -- do so well with MPI in talking with them about DSR. I've canvassed with them that in -- as the Corporation moves forward on road safety, I explicitly canvassed with them there -- certainly we'd -- we'd welcome an opportunity to -- to chat with the Corporation as it works on its vision. And that's something -- we certainly suggest that MPI be directed to contact key stakeholders in the development of its road safety vision.

We also think there might be advice in testing out this new committee on -- or the enhanced committee in terms of working with the police, and recognize the concern of TIRF in terms of the potential under-estimation of serious fatalities and seeing if -- what, if anything, can be done in that regard.

In terms of key indicators, my clients will recommend that MPI be directed to report back regarding proposed key indicators to be used for evaluating trends in Basic efficiency.

At page 34, Mr. Chairman and Dr. Evans, my clients aggress -- address the issue of: Are vehicle owners paying a reasonable share of the costs they bring to the system? By way of overview, there's a few key points they wish to make.

One (1), at the top of DSR Level 15, we've got a large growing and heterogenous population, and there has been no consideration of whether drivers within this group -- i.e., drivers with twenty (20) or twenty-five (25) years claims-free experience -- bring a statistically significant lower risk to the system than drivers who are fifteen (15) years claims free. So this is an unexplored boundary of DSR which we -- we believe is ripe for -- for further examination.

We'll -- also in this section, we'll talk about family transfers. And my clients start from a premise that there are a number of valid reasons for family members to choose to transfer vehicles, and that this choice certainly must be preserved. But they'll also acknowledge some evidence to suggest that some families may be using this option to manipulate or to use bonus-malus, or now DSR, in a way that it was not intended.

My clients are in a rare situation for them. I think on -- in agreement with Mr. Oakes, that a valid argument can be made that accidents with wildlife should be treated in a similar fashion to accidents with pedestrians. And I'll elaborate on that in a couple of moments.

I want to turn first, though, at page 35 to the unexplored boundaries -- I misspelled that word --

of DSR. Are the best drivers paying a rate commensurate with their risk?

We -- we want to start, at the risk of repeating the -- the totally obvious, with the core principle of DSR, as our clients understand it. Demonstrably lower risk should result in demonstrably lower vehicle premiums. And certainly that was the thrust of the evidence that was presented the -- to the Board in the DSR application. We -- there's evidence that those with ten (10) or more merits were expected to have much lower claims experience, claims costs, and premiums paid. There was evidence in that proceeding that driver risk continued to -- to decrease for drivers with up to fifteen (15) years of clean driving experience, and there was evidence in that proceeding that drivers with fifteen (15) merits are expected to have lower at-fault claims frequency than drivers with eleven (11) to fourteen (14) merits.

Which brings us to group 15, a heterogenous group, and, unlike other DSR levels -- at least as I understand them -- DSR Level 15 is not primarily comprised of drivers with a certain and same number of claims-free years. For example, in my discussion with Mr. Palmer, my understanding was that most drivers in DSR 10 had ten (10) -- were ten (10) years claims free.

The DSR population at Level 15 is much more mixed. There's drivers with fifteen (15) years claims free. As Mr. Palmer candidly acknowledged, there's drivers with fifty (50) -- twenty (20), twenty-five (25), thirty (30) years claims free. My mom's probably in that large class -- in that last class.

We also know that the DSR Level 15 is a large group, and -- and, certainly, the last yellow leaf in -- in the supporting materials, CAC/MSOS Exhibit 8, makes that point. And what -- what this does is -- this table certainly looks at the total population of all DSR levels, and then with particular focus on those estimated to be at DSR levels 10 through 15 in particular years.

And if you look at DSR level 15 for the 2011/'12 year, which would be about the fifth column in, you'll see that one hundred and eighty-five thousand (185,000) drivers are estimated to be at that level. And that amounts to more than 23 percent of the total vehicle -- or the total driver estimate of seven hundred and eighty-three thousand (783,000), and 47 percent, excuse me -- excuse me, 44 to 45 percent of those with premiums at DSR 10 or -- or higher. There's a typo on page 36.

