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MANITOBA PUBLIC UTILITIES BOARD

Re: 2005 MANITOBA PUBLIC INSURANCE
RATE APPLICATION

Before Board Panel:

- Graham Lane - Board Chairman
- Denyse Cote - Board Member
- Eric Jorgensen - Board Member

HELD AT:

Public Utilities Board
400, 330 Portage Avenue
Winnipeg, Manitoba
July 7th, 2004
Volume I of I
Pages 1 to 43

APPEARANCES

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Walter Saranchuk) Board Counsel
Roger Cathcart)
Candace Everard)

Kevin McCulloch) MPI
Marilyn McLaren)

Raymond Oakes) CMMG

Robert Dawson) Manitoba Bar Association

Byron Williams) CAC/MSOS

Nick Roberts) Manitoba Used Car Dealers
Association

Carol Wilkinson) Court Reporter

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1 --- Upon commencing at 9:04 a.m.

2

3 THE CHAIRPERSON: Good morning, ladies and
4 gentlemen, if I may, I'll call this MPI Pre-Hearing
5 Conference to order.

6 I'll wait until Mr. Barron has distributed
7 some material.

8

9

(BRIEF PAUSE)

10

11

THE CHAIRPERSON: The Manitoba Public
12 Insurance Corporation has applied to the Public Utilities
13 Board for approval of its premiums.

14

This, in accordance with the provisions of the
15 Crown Corporations Public Review and Accountability Act, and
16 the Public Utilities Board Act.

17

In its Application the Corporation indicates
18 that the premium rates would take affect on March the 1st,
19 2005, and are based on no overall change in written premium
20 revenue.

21

The Corporation's Application includes
22 references to rates, fees, and other matters, in respect to
23 vehicle premiums, driver license premiums, motor vehicle type
24 differentials, commercial vehicles, service and transaction
25 fees, permits and certificate fees, and miscellaneous

1 matters.

2 I am Graham Lane, Chairman of the Public
3 Utilities Board, and I'm joined by two (2) other Board
4 Members, to my right, Ms. Denyse Cote, and to my left, Mr.
5 Eric Jorgensen.

6 Also with us today is Mr. Gerry Barron,
7 Executive Director of the Board, and Secretary to the Board,
8 Walter Saranchuk, Board Counsel. The Board has also retained
9 the services of Price Waterhouse Coopers, and Mr. Brian
10 Pelley of Ecklar Partners. Mr. Pelley will assist us as
11 required.

12 Before dealing with the matters at hand, the
13 Board notes with regret the pending retirement of MPI's
14 President, Jack Zacharias, spanning three (3) decades in
15 several roles, concluding with that of President. Mr.
16 Zacharias' contribution to MPI ratepayers in Manitoba has
17 been significant. The Board wishes him well in his
18 retirement, well deserved.

19 I now call on MPI counsel, Mr. Kevin McCulloch
20 to introduce himself and the MPI representatives here today.
21 Mr. McCulloch.

22 MR. KEVIN MCCULLOCH: Good morning, Mr.
23 Chairman, Members of the Board. I first want to welcome you,
24 Mr. Chairman, as a new face on the Panel at the MPI Rate
25 Application. And as you indicated, with the retirement of

1 Mr. Zacharias, there will also, we expect, be a new face in
2 the front row of the Applicant. The witnesses that are
3 called on behalf of MPI.

4 With me this morning, however, to my --
5 sitting to my right is Marilyn McLaren, who is the Vice-
6 President of Insurance Operations at Manitoba Public
7 Insurance. And also with me, sitting in the second row, is
8 Mr. Tom Strutt, who's a solicitor in our Legal Department.

9 THE CHAIRPERSON: Thank you, Mr. McCulloch,
10 I'll now call on Mr. Saranchuk for his opening remarks.

11 MR. WALTER SARANCHUK: Thank you, Mr.
12 Chairman. Mr. Chairman, and, Members of the Board, for the
13 record, my name is Walter Saranchuk, I'm with Pitblado Law
14 Firm, and I appear this morning with My Colleague from our
15 firm, Ms. Candace Everard, and also appearing with us, is the
16 Board's accounting advisor, Mr. Roger Cathcart of Price
17 Waterhouse Coopers.

18 Dealing firstly with the purpose of our
19 gathering here today, namely the Pre-Hearing Conference. The
20 objectives are itemized on page 3 of our Notice of Public
21 Hearing and Pre-Hearing Conference, and they are as follows,
22 just for the record.

23 Firstly, to identify the Intervenors, their
24 reasons for intervention, and to avoid duplication of the
25 content.

1 Exhibit 1 is the Notice, Exhibit 2 is the draft time table,
2 Exhibit 3 will be the Board Rules, please continue.

3 MR. WALTER SARANCHUK: Thank you, sir.

4 Relative to the scope of the Hearing, very briefly, I've
5 indicated that one (1) of the purposes of the Pre-Hearing
6 Conference is to have the prospective Intervenors identify
7 the reasons for seeking to intervene. The reasons for
8 intervention are to be tied to the scope of the Proceedings
9 before the Board.

10 In MPI's present Application, there is a
11 listing of the various requests that MPI's making of the
12 Board, and the prospective Intervenors will undoubtedly
13 identify those of interest to them, specifically.

14 I have no further comments in respect of the
15 scope.

16 Dealing with another matter of significance,
17 to all concerned, or what should be, because it certainly is
18 close to the heart of the Board, that deals with Intervenor
19 funding.

20 I would venture to say that Intervenors who
21 may be seeking an order for an award of costs, ought to be
22 reminded that the Board's Costs Order, as well as its Rule
23 41, sets out a fourfold test that provides that the Board may
24 award costs to an Intervenor.

