MANITOBA PUBLIC UTILITIES BOARD

Re: MANITOBA PUBLIC INSURANCE
2006 INSURANCE RATES

Before Board Panel:

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

HELD AT:

Public Utilities Board
400, 330 Portage Avenue
Winnipeg, Manitoba
October 17th, 2005

Pages 1233 to 1487

APPEARANCES

Walter Saranchuk	)Board Counsel
Candace Everard	)
Kevin McCulloch	)Manitoba Public Insurance
Raymond Oakes	)CMMG
Byron Williams	)CAC/MSOS
Nick Roberts	)Manitoba Used Car Dealers Association
Michael Mager (np)	)CAA
Pam Shaw	)
Margaret Scurfield (np)	)IBAM
Robert Dawson	)CBA/MBA
Claudio Sousa	)Scootering Manitoba
Richard Loiselle (np)	)

TABLE OF CONTENTS

LIST OF EXHIBITS

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

THE CHAIRPERSON: Mr. Saranchuk, do you want to remind everyone of the order of today?

MR. WALTER SARANCHUK: Yes. Board Counsel will begin with closing remarks, and then we'll follow the Intervenor's list as shown on the first page of the procedural outline and then followed by MPI.

THE CHAIRPERSON: Mr. McCulloch, do you have something?

MR. KEVIN MCCULLOCH: Yes, Mr. Chairman. In the course of the Proceedings, there were a number of -- of questions or issues raised by the Panel, and the Corporation has put together responses. There were six (6) items that were raised on Tuesday, October 11th, at the commencement of the Proceedings, and nine (9) items raised at the closing of Proceedings on the 12th of October.

So, what you have before you is the Corporation's response to those fifteen (15) items, and since they are, in many cases, issues that will figure, I'm sure, in closing argument, I think the Corporation's position should be put on the record as an exhibit. By my count it would be MPI Exhibit Number 33.

THE CHAIRPERSON: We agree. Thank you,

Mr. McCulloch.

--- EXHIBIT NO. MPI-33: Responses to six (6) items raised on Tuesday, October 11th, and nine (9) items raised on the 12th of October.

THE CHAIRPERSON: Mr. Saranchuk...?

CLOSING ARGUMENTS BY MR. WALTER SARACHUK:

MR. WALTER SARANCHUK: Thank you, sir. Good morning, Mr. Chairman, Members of the Board, ladies and gentlemen.

We have now completed the evidentiary component of the Public Hearing in respect of MPI's Application to the Public Utilities Board for approval of the Corporation's base rates and premiums charged for compulsory vehicle and driver insurance; that is, its rates for service for the 2006/07 insurance year, which would take effect March 1st, 2006.

As Board Counsel, I take no position on the merits of any part of the Application by MPI, or any matters taken by any of the other parties. My role is rather to summarize the matters that this Board may wish to consider in this Proceeding.

MPI is seeking approval of rates which are based on no overall change in revenue. They include firstly, experience based rate adjustments ranging from minus 15 percent to plus 15 percent, with the exception of a 20 percent average increase for mopeds, or an average of thirteen dollars ($13) per moped and decreases of up to 20 percent for trailers and off-road vehicles.

For all vehicles other than motorcycles, trailers and off-road vehicles, classification offset adjustments ranging from minus 5.2 percent to plus 11.08 percent, to achieve revenue neutrality from rate group adjustments.

For motorcycles there's to be the creation of a pleasure use category.

The combinations of all rate changes have been capped at 20 percent, in compliance with the order by this Board at last year's General Rate Application.

Driver's license premiums are to remain at forty-five dollars ($45). There's to be no change in service and transaction fees, no change in permits and certificate fees.

As well, there's to be no change in the forty dollars ($40) discount provided to customers with VICC or Vehicle Information Council of Canada, approved after market and manufacturer or dealer installed anti-theft devices.

There's also to be the implementation of an Immobilizer Incentive Program which includes an application to waive the four dollars ($4) administration fee for the interest free loan component of the program.

Now, dealing with the rates for service. In the application at hand the average rate adjustment for each major vehicle class is as follows: Private passenger vehicles will receive a .5 percent decrease, commercial vehicles to receive a 9.2 percent increase, public service vehicles a .7 percent increase, motorcycles a 12.7 percent increase, trailers a 4.9 percent decrease and off-road vehicles a 20 percent decrease for an overall zero rate change.

After considering insurance use and territory, capping and balancing for experience rate adjustments, the results are modelled to assess the impact of various rate and classification changes so that in 2006/07 4 percent of vehicle insurance rates will not change, 38 percent will increase and 57 percent will decrease.

Relative to the updated financial results, the financial picture for 2004/05 and 2005/06 is as follows. Dealing firstly with fiscal 2005, and that information is reflected in TI13 which is in Volume II, Part 2 or in Tab 3 of the Public Utilities Board book of documents. For the 2004/05 fiscal year, the basic insurance division of MPI recorded a net income of $59.1 million; that compares with a forecasted net loss of $9.3 million forecast last year, meaning an improvement of $68.4 million.

The change was attributable primarily to a decrease in forecast claims incurred of over $56.8 million as well as higher forecasted investment income of $12.2 million due primarily to additional earnings from the equity portfolio.

So far as the fiscal 2006 year is concerned, and that is reflected, that information is, in TI14 in Volume II, Part 2, Tab 4 of the Public Utilities Board book of documents. This is the current year we are in and these figures represent the updated forecasts as at September 28th, 2005.

MPI is currently forecasting to have a net income of $50.5 million, including costs of $1.6 million relating to the immobilizer strategy. This is compared to a project net loss of $5.7 million forecast in the last general rate application making for a variance of almost $58 million.

The improved experience is attributable to an increase in the investment income now forecast to be $118.2 million, which is an improvement of over $46.6 million from the projection last year.

Dealing now with the fiscal 2007 projected operating results as updated to September 28th, 2005. The Corporation's financial statements for the 2006/07 fiscal year are shown in TI15 and TI17 in Volume II, Part 2 of the application; that would be tab -- tabs 5 and 7 in the Public Utilities Board book of documents.

A net income of $2.7 million is projected for fiscal 2007 after a $1.8 million transfer to the Immobilizer Incentive Fund. Total earned revenues are currently projected to be $659.5 million compared to $632.7 million last year.

Compared to use of a 3.5 percent last year, this year's application assumes a 3 percent vehicle upgrade factor for 2006/07; that's the factor reflecting the renewal of the vehicle fleet through customer disposal of older units and purchase of newer units.

However, like last year's application, this year's application assumes a 1.5 percent volume factor; that's to represent the growth in the number of vehicles insured.

Service fees are expected to be $15.3 million for 2006/07, which is an increase from $13.9

million forecast last year.

Claims costs, claims and road safety, loss prevention expenses, are expected to increase to $638.8 million, compared to $609.3 million in 2005/06.

Compared to the 2005/06 forecast, claims incurred is projected to increase by over $24.5 million.

Other expenses at $95.8 million are projected to increase by $4.7 million in 2006/07, compared to 2005/06. And operating expenses themselves are projected to increase by $2.6 million.

Included in road safety costs are $1.8 million in expenditures related to the Immobilizer Incentive Program, which I will refer to later.

The projected underwriting loss of -- for 2006/07 is $75.1 million, while investment income is forecast to be $77.8 million. The result is that, overall, the basic insurance program is expected to have a net income of $4.5 million.

Now dealing with the RSR, or the Rate Stabilization Reserve, the stated purpose of which is to protect motorists from rate increases made necessary by unexpected events and losses arising from non-recurring events or factors.

The Application, as filed, projects the balance of the basic RSR, in millions of dollars, as follows.

For -- oh, the reference by the way is TI.17, page 14, as revised on September 28th, 2005 and that's in Tab 7 of the Public Utilities Board Book of Documents.

At the end of 2005 fiscal year there's a projection, or there was, of $135.7 million balance in the basic RSR.

For 2006 there's a -- a forecast of $205.6 million, including consideration of the $40 million in the Immobilizer Incentive Fund transfer.

For fiscal 2007 is a projection of $227.2 million, including consideration of the $40 million in the IIF.

For fiscal 2008 the projection is $230.2 million, including consideration of the IIF.

For fiscal 2009, $237.3 million including the IIF.

And for 2010 the projection is $244.6 million, including consideration of the IIF.

At the end of fiscal 2004/05 the RSR, as I mentioned, was $135.7 million after a net income of $59.1 million and a transfer of totalling $29.6 million from SRE and $4.3 million from extension.

It can be said that in the bank, so to

speak, at this time, there's approximately $155 million in the basic RSR, taking into account the $135.7 million balance as at February 28th, 2005 and the total of approximately $20 million in SRE and extension transfers made on March 1st of this year.

For fiscal 2005/06 the Corporation forecasts a basic RSR to be $167.3 million after a reallocation of $40 million for the IIF, a $50.5 million net income, and an $8.4 million transfer from SRE and $11 million from extension. The latter transfers totalling approximately $20 million, as made effective March 1st, this year.

For fiscal 2006/07, being the year of this Application, the RSR is projected to be $227.2 million including the IIF appropriation, well in excess of a top end of the Board's RSR range for rate setting purposes.

Dealing with the RSR target the Public Utilities Board RSR target is 50 million to $80 million for rate setting purposes. This range was established based on the Board's accepted methodology risk analysis.

We have heard evidence from Mr. John Todd, CAC/MSOS' witness, that adjusted for inflation the range would be in the order of 55 million to $90 million. The Corporation has indicated that the MPI Board's approved RSR range of $80 million to $100 million has changed this year.

The Corporation has adopted the minimum capital test, the acronym for which is the MCT, in establishing the RSR range. The MCT test is a solvency test utilized by private insurance companies which are regulated by the Office of the Superintendent of Financial Institutions, the acronym for which is OSFI, O-S-F-I.

MPI has indicated that the test in an industry best practice that that is the test that it reflects the industry best practice, but, as well, the Corporation has indicated that it is not subject to OSFI regulation.

MPI's RSR target is now being based on a range of 50 percent of the minimum capital test to 100 percent MCT which results in a range of $107 million to $214 million, based on the new methodology. This reflects a significant increase in the range of the Corporation and is in response to increased risks which MPI cited to be as follows.

Firstly, higher retentions taken on the casualty and catastrophe reinsurance programs. Secondly, the growth in the unpaid claims provision. And thirdly, the size of the investment portfolio and the variability that may result from mark-to-market accounting.

Dealing with the RSR rebuilding plan, the Corporation remains committed to its policy of using retained earnings from the Corporation's competitive lines of business that are in excess of their target.

For the time being the Corporation intends to rebuild the RSR by transferring to the basic RSR retained earnings from the competitive lines that are in excess of their approved target levels which were recently changed and are now $37 million for SRE or special risk extension, and $35 million for the extension line.

The business plans and the forecasts for the competitive lines are not available for the Board to review. The PUB's jurisdiction and regulatory mandate being limited to MPI's basic insurance business.

It should be noted, however, that since 2003/04, that is over the last two (2) years, in excess of $115 million in rebuilding of the basic RSR resulted from the positive operating results of the basic insurance division.

Now, moving on to the Immobilizer Incentive Fund created by the Corporation to combat auto theft. The Corporation has put in place a program to support the purchase and installation of approved vehicle immobilizers through subsidizing half the purchase price of the device as well as offering interest free financing for the balance of the cost over a five (5) year period.

To fund the program MPI has allocated $40 million from basic RSR to a separate reserve fund called the Immobilizer Incentive Fund, or IIF, a separate component of basic retained earnings.

What the Board must consider is whether the appropriation of the RSR funds is consistent with the stated purpose of the RSR which, as mentioned, is intended to protect motorists from rate increases made necessary by unexpected events and losses arising from non-recurring events or factors.

MPI proposes to offset the impact on the RSR of the incentive program expenditures over the term of the program. MPI has indicated that it anticipates realizing cumulative benefits of over $79 million from 2005/06 to 2012/13 as well as incurring costs of over $32 million for a net benefit of approximately $47 million.

MPI indicated that the program is voluntary and expressed caution as to achieving the projected results. In brief, MPI defrays 50 percent or one hundred and forty dollars ($140) of the two hundred and eighty dollars ($280) cost per immobilizer and gives an interest free loan for the one hundred and forty dollars ($140) balance to be paid over five (5) years.

That twenty-eight dollar ($28) annual purchase cost to the motorist is offset by an annual forty dollars ($40) premium reduction.

MPI indicated that the projected benefits are based on fairly optimistic -- optimistic projections with respect to the reduction in theft, and a very healthy conversion of the most theft prone vehicles entering the program.

The Corporation has chosen to expense the annual costs of the program as incurred, rather than an alternative accounting treatment of deferring and amortizing the expenditures -- or sorry, deferring and amortizing the expenditures over the estimated future benefits.

Now dealing with the transfer of the DVL or the Driver's Vehicle Licensing Department to MPI. The Board heard evidence on the finalization of the agreement between the Corporation and the Provincial Government in that respect. The Corporation has indicated that the DVL will be operated as a fourth line of business under its Extension Division.

The Corporation has indicated that the previous commission cost sharing arrangement, which provided $5.7 million to basic, but was cancelled last year, had not been restored.

The commission funding arrangement had previously been factored into the determination of basic insurance rates. Last year the Board took that deficiency into account in its Order, reducing rates for all major classes.

The Board was provided with a copy of the Funding Agreement, which is set out incidentally, in AI.15, in Volume III, Part II, and a forecast of future costs for operating DVL in the Corporation's response to the Public Utilities Board Interrogatory Number 34(b) in the first round. That's the attachment in that response and appears in Tab 24 of the Board's Book of Documents.

The agreement provides for $20.9 million annually to be paid by the Provincial Government to fund the operations of DVL. The forecast DVL operating results indicate that such funding is not sufficient, given the projected costs of operating DVL.

Again, the reference is PUB-MPI-1-34(b), the attachment in Tab 34.

The Corporation is forecasting DVL operating costs at a loss of $4.5 million in 2005/06, $5.9 million in 2006/07, $8.2 million in 2007/08, $10.5 million in 2008/09, and $12.9 million in 2009/10.

In total, the Corporation has indicated a cumulative deficit of over $42 million over the next five

(5) years for DVL operations.

The Corporation has indicated, however, that the forecast represented the worst case scenario, and the Corporation expects improvement will result from actions flowing from a business process review, or BPR, currently underway.

Another matter that came before the Board, and which evidence was adduced, dealt with motorcycle rates. MPI's application for motorcycle premiums for 2006/07 is underpinned by the claims forecasting and rate setting methodology, which MPI submits remains unchanged from last year. In this regard, the treatment for motorcycles is the same as for other major uses.

In previous Applications MPI determined individual motorcycle premiums by applying overall experience adjustments.

In the past number of years, the required average increase was well in excess of 30 percent. And the adjustments were capped at last year's Application by the Board, at plus or minus 20 percent, on an overall basis.

This year MPI has stated that the premiums for rate groups for the highest declared bike values, are at or very near required levels. The premiums necessary to cover the projected increase in claims costs are being recovered by rate group relativity adjustments.

The result is that bikes in the lower rate groups will see relatively high average premium increases, while the highest rate groups will experience premium decreases or no change at all. That's based on an overall fleet of eight thousand one hundred and two (8,102) insured units that were used in that analysis.

MPI has indicated that, in this application, motorcycle rates will increase by 12.7 percent overall. As directed by the Board in Order 148 of '04, MPI has introduced a motorcycle pleasure rate group.

MPI indicated that, previously, the motorcycle rate was a blend between the pleasure and all purpose. In setting up a pleasure use, MPI has adjusted pleasure rates to be 6.54 percent lower than the blended rate and the new all purpose rate to be 3.84 percent higher than that blended rate.

Also, in response to Order 148/'04, MPI is undertaking an exercise to refine its categorization of sport bikes. Further, following the loss transfer hearing this spring, in its Order 97 of '05, this Board directed MPI to adopt a new claims cost attribution methodology.

The Corporation has indicated that the

impact of this change will result in a reduction in the indicated claims experience for motorcycles and scooters but that will be offset by their current inadequacy in rates.

Dealing briefly with the topic of claims incurred, with the reference being TI.6 in Volume II, Part 2 and Tab 2 of the PUB's book of documents. Net claims incurred relative to the revised forecast were as follows.

In terms of the personal injury protection plan or PIPP costs, the forecast for the insurance year 2006/07 is that they will amount to approximately $223 million; that's to be compared with the actual result of $199.7 million in 2003, for a difference between those two (2) years of some $23.3 million, or an 8 percent increase.

In terms of collision costs, the 2007 forecast pegs them at $220.6 million with the result in 2003 having been $185.3 million for a difference of $35.2 million or a 19 percent increase.

In terms of comprehensive costs the forecast for 2007 is that they will be in the order of $72.5 million, compared to the 2003 actual result of some $50.5 million, making for a $22 million difference or a 44 percent increase; that's with respect to comprehensive.

Under the property damage cover for 2007 the forecast is that they will be in the order of $32.4 million. While in 2003 the actual costs were $29.4 million, for a difference of $3 million or a 10 percent increase.

The total claims incurred costs for 2007 are forecast at $555.9 million, compared to the actual of some $467.7 million in 2003. They have therefore increased by some $88.2 million or 19 percent since 2002/03.

Dealing now with MPI's investment income and its investment portfolio, a most important component in setting rates is investment income, given that it has a huge impact on net operating results after the Corporation's underwriting component.

The size of the investment portfolio is forecast to be almost $1.9 billion in 2006/07. MPI's total investment income is forecast to be $88.2 million, of which $77.8 million or 88.28 percent is attributable to basic, as indicated in the revised TI21 at Tab 9 of the Board's book of documents.

The mix of the portfolio is expected to be over 77 percent in long-term bonds and just over 21 percent in equity investments.

At AI.16, which is found in Volume III, Part 2, the Corporation filed its investment policy, which includes a strategy of booking at least $5 million in gains on fixed income instruments, and to realize gains on the investment portfolio when the total of both the US and Canadian Equity portfolio's fair market value exceeds 105 percent of the book value of the combined portfolio.

As at June 30th, 2005 the Corporation had realized gains of over $109.2 million. The Corporation advised that future mark-to-market financial reporting requirements will require a recognition of these gains on the balance sheet. But the Corporation has indicated that such adjustments will have no bearing on rate setting.

Now there are three (3) additional issues that I want to deal briefly with, Mr. Chairman, and Panel Members. So the first deals with the topic of the overall financial wellness of the Corporation.

Until now the Board has found consideration of the MCT, or Minimum Capital Test, to be of no direct relevance in establishing the RSR Target for rate setting purposes. It has relied on the results of the combined operational and investment risk analysis as the Board's approved methodology.

Whether the evidence adduced at this Hearing will lead to a change in that approach, in terms of the weight and preponderance of evidence put forth by the Corporation, is a consideration for the Board to ponder.

What the Board has said in the past in dealing with the RSR Target, however, is that it will consider the overall financial wellness of the Corporation. And to that end, the Board has no jurisdiction outside of MPI's basic compulsory automobile insurance plan.

However, it is a fact that MPI's overall total retained earnings, from all of its divisions of operation, are in the order of $300 million at this time.

Another topic that I wish to touch on briefly is the Manitoba Auto Theft Suppression Initiative, or the acronym MATSI, M-A-T-S-I. This is an auto theft suppression program focussed on the City of Winnipeg, so it is now known as the Winnipeg Auto Theft Suppression Strategy, funded at a cost of nine hundred thousand dollars ($900,000) annually for two (2) years. It was announced in April of this year by the Minister of Justice, MPI and the Winnipeg Police Service jointly.

The initiative categorize -- categorizes chronic young offenders convicted of auto theft and has been closely monitored through enforcement of Court ordered curfews and access to rehabilitation programs.

MPI funds the probation services component with leadership by its newly appointed director of auto theft prevention.

Early results have indicated, apparently, that Winnipeg car thefts are down by some 14 percent to date, compared to last year.

Finally, I wish to touch on the topic of MPI's business process review, or the BPR. This is an intensive review being undertaken that will centre in -- on DVL operations. It will extend, however, to other parts of the Corporation's operations because of an overlap of some of the services; IT or Information Technology, for example.

Another area to be impacted will be MPI's bonus/malus system and its many components such as the Merit Discount Plan, driver license surcharges for convictions, and at fault accidents.

By the way, Ms. Reporter, malus is spelled M-A-L-U-S.

The scope and timing of the BPR is likely to be determined by the end of this fiscal year, but it is to be a corporate wide review. The Corporation's response to PUB-MPI Number -- Interrogatory Number 19 in the second round, which is at Tab 40 of the PUB's Book of Documents, sets out the budget for the total capital expenditure, relative to the BPR, at approximately $20 million, with $2.6 million targeted for 2005/06, that's this year.

The Board will undoubtedly be looking with eager anticipation to being updated on the progress of that initiative.

That's a review of some of the major issues arising from this Hearing, Mr. Chairman. I wish to thank the Board for its indulgence and the Intervenors for their participation.

Last but not least, I wish to thank MPI's counsel and witnesses for their cooperation throughout. Thank you.

THE CHAIRPERSON: Thank you, Mr. Saranchuk. We'll move now to Consumers Association of Canada Manitoba Inc., Manitoba Society of Seniors.

Mr. Williams...?

CLOSING ARGUMENTS BY MR. BYRON WILLIAMS:

MR. BYRON WILLIAMS: Thank you and good morning, Mr. Chairman, and members of the Panel.

I can indicate that amongst my fan club here today is Ms. Desorcy, again, who is executive director of the Consumers Association. Ms. Hunter, I've got her name right now after working for her for over a year, is at a hearing in Ottawa -- or at a meeting in Ottawa and is unable to attend.

But I want to assure the Panel that both Ms. Hunter and Ms. Desorcy beat me up for about two and a half (2 1/2) hours last Friday in terms of recommendations and the advice that I was giving them in terms of this proposal. These recommendations reflect the views both of CAC and MSOS.

Just by way of brief overview, in terms of the topics that I'll be presenting on behalf of CAC/MSOS, there's about seven (7) topics that we'll cover. First of all, we'll address the issues relating to the rate stabilization reserve, including the treatment of the IIF.

Then we'll move to issues relating to loss prevention. The IIP as well as WATSS which Mr. Saranchuk just recently referenced, W-A-T-S-S. We'll segue, hopefully cleverly, from that to road safety, and then my client will also present, through me, comments and brief recommendations in terms of DVL investment policy, the volume factor methodology and pay-as-you-drive.

Mr. Chairman, this is just my proposal. I note that I expect this to be a fairly lengthy presentation. There will be twenty-two (22) recommendations included. So Binder 1 is issues related to the rate stabilization reserve, so when I'm finished that that may be an appropriate time for the Board to -- to take a break.

Before getting into the rate stabilization reserve I just want to highlight some of themes that are -- that are going to be presented in the argument on behalf of my client. And these themes were mentioned in our opening statement and I think they've stayed true through the course of the hearing.

We want to touch upon the unique, made in Manitoba success story that is Manitoba Public Insurance. We want to talk about the success of public insurance in providing, through its basic insurance monopoly, an insurance product that compares very favourably to that offered by the private sector in terms of its rates and in terms of its quality of service.

And in the course of that discussion we'll also talk about the challenges faced by this Made in Manitoba success story. And we're going to talk about matters which may serve to weaken the ability of MPI to provide a superior product at superior rates.

We'll talk about the RSR and MPI's attempt to turn its back on a made-in-Manitoba risk analysis. A risk analysis that was approved by the regulator after an intensive, cooperative approach through numerous regulatory hearings.

A process and an analysis which achieves a carefully designed empirical analysis to determine an appropriate level for the RSR. And in the course of this discussion we'll talk about the efforts of MPI to replace this risk analysis with a test designed by a different regulator for a different purpose and for a different competitive market.

And we'll demonstrate that the net result of the MPI attempt to run and hide from the Board approved risk analysis will be an RSR that is no longer empirically based, no longer analytically driven.

An approach, in our view, that is literally anchored in nothing, anchored in air. And this lack of empirical analysis we will point was an enduring theme throughout this argument. It's a troubling element of a number of elements of the MPI application before this Board.

We see it in its proposal regarding the rate stabilization reserve. We see it in the Corporation's approach to the Immobilizer Incentive Program. We see it in the Corporation's approach to its big three (3) road safety objectives. We see it in the current situation of DVL.