The other important point about this population, this very large heterogenous pop --

population is the composition of it as compared to other levels is relatively unknown. In the words of Mr. Palmer, that's a very large group of people that -- that may have fifteen (15) years or may have thirty (30) years, we just don't know.

What we do know is that, as a group, this large heterogenous population has statistically significant risk characteristics than DSR levels fif -- 11 through 14. How do we know that? Mr. Palmer told us that at transcript page 7 -- 7 -- 1,700, noting that the at fault claims frequency for drivers at DSR level 15 was half, or maybe 16 percent, of those at the levels 11 to 14.

We also know that the Corporation, and this is not offered as a criticism but just a reality, turning to the top of page 37, has not analysed the relative risk, insurance risk posed by different claims for years within DSR level 15. And the second quote under that bullet is perhaps a more useful one.

> "The Corporation is not in a position to say whether those with fifteen (15) years claims free experience bring higher risk to the system, in the statistical sense, than those with twenty (20) years claims free."

The Corporation is certainly prepared to consider this research on a going forward basis. And it also acknowledges that, taking into account the heterogeneity, size, and statistically significant better risk characteristics of this group as a whole, it is possible that those with relatively higher number of claims free experience continue to pay a rate that is excessive compared to the risk that they bring to the system. It's not an acknowledgment that they do, just a possibility.

And Mr. Palmer was candid in saying the possibility exists that the premium discount may overstate the risk that drivers with twenty-three (23) years claims free bring to the system.

Turning back to the last tab of -- or the last yellow leaf of CAC/MSOS Exhibit 8. Certainly we think the time is right to examine this issue. As we look at to 2014/2015, we can see even more urgency. If you look at the two (2) top levels of DSR level, you'll see close to three hundred thousand (300,000) drivers in level 14 plus level 15, comprising in excess of 63 percent of the population of drivers -- of drivers at levels 10 to 15, and in excess of 36 percent of drivers as a whole. So it's a population that is large and is expected go grow larger.

Fa -- family transfer, which appears on page 38, my clients prefer not to characterize their position on this as wishy washy, but thoughtful. And it was. I can assure the Board that there was -- there has been heated debate, actually over the last few months, on this subject.

Certainly from the consumer perspective, and MPI has made this point, but my clients want to emphasize as well, at page 38, that not all family transfers are for the purposes of manipulating the system. There are valid choices that are made, and certainly my clients want to preserve those choices, and the right to make those choices.

MPI has noted, and my clients note this on the -- from the transcript, that this potential population in terms of family transfers is small, poten -- relatively small. It's not insignificant. My clients don't suggest that. Five thousand (5,000) parties, persons, is certainly not insignificant annually, but it is relatively small.

And there is some financial impact, although my clients can certainly see why MPI is hesitant to address this issue for fear of causing ripple effects that have unfortunate consequences.

My clients are very alive to the fact that this is a risk. Although MPI expects it will not grow, my clients certainly believe that it has to be closely monitored, and they note, based upon the transcript at page 2028, that a lot of the heavy lifting, in terms of monitoring, has been done.

In terms of the findings and recommendations, and hopefully they reflect an adequate understanding of the record, although I'm not perfectly confident on this point, my clients looked at four (4) different options. One (1) is just kind of walking away from this issue, and considering it done.

Secondly, was monitoring this issue on an annual basis. Three (3) was identifying options to address it, the pros and cons, the costs and benefits, getting more insight in terms of what might be broken. And the fourth option my clients looked -- looked at was a direction from the Board to MPI to seek -- to fix it.

My clients rejected doing nothing on the one (1) side, and on the other side they rejected some sort of directive, recognizing that this is not entirely in the Corporation's hands to fix it.