25 And the criteria applicable, are as follows:

1 "Number 1. That there is a significant
2 contribution made, one (1) that is relevant
3 to the Proceeding, and contributed to a
4 better understanding by all parties to the
5 issues before the Board.

6 Number 2. That the Intervenor who has
7 participated in the Hearing in a
8 responsible manner, and cooperated with
9 other Intervenors, who have common
10 objectives in the outcome of the
11 Proceedings, in order to avoid a
12 duplication of intervention.

13 Number 3. That there be an indication that
14 the Intervenor has insufficient financial
15 resources to present the case adequately,
16 without an award of costs."

17 And finally:

18 "That the Intervenor had a substantial
19 interest in the outcome of the Proceedings,
20 and that it represented the interests of a
21 substantial number of the ratepayers."

22 Those are the criteria to be considered by the
23 Board eventually in applications for Intervenor funding.

24 So, in closing, let me state that those are my
25 opening remarks, and perhaps, Mr. Chairman, you may now

1 canvass the other parties present for their introductions and
2 opening comments.

3 THE CHAIRPERSON: Thank you, Mr. Saranchuk.
4 With that background I'll be now calling on the parties
5 present to identify and introduce themselves and their
6 organizations, along with any opening comments.

7 I understand the following parties have
8 indicated an interest in acting as Intervenors, Manitoba Used
9 Car Dealers Association, CAA Manitoba, The Manitoba Bar
10 Association, the Insurance Brokers Association of Manitoba,
11 the Coalition of Manitoba Motorcycle Groups, the Consumers
12 Association of Canada/Manitoba Society of Seniors.

13 After we've completed this phase, we'll turn
14 to the specific matter to do with the Intervenors. But now
15 I'll call on their representatives to make some opening
16 comments.

17 To begin with we'll start with CAC/MSOS, Mr.
18 Williams...?

19 MR. BYRON WILLIAMS: With all this talk about
20 old faces and new faces, Mr. Chairman and Members of the
21 Panel, I'm suspecting that you've seen far too much of my
22 face over the last few weeks, so I won't spend much on
23 introduction.

24 My name is Byron Williams, I'm an attorney
25 with the Public Interest Law Centre, and we represent the

1 roughly ten thousand (10,000) members of the Consumers
2 Association of Canada, Manitoba Branch, and the Manitoba
3 Society of Seniors.

4 We're prepared to speak to the issue of our --
5 our Application for Intervention and time table when you call
6 upon us. And we're glad to be here, and hello again, to Ms.
7 Cote and Mr. Jorgensen.

8 THE CHAIRPERSON: Thank you, Mr. Williams.
9 Mr. Dawson...?

10 MR. ROBERT DAWSON: Thank you, Mr. Chairman,
11 my name is Robert Dawson, I'm from the law firm of Dawson Law
12 Chambers. I'm here on behalf of the Manitoba Bar
13 Association. Like Mr. Williams, I, too, will be prepared to
14 make comments with respect to the Bar Association's proposed
15 Intervenorship, when the Board calls upon me.

16 THE CHAIRPERSON: Thank you. And who are you
17 representing?

18 MR. NICK ROBERTS: I'm with the Manitoba Used
19 Car Dealers Association.

20 THE CHAIRPERSON: Would you like to make a few
21 general remarks?

22 MR. NICK ROBERTS: Thank you, Mr. Chairman.

23 THE CHAIRPERSON: Kindly introduce yourself?

24 MR. NICK ROBERTS: Certainly. My name is Nick
25 Roberts, I'm the Executive Director of the Manitoba Used Car

1 Dealers Association. I don't have any other remarks at this
2 time, unless the Board has any questions about what we're
3 applying for for Intervenor status.

4 THE CHAIRPERSON: Thank you. The others have
5 indicated that they want to proceed by way of paper process.

6 At this time I want to identify the particular
7 interest to be pursued by the Board at this Hearing. I
8 indicate this, as well, to assist the prospective
9 Intervenors.

10 While the Application in its entirety is of
11 interest to the Board, of particular interest are the
12 following matters and issues.

13 Notwithstanding higher claims costs and
14 forecast of modest results going forward, the Application
15 seeks no general rate increase.

16 The reliance that can be placed on extension
17 in RSE net earnings, with respect to Autopac's Rate
18 Stabilization Reserve, the investment portfolio, and the
19 contribution of investment earnings. The merging in of DDVL
20 and the implications, if any, for the Bonus/Malice System.

21 Comparative accident incident to population
22 ratios, prevention measures and the approach to rate
23 differentiation, and the concept of rate shock as it
24 interplays with the classification system.

25 As indicated, the Board expects a cost

1 effective Hearing, and the cooperation of Intervenors to
2 avoid duplication of effort.

3 The Board has the evidence presented in
4 transcripts of prior MPI Hearings to assist it in
5 understanding and considering the issues it will put before
6 it during these Proceedings. It is hoped that we will not go
7 over old ground excessively.

8 I now have questions to ask each of the
9 parties seeking intervening status that are present. To
10 begin with, I would start again with CAC/MSOS, Mr. Williams,
11 if I may.

12 Have you completed a written request to
13 intervene?

14 MR. BYRON WILLIAMS: Yes, I have, Mr.
15 Chairman, and I think a copy was faxed to MPI and also to the
16 Panel yesterday. We've provided a couple of prettier copies
17 today that Mr. Barron may have on his -- his desk as well.