We see it in the Corporation's approach to volume upgrade forecasting and we hear it in the words of MPI staff, the sad voices in the wilderness of their strategic research department, who speak of resources being allocated on the basis of emotional appeal, rather than objective, empirical analysis.

A final theme that I -- that on behalf of my clients I hope and expect will emerge, is the still to be realized potential of this made in Manitoba success story, in terms of achieving a minimal -- meaningful impact, in terms of reducing the impact and severity of auto accidents. The tragic economic and social consequences of that.

And in that context, my clients will applaud the leadership effort taken by MPI in terms of some loss prevention initiatives such as WATSS. They will decry the lack of analytical rigour in other loss prevention initiatives such as the IIP.

And they'll point to mechanisms which have come to our attention through the course of this Hearing, which we hope will provide MPI with better tools in the future to -- to mitigate the very severe and tragic consequences of accidents upon Manitoba roads.

Turning directly to the RSR, there'll be four (4) basic questions that -- or four (4) basic issues that my clients have asked me to address under this subject. The first will be risk analysis, and why they believe that it's -- that this -- that this is the most appropriate approach for this regulator in this environment.

The second issue will be the MCT/MPI approach, and we'll ask the three (3) basic questions under that. First of all is MPI credible on matters related to the RSR, secondly, does MPI truly believe in the MCT, and third, is the MCT appropriate.

Another area that we'll canvass is the experience of other Crowns, what makes them similar, what makes them different from MPI in terms of their retained earnings in the case of ICBC, or their Rate Stabilization Reserve in the case of Saskatchewan.

Finally, we'll provide our client's views and perspectives on the $40 million appropriation from retained earnings for the IIF.

In discussing the RSR, we would ask the Board to reflect back to last Tuesday, October the 11th and weigh carefully the evidence of Mr. Todd on this subject, versus the evidence you heard from MPI throughout the course of this Hearing.

We'd urge you to review the direct and

cross, it wasn't that lengthy, of Mr. Todd, and we think you'll find it thorough, thoughtful and based upon a careful reading of the RSR, and the intentions of the Board, as expressed in previous decisions.

And we would urge you to contrast the thoughtfulness of Mr. Todd's approach with the evidence of the company, which of course in this case bears the onus of overturning the Board approved methodology.

And we would respectfully suggest to you, that after careful examination of the MPI approach, you'll find that the Corporation is not wed to a principle or to an analytical approach, they're wed to a number, a higher number. They want a higher number, and the MCT is providing a convenient excuse to achieve that number.

And in particular, and I'll refer to this later, we would urge you to read Mr. Saranchuk's very insightful cross of MPI on Tuesday, October the 4th, in particular page 324 when he asked the Corporation to justify its target range. And we think that the Corporation's frail efforts to justify that range, and to answer Mr. Saranchuk's questions, merely underline the expediency and lack of rigour that underlies their approach in this issue.

And I note that I'm going on a bit at

length at this, but I want to underline this point, because as I took the benefit of rereading Mr. Todd's evidence, and considering the Board's lengthy deliberations on this subject in the past, the constant theme by the Board was about the attempts to justify this number and the recognition that, when we're pre-collecting from ratepayers something for some future purpose, we should not be drawing these numbers out of the air.

Those numbers should mean something. It's not enough to say 15 percent of premiums written because that doesn't really mean anything. A constant theme in the Board's discussions in the late '90's, early 2000's, what's the purpose of the RSR and how do we connect that RSR target range with that purpose?

And, again, we'll recommend and think you'll find that the risk analysis is the best way to give some meaning to those numbers. And we think you'll also find that while MPI purports to rely on the MCT they're really going back to an approach that is drawing numbers from the air.

In discussing the -- the risk analysis, and I'm turning to that specifically now after that more than lengthy preamble, we think it's important to understand both the purpose of the RSR and the environment in which MPI operates.

And in our respectful submission both of these factors are critical and key in making the risk analysis the right approach for the unique circumstances of Manitoba Public Insurance. And, similarly, these factors make the MCT the wrong approach.

And it's almost trite now, we've heard it said so many times before what the purpose of the RSR is, it's to provide protection from rate increases made necessary by unexpected events and losses, non-recurring events or factors.

And it's almost as trite, and in fact probably more trite, to also notice -- note the environment in which MPI operates; a monopoly in basic auto insurance. And that, of course, is the critical distinction between the companies which OSFI regulates and the company that Manitoba Public Utility Board regulates.

The companies that OSFI regulate operate in a competitive environment. They're subject to elasticities of demand. I'm very proud of my mastery of that term. A 1 percent increase in prices will lead to a less than 1 percent increase in rates.

If they have a big -- big pressure, if they have a big loss, they cannot make up that loss through rate increases. Their -- their clients will be captured by other -- other competitors in the marketplace. And that's the basic fundamental distinction because MPI, through the benefit of its basic monopoly they can recapture or make up those losses, over time, through rate increases.

So we think that the monopoly environment is a key distinction both with the OSFI regulated companies and even with ICBC which, of course, doesn't have a monopoly on tin.

And looking at the purpose of the RSR and the environment in which MPI operates begs and answers the fundamental question, what is the purpose here?

The issue in studying the RSR, and Mr. Todd put this better than I can at pages 838 and 833 of the transcript, the issue in looking at these reserves is not are you going to be able to carry on your business, not are you going to be able to pay claims. The real issue with an RSR is the rate impact in terms of responding to unforeseen events; that's what we're protecting against.

And how do you accomplish that? Well, this Board has said that we're going to do that. We're going to pre-collect it from ratepayers, policyholders.

And MPI said, well, in the future, we're going -- we're going to collect from SRE an extension. But, of course, we can't rely upon that, we can't even look at the numbers and the projections from those sources.

So we think it's important to note where the -- the source of the funding from the RSR has come from. And I believe Mr. Saranchuk alluded to that in some of his statements.

So what we did, and there's an Interrogatory that answers this question, CAC First Round Interrogatory Number 3, we looked back to the days when the Public Utilities Board, and MPI in particular, started to get serious about the Rate Stabilization Reserve in 1996 and '97. And you can do the calculations yourself, but if you look over that time you'll see four (4) main sources for the RSR.

One (1), is the intentional overpayment via a surcharge, which amounted to about $55 million in the 1990s.

Second, is what you would call an accidental overpayment, I guess, the variance between net income and net losses. And over that period, again, you can certainly check these figures when you compare the losses to the -- to the positives, you'll see that MPI has come out a $150 million to the good.

There also have been, in recent years, transfers from extension, about $4.3 million. And again, we know how closely tied the extension program is to the basic program.

And finally, there have been very meaningful transfers from special risk extension, in the range of $48 million.

So, we have seen in the past that the Rate Stabilization Reserve has been funded from a variety of sources, and we think that's a reasonable expectation for the future as well.

Whatever the source, it's ratepayers' money that we're -- that has been over collected in advance for some future, unforeseen event.

Given that reality, it's important for this Board to be able to justify what's the appropriate amount, what's too much, what's too little. And that's the point I was making earlier that the PUB had struggled with over the past decade, let's not draw a number out of the air, and that's how the PUB developed the risk analysis.

The risk analysis itself, a proposal originally made by MPI, but it was refined by the Public Utilities Board, and the genius of it is that it builds upon what MPI does best. At the heart of the risk analysis are techniques that are central to the insurance industry. That was the concept that my clients were supportive of from the very start. And Mr. Todd put this again very well in his evidence, I believe it's at page 917.

The basic method of the risk analysis are the very -- the basic methodology of the risk analysis, are the very core of what the company's all about, assessing this.

And I'm sure MPI will try to characterize this as something novel, but it's really not. Was it -- it looks at unforeseen costs, and unforeseen positive variances as well, and it looks at their impact upon the bottom line.

It says, what degree of confidence should the Board have. Does it want a 95 degree confidence that it has enough, or does it want a 97.5 degree confidence?

Put another way, what the risk analysis does is it says, let's not draw the numbers out of the -- out of the air, let's not fear monger. Let's look at the factors affecting net income, claims costs, claims expenses, revenues, investment income. That's how they operate in the real world, in the real made in Manitoba MPI world. Some have a positive impact on net income, some have a negative.

We -- just as one (1) example, when claims costs tend to rise we also know that revenues are likely going in the same direction, so they have an offsetting affect.

And again, the risk analysis says, let's consider the risk we're prepared to tolerate; a one (1) in twenty (20) chance, a one (1) in forty (40) chance.

And this is all done within the context that we're not a company in -- MPI's not a company in a competitive market. We're not dealing with the risk of a failure to pay claims, we're dealing with the risk of the magnitude of a rate increase.

And just a last couple points about the risk analysis. One (1) is that it's important to recall that it's not etched in stone. There's a mechanism by which it can be re-quantified, times change, good things happen, bad things happen, and there's certainly a methodology by which MPI could come before the Board and revise its approach.

So, just in summary on the risk analysis, and I'm leading to my first recommendation of my clients, it's a made in Manitoba solution recognizing the strength of the Crown monopoly. It's developed by an independent regulator. It was made for a specific problem and carefully tested and refined over time and it allows for future flexibility.

At the heart of the approach is a rejection of qualitative fearmongering and an effort to seek a quantitative answer to how much of Manitobans' money we should pre-collect.

My Client's first recommendation, and there's twenty-one (21) to follow, is that the Public Utilities Board re-confirm its current approach to setting the RSR which is based upon a risk analysis approach.

Well, why take the risk analysis? Why take that made in Manitoba approach? Why not use the new MPI target?

For purposes of context I just want to underline for the point -- for the Board's -- just for it's -- to remind it that what MPI is doing with its new target, it's materially changing the numbers. It's going from the lower end of its target and this is confirmed at page 607 of the transcript, it's seeking a 34 percent increase in its target at the lower range and a 114 percent in its target at the higher range.

This is a huge leap; 114 percent. And it's a leap that has to be justified with something more than conjecture and non-empirical fearmongering. When you're asking yourself is the MCT/MPI approach appropriated, the first question we'd ask you to consider is MP -- is -- is MPI credible on this issue

Is it credible on matters related to the rate stabilization reserve?

And we would suggest that in weighing the credibility of MPI you take into account past practice of this Corporation which we would suggest demonstrates a much more flexible approach to the rate stabilization reserve than the principled approach adopted by the Public Utilities Board.

And we would remind the Board that just a couple of years ago MPI was before this Board seeking to budget for a loss, seeking to draw down, based upon projected numbers, the RSR below the lower -- the lower asset -- the ambit of the target range, below $50 million for the purposes of smoothing future rate increases.

And we suggest to you that that was not, in those days, just a couple of years ago, the actions of a Corporation that was truly worried about the RSR target that it's proposing in the range of $107 to $214 million. Just a couple of years ago MPI was saying it's okay if we go below the bottom end of the Public Utility Board target.

So, we would suggest to you that MPI's had a very flexible approach; some might say an expedient approach to the target level based upon its particular circumstances in particular years and that's not an approach, an expedient approach that we would recommend to the Board.

We think that same extremely flexible expedient approach has been demonstrated in this hearing as well. And it can be seen just in simply looking at the evidence -- the -- by Mr. Galenzoski's admission, anecdotal evidence at page 317 of the transcript that it initially adduced in support of the -- the higher rate stabilization reserve target. And when you're reviewing the transcript I'd refer you to the pre-filed testimony of Mr. Galenzoski at page 4.

And. Mr. Saranchuk has talked about these problems or these issues, but basically at page 4 of Mr. Galenzoski's pre-filed evidence he talked about three (3) major drivers they thought in support of a higher RSR.

The very first one they cite was a higher retention on re-insurance. This very -- the second one they cite is a higher retention on the insurance.

This very -- the second one they cite is -- or another one cited is emerging mark-to-market accounting rule regarding the investment portfolio.

And the third, of course, is the growth in the IBNR.

And we think that the record of this hearing demonstrates that MPI was overselling these -- these arguments right from the very start.

In terms of reinsurance, we think the best evidence of that is a comment that Mr. Galenzoski made about Saskatchewan. At page 654 of the transcript Mr. Galenzoski was talking about the purpose for the RSR in Saskatchewan and he said it's a little hard to determine but one of the noted purposes is for -- to protect against either catastrophes or casualties. The evidence is a little unclear on that point.

And at page 654 of the transcript Mr. Galenzoski said:

> "If you say you need the RSR for catastrophic events and then go out and buy reinsurance for catastrophic events..."

So, again, another stated reason for their RSR is almost non-existent. And we think that's an important point for two (2) reasons. One, it says if there were other layers of protection available to Manitoba ratepayers beside the RSR.

Also it said, at least if we apply by analogy Mr. Galenzoski's comments from Saskatchewan to his comments in Manitoba, maybe the reinsurance issue is a bit more -- a bit less of an issue than MPI makes -- makes of it.

And just on that point as well, we also would note, and that's -- this is from page 289 of the transcript, when Mr. Galenzoski was talking about the Corporation's approach to reinsurance he was saying that, in other words, the expected costs of the program you should be keeping within your own retention.

Again, point out the fact that the reinsurance purchased by the Corporation is going for unforeseen variances, and that's at page 289 of the transcript.

So that's one example of what we would suggest is a flexible approach to the RSR. Making a bigger deal of reinsurance than MPI's own and candid evidence in the course of the proceeding would -- would lead us to believe now.

Another one is mark-to-marketing. And remember this was -- I mis-spoke before, I said it was the second reason cited by Mr. Galenzoski in his evidence at page 4 of his pre-filed testimony. Of course, it was the third one.

But in reading that evidence the impression one might have garnered was that MPI had a major concern with the impact of mark-to-market on its rate stabilization reserve. Yet, we note, and that was first set out as PUB 128, this statement was inserted in Mr. Galenzoski's evidence before any evaluative impact of the -- of the mark-to-market impact was -- was done by the Corporation.

And we commend Mr. Galenzoski in terms of his candour because in his discussion with Mr. Saranchuk, and there's a number of examples of this in the transcript, but at least on a number of occasions he acknowledged that -- and I'll point to page 283 of the transcript, that his thinking on mark-to-market basis has changed.

And, in fact, he noted it should not -- at page 283, that it should not be part of rating. And at page 284 not part of the target level. And we, again, commend him for his candour.

We note that similar comments are made at page 184 of the transcripts and I'm not sure which witness from the Corporation. We don't think it can be taken into account, the RSR target or rate setting, and I'm paraphrasing there, I'm not directly quoting.

We could go on. But the point is this, in terms of the reasons cited by MPI in their initial evidence, which subsequently were described as anecdotal, we think they're overstated.

The last point to realize with these risks, whether it's a risk to the IBNR, a risk to investment, these are all foreseen through the risk analysis. They can all be quantified. They can all be made part of the risk analysis.

Reinsurance, Mr. Galenzoski admitted to Mr. Saranchuk at page 292 of the transcript, that they do retrospective modelling of different reinsurance approaches all the time when they're dealing with reinsurers.

These are all numbers that are capable of quantitative analysis, inclusion in the risk analysis. So in terms of whether MPI is credible of -- certainly the individuals for MPI are principled individuals, but their past track record and their record in terms of their evidence in this hearing, we would suggest, indicates some flexibility in terms of -- of the RSR and we would suggest that they take an approach that is driven more by the results in any particular year than any longstanding commitment to a principled approach to the RSR.

The second question on this subject we would pose is: Does MPI really believe in the MCT?

And we would submit that's almost a rhetorical question. If MPI did, if it really believed in the MCT, if it really believed in the 150 percent dictated by OSFI or even if it really believed in the 100 percent that it garnered through its 100 percent of the MCT calculation, if it truly, fundamentally was attached to a principled approach of that, why with an RSR of 135 million at the end of 2004/05, would it appropriate $40 million for the IIF?

Why would it draw the IIF down so far if it truly was fundamentally committed to these MCT targets?

We again, and I noted this in my opening comments, we'd ask you to contrast the MPI approach to the -- to -- to the RSR with those of Mr. Todd and we thought the most illustrative example of this was Mr. Saranchuk's cross-examination of Mr. Galenzoski at pages 324 and 325 of the transcript.

The first question Mr. Saranchuk asked is:

> "What was the rationale for choosing 100 percent target?"

And Mr. Galenzoski's answer was:

> "The rationale for choosing 100 percent is that the process automatically calculates what the values would be at 100 percent.
>
> And we felt..."

And I'm skipping a few lines, you can read the whole quote at your leisure,

"And we felt that there would be sufficient protection even in spite of the fact that the DCAT analysis is indicating an unsatisfactory result could occur because of adverse scenarios."

I think that's an important quote for a variety of reasons.

If you truly believed in the MCT/DCAT approach, if you really felt it was appropriate for the purpose of the RSR, would you reject the advice of your -- of your -- of the DCAT analysis?

It appears to us from this quote that the 100 percent figure was chosen, in large part, because it's automatically calculated.

If you look at the words chosen by Mr. Galenzoski, "we felt...we felt," and that appears again at page 325. It's a level they feel comfortable with.

This isn't rigorous, empirical analysis. This is drawing numbers out of the air.

And I don't have the page reference, although I will draw it -- get it for the Board. There was another response made by MPI in terms of why the 50 percent was chosen; the 50 percent, the hundred and seven (107) figure.

And the answer was, it was selected to ensure that there was some mechanism in place.

Not a number based upon any confidence level, a fairly mechanistic exercise, one-half (1/2) of the two fourteen (214).

So- in answer to our question, does MPI really believe in the MCT, we'd suggest, respectfully, that its allegiance to the MCT is anchored in air. It's a frail, ephemeral allegiance.

It's really based upon a target that is felt, rather than empirically derived.

Is the MCT appropriate for Manitoba? Well, if we're going to take the PUB based upon past decisions, the answer is no.

And it's on more than one (1) occasion, the PUB has explicitly reject an OSFI-type approach for the purposes of setting the RSR.

The basic ratio -- ratio of those decisions, R-A-T-I-O, would appear to be that it sees it as a solv -- a solvency test. A different test for a different purpose.

In asking whether the MCT is an appropriate test for MPI we'd note that it's designed by a regulator which has no jurisdiction for -- over MPI, which has no Crowns under its jurisdiction and has no companies with a monopoly in basic insurance under its jurisdiction. A very different competitive environment.

(BRIEF PAUSE)

MR. BYRON WILLIAMS: And I think the evidence of John Todd on this point is very helpful. He accepted that it was best practices for OSFI. In fact, he went -- went farther than that and said it was mandatory. Better than best practices.

But, again, he asked, for what purpose? Is it appropriate for the purpose of the RSR?

At page 848 Mr. Todd said it's not appropriate to use the MCT because there is no linkage between it and the purpose of the RSR.

At page 923 he said, there are a lot of things in there that aren't rela -- relevant to the stabilization of rates. And at page 912 Mr. Todd indicated the MCT was developed for a very specific purpose, that is not the purpose of the RSR.

So, is the MCT appropriate? We would say, no. The PUB has repeatedly and expressly rejected the MCT. It's designed by a regulator with no experience with Crown Corporations, basic insurance monopolies or MPI, and it's a different test for a different purpose.

To use an analogy of Mr. Todd, it's like using a training program for a sprinter when you're running a marathon. It may be an excellent program but it's for the wrong purpose.

And as Ms. McLaren conceded in discussions with me, a test could be perfectly fair, perfectly objective, it can be best practices for a particular matter, but if it's testing the wrong thing then there's no point. And that's at pages 658 and 659 of the transcript.

Well, what about ICBC? Doesn't the fact that the particular Crown in its particular circumstances suggest -- use the MCT suggest that Manitoba Public Insurance should be following that model?

And I would urge this Board to read very carefully the record on ICBC. And you'll see that the ICBC approach is not analogous to Manitoba Public Insurance. Remember, back in 2001 ICBC actually had a rate stabilization reserve. It's actually in its annual report, actually in its financial statements; that changed. That changed in 2002.

And that's acknowledged and it was Mr. Galenzoski and I went through this discussion starting around page 633 in the transcript.

If you read carefully through the ICBC annual reports you'll see an acknowledgement that the traditional role of a Crown with a government monopoly had enabled it to have lower reserves.

But starting in 2003 there was a direction, a mandate, given to ICBC to become more competitive, to level the playing field for -- with private competitors under the direction of the Campbell government in British Columbia.

And Mr. Todd picked up on this theme. He noted that the -- the mandate of ICBC is perhaps not quite the same; not the lowest possible rates. He noted, and this was also conceded by Mr. Galenzoski in cross-examination, that the ICBC approach to using the MCT is not determined by an independent regulator, it's directed by government, by the Campbell government in Directive IC2.

The Government told ICBC what level of reserves it should have. Political direction, based upon a desire to run the company on what the Campbell government considered to be a more businesslike manner. Not debated before an independent regulator, determine directed by the Government.

Presumably directed as a discipline on the operations of the company.

So to distinguish ICBC from Manitoba, I think there's four (4) points the Board should recall. One (1) is that it was via a Provincial directive, rather than an independent regulator. Secondly, ICBC is now using the term retained earnings, rather than RSR. And third, is that -- that entire environment, levelling the competitive playing field.

In terms of Saskatchewan, the status quo in Saskatchewan, as we speak, is that the MCT applies to the competitive side of the business, SGI Canada Inc. There is what is called a Rate Stabilization Reserve on the auto fund side, whether that continues in the future is I guess a matter of discussion. Mr. Galenzoski certainly has indicated, through informal discussions with Saskatchewan, that they are looking at the MCT.

But it is important to also distinguish between Saskatchewan and Manitoba Public Insurance. One (1), and this is a point brought out by Mr. Galenzoski at page 639 of the transcript. Saskatchewan, the auto fund, doesn't have the type of regulation that we have in Manitoba. It doesn't have a regulator as rigorous, or arguably, and I'm putting -- I'm using my words here, not his, as independent.

So what are the important points to recall about Saskatchewan? First of all, it regards the -- SGI Canada regards the MCT as a solvency test. Secondly, that there is no substantive independent regulation. Third, that the -- the SGI Canada -- excuse me, third, that it's really not clear what Saskatchewan's doing with its RSR. And Mr. Galenzoski make this point at page 649 of the transcript:

"It's hard to determine what they're using this money for."

And fourth point is, he wasn't aware, and nor am I of any canvassing of the MCT by the regulator in Saskatchewan.

Another example of the MCT brought before the Public Utilities Board was in terms of the Workers' Compensation Board of Manitoba, and I would just note that the Workers' Compensation Board, it's -- one (1) of the questions is whether or not it has re-insurance. And clearly that's a -- a critical factor which Mr. Galenzoski has pointed to, certainly in terms of Saskatchewan, that they do.

So we would -- we would ask Manitoba Public Insurance, or this Board, to -- why one (1) would reject a made in Manitoba, carefully crafted, quantitative risk assessment, that directly addresses the risk relevant to the RSR for the MCT, a test for -- from a different regulator, for a different competitive environment, not designed to address issues relevant to the RSR -- not directly designed to.

So, and I've already made this recommendation, but my clients would recommend keeping the risk analysis and rejecting the MCT. They would also recommend as recommendation number two (2), a target range, as suggested by Mr. Todd, in the range of 55 to $90 million.

Another issue, and, Mr. Chairman, I'm coming near to the end of the RSR section, I'm going to move within this context to the issue of the Immobilizer Incentive Fund.

And I guess the starting point with this discussion is to remember, and this is set out at page 907 of the transcript, a past admonishment by the Board, admittedly a different word, but that the retained earnings should not be used to fund policies, programs or initiatives.

When you're looking at the IIF, the Immobilizer Investment Fund, Incentive Fund, excuse me, it's also important to recall the evidence of Mr. Todd, at least from his perspective, that this is an investment like any other investment, and that's at page 845 of the transcript.

It's expected to have a -- a value in terms of its impact on the operating costs of Manitoba Public Insurance. The more important point about Mr. Todd's evidence though is whether or not there's an appropriation for the IIF.

He made a critical point that in terms of the trigger points for a surplus dividend or a surcharge that appropriation out of retained earnings of $40 million should -- should be -- not be used to trigger a surcharge or to trigger a surplus dividend and there's an important policy reason behind that.

My clients' concern is that for the purposes of determining the surplus dividend if the Public Utility Board takes that appropriation into account it will be enabling MPI to scoop a $40 million surplus dividend from Manitoba ratepayers.

We're not saying that's the intention of Manitoba Public Insurance, but that would be the impact. A sur -- a dividend that would otherwise be paid to Manitoba ratepayers may be scooped by the Corporation through the mere appropriation of it through retained earnings.