What they -- my clients are proposing is further monitoring annually. And that -- the Corporation adverts to things that might be broken is a consequence of trying to fix this problem. I think it is a value to

-- certainly on behalf of our clients, we would submit that there would be value to idres -- identifying options to address this problem, and evaluating the pros and cons.

So my clients are firmly on the fence on the family transfer issue. From our perspective, there's been enough in this hearing to make them want to learn more, and to want to monitor it, but not to seek a more extensive solution.

Mr. Chairman, I just received a note from someone. I wonder if I could stand down for two (2) minutes. I -- I will be finishing up in short order, but I think it has -- may have some relevance to my final submissions.

THE CHAIRPERSON: Of course.

(BRIEF PAUSE)

THE CHAIRPERSON: You weren't kidding, Mr. Williams. Please.

MR. BYRON WILLIAMS: I'm a quick reader, Mr. Chairman.

CONTINUED BY MR. BYRON WILLIAMS:

MR. BYRON WILLIAMS: Near the start of

this long submission, I sent out some overarching questions. I attempt on behalf of our clients to respond on -- starting at page 40.

The first question we respond to is, Is it our cli -- clients' conclusion that this is a politically motivated RSR rebate, and rate reduction. And my clients are not of that view. They've been of that view in other years, but not this year.

They're not of that view. They note that the Corporation did bring in a proposed rate reduction last year. They're not of that view because while they may take issue with the Corporation's consistent conservatism, in terms of forecasting methodology, they ha -- my clients have sufficient confidence in the other checks on the forecast to be of the view that the more likely result is that the forecast claims incurred are overstated rather than understated.

So while my clients may have methodological concerns with the Corporation's approach, they -- they do not draw the inference that there has been -- that these proposed re -- rebates or rate reductions are politically motivated. Moving to page 41, should the applied-for 4 percent rate decrease be granted.

Certainly, based on the record and flowing from my clients' conclusion that, if anything, claims incurred are likely to be overstated, they're of the view that the rate reduction should be granted. This is a material change. My clients are always aware that the actuarial indicator in future years may go the other way, but my clients have always been of the view that the number -- if the numbers are there, consumers will -- will take the con -- the consequences subject to concerns about rate shock.

I would say, from my clients' perspective, that if they were satisfied that there was a business case already in -- in play for substantial road safety improvements, and agreement and buy-in from the key players, including the city of Winnipeg, for STEP programs, my clients would certainly be prepared to accept a little bit less in terms of a rate reduction.

If they were confident that that money was going to a well defined -- a well designed road safety program that ha -- presented a justifiable case, that it -- it could, over the medium and long term, result in less injuries, less fatalities, and less tragic social and economic consequences.

Page 42, should the applied for $92 million rebate be granted. My clients' view is yes. I -- I have to say that my clients did toy with the concept of actually rebating more. The -- they're not going to walk down that path in terms of their recommendations. They were looking with interest at the results for 2010/'11, but they think there's a good practice of -- of waiting -- making sure that the results are locked in, at least in a financial statement perspective before going down that way.

In my clients' view, that $92 million should be rebated because it's more than what the Corporation requires, taking into account the RSR, and it's a reflection of consumers in the past paying more than they should have, not through any conspiracy by the Corporation, but through the fact that -- that we've collected over the past number of years more than the Corporation reasonably needs.

My clients listened with interest to the evidence of the Corporation in terms of different options to return the rebate to consumers. The Corporation, in my client's -- to my client's understanding, identified four (4), one (1) being the traditional approach in Manitoba, which is the post-discount approach, that's the -- the words I'll use for it. One (1) being an approach that was used at least in one (1) occasion in Saskatchewan, which my clients would refer to as the pre-discount approach which provides a bit more benefit to --

to good drivers who -- who over -- over time, it can be argued, have paid more than their just and reasonable rates, especially prior to the inception of refined DSR as it will come out in 2011/'12.