18 THE CHAIRPERSON: Thank you. What is the
19 nature and reason for intervention?

20 MR. BYRON WILLIAMS: Mr. Chairman, as
21 indicated, my clients, the approximately ten thousand
22 (10,000) members of CAC/MSOS, we're certainly here to
23 directly represent their interests. And I would suggest that
24 indirectly, our participation is on behalf of the -- the
25 vehicle owners who comprise the all purpose and pleasure

1 classes.

2 We're aiming, in -- in terms of this Hearing,
3 as we tend to always do, to look at whether the overall
4 revenue requirement or revenue sought is just and reasonable.

5 In terms of the other objectives, some of the
6 issues that we're looking at are -- and you spoke of some of
7 them actually in your -- your opening comments, but one (1)
8 is the equity between major classes, in the context of this
9 Hearing.

10 Another one (1) is to test the reasonableness
11 of the operating cost projections sought by the -- the
12 Corporation.

13 Again, the -- the impact, if any, of the
14 transfer of DDVL upon the basic program, the -- the situation
15 with the abandonment of the Sybase Computer Program, and the
16 implications of that, in this case as well. And those are
17 essentially some of the -- the major issues that my clients
18 wish to canvass.

19 If memory serves me right from our background,
20 around this issue, another one (1) that was of interest to us
21 was the RSR and the -- and its current funding from special
22 risk and -- and extension.

23 So, Mr. Chairman, and sir, I'm sure you have
24 more questions for me. If you would like, I could move
25 through our -- through our Application, in terms of whether

1 we intend to seek funding, or do -- would you like to ask
2 those questions of me? I could certainly take you through
3 it, it's -- I leave that up to you.

4 THE CHAIRPERSON: Well, actually, my next
5 question was whether you intended to be present throughout
6 the Hearing and through to closing submission and make final
7 argument?

8 MR. BYRON WILLIAMS: Well, I'll go right
9 through it, if I might, Mr. Chairman?

10 THE CHAIRPERSON: Please.

11 MR. BYRON WILLIAMS: We're going to be here
12 for the -- for the duration. And at this point in time,
13 we're deliberating about whether or not to call expert
14 evidence. I would suggest that it's not that likely at this
15 point in time, but I want to leave that possibility open as
16 we review the first round Interrogatory Responses.

17 We'll be testing the evidence presented by
18 Manitoba Public Insurance through cross-examination, and
19 we'll be presenting a final argument. And certainly we'll be
20 applying for costs under Board Order 163/87.

21 I did want to indicate as well, Mr. Chairman,
22 that I have had some conversations with My Friend, Mr.
23 Dawson, and we've certainly talked about areas of mutual
24 interest and also areas where our interests might conflict.

25 And so I wanted to provide my assurance, and

1 I'm -- I'm sure he'll speak to this as -- as well, but
2 assuming that we're -- we both receive Intervenor status, we
3 will be working to minimize duplication between the parties.

4 Mr. Chairman, just kind of -- you can stop me
5 at any time, but I would draw your attention to what we have
6 set out both in -- in the form provided by the PUB, a draft
7 Intervenor budget and cost summary sheet.

8 And what we've taken the liberty of doing as
9 well as if you go towards the back of our document, is
10 providing a bit more focus to the estimates that you see
11 there. The last two (2) pages should give you -- the second
12 last page should be a preliminary estimate of the fees and
13 expenses of -- should be the total at the top, and those are
14 the -- would be the -- the preliminary estimate of the fees
15 and -- expenses of ECS, the consultants from Toronto.

16 So, we've tried to itemize in terms of review
17 of the evidence, drafting Interrogatories, Hearing --
18 preparation, assistance with argument, a bit -- to give the
19 Board a bit better idea of the actual hours that we estimate
20 for the consultants, and also for legal counsel, which is on
21 the last page of the document you should have before you.

22 And you'll see when you have -- get a chance
23 to go through that at your leisure, and I'm sure you'll spend
24 many happy hours upon it, that we're trying to kind of
25 minimize the overlap, not only between ourselves and our

1 friends from the Bar Association, but also in terms of --
2 where the consultant is focussing her efforts, and where we
3 are focussing our efforts as legal counsel.

4 So, hopefully that will be of some assistance
5 to the Panel.

6 THE CHAIRPERSON: We appreciate your diligent
7 efforts to inform us. We greatly appreciate it.

8 Mr. Dawson, I could run through the list of
9 questions if you like. The first one (1) is have you
10 completed a written request to intervene, for the record?

11 MR. ROBERT DAWSON: We have, Mr. Chairman. I
12 should indicate that a copy has been sent by e-mail to both
13 Mr. Hollis -- Hollis Singh, and as well as Mr. McCulloch, and
14 I understand they've received that.

15 THE CHAIRPERSON: Yes, they have, thank you.
16 If you could state the nature and reason for the
17 intervention?

18 MR. ROBERT DAWSON: The nature of our
19 intervention, our interest in this is twofold. First, as My
20 Friend, Mr. Williams has hinted at, there are some general
21 public interests that the Bar Association likes to pursue.

22 I know that having read the file before that
23 there has been some concern expressed, both on behalf of MPI,
24 as well as this Board's counsel, about the previous
25 Applications that the Bar Association has made.

1 Specifically, there were concerns, if we can speak frankly
2 about it, that the Bar Association was interested in pursuing
3 the abolition of no-fault insurance, which immediately
4 triggers off concerns that this kind of an Application, or
5 this kind of an interest, goes well beyond the scope and
6 jurisdiction of this Board.

7 And I readily and candidly admit that that's
8 correct. We are not here trying to undermine and eliminate
9 the no-fault insurance.