As Mr. Todd noted about the IFF, the primary impact of it seems to be to reduce the RSR and bring it down to a lower level that is less likely to trigger refund. He didn't say the intention, but the impact and that's an important impact. And that's not an impact we would suggest, respectfully, that the Board should endorse.

One (1) other comment about the Immobilizer Incentive Fund and I'll refer you to page 726 of the transcript. When I discussed this with Ms. McLaren I asked whether the -- they would still continue with the IIP, whether or not there wan an IFF, whether or not there was an appropriation. And I'd urge you to review her comments at page 726 because my interpretation of them is that there -- there likely would be.

So, the important point that I'm trying to make, rather inelegantly at this point in time, is that you can distinguish between the fund and the program itself.

So, recommendation 3 from my clients would be for the purposes of considering the surplus dividend, consider the RSR as of February 28th, 2005, the $135 million level, that level pre-transfer or pre-appropriation to the IIF.

Recommendation number 4 of my clients is that a surplus dividend of $45 million should be -- should be paid back to Manitoba ratepayers; that calculation is a fairly simple one. The revised target they're proposed is $55 to $90 million. The money in the back as at February 28th, 2005 was $135 million. My clients would submit that $45 million would be an appropriate amount.

They would also note when the Board's considering an appropriate amount it should also take into account the fact that there has been, subsequent to February 28th, 2005 a transfer from SRE and extension, in the range of $20 million and also a positive forecast for 2005/06 in the range of $50 million.

So, my clients, to be clear, submit that the RSR dividend should be based upon the money in the back as of February 28th, 2005 and the difference between that and their recommendations in terms of the target range.

If the Board is feeling cautious or conservative it can take some comfort from the fact that there's an additional $20 million in the bank from SRE and extension as well as the forecast, admittedly only a forecast, of 50 million in net income from -- from the basic program.

Mr. Chairman, this is a, as I promised, a, hopefully, a fairly convenient point to break. And I'm about halfway through my argument, so I'd suggest that if that -- if that pleases you?

THE CHAIRPERSON: That's fine, Mr. Williams. We'll come back in fifteen (15) minutes. Thank you.

--- Upon recessing at 10:26 a.m.
--- Upon resuming at 10:48 a.m.

THE CHAIRPERSON: Welcome back, everyone.
Mr. Williams...?

MR. BYRON WILLIAMS: Thank you, Mr. Chairman, members of the Board.

I want to turn -- we spoke briefly about the IIF. I want to turn to the IIP. The program as opposed to the fund. And I note from the -- just reviewing the transcript in terms of Mr. Saranchuk's discussion with MPI, he talked really about three (3) different approaches to how we treat the -- the IIP program in terms of its expenses.

One was, you know, an allocation of -- in terms of the IIF. The second was a deferral and amortization approach which I think is set out in PUB second round Interrogatory number 2. And I think Mr. Todd was speaking of a similar approach.

And I think a third approach, which I believe has been canvassed in this hearing, although not as at great length is, treating it just as an incurred expense akin to road safety.

And my clients had an extensive discussion on this with me on -- on Friday. And they wanted to take this opportunity to offer some comments, both about the IIP in general and about the issue of matching or treating it as an incurred expense.

In terms of the IIP in general, the -- the clients are -- have some introductory comments, almost in the nature of concerns that they do want to talk about. They do applaud the leadership of MPI in -- in this program because they think it's an important issue.

But they urge upon the Board in evaluating this program and in also in determining its treatment to exercise some caution. And I guess for probably six (6) reasons that I'll -- I'll set out first and then elaborate.

One (1) of the general concerns that my clients will express and elaborate upon is in terms of the riskiness of predicting participation rates, and I'll elaborate upon that in a couple of seconds.

A second concern deals with the novelty of this program. A third concern relates to the MPI approach to developing its business plan. A fourth concern relates to the polling data obtained by Manitoba

Public Insurance and whether or not that was incorporated into the -- the plan.

A fifth is -- concern relates to my client's expectations of consumer behaviour. And a sixth concern, while applauding Mr. Galenzoski's candour, relates to the -- the comments of Mr. Galenzoski, the fairly optimistic projection comments, and I'll elaborate upon those in turn.

I think a starting point is to remember that predicting participation rates in any program, in particular government programs, is not a sure thing.

Two (2) key drivers in terms of what one can reasonably expect in terms of people participating, one (1) is the level of the benefit that the program is being offered. A second is a difficulty in applying for or accessing that benefit.

And -- and I think it's fair to say, and this is not on the record, but I think the Board can accept this as -- as fact, is that rarely do social programs of any type, achieve 100 percent participation rates. The best designed programs with the best benefits, with the easiest access, it's -- it's very rare, even in those cases, to achieve a 100 percent participation rate.

And just as one example again, this is in the public domain, I'm representing clients in another forum, challenging the Employment Insurance Act, compassionate care benefits. And that case, EI grossly over-estimated the participation rate of -- of Canadians in that program for 2004/03 -- excuse me, 2004/05, they were projecting two hundred and seventy thousand (270,000) Canadians would participate. They've revised that projection down to less than ten thousand (10,000).

So, the simple point is that -- that with social programs there are risks in terms of anticipating how many will -- will sign up, and that's a function of the level of benefit, also the difficulty in accessing that benefit.

A second concern, this -- this is kind of a double-edged sword, MPI should be rightly applauded for taking a leadership role on the Immobilizer Program. At the same time when you're anticipating the potential benefits, you have to recognize that this is a new program.

I think base -- at page 267 of the transcript, MPI's evidence is that this is the only jurisdiction in Canada trying the program.

At page 269, and if I've misspoke hopefully they'll correct me, the Corporation has never done anything like this before.

So, the point is that when you're trying to anticipate the -- the likely success of this program, we don't have much of a -- a track record out there to evaluate it against. So that's another factor that should be considered in exercising caution in terms of how to treat this program.

A third concern for my client, and it goes back to the theme of lack of empir -- of an empirical approach. And I will refer you to the transcripts around page 699, because we tried to explore how MPI developed its business case, and certainly I'm more familiar with Manitoba Hydro in this context, where they develop a business case, test it against alternatives, and then make a decision on whether or not to proceed.

In this case, and I asked this question twice, because I wasn't quite confident I'd received the proper answer the first time; my understanding is MPI made the decision that it was imperative to have the immobilizers and then developed the business case after the fact.

At page 699, again, this is my interpretation of their comments, they assumed they had to do something and then tested the numbers.

In terms of how they tested the number and I refer you to pages 703, there was no empirical sensitivity testing around high risk target groups. And I don't think they did the math as Ms. McLaren I think indicated is, upon reflection, in terms of even what if they had a 75 percent participation rate instead of a 90 percent participation rate. And at page 704 she clearly said the math wouldn't have driven us to a different decision.

From my clients to the Board this is a gravely concerning approach. This is not how, in their respectful submission, business plans should be developed.

Another item of concern for my clients, and this is set out in the CAC book of documents, Tab 30, you don't need to turn there. But it is the polling that was conducted by Manitoba Public Insurance on April 25th, 2005 noting that the IIF received approval on April 28th, 2005.

And at your leisure I'd invite you, on behalf of my clients, to explore those polling results. And I think you'll discover that 13 percent, when asked about the program, said they definitely would not take the program.

And there's different answers on the record -- or in the poll, but I think it's fair to say that at least one (1) in five (5) said they were not likely to use that program.

Now, this is polling data. We've certainly seen in other circumstances where it proves not to be the case but that -- that's another disquieting sign for my clients.

And it's disquieting because it's not clear to them how, if at all, this data, which appears in a report on April 25th, was incorporated into the business plan of Manitoba Public Insurance, especially given that on April 28th the decision was made to go ahead.

The client's fifth concern goes to their -- their sense of consumers in Manitoba. Again, they think that there's a lot to be said for MPI taking leadership on this issue. But they -- in their respectful submission the jury is still out on whether this program will -- will work.

It's a new program. Predicting participation rates is no -- is notoriously difficult and consumers are -- are not an easily -- easy type of beast, and I say that respectfully, to forecast.

And, again, we applaud Mr. Galenzoski on this point because he was very candid on pages 261 to 268 in the transcript in noting his own caveats in terms of the program:

"We've got fairly optimistic projections with respect to the reduction in theft based on a very healthy take up with the correct vehicles entering the program."

And I believe that's page 265, line 17.

To sum up, my clients have material concerns with the way this program was designed. Polling taking place on April 25th. A decision being made on April 27th -- or 28th.

A decision to do the project first and then a business plan second. No sensitivity testing around that business plan. They would submit that this makes this program a riskier program than the one (1) to two (2) cost to benefit ratio it might suggest.

And in trying to make a recommendation to the Board about how they think this program should be treated, certainly it's MPI's choice how they spend their money. My clients on this one (1) rare occasion disagree with Mr. Todd.

They don't think that this is really akin to a computer program in the sense that they think the risks -- the likelihood of success is more speculative. They consider the IIP more similar to a road safety program in the sense that the anticipated benefits may or may not materialize.

So they're not confident and this is -- I'm not sure if it's a recommendation or observation. My client's certainly not confident that the matching approach is the best approach, and their preference, again disagreeing, I think, with Mr. Todd, is that an incurred approach might be more appropriate.

A couple of other comments on the -- on the program and assuming that the IIF doesn't go ahead, assuming that this is built into the rate base in some -- some way rather than drawing down from the RSR, two (2) questions that occur to my clients. One (1) is, who should these costs be allocated to, should it be private passengers, should it be motorcyclists?

And from my clients' perspective this is a program directed at private passenger vehicles. If possible those costs should be directly allocated to them.

They would also note that this is primarily an urban program and they think it's important that the ratepayers who are expected to benefit from this program have -- are urban consumers and that the costs associated with that program should be allocated to them.

A final comment on the IIP. My clients take the perspective and they do applaud the leadership demonstrated by Manitoba Public Insurance. Given what they consider to be the risk of this program they would have expected that a higher cost to benefit ratio would have been deemed necessary.

Mr. Chairman, I'll -- I'll come very briefly back to the IIP a bit later on, but I -- I want to turn to the issue, more generally, of loss prevention/road safety.

And I want to start in this discussion at a high level, a theoretical approach and some basic principles that -- that my client would urge upon the Board.

The first is a recognition that the insurance industry has access to many powerful levers to influence driver and vehicle owner behaviour. They can influence that behaviour through rates, provide an incentive to make better choices.

That can be provided in terms of the type of vehicle people choose. It can be provided through the Bonus/Malus system. It can be provided through a program like IIP, an incentive to install anti-theft devices.

There's powerful levers through the revenues that the Corporation has; revenues that they can invest whether in educating the public about risky behaviour, training the public to drive more safely, monitoring and enforcing laws surrounding road safety or auto theft, and finally, investments in infrastructure and engineering such as they have in BC.

The ability of the insurance industry to -- to powerfully affect positive change is also enhanced by its access to data, collision data. In Manitoba Public Insurance's case, collision and driver data.

So, the potential exists to achieve positive benefits for society in general and for the insurance industry in particular. And as compared to private insurers, in a competitive market the payback to a public insurance -- insurer is likely to be greater.

And we would submit, and we'd refer you to page 691 of the transcript, that the payback's also likely to be greater for Manitoba Public Insurance as opposed to the Department of Transportation, the department, the government branch which has to compete with health care, with education, with other major government initiatives.

As well, the Department of Transportation, any benefits they may achieve may not be realized back in their own budget, their investments may benefit the Department of Health, they may benefit someone else.

So from my client's perspective, Manitoba Public Insurance is in a strong position to effect change, and it arguably stems from a self interested perspective to most directly benefit from an enhanced investment in road safety and loss prevention. It has the tools, the means and the incentive.

Again, still dealing at a theoretical level, my clients are also cognizant of the risks that Manitoba Public Insurance may face, in these -- in dealing with these issues. There's risks that it be invested less than wisely, there's risk that it may be pressured to do unwise things, either for the purposes of public relations, or to fill the vacuum left by others, if others are not holding up their end of the bargain. MPI may be tempted to do things because they are popular, rather than because they work.

And to the extent that popular initiatives can't be demonstrated to work, MPI may be tempted to change the way they assess those initiatives, and I'll get to that on the subject of driver education.

So as a starting point for my clients, it's important to address the Corporation's incentives or its investments in road safety and loss prevention, in a rigorous principled manner, examining whether they're getting best value for the dollar, based upon clearly defined rules on when it's appropriate to invest, and how it's best to allocate resources.

So the questions my clients will ask are is MPI achieving its best value? Is it operating under clearly defined rules, and is it fully achieving its potential?

I think the best way to do that is to look at MPI pre-IIP, pre WATS. MPI up to 2004/05.

And to look at the performance of MPI in terms of three (3) areas, auto theft programming, driver's education and the big three (3), impaired driving, occupant restraint and speeding.

And you don't need to refer to it, but in my cross-examination of the MPI Panel on October the 6th, we went through a table entitled, Auto theft prevention expenses and theft experience. Basically it tracked the performance of MPI from 2001/02 through to 2004/05, on auto theft.

And that table's important because it demonstrates three (3) patterns. A growing expenditure in auto theft prevention, a growing expenditure in direct investment in individual programs, and a growth in theft claims, both attempted and actual.

So what you have is a growing investment and a growing theft pattern. And what's striking about that table is the response of the Corporation at page 733 of the transcript, when it confirmed that there was no cost benefit analysis in terms of that programming.

And I think Mr. Galenzoski at page 273 of the transcript, certainly didn't concede my point but he certainly averted to this as well, when he talked about the investment and the Winnipeg Police Service, and he indicated that there's no guarantee of a benefit whatsoever.

And that's a very expensive program with stolen auto unit investments ranging upwards of $500 million since 2002/03.

The other point to put with that, Mr. Chairman, is to realize what MPI says about a lot of its road safety programming. It says, well, we measure it by how the public reacts to our programs. The -- the public assists us in terms of our programs.

Because -- and this is confirmed at page 709 of the transcript, this is the pre-PIPP, pre-IIP, pre-WATSS environment. If you look at polling, and this is page 709, MPI's tremendously successful in auto-theft. They've got the most recognized name, 48 percent see MPI's playing a role in auto theft. More than the City of Winnipeg Police, more than the RCMP.

And from my clients' perspective this raises a material concern and it emphasizes the point of why a more rigorous, principled approach to cost benefit analysis has to be employed. If you were to go by the polling, this was a tremendously successful pre-2005 program. If you're going to go by the results there's not a lot to demonstrate any success.

And we're not suggesting that this is intentional by MPI. And, in fact, I think Mr. Bedard was quite persuasive on this point. But an argument could be made -- a strong argument, that the only real benefit in the Corporation's auto-theft expenditures pre-2005 was a public relations benefit.

And I direct you to Mr. Galenzoski's discussion at pages 736 through 738 -- 739 of the transcript because I tried to enter into this debate with him. And I suggested that there was no empirical way to measure the success of these programs and that MPI was basing its assessment on intuitive conclusions, and that's at page 738.

And that it was responding to public concerns without an empirical basis for measuring the benefits and I suggested that to Mr. Galenzoski at page 739. He, of course, rejected my -- my suggestion.

But I think there's evidence from within MPI that that concern is shared, at least, by some. And, again, you don't need to turn to it but at Tab 23 of the CAC/MSOS book of documents there's a response to

Interrogatory II-18.

And that's a document by Strategic Research of MPI, dated March 5th, 2004 related to alcohol related traffic crashes and cost to Manitoba Public Insurance.

And that quote from that document, in our respectful submission is quite telling. Manitoba Public Insurance has not established a method that provides management with an economic measure of the magnitude of the problem of impaired driving to the Corporation.

The Corporation has no economic measure as a baseline against which to measure the effectiveness of drinking and driving intervention programs. Presently, resource allocation decisions supporting anti-drunk driving activities depend on an emotional appeal rather than objective economic analysis. A candid statement, but a troubling statement from my client's perspective.

And I think this point was further highlighted in Mr. -- Mr. Evans' conversation with the MPI Panel, it's page 784 of the transcript. He asked a simple question; why are the Winnipeg Blue Bombers getting more? Why are others getting less?

And I'd ask you to reflect upon the answer that MPI gave to him because it's very difficult to -- to discern from the responses provided by Mr. Bedard, any rational, any objective method by which those resources are allocated.

Mr. Chairman, I -- I wanted, just on this same theme, also look at a couple of the other major programs of Manitoba Public Insurance. One (1) is drivers' ed., and I won't belabour this point because we went through it last year fairly extensively.

But there was an extensive study done, a longitudinal study of the impact of drivers' ed. And there was no demonstrated statistical benefit, either in terms of crash rates or MPI claims, in favour of driver ed. graduates.

That's a concern for two (2) reasons. One (1) is that again it's a major program which is difficult to demonstrate a demonstrable benefit to Manitoba Public Insurance ratepayers from that program.

The other concern my clients have and it's more immediate in this -- in this proceeding, is that they asked a number of interrogatories which unfortunately I cannot direct you to at this point in time, but one (1) of the messages sent by MPI was relating to how are you going to study driver's ed in the future?

And the suggestion made by Manitoba Public Insurance was that they're no longer going to evaluate or they may no longer be -- to evaluate driver ed programs through crash -- crash rate analysis and to my clients that's of grave concern.

The results from the -- the previous study in term of driver's ed may not be a positive study, but they're a critical study; that was a good study. Longitudinal analysis by one (1) of the best firms in Canada. And just because the results are unpleasant doesn't mean one should change the criteria by which one evaluates the program.

Another simple point to make, Mr. Chairman, is when it comes to the Corporation's investments in road safety you'll often hear, we don't do enforcement, we only do education. We don't do engineering, we only do education.

And in my client's respectful submission the Corporation has a bit of a split personality on this issue because of course they do do enforcement. The WATSS program is a perfect example of it. The Road Check program is another example and my clients are concerned and I'll elaborate on this in my recommendations that an artificial line has been drawn.

When it comes to road safety programming the Corporation is artificially saying we don't do enforcement, we don't engineering. My clients would submit that the better question for the Corporation is: Is there a positive benefit to this Corporation in terms of a reduction in claims incurred?

Rather than drawing artificial lines in the sand, the Corporation should take a hard-nosed empirical look at what makes sense from the Corporation's perspective. When does it make sense to invest in an engineering program? When does it make sense to invest in an enforcement program, not for public relations purposes, but when there's a hard, real payback to the ratepayers of Manitoba Public Insurance?

You don't have to fear too much, Mr. Chairman, because I'm going to get off the pre-2004/05 stuff right away, but there was one (1) comment by Manitoba Public Insurance right at the end of our -- my discussion with them on road safety which I think may -- may inadvertently confuse the Board and that was a reference to Vision 2010.

And there was a suggestion by Manitoba Public Insurance that there had been a fairly material reduction in average fatalities. And I wasn't quick enough off the draw when the statement was made, but fortunately My Friend Mr. Dawson presented an exhibit, CMMG Number 3, the MPI Injury Claims Breakdown which makes a very simple but very clear point.

That the average number of fatalities from the period from 1996 through to 2001 was a hundred and forty-one (141). Manitoba's current average for the 2002 through 2004 years is a hundred and forty-six (146).

MPI certainly wasn't attempting to mislead the Board in reflecting upon this and they can certainly correct me, I believe they were using data that was a year out of -- out of date and I think that's -- that's what happened, but I wouldn't want it left on the impression -- the record left on the -- the impression left on the record that there's been a material reduction in the average number of fatalities as opposed to the 1996 to 2001 years because that's just simply not the case.

(BRIEF PAUSE)

The last point to ponder in the 2004/2005 -- the pre-2004/2005 period and that's set out in a table by CAC entitled, Cross-Comparison of Road Safety and Auto Crime Prevention Expenditures to Associated Claims Costs.

The point to ponder is the question of whether MPI has a disproportionate investment in auto theft programming as opposed to road safety programming. I'm not saying there's too much in auto theft necessarily, but the question is, look at the numbers.

Look at the number pre-IIP. Look at the number pre-WATSS. For the 2004/05 year the expenditure per $1 million in related claims costs for auto crime was thirty-four thousand dollars ($34,000), more than twice the comparable number for road safety.

And as you move forward to the 06/07 year you'll see that the expenditure in terms of auto crime prevention strategies is more than double what it was for 04/05.

So, again, a question may be raised whether there's a disproportionate emphasis on road safety. Excuse me, I mis-spoke, a disproportionate emphasis on auto theft.

In terms of where we are today, we can look at the big three (3) programs on the road safety side; impaired driving strategies, occupant restraint strategies and speed related strategies.

We know that these have been priorities of this Corporation, the big three (3), since the 1990's. And we know that it was not until 2004 that MPI obtained -- did a cost causation study with regard to impaired driving strategies.

We also know that in terms of the empirical way to measure occupant restraint that no measure will be developed until 2006. And we also know in terms of speed that it's -- that the data does not appear to be -- or the study does not appear to be available until 2007.

One other interesting part of the record is the fact that MPI, to its credit, has been conducting crash causation data in the City of Winnipeg since 2002. And that's something which I'll refer to in my recommendations.

It doesn't have enough information, it indicates, to be statistically relevant but that data is starting to be studied and is starting to become available.

I want to refer briefly to the WATSS program. And I want to say that this is a program that my clients can unreservedly endorse. They think it's a program that makes tremendous sense for Manitoba Public Insurance.

And they want to point to how MPI approached the WATSS program as an example of how it should have approached IIP and as an example of how it should be allocating resources in terms of its big three (3).

Look what MPI did in terms of WATSS, page 760 of the transcript. It developed a business case. It identified a one (1) to six (6) potential payback. It did that business case based upon experience with other jurisdictions.

It looked at the model in Regina. So this was not a novel program. This was a program with which other jurisdictions had experience. Moreover, it took a gradual, tailored, measured approach to this program. It did a pilot project to its credit.

The results from Regina were good. The results from the pilot project were good. The numbers, one (1) to six (6) benefit, suggest a tremendously positive impact. Good payback, lower risk, assurance of an experience in other jurisdictions. That's a program that, from my client's perspective, makes good business sense for Manitoba Public Insurance.

Compare that to the IIP. Decide to do the program, then do a business case, don't do sensitivity testing, accept a two (2) to one (1) benefit, even though there's no other examples of this program, at least as I understand the evidence, elsewhere. A much riskier program, a much lower anticipated benefit, a program that gives some indication of being hastily embarked upon.

And again, compare this -- the WATS approach to the Corporation's approach to the big three (3), go back to the words of strategic review, resource allocation decisions being made upon emotional appeal, not empirical data.

So, from my clients' perspective, when is it appropriate for MPI to assume a leadership role? It's appropriate when there's careful empirical analysis, analysis that takes into account the risks that the Corporation is -- is expecting. Is this a low risk or medium risk program, which we would submit WATSS is. Or maybe it's a medium to high risk program which we would submit the IIP is.

Take a careful look at the potential benefits, potential costs and the risks associated with the Corporation, with the expenditure. That's when MPI should take a leadership role.

And, Mr. Chairman, just by way of summarizing this argument, and then I'll be moving on to short snappers. When we look at the issue of road safety and loss prevention, a starting point has to be the tremendous potential that MPI has to be a leader. It's got a monopoly, it's got access to the data, and it's got a real direct interest in reducing claims costs.

From our perspective though, my client's perspective, this is a story, in part, of unrealized potential. There's some promising signs, the Corporation's approach to WATSS is a good approach and we'd recommend it apply in different -- in future circumstances.

In terms of my rec -- my client's recommendations in terms of this area, and I think we're up to recommendation number 7, MPI should be adopting clear criteria in terms of cost benefit analysis, or loss prevention and road safety programs. Set guidelines on the acceptable payback, set guidelines on the acceptable level of risk, and set out a methodology on how you're going to evaluate these programs, provide an explanation.

We would ask that for the next Hearing, or my clients would ask that for the next Hearing, MPI be asked to report back on how they were allocating expenditures and loss prevention and road safety programs, a narrative of the decision making process and the criteria employed.

We would ask that the Corporation also be directed for the next Hearing to report on how they measured the effectiveness of programming on the big three (3), the big three (3) road safety programs.

MPI is saying now that they have data on impaired driving, in terms of the costs, in terms of which has some potential for cost benefit analysis. They're saying they're going to acquire it for occupant restraint and for speeding programming.

For the next Proceeding we'd ask that MPI be directed to report back, they be directed to finish up this -- the analysis in terms of speeding and occupant restraint for the next year, and report back to the Public Utilities Board on how this new information will be reflected in their decision making, how it can be used, how they expect to use it and what the options are.