A third option my -- I understand that was briefly, very briefly considered by the Corporation, was rebating only to those with merits -- I had -- I don't think I was in a conflict of interest on that particular one, I think I'm still okay -- which my clients rejected immediately.  And also, another option was not including those below their actuarial indicated rate, which my client also rejected.

Really, for my clients' purposes, they focussed on the Manitoba traditional model, which is post-discount, and they certainly see the pros of that option in -- in that it's a -- I -- I think would be least likely to alienate Manitoba consumers, individual Manitoba consumers.  And also in that it's a reflection of a rebate of what -- it makes sense, you're getting a rebate based upon what you've already paid in.

Notwithstanding that sense of the pros, my -- my clients prefer the approach, in this particular year at least, that was employed at least once in Saskatchewan, which is basing the rebate upon a pre-discount level -- not a purely good driver's rebate, but some additional recognition of good drivers.

And my clients' thinking on that is really related to the unique aspects of where we are right now. I think my clients formed the view, through the DSR proceedings, that good drivers were paying, historically, more than they -- than they should have. And my clients, again with no judgment of MPI, experienced some frustration that we couldn't move collectively as quickly to the vehicle discounts for DSR Levels 11 through 15, as they might have wished.

And recognizing what, from my clients' perspective, has been a good drivers paying a -- somewhat too much, historically, and not being able to implement DSR as quickly as they might have liked, that's why they found, in the unique circumstances of this application, some attraction to the pre-discount approach.

There was some comment, responding to comments of the Chair, about a draw-down of the RSRs, similar to what was done for immobilizers, a road safety fund. My clients are uncomfortable with that approach. They're not uncomfortable with building money -- or building into the rates additional road safety expenditures, but, in their way of thinking, that's not what the RSR is for. If there are legitimate business-driven or social-driven rationales for those expenditures, my clients are of the view that they should be reflected in rates, not in a draw-down of the RSR.

My clients, if the Board is -- is -- feels that it can practically do that, would be more comfortable with building that money into rates rather than to an RSR rebate, not taking anything away from the very legitimate recognition that more needs to be done in terms of road safety.

My clients' caution in this regard is also a reflection of the fact that they're not satisfied that, in the current MPI portfolio, there's enough programs currently in -- in place.  Certainly they're of the view that there could be and should be, but they've not see the business case for them at this point in time.

In terms of another interesting concept floated by My Learned Friend, Ms. Everard, in terms of a write-down of deferred development, and which I think, based upon PUB-1-60, looks like it would be about 33, $34 million, far be it from Mr. Williams to be presenting any accounting opinions, but on behalf of his team of advisors, my clients are not uncomfortable with the approach taken by Manitoba Public Insurance.  Legitimate people may disagree.  I -- and I certainly hate to venture into accounting issues, but we don't see that approach as -- and the Corporation's interpretation of --

of 3064 as being egregious, or -- and flowing from that, they don't see -- see this draw down as being consistent with the purposes of the RSR.

My clients had a hot and heavy discussion about how any such rebate should be distributed. I guess the operative principle is it -- it should be for the purposes of those who paid too much in the past, go to the '09/'10 consumers.

My clients have simply -- would note that they're also uncomfortable with the cost, and the waste of paper associated with an additional cheque. They've posed some questions rather than advice. Could it be included in the renewal notice, they're not sure if one went that kind of approach -- and perhaps CAA had some better suggestions.

If one went that approach, my clients are anxious to -- to make sure that those '09/'10 consumers who no longer are renewing, seniors who've put their vehicles away, or transferred them, or otherwise, there has to be a mechanism to ensure that they receive their -- their rebate.

So my clients are leaving that decision in better hands than their -- their own, and good luck with that, Mr. Chairman and Dr. Evans.

Like CAA, our clients are uncomfortable

with the donation of the building to a -- a very repu -- reputable and principled organization, Ma Mawi. Regardless of the worthiness of that cause though, from my clients' perspective auto insurance rates are paid for insurance, not for donations, and they do not see this situation as being different, and I'm going to correct a typo, from the money that was proposed to be sent to Universities.