10 There are some areas, however, in which the
11 Bar Association does have concerns. Although the Bar
12 Association is primarily a body that is designed to further
13 the interests of the legal community, one (1) of its stated
14 objectives is always to ensure the good operation of laws,
15 and to ensure that justice is being done, not only for its
16 members but for the society in which its members find itself.

17 To that extent, our position this year is
18 primarily to focus upon the interests of the victims of motor
19 vehicle injuries. And it is in that specific area that we
20 are concerned about testing the evidence and participating in
21 this Hearing.

22 I should also add that beyond that specific
23 point, the Bar Association does want to take the position
24 that it is within the jurisdiction of this Board to not
25 certainly change the law, but to make recommendations with

1 respect to changes to the law to the sitting government of
2 the day.

3 And there are at least four (4) such specific
4 recommendations that we would like to pursue and they all
5 involve possibilities in which individuals who have suffered
6 injury or loss could make use of the Courts as opposed to the
7 present system in order to pursue compensation and very
8 vaguely these fall under four (4) headings.

9 The first heading, if I may say, is the most
10 convenient plant I've ever seen in the media, being today's
11 front page where it very clearly states that the rule of
12 compensation in lieu of litigation applies with respect to
13 the victims of a defect in accidents. There is also in
14 addition, the possibility of litigation against extra
15 territorially insured or licenced drivers.

16 The third category relates to the claims that
17 individuals who are receiving treatment as a result of their
18 MPI -- that is medical treatment as a result of their MPI
19 coverage, are foreclosed from pursuing malpractice claims
20 against those who may offer that treatment. And the fourth
21 category is simply claims that could issue again uninsured
22 drivers within the province.

23 Now, again, all of those on the face of the
24 legislation as it currently stands are precluded and I know
25 that I cannot sit here on behalf of the Bar Association and

1 expect this Board to make some order requiring the MPI
2 somehow magically to ignore the legislation.

3 We simply wish to draw to the Board's
4 attention through the evidence that we propose to either
5 elicit or present that this -- these specific points may be
6 worthy of a recommendation for reform of the current
7 legislation.

8 And it is our submission that this is well --
9 making such a recommendation is well within the jurisdiction
10 of the Board.

11 THE CHAIRPERSON: As you recognize, we don't
12 make the law. So presumably your representations in these
13 matters would be done in an economical fashion?

14 MR. ROBERT DAWSON: I suspect that with
15 respect to those recommendations it is within the Board's
16 purview to hear the foundation evidence that would be
17 required to make the recommendations. But I would not
18 propose to spend inordinate amounts of the Board's time to
19 essentially deal with what I think the Board would perceive
20 as an ancillary function of its proper mandate.

21 And I -- I'm ver much mindful of that. We are
22 primarily here to pursue the interests of victims of personal
23 injury, but I did want to be candid and straightforward from
24 the beginning, indicating that it is also on our agenda to
25 pursue those four (4) recommendations. We would like to see

1 the Board make, one (1) or all of those recommendations.

2 THE CHAIRPERSON: Well, we do appreciate the
3 fact that you're being candid, please...

4 MR. ROBERT DAWSON: I can indicate, as I've
5 stated on our Application for Intervenorship that it is the
6 present intention to call one (1) witness on behalf of the
7 Bar Association.

8 I cannot, at this time, name that person
9 simply because discussions are continuing and it may very
10 well be that no such witness ultimately is produced.

11 I am, of course, mindful of the submission
12 deadline for any witness evidence, so that matter will
13 eventually have to come to a head sooner than later. I
14 include that information in our Intervenorship Application,
15 merely to alert the Board of that possibility and to, so to
16 speak, keep the door open on that point.

17 As my Learned Friend, Mr. Williams, has also
18 indicated, it's the intention of both the Bar Association and
19 the Consumers Association to cooperate. We have already
20 talked and exchanged correspondence on that point.

21 I suspect that the bulk of the work will be
22 done by the Consumers Association and, where necessary, the
23 Bar Association would become involved. Unlike, at least I
24 believe, certainly last year, it is the intention of the Bar
25 Association to be present throughout the hearing, that is

1 both to be here during the witnesses; to participate in
2 testing the evidence and also in final argument.

3 We have, as you're -- the -- you will note,
4 Mr. Chairman, made a request or outlined a budget for costs.
5 I should emphasis that this budget is predicated on a number
6 of assumptions.

7 The first assumption is, is that we are the
8 only intervener that's granted standing, which is highly
9 unlikely, but nonetheless, it will serve no one's interests
10 if we come on certain assumptions that are -- well, we make a
11 budget that's unduly low, let's put it that way.

12 And the second assumption too is not knowing
13 to what extent and how Mr. Williams' case will unfold on
14 behalf of the Consumers Association. It's difficult to
15 anticipate at this stage how much work would be involved. I
16 think it's safe to say that the budget that the Bar
17 Association has put forward, represents very much a worst
18 case scenario.

19 But I wouldn't want to surprise the Board, if
20 for some reason a request for costs were made. And of course
21 we are mindful of the four (4) criteria. And it is our
22 preliminary position at least, that the Bar Association would
23 satisfy those criteria, and we would make that submission in
24 due course, assuming our contribution continues.

25 Failing any questions, Mr. Chairman, that's my

1 comments.

2 THE CHAIRPERSON: Thank you, Mr. Dawson. Mr.
3 Roberts, has the Manitoba Used Car Dealers Association
4 completed a written request to intervene?

5 MR. NICK ROBERTS: Yes, Mr. Chairman, we have.

6 THE CHAIRPERSON: Could you please explain the
7 nature and reason for your intended intervention?

8 MR. NICK ROBERTS: The reason for our
9 Association applying for Intervenor status, basically comes
10 from the pre-filed testimony of Ms. McLaren, in which she
11 states a large increase is indicated for dealer plates in the
12 20 to 25 percent range.