Likewise, in terms of collision data, we'd ask that MPI be directed to report back and advise, when will they have enough data for it to be statistically relevant. We ask that they be directed to report back and ask how they intend to use this data, and what options they -- they have on the table.

In terms of the driver's ed program, my understanding, as I've indicated, is that MPI in the future may be moving away from crash reduction rates as a measurement. We'd ask the Board to affirm the importance of that in terms of measuring the successful program. And we point to the irony of -- of MPI in its discussions of graduated licensing, applauding crash reduction rates, while talking of moving away from that -- that criteria, in terms of -- in terms of driver's education.

A final comment relates to the inclusion of all loss prevention and road safety expenses and claims expenses. My clients have some problems with that. The loss prevention expenses, which are directly expected to reduce claims incurred in the foreseeable future, they think those are appropriately assigned as claims expenses.

The -- the softer programming, the road safety as it's currently operated, they would suggest belongs on the -- on the operating expense side.

On to DVL. Mr. Saranchuk aptly summarized much of the issues around driver and vehicle licensing and the acquisition of it by MPI. I'll highlight the five (5) areas of concern for my clients. One (1) is the loss of the -- of the 5.7 million in terms of fees related to vehicle registration, formerly paid by the Province.

Secondly is the anticipated worst case scenario shortfall, in terms of operating expense -- excuse me, in terms of the operations of DVL.

A third caution or concern relates to the promised synergies, the promised savings resulting from the acquisition of DVL. And I always get concerned when we deal with this subject, because my clients have seen -- been involved in too many rate cases, where the synergies promised have not emerged.

They've been -- they're only paper synergies, or virtual synergies, but not real synergies.

And so they take a very cautious approach to -- to that.

And a fourth concern, and I won't deal with the fifth, but a fourth concern relates to the fact, and it's a suggestion, at least as I understood it from Mr. Galenzoski, that the lines, at some point in time, between DVL and -- and the -- the rest of MPI may become blurred. And I refer you to page 216 of the -- of the transcript, as well as the concerns expressed in the preliminary comments of the Board at page 239.

So those are very real concerns from my client's perspective. They want to ensure that basic ratepayers are kept whole, and not asked to cross-subsidize DVL as an unintended consequence of the merger.

(BRIEF PAUSE)

MR. BYRON WILLIAMS: In terms of their recommendations for DVL, the -- my clients would be supportive of a process that ensures the protection of basic ratepayers from the costs incurred through DVL, and keeps the costs of DVL transparent.

They recommend that MPI be directed to issue a request, RFP, for a full costs of service study by an outside firm, commission such a study, and provide the study at the next GRA. And their hope would be that this would provide an objective basis on which to evaluate the impacts of the integration on MPI and its customers.

We recommend that in terms of the BPR or the clients recommend that MPI be directed to -- to identify the following: synergies, value of improved service, and indications as to whether the long term strategy for DVL is anything other than full costs recovered.

In terms of the Corporation's -- and I'm moving now to the investment portfolio, in terms of the Corporation's investment portfolio, I will be sharing my client's opinions or views on two (2) subjects, one (1) is the portfolio profile, and the second is the Provincial Management Fees.

And just by way of preamble, my clients note that as of June 30, the mix within the portfolio was fairly conservative; about 4 percent cash and short-term paper, 75 percent long-term bonds and 21 percent equity, 15 percent Canadian and about 6 percent US. And that's from PUB-1-58.

And they characterize that as overall high -- quite conservative because of its high debt component; the substantial proportion of debt and real return; the quality of the debt, meaning provincial and MUSH, M-U-S-

H, and the bulk of the equity being in Canadian dollars.

So they would characterize that as a fairly conservative portfolio. They also note, at least from their perspective, that the asset allocation targets have changed, mainly in a conservative direction by shifting the range upwards for real return bonds, inflation protected, and Canadian equity slightly, while shifting down the US equity range in the portfolio.

And generally, and this will echo the comments that my clients made in the last hearing, they don't have a particular problem with the conservative makeup of the MPI portfolio. They think a conservative portfolio prudently managed is a relatively good choice for Manitoba Public Insurance.

It provides a fairly reliable flow of base investment income from the bonds with potential for doing something better with the equity component.

In terms of the provincial management fees of nine hundred and seventy-two thousand (972,000) and that's from the transcript page 477, the clients have a number of concerns with these fees.

At least from their reading of the record, the provincial managers are not bond traders dealing with below investment grade bonds or minimum investment grade bonds. The type of debt that they hold is largely the result of a policy decision that has been made.

The portfolio is comprised of mainly government-backed bonds so there's no material default risk. And from the client's perspective, unless the -- the managers believe they can time interest rate changes, which they do not consider to be a good idea, there is really not much point in trying to take portfolio gains on the marketable bonds.

From their perspective, it begs the question of what are these fees for? They would recommend that the Corporation be directed to re-evaluate the provincial management arrangements and report back to the Board at the next GRA.

The clients would also recommend that MPI continue, at least in the short-term, with its conservative approach to its investment portfolio.

They would recommend that the issue of investment be revisited in perhaps a shorter timeframe than the Corporation anticipated, which was four (4) or five (5) years out, and probably they would say within the next three (3) years.

At that point in time they'd also be interested in hearing from MPI in terms of the composition of its portfolio from the perspective of ethical and environmental stocks.

Two (2) last points, Mr. Chairman. One (1) relates to the issue of the volume factor in forecasting and the transcript references are pages 108, 195, 197 and 198. And from my clients' perspective, they see MPI's approach in this area is another manifestation of MPI's anti-quantitative approach.

As they understand it, the volume factor methodology seems to use 1.5 percent for the bridge and test years and then 1 percent thereafter. And that that has been the case for the last two (2) years.

From my clients' perspective, they can think of only one (1) positive from this -- this approach; low variance. But, unfortunately, other than savings in costs of modelling, data collection, computing and analysis; that is the only positive attribution that they can find for the Corporation's current approach.

My clients would argue that the data presented in the attachment to PUB first run interrogatory number 2B displays a systemic under-forecasting of this factor, both in the original forecast and the revised forecast.

Notwithstanding a small data sample, in my clients' perspective an unbiased estimator would provide unbiased estimates that would sometime be below actual, sometimes above and the odd time pretty close to actual.

But our review -- or my clients' review of the most recent five (5) years for which revised volume factor forecasts and actuals are available shows that the actual exceeds the revised forecast for all but one (1) year, and this math is not on the record, but it's -- it's certainly subject to check.

They would suggest that for the years 2001 through '04/'05 inclusive, the actual average is 1.84 percent, the average revised forecast is 1.2 percent and they note that the analysis for the last four (4) years, the average annual volume factor is 2 percent while the revised forecast average for these years is 1.225 percent, a 38.75 percent under-forecast of actual.

And they'd also note that for the three (3) most recent years for which the application is approved and for which the revised forecasts and actual volume factors are given, 2002/03 through 2004/05, the approved average is 0.8 percent, the revised forecast average is 1.17 and the actual is 2.07.

My clients would note that, if the volume factor is understated, then revenues are understated and as MPI notes, claims are also understated.

But from their perspective, it's not a wash, because the difference between revenues and costs will also be understated and this isn't a real world example, but just taking this case where revenues are 100 percent -- a hundred dollars ($100), costs are eighty (80), that's a twenty dollar ($20) difference.

If revenues increase by 10 percent and costs increase by 10 percent, then profit, the difference between them, also increases by 10 percent; it's not a wash.

From the client's perspective, and they would recommend that MPI should undergo a methodological review in terms of its volume forecasting.

Factors that might be included include some type of statistical method of forecasting this factor, such as linear regression or trend analysis, time serious analysis could also be used.

Pay as you drive, the last comments of my clients. And my clients regard this issue with a great deal of interest, but also with -- with some caution.

They see the theoretical advantages of pay as you drive, being that rates are more reflective of risk; that it also may serve to reduce the frequency of accidents and may serve to reduce car usage, and they certainly understand how, for low income people, people on fixed incomes or people who drive less, including seniors, there may be some potential benefits from this.

In terms of their concerns, a risk that they see out of this program, one is technical limitations and they wonder whether the costs of policing may outweigh the benefits of reduced accidents.

It's a concern; they think it's deserving of future consideration.

They also recognize the point of MPI that it, in a monopoly environment, operates as a zero sum game. Unless you can meaningfully impact accident rates, if rates go down for some, they also go up for others.

So they see institutional limitations, technical limitations, and they also accept Mr. -- Mr. Dawson's concerns or comments through cross-examination that there may be privacy implications.

From the client's perspective, it's an interesting scheme; they'd like to learn more about it. It's not a scheme that they -- they feel the Corporation should be piloting next year, but they would recommend that MPI be directed -- directed to conduct a literature research on pay as you drive schemes including where it's been implemented, any empirical data available, and MPI's commentary on the scheme.

And my clients certainly have valued Dr. Miller's input in other proceedings and he's certainly provided valuable input in this proceeding as well. It's a debate that they don't have a final position on; they're certainly looking forward to exploring it as well.

Mr. Chairman, I lied to you inadvertently. I said I had no further issues. The last issue is collective bargaining and just a very brief point.

We know in the past that a big driver of costs has been the collective bargaining agreements reached with MPI's employees. Those may be very meritorious deals, but the Board has always been presented in a way with a fait accompli in the sense that labour costs have risen and the Board really hasn't had an opportunity to examine them prior to the signing of -- of the agreement.

We understand that negotiations are undergoing right now. We recommend that MPI be directed to report back at the next Rate Application, in terms of the terms of the agreement, the impact of the costs, and a rationale or an explanation in terms of the -- the basis for reaching that agreement.

We think that this will -- certainly it's MPI's choice, and in collaboration with the -- its union to reach a fair agreement. But we think reporting back to the Board in a more formal process would be an important discipline for the Corporation, and one (1) we would support.

Mr. Chairman, it's been a lengthy presentation, I apologize for that. But subject to any questions of the Board, those close my client's submissions.

MR. LEN EVANS: Just one (1) question, Mr. Williams. I was interested in your comments on pay-as-you-drive insurance as an innovative approach, and your recommendations that MPI conduct a literature search. Is -- is your organization, or are you going to continue researching this, because there's a lot of material on it, and it's a developing area.

And it is in -- you know, as I mentioned earlier, in place in Israel, Holland, South Africa, and there's a growing interest in the United States on the part of the environmental people.

I was wondering -- and given the fact that it's very consumer friendly, you pay -- you pay for what you purchase by way of insurance through your driving record, whether it's your intention to pursue this through research in the future?

MR. BYRON WILLIAMS: I suspect I'll wait for instructions on that.

Just from the client's perspective it's an -- an issue that they're cautious about, but they're very interested in.

And they're -- as part of preparing for the next Hearing, one (1) of my tasks, the centre on behalf of our clients will be to -- excuse me, to develop their awareness of the issue. So there would be some work done on our part, but I -- the better source for this information I certainly think, would be Manitoba Public Insurance, they have greater resources that they could devote to it.

MR. LEN EVANS: Okay, thanks.

THE CHAIRPERSON: Thank you, Mr. Evans, thank you, Mr. Williams.

So, we will adjourn for now and we will return at 1:15, and up next is Mr. Oakes and CMMG.

--- Upon recessing at 11:47 a.m.

--- Upon resuming at 1:18 p.m.

THE CHAIRPERSON: Mr. Oakes, any time you want to begin.

CLOSING ARGUMENTS BY MR. RAYMOND OAKES:

MR. RAYMOND OAKES: Thank you, Mr. Chairman.

Mr. Chairman, it was two (2) weeks today that I sat in front of the Board and indicated that, based on the review of the evidence filed, that it appeared that the biggest surprise was that MPI had approached this Board for an increase in the allowable level of RSR from the Board approved limit of 80 million up to $214 million.

Well I think I was mistaken, Mr. Chairman. I think the biggest surprise is that the witnesses could come and ask for that sum of money with a straight face. And one has to wonder whether they practised collectively or individually in front of the mirror to be able to ask this Board to approve two hundred and fourteen thousand dollars ($214,000) (sic).

Now, everybody in the room knows that the MPI witnesses are skilled executives, Manitoba can be very proud of the people that it has running its insurance company. And they contend that in applying best practices, using minimum capital test and dynamic capital adequacy testing, that they support a need for a higher level of RSR.

MPI, however, did not file any evidence indicating that either were best practices during the hearings. The best that I think that can be said of these two (2) tests is that they are common or standard practices.

As shown in the Coalition's cross-examination there are a number of other approaches that can be used to determine the RSR level such as dynamic financial analysis, ruin probability or expected policyholder surplus.

As well, the Corporation had its own in-house methodology that has been approved by this Board previously. And that's the approach, of course, that's been echoed this morning by CAC/MSOS.

These approaches are advantageous as they use statistical techniques to determine RSR levels. Comparatively, dynamic capital adequacy and MCT are deterministic, meaning that they are not statistically robust.

We learned, during the application process, that the minimum capital test is the standard test used by OSFI for capital requirements for federally regulated, property and casualty, private insurance companies. This test does not apply to MPI.

We heard, at length, the trite proposition that the Corporation is quite different than a private insurer in that it does not compete for business, it's monopolist on the basic program and really is, essentially, a monopoly as well on the extension side.

Due to its monopoly position, Mr.

Zacharias referred to in the opening argument, used to describe the situation as MPI having essentially taxing authority, and I think that bears repeating.

Of course, if it experiences a financial need it can, subject to proving its case before this Board, obtain the necessary funds to meet its needs in the event of a significant change in financial circumstances.

Contrast this, of course, with private insurers, if they have an unexpected change in their financial circumstances they could attempt to increase rates. However, with competition in the market the company would lose customers and not be able to acquire the additional revenues to resolve the financial situation, resulting in the corporation becoming insolvent. This is a markedly different context than what MPI operates in.

It is not a surprise then that OFSI would use a conservative approach to capital requirements, the minimum capital test, to set aside a substantial buffer of retained earnings to protect claimants.

MPI's claimants not only have the protection of MPI's monopoly power to protect them, but also the protection from privatization of the Corporation by statute as well as protection as part of the overall government.

We learn that dynamic capital adequacy testing is not scientific in the sense of a DNA test where different practitioners would end up with the same DNA results from a sample.

The results of dynamic capital adequacy testing varies by practitioner and model used. For example, using Ecklar's E-A-S-Y model, the EASY model would yield potentially different results than Pricewaterhouse's model.

We also saw that DCAT's results changed substantially between the August 2004 filing and the September 2005 filing.

Typical scientific protocols calls for test results to be reliable and replicable. For example, one researcher can use another researcher's data and should be able to duplicate the results. MPI's in-house approach to risk analysis previously met this test. We see with DCAT analysis this test is not met.

The Corporation was surprised that the -- the Coalition was surprised that the Corporation did not have an updated DCAT or MCT analysis when it decided on a higher RSR level.

Instead it relied on documents available from August 2004 which the Corporation had had prior to last year's hearings. Mr. Galenzoski opined at last year's hearings that MPI would need to even meet 100 percent of MCT test requirement. And that was referenced on page 354, line 20 of that transcript.

The Corporation had the report at that time so their need for 100 percent cannot have changed based on a new analysis. The CMMG is puzzled by the change in position on the part of the Corporation from last October to the spring of 2005, a period of about six (6) months.

Certainly, its risk profile had not changed that much in that time period. MPI's suggestion -- suggested it was an education process that led them to the proposed adoption of the MCT.

A process which, according to Mr. Galenzoski, at pages 23 to 25 of page 1002 of the transcript, began around the time of Order 179/01. When questioned related to the underpinnings of modern approaches to regulator capital and those being BASIL 1 and BASIL 2, MPI was unable to provide insights into either of those.

These accords are the international frameworks that have been the nexus of financial institution capital assessment and monitoring worldwide. If they were aware of the accords they would have been able to advise the Board that the recently adopted BASL 2 calls for a greater use of stochastic approaches and allows for the adoption of in-house models for operational risk assessment.

If MPI had staff in-house with either of the financial risk manager or professional risk manager designation, they would have been familiar with those changes.

It appears, Mr. Chairman, it was a hasty decision that led MPI to adopt the 100 percent MCT target. I use the word "hasty" as it is clear from this application and hearings that MPI was not -- had not fully investigated the size of the RSR it claimed it needed.

First is the lack of an updated DCAT report with a second report filed only at the last minute at the hearings. The second is Mr. Galenzoski's comment under questioning by Mr. Saranchuk at page 181 and 182 of the transcript at the time the change to mark-to-market accountant was being suggested as one of the reasons for the higher -- higher RSR. MPI had not done an analysis of the impact.

Only as the hearings approached was their analysis undertaken and only then did the Corporation realize that the change did not affect the income statement or rates. CMMG confirmed this during its cross-examination with respect to mark-to-market accounting at WCB.

The third evidence of this is the failure of MPI to consider the relevance of the MCT to Crown Corporation's including the taxation issues which I'll discuss later.

The fourth was a filing without an MCT target range, only 100 percent target was suggested until the process commenced.

The Coalition of Manitoba Motorcycle Group members have surmised that the reason is clear. The Corporation found itself in a position of riches after the last fiscal year and wanted to retain those riches instead of rebating them to the people who provided the funds, the ratepayers.

The Coalition queried the Corporation on trends and rate indications suggested to this Board several years ago. At the hearings for 2004/2005 rates, it was clear that the Corporation was proposing that higher rates were needed for '04/'05 and future years.

The Coalition argues that the Corporation hasn't adopted an overly conservation approach related to its finances.

At a high level, the evidence is clear.

For the 2004/05 years, the Corporation had a profit of 59.1 million compared to a forecast loss of $13.8 million as shown in Mr. Galenzoski's pre-filed evidence for the '04/'05 Application.

This year, we are learning '05/'06 looks much improved with a profit of 16.8 million, compared to a loss of 5.7 million used to justify the '05/'06 rates.

Conservatism is also shown in the discount and interest factors used by MPI in its Application. When it comes to discounting basic claims provisions, it uses a real rate of 3 percent.

For comparative purposes, we heard under cross-examination that ICBC uses a real rate of 5 percent. In response to CMMG-2-15 for its pension obligations, MPI uses a real rate of 3.75 percent.

MPI suggests the nature of its pension obligations is different; however they are long exposure liabilities the same as PIPP benefits.

When the actual rate on the MPI portfolio, relative to inflation is considered, it is closer to 5.5 percent and similar to ICBC.

Also suggests that the MPI assumption of 3 or 2 percent after PFAD is very conservative. If MPI adopted a less conservative claims approach, claims provisions would be smaller, resulting in a lower requirement for retained earnings under the MCT.

As well, the impact as we heard in cross-examination would be lower rates.

We heard during cross-examination that PIPP is the largest portion of claims provisions. When discussing the related PFAD with Mr. Palmer, the Board was made aware that there's a range of 5 to 15 percent that the Canadian Institute of Actuaries guidelines for the PFAD in this case.

With respect to PIPP coverages, as shown in AI.9, Exhibit 8, MPI selects numbers of either 12.5 percent or 15 percent, again suggesting a very conservative approach.

We saw that MPI has been increasing the rate of growth of its PFAD for the last three (3) years. As shown by the CMMG under cross-examination, the increase in PFAD beyond the amount that would have occurred due to claims provisions growth, is an additional $34 million.

When establishing rates, MPI uses 11.8 percent of premiums earned as its historical rate assumption. Five (5) and ten (10) year historical data suggests rates of 13 and 14 percent respectively.

The effect, again, is to overstate required rates.

Further conservative -- conservatism in their rate making methodology is evidenced as we saw several changes to approaches related to miscellaneous type costs.

For example, as shown in CMMG-2-45, the change in ICAC results in rates overall being about seven dollars ($7) higher than they would have been if the ICAC provision in the methodology was unchanged.

The overly conservative approach the Corporation uses is also evident when claims forecast and investment risk is considered.

Traditionally, MPI has been measuring this risk based on an approach where results are different from expected.

However, from a risk perspective, what really matters is when results are worse than expected. CMMG asked the Corporation to produce the measure where only unfavourable outcomes were considered. Known as the semi-variance as shown in CMMG-1-7 and 2-11, risk is about one-half (1/2) to one-third (1/3) of what the Corporation considers.

Given this improved performance from MPI's expectation several years ago when its Board was happy with an RSR level of a maximum of $100 million and when this Board had approved up to $80 million, it's hard to understand the reason for the higher retained earnings.

This excess, and the fact that retained earnings have grown rapidly make it clear, then, that the ratepayers have been overcharged in the past.

Instead of receiving a rebate due to rates being higher than necessarily -- higher than necessary, motorcyclists and other ratepayers have been asked to allow MPI to keep their money for them.

To add insult to injury, as I mentioned in the opening statement, MPI has chosen to use part of those excesses to establish a special fund that only includes certain vehicle groups, the Immobilizer Incentive Fund.

Motorcyclists cannot, as shown in the response to CMMG-1-18, benefit from this fund. Nor can large trucks, as shown in response to CMMG-2-24.

These groups contributed to the build up of retained earnings which, based on past practice, would have been returned to them in a form of a dividend and instead, they are being asked to forego a dividend and subsidize other vehicle groups.

Motorcyclists who buy a new car with a factory immobilizer are being asked to subsidize customers who chose not to buy a immob -- a new immobilizer equipped vehicle.

The Coalition finds this situation ironic given that for years MPI has argued that motorcyclists are being subsidized by passenger vehicles. With the Board's recent ruling on loss transfer this argument no longer holds with expectations in the motorcycle community that rates will decline in the future.

The Coalition argues that setting aside funds in the Immobilizer Incentive Fund sets an undesirable precedent if approved by this Board. And I realize that MPI has gone ahead and isn't seeking the approval of this Board directly.

Agreement with this approach positions the Corporation in the future to fund all sorts of expenditures which are perhaps socially desirable, but stretch the Corporation's mandate in an unacceptable manner.

Perhaps it's socially desirable to fund additional diagnostic equipment at the Manitoba Health Sciences Centre which would benefit claimants and Manitobans as a whole, as an example. Is this something that by setting a precedent in this matter that MPI can go ahead and do in the future?

Additionally, by appropriating retained earnings in this manner rather than flowing them directly through operating costs and into rates via approved actuarial techniques, it sets an undesirable precedent with respect to future initiatives that are more corporate in focus.

Perhaps the Corporation wishes to build a new computer system, a new building, a new vehicle fleet. These could all be funded through set aside funds, moving them once the precedent is set and removing them from direct scrutiny by the ratepayers as they effect rates through operating expenses.

Flowing these costs through operating expenses directly would also prevent or minimize cross-subsidization. It's important to note that MPI could not provide any examples of any other public or private insurers who appropriated funds in this manner.

We saw in the CMMG Information Requests and the cross-examination related to operating claims expenses and broker expenses that MPI is ahead of the pack in terms of growth for these costs since 2001.

If costs had tracked SGI or ICBC these would have been significantly lower for 2004/05. Perhaps it has been the good financial fortune that the Corporation has experienced that has resulted in this rapid expense growth rate relative to other public insurers since management perhaps is not compelled to be rigorous in controlling costs.

In the future, with some $214 million in RSR funds plus other special set aside funds for who knows what, it may be hard to envision that the Corporation will become more expense conscious.

We have ample evidence that staff is being added rapidly as shown in staff levels with an increase in staff of forty-nine (49) person years in total in '04/'05 as shown in CMMG-2-35.

MPI, to summarize, justifies its needs for a larger retained earnings on four (4) premises. It is retaining more of the risk and reinsuring less. The absolute dollar amount of claims provisions are growing. The absolute dollar amount of investments is growing. Investments may need to be mark-to-market.

The Corporation also suggested that the minimum capital test as an appropriate measure of this higher risk since ICBC uses this approach. At a high level, the CMMG asked me to provide the Board with the following comments on the first four (4) premises. Once those are dispensed with I'll provide a more detailed assessment of why the MPI argument fails.

On the first point, it may be true that the Corporation has dropped some of its lower reinsurance policy limits. It is unclear why this change did not result in MPI's Board raising its RSR target range when retentions were first raise -- raised in 2001.

We also saw, during cross-examination, the Corporation is unsure, perhaps, of the size of the effect; in response to PUB-2-10(c) there's a suggestion of the quantum effect of the change if serious losses of '03/'04 were considered. We have, however, testimony from Mr. Palmer that those serious losses essentially dissipated so that would not be a factor in the purported higher risk.