From my clients' perspective, in terms of -- they'll -- they'll pay their just and reasonable rates, but in terms of donations those donations should be -- be a reflection of their choices, not the Corporation's.

I'm really reiterating on the top of page 44 two (2) things that I've already said before. So DSR Level 15 and family transfers I've spoken of. Wildlife coverage. My clients are not on -- quite on all fours with Mr. Oakes because they do -- any discussion about motorcycles, my clients do believe, should recognize the greater risk that motorcyclists experience given the inherent vulnerability of their vehicles.

But in looking at the wildlife coverage issue, my clients seem -- see some analytic merit in the -- the analogy drawn between accidents with wildlife and accidents with pedestrians, or -- or otherwise, and so they see as a starting point that there is some merit to the expert views offered by the CMMG actuary.  I'm not sure he was within his actuarial expertise.  Let me -- let me say they see some merit to the views expressed by CMMG on -- in that regard.

My clients looked at three (3) different options.  In assuming that wildlife and -- and accidents with pedestrians and others would be treated in a like fashion, allo -- kind of single vehicle accidents with those who are not in vehicles that are insured under the Basic Compulsory Program, allocating 100 percent to the class of the vehicle involved, allocating 50/50, recognizing that this in part reflects the unpredictability of the act, or the deer running across the road, or the bunny, or whatever, or a 75/25 precent, with 75 percent going to the class of the vehicle involved, and 25 percent to all other classes.

Ultimately, they included that accidents with wildlife and -- versus pedestrians should be treated in a like manner.

The Corporation, there is some merit to the -- to the idea recognizing that some recognition of the unpredictability of the other actor, and that it's not always two (2) drivers making decisions.  So my clients are not sure 50 percent is the right number, but they feel better about 50/50 than 100 percent, so that's where they're coming down on that ground -- that issue.

The last issue that they'll comment on -- on investments, perhaps somewhat cautious, but the question posed in closing -- pre-closing comments by The Chairperson were, Where are consumers on the tradeoff.

Are they prepared to accept low variability, and diminished returns, or as reflected in the current balance of the MPI investment portfolio, or the idealized balance of it, or are they interested in taking a risk on more variability, but also taking advantage of the opportunity costs, and exploring higher returns.

The expert evidence my clients presented in the last hearing placed a premium on greater diversification, and recognized that there were lost opportunities if one was unduly wed -- wedded to conservatism.

My clients accept that evidence. They recognize the -- they do place some value on stability at modest risk, but they recognize that lost opportunities can result from an excessively conservative approach.

They would welcome an exploration of a somewhat more robust mix, choosing their words carefully, not unduly ro -- robust. So if -- if there's a directional move, Mr. Chairman -- I sound like Mackenzie King, don't I.

If there's a directional move, Mr. Chairman, with that balance, my clients would welcome that. They don't want to see an -- an extreme directional move. I think that's the best way -- conscription if necessary, not necessarily conscription.

THE CHAIRPERSON: The don't want the Corporation going into natural gas futures, then.

MR. BYRON WILLIAMS: Or hydroelectric generating stations, either.

THE CHAIRPERSON: We won't.

MR. BYRON WILLIAMS: So they're cautiously supportive of a somewhat less conservative approach by the Corporation.

Mr. Chairman, thank -- subject to any questions, I -- I -- those are my clients' submissions.

THE CHAIRPERSON: Thank you, as always, Mr. Williams. We appreciate your participation, and that of your clients.

And so we'll stand down for today, and again we express our appreciation to all the Intervenors that made their views known today, and we'll see you back on Friday at ten o'clock for MPI's closing statements. Thank you.

--- Upon adjourning at 3:34 p.m.

Certified correct,

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Cheryl Lavigne, Ms.