13 We'd like the opportunity to -- through
14 Interrogatories, and I should add that in our -- our
15 Application for Intervenor status, I think I marked in there
16 that to participate in the production of evidence and I think
17 -- I don't think I should have put that. I was basically
18 wanting to make sure that we can do Interrogatories and --
19 and get our questions answered, and if need be, go for cross-
20 examination.

21 THE CHAIRPERSON: Do you intend to be present
22 throughout the hearing and make final argument?

23 MR. NICK ROBERTS: Yes, I do.

24 THE CHAIRPERSON: Do you plan to have a
25 specific witness?

1 MR. NICK ROBERTS: No.

2 THE CHAIRPERSON: Do you intend to apply for
3 costs?

4 MR. NICK ROBERTS: Yes, we did apply for
5 costs. Previously we've appeared before the Hearings, but
6 this year we've hired a consultant to -- to do the work
7 properly for us. We've -- in the past we were trying to do
8 it ourselves, but we've hired someone to do that, so we're
9 looking for -- for costs for those consultation fees.

10 THE CHAIRPERSON: Okay, with commercial
11 organizations, sometimes it's -- it's difficult to succeed in
12 gaining an award of costs, but we appreciate the detailed
13 information that you've provided here.

14 MR. NICK ROBERTS: Thank you.

15 THE CHAIRPERSON: Mr. Oakes has now, I
16 believe, arrived. And your organization, the -- Coalition of
17 Manitoba Motorcycle Groups, am I correct?

18

19 (BRIEF PAUSE)

20

21 THE CHAIRPERSON: We're always getting
22 earlier, Mr. Oakes.

23

24 (BRIEF PAUSE)

25

1 MR. RAYMOND OAKES: This one (1) looks much
2 better. Mr. Chairman, as you're likely aware, the Coalition
3 of Manitoba Motorcycle Groups, or the CMMG has been an
4 Intervenor each year since 1992 in these Proceedings. Of
5 course they represent the roughly seventy-six hundred (7600)
6 motorcycles registered in the Province of Manitoba.

7 It's a coalition because it's a representative
8 of all of the organized motorcycle enthusiast groups, such as
9 the Winnipeg Harley Riders, the Hog Owners, or the Harley
10 Owners Group, known as HOG. The Goldwing Motorcycle
11 Association, a number of other riding enthusiast
12 organizations, and then the members, which are made up of
13 individual members from the public.

14 There are some dealer members, but it's a very
15 nominal type of presence and involvement of the dealers. The
16 dealers do, however, generally support initiatives put
17 forward by the coalition in various ways.

18 With respect to the intervention, we have
19 filed an Intervenor Request Form, it indicates our
20 application this year again to be an Intervenor. The reasons
21 for the intervention are similar to past years, testing the
22 methodology of the Corporation, reviewing changes in the
23 insurance products, suggesting further change, reviewing the
24 -- the rate making methodology as we have each year.

25 This year we intend on engaging an actuarial

1 expert witness to provide a report and to attend for the
2 purpose of direct examination and cross-examination. We have
3 initially sent materials again this year to IAO Actuarial
4 Consulting Services.

5 We had some difficulty last year with late
6 delivery of a report by that firm, and so we're also having
7 some discussions with another organization that has actuarial
8 consultants on staff. And we hope to have that determined in
9 an early point, as to the nature of our -- our actuary. We
10 already have a list of instructions, issues and the like,
11 developed for review with our actuarial witnesses.

12 We will be applying for costs, as in previous
13 years, and we'll be ready to participate in the testing and
14 the production of the evidence, and to appear throughout the
15 Hearing, once it commences.

16 THE CHAIRPERSON: Thank you, Mr. Oakes. I'm
17 going to turn back now to Mr. McCulloch, to ask Mr. McCulloch
18 if there's anything the Corporation wishes to put on the
19 record with respect to the Applications of the Intervenors,
20 who have spoken to date.

21 I realize you're at a bit of a handicap,
22 because we haven't heard from CAA and IBAM, so we'll hold
23 them in reserve.

24 Mr. McCulloch...?

25 MR. KEVIN McCULLOCH: Yes, Mr. Chairman. As

1 far as CAA and IBAM are concerned, looking at their
2 Application and judging from their participation in previous
3 years, I would anticipate that they would be carrying out the
4 same role, conducting more of a watching brief, asking some
5 questions and reserving the right to make comments at the end
6 of the day.

7 And if -- if that is the position that they're
8 taking this year, then there's no concern on behalf of the
9 Applicant to -- to their Applications.

10 With Mr. Roberts' group, the Manitoba Used Car
11 Dealers, I think we recognize that there is an issue. The
12 change in approach that is being requested with respect to
13 dealers' plates, and that certainly that's an issue that
14 would warrant the Association's participation in this
15 Hearing. And on that basis, the Corporation has not taken
16 any objection to his Application for Intervenor status.

17 The same applies to Mr. Oakes on behalf of
18 CMMG, there are changes in this Application from previous
19 Applications, as to how the Corporation is suggesting that
20 motorcycle rates should be dealt with, and again, I think
21 that warrants his status as an Intervenor, or his
22 organization status as an Intervenor.

23 CAC/MSOS, again represents the -- the broadest
24 public interest group in the current list of Intervenor
25 applicants, and on that basis and on their past

1 participation, the Corporation would not be objecting to a
2 grant of Intervenor status to that organization.

3 Manitoba Bar Association. That, Mr. Chairman,
4 is as they say in Nova Scotia, a different kettle of fish. I
5 think it's worthwhile to deal with some history of the
6 representation by Manitoba Bar before this Board, as an
7 Intervenor status.