This leaves -- this changes having some potential to suggest a small increase in retained earnings level, but certainly does not justify changes of more than two and a half (2 1/2) times.

Claims provisions are indeed growing. In lockstep the Corporation has been increasing the provision for adverse deviation, the PFAD, included in those claims provisions. These have nearly doubled from $98 million in 2001 to 189 million in 2005 as shown in response to CMMG-1-5. These provisions are a risk buffer for a mis-estimation of those provisions.

As described previously the CMMG showed in cross-examination that MPI has been more aggressive in setting its PFAD in recent years. This reinforces the actuarial opinion provided by Ms. Addy that MPI has been conservative in setting reserves as shown on pages 6 through 10 of the Barron report.

It stands to reason that if unpaid claims provisions are rising that the amount of investments matched to the claims would grow. This is not a new risk or additional risk, it is the risk described previously related to claims provisions. Counting the higher levels of investments held to meet the higher levels of claims provisions merely double counts that risk.

Investments may indeed be marked to market in the near future. However, as shown in cross-examination this is merely a reporting change, it doesn't change the risk portfolio or the risk profile of the Corporation's investment portfolio.

As mentioned previously it does not affect the income statement or rates. Perhaps what it does do is cause management to have additional risk in that they have to manage the portfolio more effectively to prevent adverse effects on their balance sheet.

To the way of thinking of my Client, they do not see any need for the ratepayer to provide MPI management and executive with a buffer to protect themselves from not operating the company's investment portfolio in a manner that prevents this reporting risk.

On a more detailed basis, MPI's approach to establishing the RSR reserve is flawed on a number of grounds. The Corporation has suggested the minimum capital test is legitimate because IBC -- ICBC uses that approach. On the surface this appears to be the case as ICBC does use a minimum capital test target for their basic plan.

However, if the Corporation had spent more time doing background research they would have found that this target came out of the black box of government policy making under a special directive. It was not a target or approach that ICBC proposed.

Having a higher level of retained earnings based on the MCT may be appropriate at ICBC given the greater market risks it has. ICBC is much more exposed to competition than MPIC with only 60 percent of their revenues derived from sales in the basic plan. Comparatively, MPI derives about 90 percent of its revenues from the basic plan.

The second reason, potentially, is that this high RSR target as been selected for ICBC may be less pleasant. Having sufficient retained earnings in place ripens ICBC for privatization since a company with retained earnings near the private sector's standard is easier to sell than one that does not. This is not something that would happen under our existing legislation in Manitoba.

If the Corporation has studied in detail the British Columbia Utilities Commission review of the minimum capital test as it is applied to ICBC, it would have been aware that the BCUC has ordered ICBC to apply the MCT with margins removed from the required capital side of the equation. I hope you were able to follow me through all of those. I could maybe wrap them out or something for you, but it's a lot of -- a lot of C's in there.

This results in the lower level of retained earnings than would be required if the MCT is simply, blindly applied.

The Corporation noted, in its cross-examination of the Corporation, that in the former case, Mr. Weiland, a practising casualty actuary, was in agreement with the BCUC approach, having made the following statements under cross-examination at the ICBC hearings at page 893:

> "The need to have margin on a reserves is directly related to the capital position of the organization."

And so, if a company is adequately capitalized, by whatever definition is decided upon or mandated, then the need for that 5 percent margin on unpaid claims disappears.

Relating to these claims provisions for the basic AutoPac, we are talking about amounts held in the provision for adverse deviation which are nearly equal to the 214 million MPI is proposing for the RSR.

If that is their target they have it more or less covered so there's no need for an extra retention as retained earnings of RSR.

The Coalition scrutinized, in cross-examination, the difference in the treatment of investment capital losses and gains in the Minimum Capital Test.

For available capital purposes, a 100 percent of losses are considered, while only 50 percent of gains are considered.

CMMG brought to the Board's attention that at the most recent ICBC hearings, Mr. Chaudry testified to the BCUC that based on his conversations with OSFI -- here we go again, that the major consideration in the 50 percent reduction for gains was income tax.

For ICBC, and logically for MPI, the effect of not paying income tax status increases the available capital from investment capital gains from 50 percent to 80 percent.

The Corporation, in late contact with Mr. Christie via the Blackberry, suggested that the 50 percent reduction in capital gains is due to variability. The Corporation suggests that the variability argument is not logical.

If the reason for the 50 percent reduction were due to the potential that the capital gain may dissipate from a falling investment market, then correspondingly the 50 percent would apply to capital losses, as those losses may dissipate once the market moves upwards.

Based on the variability argument, one would expect a symmetrical approach, not one that is different for gains and losses.

The Corporation is left to wonder why a P&C company with, say, a 100 million in capital gains in it's portfolio would not take , the gains. Perhaps it is due to earnings management or perhaps it is due to tax planning.

From a Minimum Capital Testing perspective, it would always be better to realize the gain in order that 100 percent flowed through to retained earnings, thus improving the MCT ratio.

This is much better than only accepting 50 percent of the gains if they are not realized. Again, this suggests that the 50 percent reduction must somehow be related to taxes.

The Corporation suggested, under cross-examination by Mr. Saranchuk, at pages 350 and 351 of the transcript, that Crown Corporation's Counsel agreed with the Corporation with respect to the adoption of the MCT as an appropriate target.

The Corporation could not provide any documentation that supported this belief. Ms. McLaren stated that she had not spoken to that Board regarding the issue. When question related to the expertise, the Crown Corporation's Counsel to make a recommendation in this regard, we found it was not made by an actuary or anyone with particular expertise in capital adequacy.

In the end, what we have is no evidence that the Crown Corporation's Counsel supports the MPI position.

Perhaps MPI is confused in this matter as they were when they indicated that Crown Corporation's Counsel had no interest in customer surveys as shown in section SM 8.10. We learned during this process that the Counsel had something greater that no interest in that topic.

The CMMG suggests that the Board must disregard the information related to the Crown Corporation's Counsel endorsement of MCT.

Even if one buys the dollar investment --

the dollar amount of investment risk is not double counted, the dollar amount of the claims risk is not double counting the dollar amount of the claims risk, the Corporation has undertaken no direct risk management strategies to mitigate that risk.

It was shown during the Information request and in cross-examination process that the Corporation has skilled staff who could undertake direct risk management strategies to mitigate downside investment risk.

With three (3) chartered financial analysts on staff who have taken the necessary training, it would be a simple matter to hedge the Corporation's portfolio against adverse changes in the fixed income or equity market.

The Department of Finance does it. Farmers do it. But for some reason, in spite of having the skills in place, MPI management does not do it. Perhaps it is because they are not under pressure to make the investment risk better, as we noted earlier.

Previously I discussed the issue of mark-to-market accounting and the purported risk to the Corporation. Again, it's a balance sheet risk. It doesn't affect the income statement and rates and it dulls the argument made by the Corporation that mark-to-market accounting will increase risk levels.

The Corporation's already dull argument on this point is -- is made worse when one considers that nearly one-quarter (1/4) of the Corporation's assets are MUSH bonds. These are held to maturity and consequently mark-to-market does not have a material effect.

The -- the Coalition also uncovered during its examination that the Corporation holds a reserve for default on reinsurance of $3.7 million as shown in the response to CMMG-1-103.

Overall, my client suggests when it comes to retained earnings for basic, the Corporation not only wants to have a belt, it wants suspenders. And then it wants duct tape and then it wants rope to secure both.

The belt is the provision for adverse deviation which stands at $189 million. The suspenders are the suggested $214 million of RSR reserves, plus set aside funds such as the IIF of $40 million.

The duct tape is the reduction in investment gains by 50 percent or about 20 million and the rope is other conservative practices such as using a very low discount rate for discounting claims reserves and holding reserves such as those related to reinsurance default.

In total, by the Coalition's calculations, the Corporation wants to hold risk margins of some $450 million for basic, excluding the impact of the conservative discount rate assumption.

On top of this, MPI, of course, has some retained earnings to keep in the mattress for a rainy day. Those are the retained earnings held in SRE and Autopac extension. When the $80 to $90 million of current retained earnings from the Autopac extension and SRE mattresses are added, MPI wants to hold a total of about $550 million in retained earnings; that is, it wants to hold a half a billion dollars.

The Coalition, in its cross-examination, pointed out that a level of retained earnings, if the minimum capital test is used, will grow continuously as the claims provision grows. Claims provisions are dependent on the outcomes of actuarially -- actuarial reviews which deal largely with loss development factors and the provision for adverse deviation and selected discount factors.

Since the MCT hinges so heavily on these factors and moves with them, the CMMG is of the opinion that future rate applications will become mired in detailed reviews of these as the Corporation's efforts will be directed to setting these factors conservatively while the Intervenors will focus on having factors that are more liberal.

In the Coalition's view this suggests very strongly that a fixed target be adopted for the RSR. In summary, related to the RSR and retained earnings, the Coalition argues that based on the facts and the preceding discussion, MPI has not made a case for an increase in the level of retained earnings.

For these reasons the CMMG suggests to this Board that retained earning targets be held at the 50 to $80 million level with any excess retained earnings rebated to the taxpayers.

In the event that the Board decides a higher target such as the $90 million recommended by Mr. Todd, the CMMG is of the view that a fixed maximum be set for a multi-year period.

As a practical matter, the Board may wish to order the Corporation to hold these retained earnings in excess of $80 million in a special account until the 2007/08 year.

At that time, and across the board, surplus dividend could be distributed to ratepayers in a similar fashion as the previous dividend.

This would serve to dampen any adverse effects of the one-time move to loss transfer, assisting in that transition.

And, Mr. Chairman, there was a number of questions and answers produced to the Board this morning which related to the six (6) issues posed by you on October 11th and I -- one of the questions asked whether a rebate would go to those major classes that have premium insufficiency.

And I would suggest to you that if there were any discrimination on that basis that it would be unfair in the sense that a number of the motorcyclists who have the more expensive motorcycles are at rate sufficiency as Mr. Saranchuk pointed out in his review.

Similarly a number of private passenger vehicles require some 22 percent increases which was noted by the Corporation on an undertaking. So, I think that if there is a surplus dividend considered, it has to be distributed rateably as it was the last time amongst all classes of vehicle.

The coalition argues that the funds allocated to the IIF should be amalgamated into the RSR with these funds becoming part of the disburseable amount. It's interesting to note that Mr. Galenzoski thinks of these as part of the RSR as shown in his pre-filed testimony.

And that testimony on page 6 he states:

"The Immobilizer Incentive Fund is an

appropriation from RSR.
The CMMG is particularly concerned that allowing for operating expenses to be funded in this matter sets an undesirable precedent, masks operating costs as they flow through to rates, and is direct cross subsidization of certain classes and territories by other classes, territories and major uses."

While the biggest surprise the Corporation served up for 2006 was this RSR target which I have just dealt with. The Corporation also served up some surprises directly related to motorcycle rates. The first surprise was the Corporation was proposing another large increase in spite of two (2) factors.

The first is the substantial decrease and rate indicators for motorcycles as shown in CMMG-1-98 with the '95/'96 year the data had some 3.5 million in large losses as shown in TI.20 dropping from the equation. The next year the indicator will likely drop again.

Combined with loss transfer which the Corporation suggests will have a rate reducing affect, motorcycle rates are most likely to decline in 2007/08.

And that's the opinion of the CMMG.

The coalition's members cannot understand how this approach with an increase in '06/'07 and a decrease in '07/'08 will achieve MPI's longstanding goal of rate stability.

On this point the coalition argues that motorcycle rates should be frozen for '06/'07 given the potential dislocation affects on other vehicle classes with loss transfer implementation. The coalition suggests the Board may wish to consider an across the board freeze for all vehicle classes '06/'07 with only vintaging changes made for passenger vehicles and trucks.

Motorcyclists were happily surprised, it's something you haven't heard much from us this afternoon, but the introduction of pleasure use for motorcycles provided them with the same classification plan as used for passenger vehicles and light trucks. And we accept the differential which was proposed.

Motorcycle owners were less pleased though with the ongoing difference in the approach used by MPI with respect to credibility and performing rate line adjustments. The evidence is clear for large vehicle groups such as passenger vehicles and light trucks the Corporation uses credibility when determining the rate line adjustment. For smaller groups, motorcycles, that approach is not used.

And that occurs in spite of the objective credibility being to account for the size of the data and the variability of the data used in analysis. Smaller the amount of date of course usually the lower the credibility. The more variable the data, the lower the credibility.

The Corporation's application has this reversed and subsequently motorcyclists are treated inequitably. Even if the highly variable PIPP costs are a significant factor in the rate groups for motorcycles as the Corporation indicates, this does not decrease the need to use credibility. In fact it suggests that credibility is more important.

The Corporation has long suggested that the reason for the rate line adjustments is being heavily weighted to lower rate groups is due to PIPP costs being high and essentially flat across rate groups. We provided material for reference in our Exhibit Book during the Hearings. This wasn't correct across the middle of the rate groups with PIPP cost trending upwards over those rate groups.

With rate group zero which the Corporation sought to add, the graph becomes a little more distorted but certainly not flat as is being suggested by the

Corporation for the reason of applying a constant PIPP load for each rate group.

The Corporation, in response to CMMG-1-81 responded:

"It has not conducted an analysis of motorcycle engine displacement ranges to ensure that rates across these ranges were correct.

Since vehicle risk for motorcycles is measured as a combination of declared value and engine rate group, without adjusting the other, one may yield incorrect results. For example, a higher rate line for a low declared value ranges may only be applicable for a specific engine range. Not all displacement ranges.

Considering both simultaneously, as the case with the many factors used in establishing CLEAR rate groups for passenger vehicles would eliminate this potential distortion in rates."

Because credibility was not used the doubts about PIPP costs being flat across rate groups and the failure to consider declared value ranges in the analysis, the Coalition argues the motorcycle rate group line adjustment for '06/'07 should not proceed.

The Coalition argues that the Board should order the Corporation to provide two (2) analyses for consideration with the '07/'08 application. The first would be similar to the approach today, however, using credibility and looking at the declared value ranges in combination with engine displacements.

The second would show the impact of applying Insurance Bureau of Canada rate groups as shown in CMMG Information Request 1-82. In both cases, it would be desirable to have the impacts on the vehicle populations provided.

With respect to road safety, noted that the Corporation's expenditures on road safety programming for motorcycles is about ninety thousand dollars ($90,000) per year.

It's a relatively small amount and less than what MPI spends on sponsorships for organizations such as the Blue Bombers, Manitoba Moose and the others listed in CAC/MSOS Exhibit 5.

Given the unique characteristics of these vehicles, the Coalition suggests that the Board direct the Corporation to investigate innovative motorcycle road -- specific road safety practices in other jurisdictions and report to the Board on these in '07/'08.

The objective would be to find successful programs that could be implemented subsequent to that rate application.

The concern that the motorcycle community continues to have is that the anticipated decline in rates with loss transfer will not occur due to data errors in the MPI coding system.

Last year we heard of a massive change in dealer rates due to data errors. We saw at TI.20, page 33 of the application, that there was a change in coding procedures related to unidentified motorists.

This year in the Information Request CMMG-1-48 we saw, once again, the single vehicle accidents for motorcycles continue to rise reaching levels that are more than double the amount of other jurisdictions.

The Corporation has not been able to provide the CMMG with adequate comfort that this data is correct. The Coalition's concern is that with more single vehicle accidents coded before long the desirable effects of loss transfer for the motorcycle community and related industry will be washed away.

As well, when in -- regarding the error in the calculation of sport bike differentials, the Coalition introduced evidence that MPI had made an error in the calculation of sport bike rates -- sport bike rates for 2005/06.

The overcharges were carried forward into the '06/'07 rate application. The size of the errors suggests that this could not merely be rounding of numbers or something similar. As in many cases they're nearly 1.5 percent and there is -- are as high as thirty-nine dollars ($39). The CMMG members would like a rebate for the overcharge disp -- dispersed to each overcharge customer.

As these final arguments have been rather lengthy, let me summarize them before I comment on costs. The Coalition of Manitoba Motorcycle Groups argues that the Corporation has not shown the minimum capital test is appropriate for determining their retained earnings level for the basic insurance program.

The Corporation has not proved its case with respect to the need for higher retained earnings. And, consequently, retained earnings should be held at the maximum level of $80 million. The IIF should be amalgamated into the RSR and considered in the calculation of the excess beyond $80 million.

Retained earnings beyond the 80 million should either be rebated in '06/'07 to all vehicle owners or held in a special account for distribution in '07/'08.

Retained earnings should not be directly linked to the minimum capital test as this will cause retained earnings to grow continuously.

The immobilizer incentive costs should be treated as regular operating costs and throw through -- flow through the rating methodology in the same manner as all other operating costs. These costs should be assigned to the vehicle classes who stand to benefit therefore, and thereby eliminating cross-subsidization.

The one hundred and forty dollar ($140) rebate be -- should be provided to all customers who have immobilized their vehicle either through purchases after market or on original equipment installations. The Board Order -- the Board should order the Corporation that set aside funds such as the IIF will not be allowed in future applications.

Motorcycle rates should be frozen until '07/'08 except for the introduction of the pleasure use category. The increase in number of rate groups for passenger vehicle and light trucks be denied until further information is provided relative to the need for higher maximum insured values for passenger vehicles and light trucks.

The Corporation provides scenarios for the motorcycle rate line adjustment in '07/'08 that would include engine displacement concurrently with declared values as well as scenarios where the IBC rate groups are used.

Credibility be applied to motorcycle rate groups in this analysis when undertaking the scenario where MPI data is used to set rate groups.

The need for higher motorcycle declared value ranges should be assessed. The Corporation should undertake an analysis of motorcycle safety programs in other jurisdictions and report back on these for '07'/08 with a goal of implementing some of the more successful programs in '08/'09 and forward.

The rate differential for sport bikes should be corrected retroactively for '05/'06 rates with rebates of the amounts of the error paid to sport bike customers.

The coalition will be applying for costs and believes it has met the requirements of class by the Board. We've certainly brought to light a variety of issues that were relevant to these hearings. I think we aided in a better understanding of these issues.

We've participated in a responsible manner, cooperated with other Intervenors. Where a not -- CMMG is a not for profit entity that could not present its case without an award of costs and it has a substantial interest in the outcome of the hearings.

This application of course was a very large endeavour. The unexpected retained earnings issue resulted in substantial efforts on behalf of the CMMG and I suspect the other Intervenors.

There was certainly comments relative to having the documents -- documentation in electric -- electronic form. While the Corporation should be commended that it was a green -- it was a green initiative, it was certainly difficult sometimes to work with that.

But throughout this difficult and lengthy process the Coalition wishes to thank the Board, Board Counsel, the Corporation and the other Intervenors for the time and attention given to the motorcycle community at this hearing. Thank you.

THE CHAIRPERSON: Thank you, Mr. Oakes.

Mr. Evans...?

MR. LEN EVANS: Thank you, Mr. Chairman. Thank you, Mr. Oakes, for a very comprehensive review and a lot of detailed information, a lot of -- lot of thoughtful suggestions that you put forward.

I listened very carefully. I don't believe you touched on the matter of investment portfolio. The representative of the Consumer's Association of Canada this morning was talking about the portfolio, you know, about three-quarters (3/5's) in bonds more or less and over -- just over 20 percent in equity. I think what he said -- Mr. Williams said 4 percent in cash.

At any rate he observed that it was a conservative approach, but that his organization agreed with that conservative approach. I was wondering whether your group had any views on this investment portfolio and where it should be going?

MR. RANDY OAKES: Well, as I stated at the outset we're very proud of the skill that is before us in terms of the MPI Panel and certainly they have the resources to determine what are the best investments for a corporation of their nature and I -- we really don't have the background skill to be able to evaluate that investment mix.

MR. LEN EVANS: I see. So, you -- you don't have any view on that subject?

MR. RANDY OAKES: I certainly don't have any difficulty.

MR. LEN EVANS: Okay. Thanks.

THE CHAIRPERSON: Thank you, Mr. Evans. Thanks again, Mr. Oakes.

Mr. Roberts, Manitoba Used Car Dealers?

CLOSING ARGUMENTS BY MR. NICK ROBERTS:

MR. NICK ROBERTS: Thank you, Mr. Chairman and Board Members. It has once again been a pleasure to attend these meetings representing the interests of the automobile industry in Manitoba.

The MUCBA is dedicated to the enhancement and improvement of the automobile industry in Manitoba for the benefit of the province's consumers through identifying public agenda issues affecting the industry and contributing to the decision-making process.

In doing so we represent the collective interests of small to large car dealers. We are the only group here representing the best interests of the dealer population which numbers some fourteen hundred (1,400) dealers and employs thousands of Manitobans in the automobile industry.

When I was thinking about closing remarks for this years' hearings I was tempted to say ditto to the remarks of Mr. Oakes and Mr. Williams.

In both cases, there was a strong resistance to need MPI to carry extra retained earnings. The MUCDA also believes there will be excess retained earnings held by MPI if the Board approves the $214 million target MPI is proposing.

The members of MUCDA and Manitobans employed by those members agree. Considering the group Mr. Williams represents, the group Mr. Oakes represents and my group, the Board, I believe, has a reasonable cross-section of the Manitoba populus, all of whom are saying no.

MPI, as we heard during cross-examination, has not conducted polling of the public with respect to their opinions in this regard.

During our cross-examination we discovered that in spite of doing a variety of surveys on many topics, the Corporation did not wish to consult with the ratepayers with respect to disbursement of retained earnings beyond the Board's imposed maximum of $80 million.

It would have been simple enough to ask a few questions related to how the funds should be expended, or if more monies should be held.

This would have provided the gathering with valuable insight into what Manitobans want to be done with the money.

The MUCDA also has a concern with the Immobilizer Incentive Fund. The first problem is the fund is in place today and was not part of the 2005/06 rate application.

By bearing -- by bearing costs of the Immobilizer initiative as retained earnings, it appears MPI believes it can skirt the PUB process.

However, as dealers, we know where the funds for the IIF came from; they came from car dealers, commercial truckers and other vehicle classes.

This was not some money that dropped from the sky; it was expected -- it was created because rates were higher over the last number of years than expected costs.

This Board has jurisdiction over those rates. If they are higher than cost, the excess should be returned to the customers.

For Manitoba car dealers any amounts beyond the current PUB target of $80 million, we believe, should be returned in the form of a surplus dividend to all customers.

The MUCDA showed, during cross-examination, that the cost of the IIF, based on a hundred and seventy-two thousand twenty-two (172,022) installs, would be about $24 million.

When asked to reconcile this amount to the 40 million, MPI's first response as shown on lines 3 to 10 of page 813 of the transcript, that it was due to administration and lost investment opportunities.

If this is true, $16 million is a pretty outrageous assumption. That amount is two-thirds (2/3's) of the actual costs of the immobilizers.

When asked for reconciliation of the costs to 40 million, as shown on lines 14 through 24 of page 814, MPI suggested it was contained in PUB/MPI-1-6.

A review of MPI/MPI-1-6 (sic) provides neither reconciliation nor any information that can be added to reach the $40 million number.

At best, the total cost based on that information request is $32 million.

It therefore remains unclear why the Corporation needs the extra $16 million set aside from retained earnings. Given the onus being on the Corporation to prove its case, MUCDA suggests to the Board that if it approves the IIF, that the cost be limited to $24 million, not $40 million. The remainder would be returned to the RSR.

If the Board does rule in favour of an IIF the MUCDA suggests this should be a one-time event, and for the future the Board direct the Corporation to appropriate retained earnings only to the RSR. To do otherwise allows the Corporation too much leeway to be creative with these reserves in the future.

The MUCDA -- MUCDA, in Exhibit 3, showed that the Corporation had underestimated the entire cost of the program, since it did not include the cost of foregone revenue from the forty dollar ($40) annual rebate.

The cost of that portion of the program is some $39 million to 2024/2025 on an undiscounted basis or about $28 million on a discounted basis. The lion's share of the cost, more than 75 percent in either case, occurs before 2015/2016.

MPI suggested that the costs of the forgotten rebate were based on taking a long period of time, as described by Mr. Galenzoski at lines 9 through 22 on page 817 of the transcript.

This is incorrect and it's quite a curious comment that given that proper cost benefit analysis always considers all costs and benefits including foregone revenue over the lifetime of a project.

In this case, the project lifetime would be -- would be the estimated date at which the last immobilizer equipped vehicle leaves the fleet. In this sense, the MUCDA exhibit is conservative since it ends its analysis with some five thousand (5,000) immobilizer equipped vehicles still on the fleet.

It is also a curious comment given Mr.

Galenzoski's familiarity with long duration process -- processes and their financial analysis. Certainly the long-tailed nature of PIPP claims provides him with ample evidence of the importance of considering the full-time duration of costs.

The MUCDA also showed, during its cross-examination of MPI, that the IIF is a cross-subsidy. Certain vehicle groups are not eligible, heavy commercial trucks are not eligible, as are other groups.

For practical purposes, other territories are subsidizing Winnipeg as we saw from the information filed by MPI during the MUCDA cross-examination. All vehicles are subsidizing the top one hundred (100) as described at page 593, lines 1 to 8, of testimony.

Purchasers of new vehicles that are immobilizer equipped do not benefit. All these owners contributed to the fund which was used to create the IIF. MUCDA argues that based on past precedent the Board has been clear that cross-subsidization is not appropriate.

The MUCDA is supportive of avoiding cross-subsidization and in the past has been clear in this regard as well. Specifically, it has stated to the Board that it is willing to pay for the costs of providing dealer insurance, provided the case in support of the rate is clear and correct. Dealers are not asked to subsidize others.

The MUCDA is not against the Corporation endeavour to eliminate thefts in a proactive manner. In fact, we are 100 percent in favour of it. Our Association, however, believes that what is wrong is the funding approach.

A simpler solution that eliminates cross-subsidization would be for MPI to assign the cost of the immobilizer incentive to the eligible classes on the basis -- on the basis of the costs to the class of the incentive, just like any other operating cost. This would eliminate the need for the IIF and those funds would be returned to the RSR.

As well, the MUCDA suggests that the Corporation fully fund the immobilizer installation with no payment required by the customer. By eliminating the forty dollar ($40) rebate much of the cost would be covered.

The approach would serve three (3) purposes. It would minimize cross-subsidization since rates for different classes would be adjusted based on their use of the program.

It would set owners who bought factory immobilizer equipped vehicles on a more equal footing with those who received the free immobilizer installation since new cars with an immobilizer installed often benefit from lower rate groupings.

It would increase the rate of immobilizer adoption since the owner would have no up front costs. A hundred and forty dollars ($140) may be a stretch for many families in the areas hardest hit by vehicle thefts.

And here's my short snapper. Assuming an install rate for 2006/2007, as shown in PUB-1-9 Exhibit 2, with five thousand (5,000) installs the rate effect would be $1,400,000; that's two hundred and eighty dollars ($280) times the five thousand (5,000) installs.

Assuming this was applied to territory 1 with about four hundred thousand (400,000) eligible vehicles, as shown in PUB/MPI-1-9, the one-time increase in the rate base would be about three dollars and fifty cents ($3.50) per vehicle.

This would roughly be about a .3 percent increase for the group. If it applied to all territories with some seven hundred thousand (700,000) eligible vehicles the cost would be about two dollars ($2) per vehicle insured, and it would be about a .15 percent of an increase. In either case, these are not material increases.

Costs would rise to the peak of forty-two thousand (42,000) annual installs in 2007/2008. The potential rate increase for this year could be buffered by the Corporation making less conservative assumptions in its rate making methodology related to discounting investment income and similar variables.

After 2007/2008, the number of annual installs is expected to decline, at which time the annual cost would decrease in lockstep.

When the program is completed the cost would be removed from the rate base.

On the subject of data, our association once again suggests to the Board that MPI data systems be scrutinized. We were glad to see the actuarial standards related to data are in place. Our suggestion to this Board is that MPI provide documentation at the next hearing related to their compliance with the standard.

Perhaps they should seek an independent review. Confidence in the data, I might add, would be quite important next year as loss transfer is implemented.

Our concern about data quality relates to large increases we have seen in dealer rates in the last five (5) years.

We heard from MPI that in territory 1 rates went up five hundred and sixty-six ($566) dollars, while in territory 2 they went up five hundred and twenty-four dollars ($524).

At the same time the number of dealer plates fell some 16 percent. The relationship, while not statistically proven, is pretty clear; the higher rates are starting to affect the dealer group.

As car dealers we are not against paying our share of costs; we are uncertain that the costs being assigned truly belong to the dealer class, and accordingly ask for an independent review.

MPI appears quite resistant to this, or in filing documentation to support their opinion that the data is accurate.

At ICBC the rate making methodology is signed off by both the Corporation's internal actuary, Ms. Minoque and their consulting actuary, Mr. Wieland.

As well, the rate filing has a specific reference to the quality of the data. The information is available from the response to CMMG/MPI-2-7 at pages 15 and 16 of the ICBC actuarial rate level indication analysis, filed with the British Columbia Utilities Commission, dated August 22nd, 2005.

The MUCDA also queried MPI related to the decline in loss development for accident benefits other. Overall, compared to the increase for commercial class, given an expectation that commercial class accident benefits other would also be expected to decline, and then dealer plates would be positively affected.

MUCDA received the response to MUCDA/MPI-1-9. This showed a slight increase in lost development form twelve (12) months to ultimate for commercial class.

The MUCDA observed that the response provided was incorrect. The response provided only the twelve (12) twenty-four (24) loss development as shown in Exhibit 22-13 of TI.20.

Perhaps this is the reason for Mr. Palmer's confusion at lines 8 through 16 of page 804 where he speaks about this answer and the related exhibit, referring to twelve (12) month to ultimate twenty-four (24) to ultimate and thirty-six (36) to ultimate factors, et cetera.

On that key to the MUCDA's current intervention, MUCDA will be following up on lost development at next years hearings.

In particular, with respect to changes in lost development year over year as well as reasons for selection of specific factors.

In summary, Mr. Chairman and members of the Board, the Manitoba Used Car Dealers Association position is that the excess RSR beyond the $80 million limit be returned to customers, the IIF be rolled into the RSR with rates established for the private passenger class based on the cost of the Immobilizer Incentive to the class.

This would eliminate the cross subsidization in the program.

Alternately, if the IFF is not rolled into the RSR, and the program is retained, the rates for non-eligible classes be reduced an amount each year that is equal to the percentage of the average rate subsidy being given to the private passenger class.

That MPI be required to report back to this Board at the next set of hearings related to measures it has taken to comply with the actuarial standard related to data quality.

With that, I will wrap up my remarks. I would like to thank the Board, the Corporation and other Intervenors for their efforts in this hearing.

I look forward to MUCDA's participation next year.

THE CHAIRPERSON: Thank you, Mr. Roberts.

Mr. Evans has a question.

MR. LEN EVANS: Thank you, Mr. Roberts. I want to ask you the same question that I asked Mr. Oakes. I gather the answer's no, because you didn't mention it, but do you have any position on the investment portfolio, the present investment portfolio of MPI?

And I ask that because of the importance of investments in the bottom line.

MR. NICK ROBERTS: No, I -- I wouldn't have a comment on that. Like that non -- I'm all right with it.

MR. LEN EVANS: Mr. Williams described that it's a conservative approach which his organization is happy with.

So, any rate, you're quite happy with the present situation?

MR. NICK ROBERTS: Well, I don't know if I'd want to say happy, but we're okay with it.

MR. LEN EVANS: Thanks.

THE CHAIRPERSON: Thanks again, Mr. Roberts.

Next up is the insurance brokers, Ms. Scurfield.

I don't see her here so we'll move on then to Mr. Dawson. Oh, I'm sorry.

Ms. Shaw...?

CLOSING ARGUMENTS BY MS. PAM SHAW:

MS. PAM SHAW: Thank you, Mr. Chairman.

Mr. Chairman, Panel Members, Ladies and Gentlemen. I'm pleased to be here today for CAA Manitoba. We are a not for profit organization representing a hundred and seventy thousand (170,000) members in Manitoba on issues related to automotive travel, insurance and road safety.

CAA Manitoba participates in the rate hearings as an intervener to ensure that our members are provided fair and properly priced automotive insurance. Our closing remarks today will reflect on the RSR, the concept of pay as you drive, the DVL merger with MPI, road safety matters and the reduction of auto theft for all Manitobans.

On the matter of the RSR, the rate stabilization reserve target levels, the PUB has expressed a level, the $80 million upper level and we believe that MPI should be held to that level. The reserves are at that high end right now, certainly, well beyond that end. And we don't want to see them built up any further. That's really our position at this time.

We listened with interest to the pay as you drive discussion. Reducing emissions from the transportation sector is important to CAA as it is to all Manitobans. However, it doesn't make sense to us that auto insurance rates be set as a means of preserving our environment.

CAA is also interested in the incidental question of how to respect a driver's privacy when collecting electronic data for such a scheme. There is some merits to event data recorders, sometimes known as silver boxes or black boxes, currently in modern vehicles and they record a specific set of data at the time of a crash.

The data is meant to allow automakers the ability to improve the safety of their vehicle systems. It's been our experience that it's the use of such data, for unintended purposes, that leads to ethical and legal difficulties.

CAA would want to see much more research in any case but seriously questions pay as you drive's validity in this auto insurance setting.

On the DVL/MPI merger: At last year's rate hearing, CAA registered its concern with the DVL/MPI merger, we felt there were too many questions gone unanswered and we were glad to see more details provided about the agreement brokered by the Provincial Government during this rate hearing.

That being said, we heard the Board's concerns about the way in which the province has dealt with MPI in this matter and we agree there are still implications for auto insurance rates on that score.

Our other major concern is the pace with which the merger is occurring rather than months, it will be years it seems before we will all truly understand the impact of the merger on MPI's bottom line.

CAA was disappointed to hear there may be short term cost overruns on the extension side of its business as a result of the merger of MPI's business. It is important to our members that there be no increases on basic insurance rates but also that the DVL/MPI merger not reduce any surplus dividend we would normally expect in the long term.

We believe that the completion of the business process review is key to seeing whether action can be taken soon to reduce the long term costs that the merger has forecasted to incur. CAA believes it's also important that there be a clear plan for action and the sooner the better.

Onto road safety: CAA once again encourages MPI to be a leader in road safety initiatives where claims costs and the very real personal costs of injuries and deaths due to motor vehicle collisions can be reduced. We strongly urge MPI to reconsider the idea of funding road improvements where proven measures of safety can be added for all road users alike.

Road safety must carry great weight within MPI and we look to MPI to be a leader. Not simply in research or on new initiatives, but also in pulling together the Manitoba community of road safety professionals and stakeholders. In the long term CAA believes we will be stronger and better equipped to change minds and behaviours when we share our knowledge and work together.

On to auto theft: At last year's rate hearing CAA offered suggestions on how MPI might improve the safety of our roads by paying more attention to the vehicle owners' role in preventing auto theft.

We've since partnered with MPI in delivering the Immobilizer Incentive Program to Manitobans. We believe the program is an important step towards reducing the costs of auto theft to society and to innocent motorists throughout Manitoba.

If owners of high risk vehicles would take part in the program sooner, however, we feel sure there would be a benefit to all ratepayers in the long term, but also seen sooner for our ratepayers.

We continue to hold that charging a high risk vehicle premium surcharge would make sense as a way to encourage greater take up of the program by the top one hundred (100) at risk vehicles and that this action will lead to claims savings sooner.

As we suggested last year, to avoid the surcharge owners need only install an immobilizer. Faster take up of the program would be a benefit for all ratepayers of the Public Insurance System.

This is the end of our remarks. I thank the Board, fellow Intervenors and the Panel of MPI for allowing us our participation here. And on behalf of the membership of CAA Manitoba, thank you for the chance to participate in this valuable process. Thank you.

THE CHAIRPERSON: Thank you very much.

Mr. Evans...?

MR. LEN EVANS: Thank you. I have a -- I was interested in your comments about pay-as-you-drive insurance, PAYD. And I was wondering, in view of your comments, I was wondering -- and concerns about privacy, whether you were aware that some jurisdictions do not use electronic equipment in this system.

There is a major insurer in Holland that uses annual vehicle inspections. The vehicles are inspected once a year and at that time odometers are checked and there are other -- I'm sure there are other techniques they use to assure accuracy of odometers.

But I was just wondering whether you were aware that some -- and I believe in South Africa, they use some sort of a credit card with the company?

MS. PAM SHAW: We haven't done a study of this pay-as-you-drive models, what's available out there. But I -- I do know that from a -- from a motorists' consumer point of view we've recently, in -- in most driver's memory, left annual automotive inspections.

We now have the safety inspections only on the exchange of a vehicle and I believe that that would be something we would be very interested in looking at as, would there be some additional cost to a consumer who is going to have to now make sure their vehicle gets inspected every year.

So I think that it raises just as many questions as -- as the privacy issue does for our membership.

MR. LEN EVANS: Thank you. One other question. Thank you. Mr. Williams, this morning, was referring to the need for literature search and I believe he was urging this on MPI.

At any rate, I was wondering whether your organization would be prepared to look into this more closely?

You know, there is a lot on the Internet and I as very intrigued to find that the State of Texas has passed legislation to encourage private insurers to get into this type of system.

Also the state of Oregon, I believe, offers a hundred dollar ($100) policy per policy credit for any companies that offers this type. And the City Council of Vancouver unanimously passed a resolution asking ICBC to bring in this type of insurance. So there's a lot of developments.

The major environmental -- federal environmental agency in Washington, DC is promoting it. Pointing out that -- that there is a significant reduction in auto usage -- auto traffic which results in a considerable reduction, I think they use the number 17 percent reduction in automobile accidents in the United States.

Now, how valid these data -- this data is I don't know. I'm just pointing out that there's a lot of material and I think it's a very important subject.

I think this is the way of the future and I think your organization should consider doing some research. So this isn't really a question, I guess, than a request.

MS. PAM SHAW: Thank you, Mr. Evans. Frankly, the issues and the matters that CAA nationally looks at include climate change. We have participated on the transportation round tables at the federal level for the last six (6) years.

I've participated in whatever groups have met in Manitoba to deal with these things. So we certainly keep our finger on the pulse of what's happening or being asked of the transportation sector.

I haven't -- I haven't been aware that any of our clubs have requested a literature review, such as it is, and certainly I might -- I might be looking into, just myself, to be up on it for the next rate hearing, you can be sure.

MR. LEN EVANS: All right. Thank you.

THE CHAIRPERSON: Thank you again, Ms. Shaw.

We'll move now then to Mr. Dawson.

CLOSING ARGUMENTS BY MR. ROBERT DAWSON:

MR. ROBERT DAWSON: Thank you, Mr. Chairman, Members of the Board.

The Manitoba Bar Association intends, in its closing submissions, to cover three (3) large points, the first being the way in which the Applicant handles personal injury claims.

The second area deals with the current bar on personal injury lawsuits and thirdly the question that has arisen in the course of these hearings on sustainability and its application to the functions of this particular Board.

If I may turn then to the first area in which the Manitoba Bar Association proposes to make submissions, that is the handling of personal injury claims, I can tell you that the -- my client will seek a Board recommendation as follows and I'll explain it after I've gone through that the Manitoba Public Insurance Corporation justify the cost effectiveness of its -- to use Ms. McLaren's words at page 1171 line 20 -- its cohesive integrated service approach to the handling of personal injury claims in contrast to providing independent claims advisors to advocate on behalf of claimants.

So, the first recommendation is that the MPI should justify its cost effective -- cost effectiveness of its current approach as opposed to alternates that may be considered.

And the second recommendation is an interim one and that is that MPI should, for the reasons that will follow, inform every claimant at first contact that they may seek assistance from external resources such as lawyers, but also such as community health -- help groups.

Of course this is an issue that certainly is relevant to the jurisdiction and activities of the Public Utilities Board, the very narrow and specific reason being that rates, of course, are approved on the assumption that claimants will receive the benefits to which they are legally entitled and if benefits are not received then expenses have been overstated and revenues have been understated for the purpose of collecting rates.

Apart from that very narrow reason as to why this is an issue that should concern the Board there are also broad reasons. Of course this Board has a general oversight to look into issues relating to the public interest.

Secondly, of course, the fact is that the Applicant is a monopoly insurer. And thirdly, of course, is that the MPI legislative scheme forecloses payments for pain and suffering and that means, as I think I had mentioned in the course of my cross-examination, that there's no extra settlement money so to speak to cover benefits that weren't actually received.

So, if the Board is prepared to accept that this is an issue that's relevant to its interests, let me explain then what the nature of the problem is.

MPI has acknowledged that it has a statutory duty to advise claimants and assist them to obtain the benefits to which they're entitled and of course that relates to the Manitoba Public Insurance Corporation Act at Section 150 as well acknowledged by Mr. Bedard in cross-examination at page 111 -- I'm sorry, at page 1151 line 10.

I should emphasize that the Manitoba Bar Association certainly agrees with Mr. Bedard when, at page 1158, he stated:

> "That MPI goes [in his words] to great lengths to make sure that people are as informed as they need to be in order to process their claims."

My Client goes on also to agree with Mr. Bedard's very next line which is:

> "I'm not saying we're perfect in every case."

The consequence when any claimant does not receive the benefits to which they're entitled, is, of course, that that person, as far as they're concerned, quite bluntly put, has been cheated by the system; more broadly put, in the context of this Board, premiums have been collected for which benefits have not been and wrongly not been paid.

So, what are the recommendations that we're proposing then to address this specific problem?

It's important to note the context in which we find ourselves and that is that PIPP claimants today of course do not have the same kind and level of assistance and support as they had prior to the introduction of PIP.

In my cross-examination of Mr. Bedard it was quite clear that, prior to the introduction of PIP, clients were -- claimants rather were much more inclined to rely upon lawyers to get help in handling their personal injury claims. Mr. Bedard agreed with me that page 1145, that lawyers occasionally uncovered errors on behalf of MPI. At 1146, he said that lawyers sometimes even increased the cash settlements.

Clients therefore felt that it was worthwhile to spend money on their lawyers even though they were involved in what might be called minor injuries, to use Ms. McLaren's description at page 1147. But of course today, and Mr. Bedard confirmed this at page 1149 line 18, it's rare that lawyers are going to be involved in minor injury claims under the PIPP system that we have today.

As Mr. Bedard conceded at page 1159 line 1, the existing forms of assistance, that is in his words, the ombudsman, the fair practice office, the members of the legislature, these of course are forms of assistance that are not initially available at the time that a claim begins and perhaps at a time when a claimant most needs assistance.

Instead, MPI tells us that the reliances upon the case managers of Manitoba Public Insurance to help claimants and of course that raises the perception if not the fact of a bias. The advice, of course, comes from someone in this case who is in the employ and under the direction of Manitoba Public Insurance and Mr. Bedard agreed with me on that point at page 1156, line 11.

It was -- it is even arguable in terms of the concern over bias. And I should emphasize that there is no evidence of what I'm about to say, it's merely a perceptible argument that could be made that, for example, some of the re-insurance pressures that MPI faces might cause it to adopt cost controls to compete on the same terms as private insurance companies going after those re-insurance contracts.

And that's based upon, although I should emphasize, never said specifically it is based upon comments by Mr. Galenzoski. There are several occurrences, for the record. They appear at page 307, line 12 when Mr. Saranchuk was conducting his cross-examination and my own cross at 1179, line 21 and 1180, line 3.

So if that's the problem that we currently face and that is the submission of the Manitoba Bar Association, it's important to note, of course, that the Workers Compensation Board and even the Automobile Injury Appeal Commission have both introduced some form of independent advisor.

And it's arguable that these were introduced for the purpose of getting around some of the problems that arise when a claimant such as MPI will deal with, has difficulties with the system. Manitoba Public Insurance, of course, admitted in cross-examination that they're very much aware of the Workers Compensation Program. Mr. Bedard said that at page 1160, line 3 and he also said at page 1161, line 7, that MPI's, of course, aware of the -- the claimant advisor program at the Appeal Commission.

What's interesting is that the MPI witness panel have no knowledge or at least they put no knowledge when I asked them this question, as to why those particular question -- programs were instituted. Mr. Bedard at page 1160, line 3 said that.

I suggested and do so again that these are programs that boards like the Workers Compensation Board and the Appeals Commission have introduced, not because they're trying to be good citizens, not because they're overwhelmed with kindness, but rather they realized the very practical reality which is that it simply makes their job much easier.

In the case of Workers Compensation, the thesis that we put forward is that it simply is a more cost effective way of dealing with claimants who otherwise would tie up existing claims processing. In short, it is therefore a more efficient operation for these bodies to have introduced these programs; that is the submission.

MPI in reply, of course, tells us that there's no need for a claimant advisory model, but they do so, it's important to note, without knowing if this kind of a claimant advisory model would help claimants or even improve MPI's bottom line.

Ms. McLaren at page 1171, line 20 said that MPI just frankly prefers what she called quote: "the cohesive integrated service" approach. And at page 1168, line 10 she said, perhaps dismissing the suggestion that I was putting forward that we, that is MPI:

> "... do not necessarily trade off service to achieve cost savings."

The evidence suggested, and I submit again here, that MPI simply lacks the sufficient knowledge to say whether or not these proposals would introduce any cost savings to us.

Mr. Bedard, at page 1164, line 25, confirmed that MPI has no knowledge about the kind of person who might need assistance beyond that which is currently offered when filing a claim.

And at page 1167, line 18, he confirmed that the Corporation had not undertaken a study of whether or not it would be cheaper to offload the extensive discussions and explanations that are necessary for such persons and claimants, than to have them currently dealt with by their adjusters.

It's even arguable that going beyond the scope of the intervention that the Manitoba Bar Association had assumed when we began this process, that a claimant advisory program should be in place, even for claimants who are coming to MPI with simple physical damage claims as opposed to personal injury claims.

Any disentitlement of a benefit under the legislative scheme should, we submit, be cause for concern. And so that brings us then to the two (2) recommendations that we've put forward.

The first then, by way of recap, being that MPI justify the cost-effectiveness of its cohesive, integrated service approach to the handling of personal injury claims in contrast to providing independent claims advisors to advocate on behalf of claimants.

And, secondly, as a temporary measure until there is a report on that, MPI could, at least, inform every claimant at first contact, that such claimants may wish to seek assistance from external resources, such as lawyers, but also such as many of the community help groups that exist in the city and, indeed, throughout the province.

If I may, by way of digression before I turn to our second major point, indicate that clearly the Manitoba Bar Association's participation before the Public Utilities Board in this process always focusses upon, as you can see, the public interest and, indeed, tries to support the Board's role in its oversight or public interest jurisdiction.

And, unlike some of the other Intervenors, of course, the Manitoba Bar Association tackles some of the issues that don't otherwise come up. Of course, the Consumers' Association and the Manitoba Seniors, they usually focus in a rather specific way upon the way in which MPI spends its money.

Other groups tend to advance interests that relate to their own particular matters. And in this particular hearing, I'll suggest that the Manitoba Bar Association has really focussed -- one (1) of the few intervenors who has focussed on broad interests, broad concerns of public interest; and that this is an opportunity for the Public Utilities Board to prod and test.

And that's another reason why the Bar Association appears here. Undoubtedly, and maybe My Learned Friend, Mr. McCulloch, will eventually mention it, sometimes the Bar Association comes before this Board and in its Interrogatories or other points raises questions and answers -- and gets answers with which it's frankly -- and perhaps to his amazement, surprisingly satisfied.

It would be noted that, for example, MPI's response to prodding from last year on the way in which the Appeal Commission impacts MPI costs has not attracted further attention. My client is satisfied with that reply.

Similarly in this year's hearing there was some initial concern on the part of my client related to the way in which demerits were being structured. And there was some concern and that was laid out, for example, in our first round Interrogatory Information Request 6. And that is another point in which the answers came back in a way that satisfied my client.

So the very fact that nothing more is made of certain points often suggests that there has been, shall we say, the gadfly approach. There has been prodding. There has been testing by MBA.

And at the same time, it also helps the Bar Association to identify points that it could raise in other fora, for example, we've raised concerns relating to driver licensing and the privacy issues that could arise with changes to our drivers' licenses. And that was in our fifteenth Information Request of the first round.

And, of course, that's not something that this Board properly wants to address its concerns to. But it is an opportunity for the Bar Association to be alerted to issues and take those issues up in the appropriate forum.

One (1) of the big issues, though, that we have felt that needed to be prodded and taken further, relates to the current, as I've described it, bar on the personal injury lawsuits.

By way of background, of course, last year in Order 148/04 the Public Utilities Board had asked the Applicant to study the effect on revenue and expenses of lifting the bar on personal injury lawsuits in the context of uninsured drivers, extra territorially licensed drivers, and negligent manufacturers of motor vehicles and motor vehicle parts.