8 Initially, I believe going back to the 1993
9 Hearings, when no-fault had been introduced, the legal
10 profession came forward, represented by a group called the
11 Manitoba Lawyers for Responsible Automobile Insurance.
12 MLRAI, as we like to shorten these things down to.

13 And Mr. Steinfeld was Counsel for that
14 organization, and appeared a number of years as an
15 Intervenor. And as is conceded by Mr. Dawson in his
16 presentation this morning, the focus of that intervention
17 seemed largely to be the dissatisfaction of the legal
18 community with the PIP plan, the no-fault insurance scheme.

19 After some years appearing as Counsel, or
20 representative for MLRAI, Mr. Steinfeld did appear as the
21 representative for the Manitoba Bar Association, and the
22 Application was made on behalf of the Canadian Bar, Manitoba
23 Branch, as it is today.

24 And again, the focus was more on the PIP
25 Program than rates. And I think that's -- that's fairly

1 clear from a review of the evidence.

2 Subsequent to Mr. Steinfeld's departure from
3 the City, and his move to Calgary, Mr. Gavin Woods appeared
4 as Counsel, as I recall on two (2) occasions, Counsel for the
5 Manitoba Bar Association, Intervenor status was granted.

6 And the last time that the Manitoba Bar was
7 before this Board was two (2) years ago. And at that time,
8 again, the Manitoba Bar made an Application for Intervenor
9 status, represented by Mr. Woods. That status was granted
10 with direction from the Board that the presentation and the
11 -- the intervention should be focussed on rate issues, and
12 should not be focussed on issues relating to the no-fault
13 program, which was outside the purview of the Board.

14 That year, two (2) years ago, Mr. Wood did not
15 appear at the Hearing, he was at the Pre-Hearing Conference,
16 we never saw Counsel for the MBA again. Did not participate,
17 did not even present any final argument.

18 I presume that that would have been at the
19 direction of his client, the Manitoba Bar Association. So,
20 having been granted Intervenor status two (2) years ago,
21 having been advised by the Board that they should narrow the
22 focus of their intervention, they chose not to appear. They
23 didn't appear last year, no application was made.

24 So we have the Manitoba Bar Association back
25 today. And with the greatest of respect to Mr. Dawson, when

1 he says he reviewed prior -- prior files with respect to the
2 intervention, I wonder if he really reviewed them closely
3 enough.

4 Because the information that he's provided to
5 the Board today, starting off with the statement that it's
6 the general intent of the MBA to represent general public
7 interests, but in particular, they get down to the -- the
8 nuts and bolts I would suggest, of their intervention.

9 Four (4) specific recommendations that they
10 are going to make to this Board for changes to the no-fault
11 legislation, and they're going to ask this Board to consider
12 those proposals, and then make recommendation in their final
13 Order, the Board's final Order to the Government, that
14 perhaps legislative changes ought to be directed to these
15 four (4) topics.

16 I really feel that this does not have any
17 connection at all to the Rate Application, and that is
18 basically what we are here to present, and what the Board is
19 here to pass judgment on, is a Rate Application.

20 Acknowledging that this Board cannot impact or
21 direct changes to the existing legislation, and then on the
22 other hand saying, but we're going to present a whole lot of
23 evidence on four (4) particular items. And that would mean
24 that questions are going to be put to the MPI Panel, as to
25 what is the Corporation's position about permitting

1 litigation involving alleged manufacturer's defects on
2 vehicles.

3 What is the Corporation's position on suing
4 extra -- extra-territorial drivers and insurers, malpractice
5 claims, which again I don't believe the issue has been
6 properly stated to the Board. I believe malpractice claims
7 are open to individuals, but that's again, an issue that
8 would have to be addressed, and questions presumably in
9 Interrogatories would be put, responses given.

10 And then finally, claims against uninsured
11 drivers. I think that the whole direction of -- of the
12 proposed intervention is just so far outside the scope of
13 this Hearing, and the Board's jurisdiction that the Board
14 ought to give serious consideration to the -- the
15 Application.

16 And in the Corporation's view, the Application
17 as presented, quite openly and honestly by Mr. Dawson, just
18 doesn't fit the sort of intervention that the Board should be
19 granting. Thank you.

20 THE CHAIRPERSON: Thank you, Mr. McCulloch.
21 Mr. Dawson, do you have any relatively brief response that
22 you might make to Mr. McCulloch's remarks, that may assist us
23 in our deliberation?

24 MR. ROBERT DAWSON: I'll keep my remarks very
25 brief.

1 First of all, I think that Counsel for MPI has
2 not grasped what I have said.

3 With respect, his reference to a whole lot of
4 evidence being led specifically contradicts exactly what I
5 just said, which was we don't intend to call a specific
6 witness for the purposes of attacking those four (4)
7 recommendations.

8 I specifically indicated that these were
9 ancillary to our primary attack.

10 I should point out that, notwithstanding the
11 past history, the fact that the Bar Association is here with
12 a stated agenda of either pursuing the public interest with
13 respect to personal injuries working in collaboration with
14 the Consumers Association, and pursuing these four (4) points
15 for specific recommendations, should -- is in no way
16 connected to past appearances or past behaviour on behalf of
17 Counsel.

18 The -- the crass remark might be, the new kid
19 is on the block. We understand, now, perhaps, what the
20 appropriate jurisdiction of this body is and we're trying to
21 craft our intervention with respect to that.

22 I should also point out a couple of other
23 things. When my Learned Friend, Mr. McCulloch, tells us that
24 my four (4) specific recommendations go beyond the
25 jurisdiction of the Board, the fact -- and have nothing to

1 do, in his words, with a Rate Application, that simply is not
2 the case.