And SM.8.10.3 of this years' rate application filing is apparently MPI's response. That's at page 35 to 38 at that tab.

Of course, I was prompted to ask the question, where is the study on revenue and expenses and I felt in many ways, as I sometimes will teach as a sessional lecturer, that I had a delinquent student in front of me because we went through and we had the following excuses given to us.

Ms. McLaren said, at 1180 -- page 1182, line 17, that, well at the bottom of page 37 there is a line about not much financial yield.

All right, there's a line about not much financial yield.

Mr. Bedard piped in at 1181, line 22, saying, he thought that that was pretty much what the Board had wanted and Mr. Galenzoski took, I think, the closest to the dog ate my homework approach at page 1183, line 5, saying, well, the Public Utilities Board never complained.

Sadly, I did complain and I'm repeating the complaint here. It's the submission of my client that the reply as filed is inadequate and we would seek the Board's recommendation, if not order in this case, that MPI be required to undertake a proper study.

In the course of my cross-examination it was clear that a -- such a study is both possible and even promising. At page 1188 line 14, Ms. McLaren began an overview of some of the issues that such a study might consider.

And we found the following brief comments that, even there, show that the study might be both possible and promising.

If a Claimant is entitled to both PIPP and tort damages, Ms. McLaren told us at page 1190 that lifting the bar would increase MPI's expenses, if MPI were insuring the defendant.

So, clearly, if we press this point, we can see that lifting the bar in certain circumstances is not such a good idea.

But then we went on at page 1192, line 21, where Ms. McLaren said, if in fact the Claimant were not entitled to both PIPP and tort damages, then it would avoid costs for MPI and save MPI money.

And I suggest to you that any time that we can implement something that may be able to save the Applicant money, that would probably be reflected in reduced premiums.

Mr. Bedard told us, at page 1193, that if the Claimant had carriage of the litigation, it obviously would not have an impact on MPI.

Similarly, he said at page 1194, line 2, if the Claimant bore the costs of the litigation, again, there would be no impact on MPI.

In short, I'm suggesting that this overview of the issues suggests that a study, if done properly, could come to some promising and useful conclusions.

At page 1197, I had asked for an undertaking that would, and My Learned Friend correctly objected, broaden the extent of the information that the Applicant had been asked to produce and that is to go beyond personal injuries and ask about such expanded law suits in the case of mere physical damage.

And I'll suggest that, given these promising answers, that any new recommendation that the Board may make with respect to MPI should expand the scope of any study beyond personal injury, to also include physical damage.

And I wish to emphasise that my client is simply seeking to press for information. It might very well come back that it's not a good idea on a rate making basis, in which case this is an issue that my client readily would agree should not be pressed.

As it stands, I suggest that the evidence proposes that a study is both possible and may come to promising conclusions.

Let me last turn to the question of sustainability and how it applies to this particular Board.

First, I have to confess that I made a mistake when I was speaking in the course of cross-examination. I always refer to pay-as-you-drive as the rather ridiculous, drive-as-you-go.

I don't know what that means, except to say that you're in a car.

If it's not drive-as-you-go, well then I guess you're just a pedestrian.

Mr. Roberts, however, kindly pointed out that everyone knew what you meant, so that was good. So pay-as-you-drive is certainly what I mean to be talking about.

I should say that my client, the Manitoba Bar Association, takes no position on whether or not pay as you go is a program that ought to be introduced in Manitoba. It's clearly a very speculative proposal at this stage and it's also very much too early for us to understand how that would play out.

It's certain in the course of the

cross-examination that I conducted with Ms. McLaren, especially at page 1202, that there are significant privacy concerns that could arise if this program were structured in a certain way.

It's also clear and I don't think that I'm speaking in the form of any great revelation here, but the question of how to apply the Sustainable Development Act in the context of a public utilities oversight board is beyond, really, the issues that merely pertain to this particular Applicant.

I, of course, don't participate on behalf of my client or any other way in some of the other utilities that appear be this Board as part of their own rate making.

I do, however, note that in the Sustainable Development Act in the appendices that follow, principle 1 talks about generally the way in which there should be an integration of environmental and economic decisions and I think this Board correctly perceives that that vague suggestion has some application to it, but it has really no notion of how it should go further with that.

And similarly the Act in the next set of appendices talks not about principles but guidelines suggesting that public participation; Manitobans should have some involvement. But again, the guideline doesn't go very much beyond that.

It's difficult without knowing in great detail the way in which this Act might affect other utilities that are regulated to propose any specific comments. I can, however, say that it's clear even in the context of this particular rate application that the Sustainable Development Act as it might be applied to the way in which a public utilities board would function certainly could have dramatic and substantial affects upon the way in which the law in Manitoba is applied.

I think, for example, of the way in which there might be a ruling by this Board that somehow touches upon principles of insurance law or, as my actuarial friends might tell me, principles of actuarial science and unintendedly cause problems.

So what do I say in face of all of this? If in fact this is a problem that is recognizable and it extends beyond just this one (1) application, it might be conceivable, and this is what my client recommends, that this Board take time perhaps to sponsor not a hearing, something much less formal.

I would call it for lack of a better word a colloquium in which those affected utilities might come together, explain how sustainability both works and does not work within their particular model of business and then invite interested persons from the public including Intervenors or mere presenters to provide their own comments and to ask questions.

And I think that this may to some extent address Dr. Evans' earlier question of many of the Intervenors as to whether or not they're prepared to do anything and prepared to do a literature search, et cetera.

I don't know if that kind of unilateral unfocussed effort will sufficiently assist this Board in trying to deal with, I think, an issue that is bigger than probably the legislative -- legislature thought of when they passed what frankly has to be an applaudable act. It's great, sustainable development. I like it.

But what do we do and how do we do it? The practicality is not in that legislation.

So, in any event this is the suggestion that my client makes. It's disappointing in the sense that I think this Board wanted a specific recommendation, do "X" and the following consequences will flow.

I think from my client's perspective the answer is we're worried, we see the big problem, we also see the great promise, but the way in which we might go about this is simply larger than it would affect this particular Applicant.

So, in closing I certainly on behalf of both myself as well as my client, The Manitoba Bar Association, thank the Public Utilities Board and this Panel specifically for granting my client standing.

I must say that having appeared before a number of boards other than the Public Utilities Board, I'm always impressed with both the preparation of this Board as well as its attentiveness.

And I also think we should go on the record and commend the staff of this Board which, more than once, has tolerated what I'm sure they think are my dumb questions, although they are far more polite than that and they've also been very helpful.

I thank also the other Intervenors, especially Mr. Williams, who has been exceedingly helpful. And, of course, the cooperation and assistance of the Manitoba Public Utilities, both witness panel as well as its support staff.

I should indicate, just quickly, that we will be making a request for costs. In passing, I can simply say that it's submitted that our participation has been meaningful and relevant.

We've worked to avoid duplication and acted cooperatively. I, personally, have heeded the suggestion of the Board when it granted Intervenor status; that is to reduce my attendance and read the transcript instead of being here.

I will say that that probably didn't work very well. I would think that I would have gotten a better sense and probably been a little more effective had I been here. I missed, undoubtedly, comments like which province has banjo pickers. I missed other issues such as whether it's Mr. Palmer or Mr. Galenzoski who is the more brilliant.

But, these are issues that are embedded in the transcript for anyone to read. Happily, because of these intentions to reduce attendance, Mr. McCulloch will be happy to know that the costs request, which we'll file only after the Board issues its order, will be significantly lower than we had budgeted.

Failing any questions, that concludes our submission.

THE CHAIRPERSON: Mr. Evans...?

MR. LEN EVANS: Thank you very much. I always enjoy your presentation of the representative of the Manitoba Bar Association.

Just two (2) points. You mentioned independent advisors. Would you be suggesting -- or do you suggest that they should have legal training?

MR. ROBERT DAWSON: I understand that those who are providing independent advice at the Workers' Compensation Board as well as at the Appeal Commission are, for the great part, not legally trained.

I think, if I may say, that some of those who provide that advice may require legal -- legal training and maybe should be lawyers. But, by and large, and again I rely less on the evidence here than on my own personal work, I -- I supervise occasionally an inner city drop-in clinic where we provide free legal advice to people who have problems that are beyond what Legal Aid can do.

And we find that the majority of the people who come to us really are looking almost for, if I can be blunt about it, a smarter, bigger brother. Somebody who can go to bat for them and maybe has a little bit -- has been a little more fortunate in the way in which their lives have turned out.

And many of the people in the course of the evidence that we -- or in the course of the cross-examination that I elicited from Mr. Bedard, the people who might actually benefit from claims advisors at MPI are, for the most part, not the doctors and the lawyers who have the mansions and who have a little sore on the back of their neck.

It is, frankly, those who are new to Canada. Those who have language difficulties. Those who don't have my level of education. Those who have other impediments, even mental illness. These are the people, I think, who might most benefit from that kind of assistance.

MR. LEN EVANS: Thank you. And very briefly, and I ask this with some great hesitation, but, nevertheless, you did comment that your organization did take a broad approach. You have a general -- you have an interest in the general public welfare.

So I would ask you, if you too, if your organization too would take another look at PAYD, pay-as-you-drive insurance? And I say that because of the implications.

There's implications for consumers, because it is consumer friendly. There are implications for accident levels. There's implications for the environment. Implications that are very broad and do -- do touch upon the welfare of the people of Manitoba.

And it's a big subject. It's new. But there's an awful lot of material, I can assure you, on the -- on the Internet. Particularly, being promoted by environmental groups, I might add.

But so my brief question is, would your

organization or would you, sir, be prepared to look into this matter a little more fully over the months and year ahead?

MR. ROBERT DAWSON: Dr. Evans, the Manitoba Bar Association always is willing to assist both the government as well as any of its agencies whenever issues of the public interest are involved.

So, if the Board were inclined, for example, to put together the kind of gathering such a I propose, if the Board were kind enough to extend an invitation to the Bar Association, I think, and I have not consulted my client, but I think it's fairly safe to say that the Bar Association would be very supportive and hopefully bring relevant and useful information to it.

Whether we have any comments as it stands right now on pay as you go, my answer simply is, is depends what we mean by that and I think until we have a specific policy in place, it's very difficult to make specific comments beyond speculation.

So, generally speaking, are we prepared to be at the table if you have any questions or need further assistance; absolutely, I think the Bar Association can be counted on to provide that assistance.

MR. LEN EVANS: Thank you very much.

THE CHAIRPERSON: Thank you Mr. Evans,

thank you, Mr. Dawson.

I'm wondering, Mr. McCulloch, if it would be helpful to you if we were to hear from Mr. Sousa first and then we'd have a brief break and then conclude with MPI's closing arguments?

MR. KEVIN MCCULLOCH: Mr. Chairman, at some point I will need time to consult with various members of the panel on some issues that were raised this afternoon.

So that works for me if we let Mr. Sousa go ahead and then take a break.

THE CHAIRPERSON: Mr. Sousa, how long do you think you will be?

MR. CLAUDIO SOUSA: Mr. Chairman, I shouldn't be more than fifteen (15), possibly twenty (20) minutes.

THE CHAIRPERSON: Well that would be fine, sir. Please proceed and then we'll take our break then and allow Mr. McCulloch time to consult.

CLOSING ARGUMENTS BY MR. CLAUDIO SOUSA:

MR. CLAUDIO SOUSA: Thank you, Mr. Chairman. Our organization, Scootering Manitoba represents close to three hundred (300) moped and scooter owners in Manitoba.

We were pleased to participate again in this years' hearing without seeking an award of -- of costs. Like the footprint on the environment, our footprint on this hearing, we attempt to -- to minimize both.

Last year we spoke about the importance of environmental concerns which our organization has, and we would like to commend the Board for taking the time at this hearing to examine in detail, or at least in some detail, whether MPI's current rate making methodology and practices are in conflict or in harmony with the issue of sustainable development.

Our members choose small engine motorcycles for their low cost and low footprint on the environment and we believe that there may be some unique opportunities for MPI to encourage or reward smarter environmental choices in terms of vehicles.

We do agree on some level with MPI that an environmental reward program would likely need to be directed by legislators. However, our organization does feel quite strongly that MPI should continue to ensure that its policies and practices do not conflict or mitigate in any way such environmental reward programs.

Our organization has expressed one (1) -- and one (1) fundamental concern regarding this years' rate application and that is the continued inclusion of moped rental in the all purpose moped class.

We remain dedicated to educating our riders and doing our part for road safety. This year, with the introduction of the scooter safety course by the Manitoba Safety Council, which was undertaken at our initiative and with our assistance, we have a vehicle by which people who ride and use scooters to get to work and to school, can get themselves trained to a higher degree and presumably safer on the road, resulting in lower rates.

The inclusion of rental use in our claims experience, makes the task or the goal of keeping our rates lower more and more difficult.

None of our safety programs, nor those of the Safety Council are going to influence or affect those individuals who rent scooters for an hour of fun or a day of fun.

To this point, I would like to read a list before the Board. Scooter City on Main Street, Bill Cycle in Steinbach. Phil's Scooter Town on Main Street and Winnipeg. Scooter Junction in Selkirk, Manitoba. Falcon Beach Rentals in Falcon Lake, Manitoba. Scooter Boys Rentals, a mobile rental operator, frequenting festivals and other summer events in Manitoba.

These are some of the names of the rental businesses which are currently or have operated in the province during the years which are included in MPI's rate application.

Their rental fleets range from as few as six (6) scooters to as many as fifteen (15) or twenty (20). We are not here before the Board suggesting that any for-profit owners of moped rentals pay higher premiums. Perhaps they should pay less, but we propose only that their use and their experience is segregated from ours; private or pleasure use.

It shouldn't surprise the Board that with the higher -- all-time high price of gas, scooters and mopeds are becoming more and more popular. It should also not surprise you that there is a new emerging trend occurring within our city and possibly within our province using moped or small engine scooters as delivery vehicles, most notably a pizza joint here in the city which uses scooters both as -- as a means of affordable delivery vehicle as well as a bit of a marketing angle.

But certainly the use of these vehicles as courier or delivery vehicles does not -- does not seem to be as prevalent as the rental -- rental operations which exist today.

Rental use is well documented by MPI as

having a different risk. I may be mistaken, but I believe that mopeds and motorcycles are one (1) of the few if not the only classes under which U-Drive use is not segregated to reflect this risk differential.

Our concern is heightened by the fact that we view the moped classes claims experience as unique. Why is it unique? It's unique in that just four (4) accidents -- four (4) accidents -- are responsible for nearly 40 percent of the entire claims experience over the last five (5) years. Are any of these four (4) accidents related to rental use? Possibly, we just don't know. Neither our organization knows, nor does MPI in their data.

No one can tell us whether any of those exceptional accidents, which we can all agree would have a significant impact on the claims experience of private use, were due to rental.

Because rental use has not been segregated our members are concerned that even just one (1) serious accident coming from a rental freet -- fleet will cause a spike in our rates. Indeed this concern is warranted. MPI has no data to confirm or deny which incidents in the claims experience were attributed to rental use.

In the first round Information Requests MPI did perform an analysis of corporate versus individual ownership which, in our opinion, is not an accurate proxy for understanding rental risk or rental claims experience. Some of the operators I did list operate as sole proprietors -- proprietorships or unlimited partnerships, not as corporations.

However, if -- even if we do accept that this proxy is valid and given that that sample we recognize is small, MPI's analysis does suggest that the loss ratio of bikes registered by corporate customers is nearly double that of private use.

What we are asking for is quite simple. MPI states, in their brochures and all of the literature, that how you use your vehicle affects your rates. Perhaps there should be a footnote to that that says except when you rent mopeds for for-profit use.

Under cross-examination MPI was quite clear that a Board Order to split this class would be clear motivation to the Corporation to do so. Without Board Order however there seems to be a mysterious justification process that goes on within MPI to result in a splitting of the class for U-Drive purposes.

Under cross-examination it was not clear to myself nor should it be clear to the Board that there was any clear criteria or process which exists to split an all purpose class into U-Drive and private use.

Our organization appreciates the difficult task that MPI has ensuring that all vehicle uses and risks are segregated, but MPI does agree that the creation of a U-Drive moped class would be relatively simple; it would not bear significant cost.

Rates should reflect risk. This is what we are told. For mopeds today this is not true. Today our rates reflect those of rental use as well as private use which are blended together in all purpose.

We respectfully ask the Board to order MPI to introduce a U-Drive moped class and reclassify any mopeds which are currently in use in rental fleets into that class for future claims experience.

We thank the Board, Panel members, and fellow Intervenors for the opportunity to participate in the hearing. We hope to continue participating in future years.

And that concludes my presentation, Mr. Chairman.

THE CHAIRPERSON: Thank you, Mr. Sousa.

MR. LEN EVANS: Excuse me, very briefly. I don't want to prolong the afternoon but I was going to -- you may have mentioned it but I was wondering, have you knowledge of experiences across the country?

Do you have U-drives as separate moped

classes in BC for instance, or Alberta or Saskatchewan? Do you have that information?

MR. CLAUDIO SOUSA: Unfortunately, no, Mr. Evans. Our organization, you can appreciate, we are here purely on a volunteer basis. We have not had the time or resources to research what other jurisdictions do.

MR. LEN EVANS: Thanks.

THE CHAIRPERSON: Thank you, again. So we'll stand down, Mr. McCulloch, to give you an opportunity to consult and return. How much time do you think you need?

MR. KEVIN MCCULLOCH: Mr. Chairman, I think I would need about fifteen (15) minutes. I'm anticipating that I'll get some answers from -- particularly from Mr. Palmer and Mr. Galenzoski.

The other thing that I should alert the Board to is that I have a significant presentation to make. Perhaps when we come back at 3:30 the Board can give me some indication as to how long they have for the rest of the day?

THE CHAIRPERSON: We'll stay with you, Mr. McCulloch.

MR. KEVIN MCCULLOCH: Thank you, Mr. Chair.

--- Upon recessing at 3:15 p.m.
--- Upon resuming at 3:35 p.m.

THE CHAIRPERSON: Mr. McCulloch...?

CLOSING ARGUMENTS BY MR. KEVIN MCCULLOCH:

MR. KEVIN MCCULLOCH: Mr. Chairman, members of the Board, we're coming to the end of this, our seventh full day of dealing with MPI's 2006 General Rate Application.

And before I launch into my submission or closing argument I wanted to alert the Board that you might see some departures from the front bench as I go on. I hope it's not a reflection on what I'm saying.

I know that Ms. McLaren has to be in Toronto for a reinsurance meeting and Mr. Galenzoski has -- is also another commitment that's required him to leave. Just so that you know, if you see the changes.

My task as counsel for the applicant is, first of all, to present MPI's position on the rate application itself. This is the main purpose that we've spent the better part of the last two (2) weeks together.

This year the proceedings also present a number of important side issues which the Corporation has, in my suspectful submission -- or respectful submission, rather, met head on.

As in previous years, I urge the panel not to lose sight of the fact that evidence comes only from the witnesses and that opinion comes largely from counsel, myself included. But I think, particularly when I get to the point of addressing comments made by Mr. Oakes, this is an important distinction that I urge the Board to keep track of.

Because no matter what counsel may think and express by way of a view or an opinion, it should only carry weight with the Board if there's evidence to support it. And I, as I say, apply that same test to what I say to you this afternoon, but please apply it to what other counsel and what other Intervenors have said.

Let's start right off with rates. And, as stated, the primary focus at these hearings is to look at the rate application for the insurance year commencing March 1st, 2006.

As is usual and has come to be expected, Mr. Saranchuk, in his closing has done an admirable job of detailing the effect of the rate application, how it will impact various groups, et cetera, and there's no need for me to repeat that because that's all I would be doing is repeating what's already on the record.

We know that the standard which must be

met by the applicant has been freely acknowledged and accepted by Ms. McLaren in her evidence, that MPI bears the onus of proving its case to substantiate its rate application. And, secondly, MPI has the onus to establish that the rates are just and reasonable.

Through the evidence, and by that I include; A, the pre-filed testimony of the four (4) witnesses produced on behalf of MPI; B, the five (5) volumes of materials filed in support of the application; C, responses to the two (2) rounds of Information Requests; and D, responses by the MPI Panel in cross-examination.

It is my submission that through the combination of all this evidence, I have no hesitation in stating to this Board that the burden of proof has been met.

Based on the sound rate making methodology employed by MPI in this general rate application and approved by this Public Utilities Board over the years, there can be no doubt that the applied for rates are just and reasonable. And I would refer the Panel in this regard to the following key elements in the evidence.

Firstly, the evidence confirms that the accepted rate making methodology has been applied to the rates that have been put before you in this application.

Secondly, the applied for rates are actuarially sound and statistically driven; that's been confirmed by the expert evidence of Mr. Palmer.

And thirdly, and -- and this is an interesting point, any elements that may be new to this application have been identified by the applicant and had been explained. And in that regard I'm referring to the method by which the differential between the all purpose motorcycle and the pleasure motorcycle rate was calculated and explained to the Board.

There's a situation where the prior rate making methodology didn't meet -- or didn't provide a means of differentiating between those two (2) types of motorcycle uses. And I'll get into more detail later, but I just want to remind the Board that in his evidence, Mr. Palmer explained to the Board how those rates were established.

So basically we've got existing methodologies, we've got actuarially sound and statistically driven rates and where there is a distinction or a new rate, we have an explanation in evidence by the applicant.

The method that Mr. Palmer explained on how to judge the all purpose and the pleasure use rate, stated that in the absence of specific data to establish a rate for these two (2) uses, the Corporation applied:

A) Results obtained from a survey of motorcycle riders and owners that indicated how many of them would fall into a pleasure class and how many would fall into an all purpose class, and

B) The Corporation applied data from the private passenger vehicle class where there are many years of experience with an all purpose and a pleasure use rate.

So that through the combination of that information and while admitting that it may not be totally actuarially driven and statistically driven, I suggest that the applicant has given a sufficient rationale to the Board for it to accept the rates that are proposed for those two (2) motorcycle uses.

Taking this burden of proof further, I would suggest to the Panel that there's really been no serious challenge raised against the applied for rates or the methodology employed to arrive at those rates. And it's thing for the applicant to recognize that it has a burden of proof but there's a corollary burden that exists on those who would challenge the rates.

The burden that's placed on the challengers is that it's not sufficient to pick at one (1) element of the thousands of factors that go into a rate application and say 'had you applied a different factor or a different number to that element, then the rate would have been different'; that's not sufficient challenge or sufficient denial that the applicant has met the burden of proof.

If an applicant wished to challenge a factor, it's incumbent on them to bring evidence before the Board to prove that the alternate factor that they're putting forward, is the appropriate one to be used.

So in simple language, the point I'm making is you can't just raise, nitpick at minor issues, suggest that if a different approach was applied the result would be different and then, at the end of the day, argue that the rate has not been proven.

I would suggest that even in argument, particularly by counsel for CMMG, there has been no substantive challenge that would lead the Board to determine that these rates were not fair and reasonable.

Now, in a perfect world, I would be more than happy at this point to conclude by saying, and that, Mr. Chairman, concludes the submission on behalf of the applicant.

But as I indicated in my introduction, this isn't a perfect world and I'm not going to get away quite that easy. There are a number of important issues directly connected to this year's application that have to be addressed and I intend to go through them individually.

Number 1 is DVL, the merger between MPI and DVL. And I believe there are really two (2) sub-issues that need to be addressed with respect to that. The first has to do with the commission share cost agreement and the second the progress of the merger, including a discussion with respect to the master agreement that was concluded and filed prior to the commencement of these hearings.

On the share cost agreement, we have had evidence, certainly at least in the last two (2) general rate applications, last year and this year, that the termination of that share cost agreement was a separate and distinct issue totally apart from the merger of DVL and MPI.

Now, you'll recall that this share cost agreement was basically a payment that was made by the government to MPI to help defer commissions that the Corporation was paying to the brokers and the payment was justified on the basis that the brokers were doing work for the government with respect to the registration of motor vehicles. And that's how the share cost agreement arose.

It was evidence from last year's hearing that that agreement had been in jeopardy for some years. The Corporation had been advised on a number of occasions that termination was under consideration.

This was a unilateral decision and unilaterally imposed by the government largely due to, I would suggest, the scrutiny that the DVL budget was under when it went to Treasury Board for approval on an annual basis.