3 Of course, I've necessarily been brief in
4 explaining why those recommendations do tie in, but I'll give
5 one (1) example

6 If, as has happened in past years, the MPI has
7 set its rates based on certain assumptions on the way it
8 ought to treat, for example, persons who might or might not
9 be foreclosed in suing. And if that setting of the rate is
10 in turn shown to be against the public interests, it
11 certainly falls within the jurisdiction of this Board to
12 recognize that the public could enjoy a better rate if
13 certain changes were made to the legislation.

14 I suspect that, with respect, Mr. McCulloch
15 and MPI are merely remembering the fact that the predecessor
16 to my presence here has always been someone who is
17 essentially a lawyer trying to get business for other
18 lawyers.

19 It's a fact, I think, that I certainly do not
20 practice in the area of personal injury and I could care
21 less, personally and professionally, what the outcome on
22 these points are.

23 I should also point out that, with respect to
24 any lawyer who's out there now, a good more than a decade
25 after the introduction of no-fault insurance, who still is

1 somehow clinging to the hope that there might in fact be
2 clients someday to walk through the door that will sustain
3 this person's retirement in Hawaii, that person doesn't
4 deserve to practice.

5 So we're not here on a commercial basis and I
6 -- so I -- in summary then I'll just say, very -- 'cause I
7 know we don't have a lot of time, one (1), it's not a whole
8 lot of evidence we're planning to lead on these points, two
9 (2), I've specifically indicated to you that these are
10 ancillary and I think they do relate to Rate Applications and
11 three (3), the notion of the history that may somehow affect
12 our present Application I suggest is irrelevant.

13 THE CHAIRPERSON: Thank you, Mr. Dawson. The
14 Board will provide its direction with respect to the granting
15 intervening -- Intervenor status in -- in due course.

16 With respect to the issue of possible award of
17 costs, I just want to remind Applicants the Board -- the
18 criteria the Board utilizes in its decision making as out
19 there. And the Board does not favour awarding costs
20 respective earning curves and wants to run a economical --
21 cost-effective, economical hearing.

22 The Board is very conscious of the need for
23 efficient and effective hearing and looks for cooperation
24 between and amongst the Intervenors where feasible.

25 The Board encourages Intervenors to consult

1 with Board staff with respect to those matters as they deem
2 fit. I now turn to the matter of the timetable for MPI's
3 Application.

4 Before I canvass Intervenors and the
5 Corporation, do you have any comments, Mr. Saranchuck?

6 MR. WALTER SARANCHUCK: Yes, I do, sir. Very
7 briefly, again just for the record, however, I perhaps could
8 explain a couple of acronyms that have been used this
9 morning.

10 Number 1, the RSR meaning the Rate
11 Stabilization Reserve and DDVL, meaning the Division of
12 Driver and Vehicle Licensing.

13 Insofar as the timetable goes, it has been
14 distributed as I understand it, to all of the Intervenors.
15 Certainly MPI's aware of it. And the only change that, as I
16 understand it is being proposed, and I don't know if this
17 comes as any surprise, is that in respect of Item 6, which is
18 the MPI to be in receipt of First Round information Requests
19 on -- by July 16th, that's a week from this Friday.

20 The intention, as I understand it, perhaps you
21 can firm -- can confirm this, Mr. Chairman, is that the
22 Intervenors be in receipt of the Public Utility Board Inter -
23 - Interrogatories, prior to their being called upon to serve
24 Interrogatories, to avoid duplication, for example.

25 So that the Board is proposing that Item 6 on

1 the time table be broken down into two (2) areas, 6(a), MPI
2 to be in receipt of Public Utilities Board First Round
3 Information Requests by Friday, July 16th, and then (b), MPI
4 to be in receipt of Intervenor First Round Information
5 Requests a week later, namely on July 23rd.

6 So that is the proposal. And that pertains
7 only to first round IRs if you will, with MPI then of course,
8 according to number 7, Item number 7, to provide responses to
9 First Round Information Requests, that is to include
10 responses to the Board, and Intervenor Requests by August
11 9th.

12 Insofar as Item number 8 goes then, MPI to be
13 in receipt of Second Round Information Requests, in that
14 instance it is suggested that MPI be in receipt of all Second
15 Round Information Requests at that stage.

16 So, those are the two (2) items, perhaps
17 warranting some comment from MPI and others, although I don't
18 know that it really changes much, other than the fact that it
19 gives the Intervenors a one (1) week window, to take a look
20 at what MPI -- I'm sorry, at -- yes, what MPI is facing, in
21 terms of the Public Utilities Board Information Requests on
22 the First Round, before the Intervenors themselves serve
23 their Interrogatories on the First Round.

24 So, those are my comments, Mr. Chairman.

25 THE CHAIRPERSON: Thank you, Mr. Saranchuk.

1 Given the proposed change I'll survey the group, but I see
2 Mr. McCulloch is considering this matter.

3 As to the Intervenors, any one (1) of you wish
4 to make any suggestions or comments?

5 MR. BYRON WILLIAMS: Just for my client --

6 THE CHAIRPERSON: Mr. Williams...?

7 MR. BYRON WILLIAMS: -- my clients, Mr.

8 Chairman, the schedule as proposed is not a problem. We can
9 -- we can live with it. I suspect if there's going to be
10 problems with the amendment made by Board Counsel this
11 morning, they're more likely to come from Manitoba Public
12 Insurance than ourselves.

13 THE CHAIRPERSON: Mr. Dawson...?

14 MR. ROBERT DAWSON: We have no comment on this
15 point, it's fine.

16 THE CHAIRPERSON: Mr. Roberts...?

17 MR. NICK ROBERTS: We have no problem with it.

18 THE CHAIRPERSON: Mr. Oakes...?

19 MR. RAYMOND OAKES: We certainly have no
20 problem with the time table as proposed, or as amended. With
21 respect to our Interrogatories, I wouldn't suspect that there
22 would be a huge duplication by the Board Interrogatories, and
23 if we're finished early, we might perhaps send them in early,
24 just to give MPI a -- a further period of time to work on
25 them.

1 I note that in draft form, we already have
2 seventy-four (74) Interrogatories, so I would like to give
3 the Applicant the longest period of time to work with that.

4 THE CHAIRPERSON: That sounds reasonable from
5 our perspective, given the line that your organization
6 normally takes.

7 The major intent of this is to allow the
8 Intervenors an opportunity to see where the Board is going
9 with its questions, to avoid where possible, duplication.
10 And to try and encourage cooperation. Mr. McCulloch...?

11 MR. KEVIN McCULLOCH: Mr. Chairman, I've had
12 an opportunity to have some conversation with Ms. McLaren,
13 whose area in the Corporation is responsible for responding
14 to the Information Requests. And from our point of view, or
15 from the Corporation's point of view, duplication is not
16 really a problem.

17 If we do have situations where either the
18 Board and one (1) of the Intervenors asks the same question,
19 we just answer the Board's question, give the response there,
20 and then just refer the Intervenor to that response. So, the
21 duplication is not an issue.

22 Shortening of the -- of the time for response
23 would be a problem for the Corporation, if we were only to
24 receive the Intervenor Interrogatories on the 16th -- or the
25 23rd, rather, of July, that would only leave two (2) working

1 weeks to get responses. And we feel that that would present
2 a greater problem than the duplication.

3 And the other observation that I would make is
4 that the Board's Information Requests are usually lesser in
5 number than the combined Information Requests that we get
6 from the Intervenors.

7 They are, again, normally more focussed and we
8 need the extra time to deal with the Intervenor requests.

9 THE CHAIRPERSON: We appreciate your input
10 and, given that, Mr. Saranchuk, I imagine we wouldn't have a
11 problem going back to the -- the one (1) date?

12 MR. WALTER SARANCHUK: That's my
13 understanding, sir.

14 THE CHAIRPERSON: Very good then.

15 MR. BYRON WILLIAMS: Mr. Chair --

16 MR. WALTER SARANCHUK: So then, just for the
17 record -- oh, I'm sorry, Mr. Williams.

18 MR. BYRON WILLIAMS: Mr. Chairman, just --
19 just if might -- I'm not sure if this would be a helpful
20 compromise or not, we could certainly, if it would assist MPI
21 from our perspective, if we receive the Board's
22 interrogatories on the -- on the Friday, I think we could
23 file, from our clients' perspective, ours on -- on the
24 Monday.

25 So that would -- it might eliminate a bit of

1 duplication and it still might achieve MPI's objectives. I
2 just throw that out there as a thought.

3 THE CHAIRPERSON: It seems that we can all
4 work around this then.

5 MR. WALTER SARANCHUK: Well then, just for
6 the record, sir, I guess that the Board will be making the
7 final decision, but for the record, the question arises
8 whether we therefore continue with the timetable as proposed,
9 namely the one (1) date of July 16th, a week from this
10 Friday, for MPI to be in receipt of all first round
11 information requests. Or we do add in there an addendum,
12 Part B, is that MPI be in receipt of Intervener of first
13 round requests on the Monday, which would be the 19th.

14 I don't know that it really makes all that
15 much difference because, from my understanding, obviously MPI
16 has been cooperative in the past years and so if they were to
17 receive Intervenor requests on the Monday, as opposed to the
18 Friday, I don't think that they would be banging on your door
19 on the Tuesday, sir.

20 So I guess in the final analysis, maybe we
21 should just leave the proposed timetable as it was in its
22 original form, if that's -- if that finds the Board's favour.

23 THE CHAIRPERSON: It seems to be a general
24 consensus. I think the main effort was just trying to see if
25 we could avoid duplication where we can. But the

1 Corporation's been helpful in their comments and we can
2 understand why you'd want the time, particularly in the
3 summer, to be able to answer).

4 So at this point in time, are there any final
5 comments to make at -- by the -- the Corporation or the
6 Intervenors? Mr. McCulloch?

7 MR. KEVIN MCCULLOCH: The only comment that I
8 would make, Mr. Chairman, is that with the anticipated
9 replacement of Mr. Zacharias sometime in August or September,
10 the Corporation may choose to file further pre-filed
11 testimony from the new president and CEO. But as soon as
12 that position has been filled we will be in a position to
13 advise the Board and the Intervenors as to whether any
14 further pre-filed testimony will be forthcoming.

15 THE CHAIRPERSON: Thank you. Mr. Williams?
16 Mr. Dawson? Mr. Roberts?

17 MR. NICK ROBERTS: No, that's fine.

18 THE CHAIRPERSON: Mr. Oakes?

19 MR. RAYMOND OAKES: No comment, Mr. Chairman.

20 THE CHAIRPERSON: Thank you then. Thank you
21 for attending. The Board will consider the matters it heard
22 this morning. We will obtain any additional information that
23 we require from the Intervenors that weren't present and will
24 publish our order as to the granting of Intervenor status as
25 soon as possible.

1 Thank you for coming, we stand adjourned.

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3 --- Upon adjourning at 9:55 a.m.

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5 Certified Correct

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Carol Wilkinson

12 Court Reporter

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