And in the last number of years it's been a fact that the DVL budget has not included sufficient monies to cover the full cost of the share cost agreement. And near the end of the calendar year 2003, and this again was evidence largely given last year but referred to in this year's hearing, MPI was advised that payment for the final quarter of that year would not be forthcoming and that no future payments would be made with respect to the share cost agreement.

No negotiation, no failure on MPI's part to make the argument that it ought to continue receiving that payment. Purely presented as a done deal.

And I think Ms. McLaren's evidence this year put perhaps the best descriptor on that; it's something that the Corporation has to put behind it and get on moving forward with the merger realizing that that payment is not going to be continuing. And that's exactly what the Corporation has done and it's reflected that in its financial projections.

The second issue, and not only has interest in this aspect of the DVL merger been indicated by the Board, but also by -- by a number of the Intervenors; questions have been raised as to how the merger is progressing and, in particular, how the Corporation views the master agreement that was concluded between MPI and the Department of Transportation and Government Services.

Work on the master agreement, you were told last year, began shortly after the merger was announced, and at last year's Hearing the Corporation filed an interim agreement that addressed some of the initial urgent issues that had to be dealt with in the April 2004 time frame where the non-union staff were being transferred immediately to MPI and functions were being assumed by the Corporation.

It took significant time to come to a final master agreement and if my memory serves me and I know a copy has been filed in the evidence, I don't believe the final agreement was concluded until April of 2005, certainly the spring of 2005.

There is significant provisions in that

agreement. The funding that MPI is to receive from the Government, $20.9 million, which basically represents the DVL's 2003 budget less any provision for the share cost agreement. That $20.9 million is to be paid in perpetuity and that was an important element as far as the Corporation was concerned.

We wanted an indication in the agreement that we weren't going to be at the table two (2) years down the road being faced with a reduction in the -- in the payment or having to re-negotiate the amount that was being paid by the government. So we have in -- written into the agreement the words 'in perpetuity'.

Now we all know that governments often take action as they see fit. But at least it's an indication, I think a strong indication that the government was willing, and they knew why we wanted that in there, willing to include that in the agreement that this payment would be made in perpetuity.

There's also, as part of the agreement, a clear indication that any savings that MPI can achieve through efficiencies are to be to the benefit of the Corporation. There's a provision if -- if a service is discontinued, that we will renegotiate with the government what portion of the $20.9 million should be reduced because of that discontinuance.

And I hesitatingly use this as an example, but say for example, it was decided that driver testing was going to be contracted out to the private industry, then clearly there is a change in service that would warrant the government coming to us and saying, Well you're no longer doing driving tests -- driver testing that's not an efficiency that you've achieved through the merger. It's a -- a change in -- in the situation and we want to renegotiate the $20.9 million.

So that's in there. But the efficiencies that we achieve through synergies stay with MPI. The other important point and -- and this is one of the reasons that the negotiations took some time, is that government was particularly reluctant to give up issues relating to policy.

They wanted to make sure that issues directly affecting Manitobans' policy issues with respect to driver licensing and -- and vehicle registration remained with the government. MPI on the other hand was concerned that policy decisions made by some future government could unfairly drive costs to MPI.

So you'll see from reading the master agreement that the government retains the right to set policy, but they agree that they will do so only in consultation with MPI. It's also agreed that if policy changes are made by the government that directly impact MPI's costs, we will negotiate with the government and increase payment to cover those increased costs.

Operational issues are left entirely within the control of MPI and, as I said, with the caveat that there would be no reduction in services without first consulting with the government.

On the basis of the negotiations and the discussions that went on and confirmed by Ms. McLaren in evidence, MPI is satisfied that the master agreement is absolutely fair and reasonable.

We're convinced that the agreement as drafted, will permit the Corporation to achieve the main goal of the merger, which was that Manitobans would be better served by the new model, by the combined organization, better service, and as a result, efficiencies would flow to MPI.

The word on the merger costs, you know that the Corporation has conceded, in evidence, that in the initial stages of any merger, costs are bound to increase.

The Corporation further has provided financial cost projections that the evidence has told you is on a worst case scenario. Those financial cost projections, which I think over the next three (3) or four (4) years it's been said, total some $40 million, do not contain any allowance in those projections for operational efficiencies, and it has also been confirmed in evidence, the Corporation is committed to reducing these projected losses over time.

That's been our position, the Corporation's position from day one (1), continues to be the Corporation's position.

However, from an accounting viewpoint, it was important to be up front and transparent in projecting or disclosing, rather, the projected losses; that's why they appear as they do in the financial projections.

One (1) final comment on the progress of the merger. I believe it was the representative from CAA that said, well you know, it's taken over a year already, and it looks like it's going to take some time into the future, and they were a little disappointed that the merger was -- was taking that long.

I can indicate that the amalgamation began immediately on the Government's announcement in April of 2004. Planning is moving along extremely well and there have been significant achievements in the past year, April of -- or past year and a half.

The first was the employee transition

agreement. The merger required that the two (2) union -- it's the same union, MGEU, but the two (2) bargaining units, the one (1) that represents the DVL employees, and the one (1) that represents MPI, along with the Government and MPI, negotiate an employee transition agreement.

There had to be provision for movement of the employees who were civil servants, and under the Government bargaining unit into the MPI bargaining unit.

That agreement was concluded in the summer of 2004, and quite frankly the Corporation was very pleased that things moved along that quickly. The Master Agreement, as I said, was concluded in the spring of this year.

And the other immediate hurdle that was faced by the Corporation, had to do with the bringing together of the job classifications of the two (2) work forces. And that is an issue that hits directly to the impacted employees.

The slotting of the former DVL employees into the MPI pay plan and classification system, took an awful lot of hard work by a great number of people over this last year.

It is now in place, the appeal processes have been followed and have been concluded, and with certain income protections for a period of time for those people who are going to be adversely impacted by moving from the DVL pay scale into the MPI pay scale, all those issues have been addressed.

Obviously the impacted employees have a reaction and -- and a view on that, but everything has been clearly explained to them, it's in place and I think again, that -- that is a major achievement.

The other issue where the merger is -- is progressing extremely well has to do with the business process review, and we've -- we've heard a fair bit of evidence on the business process review, particularly, Ms. McLaren spoke to the fact that significant plans are being developed, that this is a long term business process review; that all functions of DVL are going to be subject to the review as are many MPI functions.

There's no, sort of, taboo areas that won't be looked at by the business process review.

The problem that we face at this point in time is that government approval is required specifically for some of the new term and long-terms plans that have been drawn up. And, quite frankly, we're facing here a timing issue.

I can tell you that if these hearings were being held in mid-November, I would anticipate that the

Corporation would have, in all likelihood, been in a position to provide specific details about these near term and long-term plans. And that was a clear inference, I would suggest, that you could draw from Ms. McLaren's evidence.

Constraint that you can't disclose them until approval is -- is obtained, but a guarantee that as soon as approval is -- is obtained, there will be public announcement and -- and the Board will be aware of that.

We're definitely moving forward in -- in that area and it reminds me of some of those old advertising gimmicks where you used to see a big billboard that said watch this space, and then two (2) weeks later they'd -- they'd disclose the campaign.

Well, that's the message that I'm bringing to you this afternoon; watch this space and we anticipate sooner than later there will be public detail. And certainly by next year's rate application, the whole impact of the business process review is going to be much clearer to the Board.

There's been a fair bit of discussion about investments and I'm moving into that area now; much discussion, much evidence provided at the hearings with respect to MPI's investment policies as well as MPI's investment portfolio.

And the message that the Applicant wants to bring to the Board and the message that the Applicant wants this Board to draw from the evidence is that the Corporation has strong governance in place with respect to management of its investments.

And let's just take the time to review that governance.

By statute, the Department of Finance is charged with the responsibility of handling the Corporation's investments. More last year than this year, there was a fair bit of evidence before the Board that the relationship between the Department of Finance and the Corporation has improved greatly in the last five (5) -- five (5) years, in particular, it may be even before that.

There's an investment committee of the Board that meets regularly. There is a group called the Investment Committee Working Group which is made up of representatives from Manitoba Public Insurance and from the Department of Finance. That group meets on a regular basis to address issues of policy, address issues relating to investment.

And the recommendations from that group then go to the -- the investment committee of the Board for consideration and from the investment committee of the Board to the full Board itself, for consideration.

You've seen copies of the investment policy that have been filed in evidence. I would suggest that the -- the policy shows a very detailed approach to investments. It shows where the corporate concerns are and how they're addressed.

And to add to the governance, we have at MPI, an investment department. And you heard Mr. Galenzoski talk about the qualifications of the people in that investment department and the work that they do in monitoring on a daily basis, the MPI investments, particularly the equity side.

On making recommendations to the investment committee working group, which the investment department has representation on in any event. You've heard the fact that the asset mix in the investment portfolio, 75 percent bonds and 25 percent equities, is reviewed on a regular basis and if changes are to be considered, they will follow the governance and the changes will be approved in the method that I have set out.

Asset liability reviews are conducted on a regular basis and are going to continue. The Corporation has recognized its fiduciary responsibility with respect to the investment portfolio.

In evidence, Ms. McLaren spoke about the fact that funds must remain in that portfolio and be invested wisely, so that at the end of the day monies will be available to pay the benefits that claimants are due.

The Corporation takes steps to match duration to the investment policy statement. Equity fund managers report regularly, not only to our investment committee -- sorry, our -- our investment department, the internal department, but also to the investment committee of the Board.

Normally the investment committee of the Board meets quarterly. And at each of those meetings one (1) of the equity managers is there to explain their performance, to justify their handling of the MPI portfolio.

And, as I said, the internal investment department maintains contact with the equity managers on a regular basis so that compliance issues, if -- if one (1) of the equity managers is outside the parameters of -- of the investment policy, that's picked up by the investment department and they're called to account for that.

In her direct evidence, and I refer you to that for reading at a later date, particularly in the transcript pages 1225 to 1227, Ms. McLaren spoke about the asset mix in the portfolio. And she spoke about the trade-off, if you will, between maximising returns in the short-term versus the fiduciary duty to provide benefits to claimants in the long-term.

As well as addressing an issue of potential -- inter-generational subsidization in the event a higher risk mix were to be employed. So these are issues that are addressed by the Corporation and by the investment committee.

They are not issues that come up and surprise us or grab us unannounced. And, again, the message that I urge the Board to take away from the evidence is that the governance is there, the investment portfolio is being handled in a capable and responsible manner.

And the final point, if I haven't already make it -- made it, rather, is that the need to meet projected returns which are included in the financial projections and to maximize returns is carefully balanced against the long-term obligation to clients and claimants.

I'm going to move to the issue of the RSR. And, once again, there are a number of components involving the RSR and retained earnings arising out of this year's hearings.

And it should be made clear up front that it's the Corporation's position that the MPI Board has the sole authority to set the RSR target. This is the stance taken by the MPI Board and senior management. It's been the stance that's been in place over the years and there's been no movement, no change from that position. And there's no change on a going-forward basis.

The Board of MPI, along with senior management is in the best position to determine the capital needs of the Corporation and that's the policy of the -- of the Applicant pure and simple.

Now, this year MPI has brought forward a new target for the RSR and it's also brought forward a new test to determine the appropriate target for RSR. It's clear to everyone that the Corporation's target is 107 million at the low end to 214 million, based on 100 percent of MCT.

For a moment there I almost wished that what Mr. Oakes said was not a mis-statement and that it was two hundred and fourteen thousand (214,000) and then we wouldn't have any issue. But clearly it's 214 million.

Now, Mr. Galenzoski, in his pre-filed

evidence, list -- listed reasons why the old target, the old MPI target of 80 to 100 million set by MPI's board was no longer adequate.

And it's also clear from his evidence that we're not necessarily talking about new risks. There isn't something new that's come on the horizon that has prompted the Corporation to say we need a new RSR target, rather we're talking about changes in the magnitude of the risks.

And it's been put before the Board in -- in other final submissions as to what that evidence was at pages 4 and 5. And I want to -- don't want to belabour the point, but I do want to touch on some of the highlights.

In Mr. Galenzoski's evidence he states that higher retentions, higher re-insurance retentions on casualty and catastrophe re-insurance programs means a risk transfer back to the Corporation. And the evidence is there that retention on the bodily injury files, PIPP files, is now $3 million per claim, whereas as early as four (4) years ago that was only $1 million. So there's a transfer of risk back to the Corporation.

Mr. Galenzoski also identifies the exponential growth of Basic insurance, unpaid claims provisions, again largely due to the nature of the PIP program. This is a long-term program.

It's not the type of Tort program where hopefully within two (2) or three (3) years of a claim arising you either have a judgment or a negotiated settlement, you pay the claim and that's it. You write "finis" -- it's done. These claims potentially can be with the Corporation for the life of the Claimant.

In his evidence, Mr. Galenzoski points out that just a 5 percent change in the $1.1 billion provision for unpaid claims would negatively impact today, negatively impact financial results by 54 million.

Five (5) years ago that same 5 percent increase in the provision for unpaid claims would only have had a $23 million impact. And looking forward five (5) years that same 5 percent change in Basic insurance unpaid claims provisions will have an impact of $88 million.

Now, surely that's a clear indication to this Board that there's a significant volatility in that risk and that the magnitude of the risk is changing over time, and it's only going in one (1) direction.

Can you really be satisfied that fifty-five (55) to ninety (90) or 80 to $100 million would be sufficient reserve to protect against that sort of an adverse impact?

There was discussion in the evidence, the filed evidence, which would have been filed back in June of 2005 that there was a potential change in risk due to the mark-to-market accounting for gains in the investment -- unrecognized gains in the investment portfolio.

And as some of the other presenters today have -- have pointed out there's been a change in the Corporation's position since June of 2005. At that time it was identified as a potential increase in risk.

It's now clear from Mr. Galenzoski's evidence that the Corporation no longer considers this an issue that would drive the need for an increased RSR. It appears that the change to mark-to-market valuation should not adversely impact the Corporation's reported financial results.

There are two (2) caveats on that of course. It won't adversely impact the financial results if it's not taken into account for RSR purposes and if it's not taken into account for rate making.

So, subject to those two (2) caveats, the Corporation is not suggesting that the mark-to-market accounting is going to drive the need for RSR. However, that doesn't change the fact that volatility in the market remains a justification for establishing an RSR and the more volatility, the higher RSR that's required.

You've been told in evidence that the Corporation's projected returns are based on Canada ten (10) year bonds, they're used as the -- the basis for the equity income estimates, and there's certainly no guarantee that the equity market will achieve that standard, particularly as we saw in 2002 and 2003.

So, as recently as a couple of years ago it was clear that the volatility in the investment market was such that the Canada ten (10) year bond recovery or return was not going to be achieved in the equity market.

The Corporation has indicated that all of these factors point to the need for an increase in the RSR target and the RSR range. Rate stability; can't lose sight of rate stability, that is the main factor that the RSR is intended to protect against.

And while I may comment further, when -- when dealing with some of the -- the submissions by counsel. There appears to be in some of the evidence, certainly that's put before the Board in previous years and to some extent the -- the discussion today, there appears to be some thought out there that MPI doesn't really need a Rate Stabilization Reserve, because it's got taxing power; that if rates or -- or if costs increased 20 percent in one (1) year, well, next year you just apply for a 20 percent rate increase. If they drop

15 percent, well you reduce rates by 15 percent.

It's long been the position of the Corporation and supported by evidence before the Board, that that sort of approach is just not acceptable to Manitobans.

Rate stability is valued very highly by Manitobans. It's been evident from the public polling that's done, that rate stability, even minor changes in rates are -- are viewed adversely, and it's a key requirement of the Corporation to ensure rate stability for Manitobans.

Now, most of the controversy over the RSR has centred on the test that the Corporation has decided to employ. The Board has approved an RSR target and a lower range, based on the minimum capital test. We've heard a lot about that.

It's important to note that over the past number of years, the Corporation has been reporting to this Board with respect to the evolvement of the MCT, so that this isn't something that the Corporation is springing on the Board or the Intervenors as a total surprise this year. In previous years even though the RSR was not an issue before the Hearings, the Corporation has filed the D-CAT and the MCT results.

We know from evidence that in 2003, the

Minimum Capital Test became the mandatory measure for property and casualty insurers, subject to OSFI regulation. And we also know that MPI is not subject to OSFI regulation.

However, the evidence before this Board is that the Corporation believes it would be prudent and reasonable to examine the OSFI test and to apply it. The evidence clearly indicates that MCT uses a risk based formula for Minimum Capital Requirement, and it defines the capital that is available to meet the minimum standard.

I want to take issue with people who would say, Well, that means it's a solvency test, because OSFI deals with private -- private insurance companies that are regulated by OSFI and that OSFI's concern is solely solvency.

Well, you heard evidence, and -- and it was introduced in cross-examination of -- of Mr. John Todd, that in fact the industry itself has an organization in place, PACICC, P-A-C-I-C-C, that according to their website, is an organization of private companies, private insurance companies, insuring homes, cars, and other property of Canadians, working together to compensate clients in the unlikely event of an insurer's collapse.

Indicating clearly that even in -- insurers who meet the MCT test and they all have to could still be faced with a situation where their policy holders would be out of pocket if PACICC didn't exist.

And taking to heart my -- my warning about not accepting evidence from counsel, I think I can give you the indication that when MPI was in the general insurance industry from 1975 to approximately 1989, we were members of PACICC as far as the general insurance portion of our business was concerned.

PACICC specifically excludes government automobile insurers from being members of its organization. But when we were in general insurance, the Corporation was -- was part of PACICC.

Now precisely because it is a risk based test MCT, the Corporation views that the MCT is an appropriate test of capital requirements. Don't get caught up in the solvency issue. Solvency concerns are used to set the standard by which OSFI applies MCT.

So I'm asking you as -- as I led Mr. Todd through in his cross-examination, to distinguish between the validity of a test versus the level of the standard imposed by the regulator. And from my reading of -- of his evidence in cross-examination, Mr. Todd conceded that there is a distinction between the test and the standard.

Now from the evidence educed, you know that OSFI has set a minimum requirement of 150 percent MCT for the insurers that it regulates. You also know that the average fund held by those insurers stands at 224 percent of MCT. And that some insurers, Wawanesa in particular, hold as high as 380 percent MCT.

So what is the MPI target? In AI-19, the Corporation produced the MCT analysis that was prepared by its external actuary, Jim Christie, and interesting to note in that report, Mr. Christie takes the position that the financial condition of the MPI is unsatisfactory in the absence of meeting the MCT test.

And that test takes into account adverse scenarios and a lot of the sort of calculation that was being bandied about in -- in cross-examination of the MPI panel and in -- in final submission. So that it's a risk based, it is I would suggest, an empirical test, read the -- the information from -- from Mr. Christie as to how the calculation is prepared.

And the Corporation has chosen the target of 100 percent MCT as the top of the range with 50 percent of that figure as the bottom end of the range. So to use Mr. Todd's phrase, the trigger points for the MPI range for the RSR would be 107 million to 214 million. And when those trigger points are reached, either at the top or the bottom, remedial action is required.

It's also interesting to note that Mr. Todd's report provided a historical view of the setting of the RSR target at MPI. And I want to deal with that to some degree.

In 1988 the Automobile Review Commission Kopstein Report, looked to and identified the need for MPI to establish retained earnings, subsequently known as the rate stabilization reserve. And at that point in time, in 1988, the OSFI standard required reserves equal to 33 percent of net premiums written.

So the same insurers who in 2005 are required by OSFI to apply an MCT test back in 1988 were required to have reserves equal to 33 percent of their net premiums written.

That was the minimum. In his report, Judge Kopstein recommended 15 percent of the OSFI test and that was stated as a reflection of MPI's status as a Crown Corporation; the fact that it did have the right to appear before this Board to apply for rate increases, to cover losses that might be occurred -- that might occur.

But it's also interesting to note that Judge Kopstein didn't just set a figure of 15 percent, he further set his own trigger points of 10 percent and 20 percent, and he said if the fund falls below 10 percent of net premiums written, remedial action must be taken.

And if the fund rises above 20 percent of net premium -- premiums written, remedial action must be taken.

That clearly indicates that as far as -- as Mr. -- Judge Kopstein was concerned, in his view of the need for an RSR and what level it should be at, that 18 or 19 percent, 17 percent of net premiums written would have been absolutely acceptable; no remedial action would have been required.

That's a significant -- significant range.

I'm suggesting to this panel, as I did to Mr. Todd that Judge Kopstein did not reject the OSFI test as being inappropriate or unapplicable (sic) to MPI, he accepted the test and he modified the standard.

Very quickly, the next two (2) iterations of -- of an acceptable RSR target test, again proposed by the Corporation in appearing before this Board, was a move to 15 to 20 percent of unpaid claims liabilities and that was abandoned fairly quickly, due to the potential of extreme variability from year to year.

Unpaid claims can move significantly. As a matter of fact, a significant movement in -- in unpaid claims is -- is one of the things that -- that might trigger the need for an RSR, so that was abandoned.

The next iteration was the risk analysis calculation including a separate component for investment risk, called value at risk.

And this is the solution that was brought forward by MPI to the Public Utilities Board and for a good number of years was the subject of great debate and discussion at these hearings to the point that, quite frankly, I think the Board got fed up and said, that's it, we don't want to hear from you any more on this, unless you come to us with a change in risk.

The problem with the risk analysis approach is that it was based on a number of assumptions and all of those assumptions were subject to interpretation and review and disagreement between the various parties.

And just some of them dealt with whether the elements that were looked at as part of the risk analysis moved in imperfect or perfect correlation; the various confidence levels that would be applied; should operating expenses be included; should they not be included; should some portion of operating expenses be included?

All of this led to not the strict, straight formula that some people, I think, would have this Board believe, suggesting that this made in Manitoba, or Manitoba only solution is somehow the holy grail of calculating RSR balances.

I think that it's clear that the Corporation's position is that in the MCT we have an industry test. It's risk based and we have at 100 percent of MCT a modified standard.

And I think the Board needs to ask itself, even though there's no requirement on MPI to follow the OSFI MCT, why would it not, why would the Corporation that's part of the industry that follows so many industry practices, GAAP, accounting principles, issues like that, why would we just discard the MCT because it happens to produce a higher RSR requirement, perhaps than somebody's analysis of the risk analysis.

And I think that's a warning point, I would be concerned when I looked at the fact that I had a Manitoba only solution that is not used by any other insurer in -- in the country, and it produced a suggested range that was significantly below the test that's used by all private insurers in the country. That, I think should give this -- this Board reason to pause and reason to think about the applicability of the MCT.

The Board also has to address the question as to whether it would be fiscally responsible and prudent to substitute your own judgment on this issue, for that of the MPI Board of Directors and senior management. I think that's a fair question that the applicant can put to the Board, a fair issue that the applicant could put to the Board.

Now we've heard all about ICBC and their use of MCT, and I want to give you the applicant's view and position on that.

Even though in their annual reports, ICBC seems to indicate that they have government backing in the event of any significant financial loss, ICBC has applied 100 percent MCT, as their retained earnings target for their basic line of business.

We heard argument that, well, ICBC is different from MPI, because the tin and glass, the physical damage component, isn't part of their basic program. They're in competition with that.

So, they have more -- they have more competition, they -- they compete for the tin and glass, they compete for the extension, all those -- those other products. That's true. But it's also true that for their basic compulsory program they use the same target, 100 percent MCT, that MPI is proposing.

Further tin and glass, their competitive lines, they're at 200 percent, significantly different than our situation.

Now it's also been acknowledged that the 100 percent MCT and 200 percent MCT was applied to ICBC, at government direction. And the Corporation is clearly aware of that, and -- and we have the -- the actual, I believe the document's called IC-2, where the Government imposed that standard and that test on ICBC.

It doesn't change the fact that it's there, doesn't change the fact that it stands in the same proposal for the basic line as MPI is suggesting.

We've also heard that Workers' Comp of Manitoba uses an I -- an OSFI test to establish reserves. Now, it may not be the same MCT, and it's been noted that WCB is not involved in re-insurance, so the risk is -- is different, but it also should be noted that according to their website, the OSFI test that Workers' Comp applies, has led them to establish reserves equal to 91 percent of their premium revenue.

That's not the proposal that you see before you from MPI, we're not looking for 91 percent premium revenue, we're looking for almost a third of -- of that.

So, in closing on this issue, I would suggest that the Corporation has established that MCT is a reasonable standard, resulting in a reasonable target.

And I know you have many views to the contrary, but it's an issue that -- that you're going to have to grapple with, and I've put the Corporation's position as best I can on that issue.

The next issue also related to RSR is the issue of a surplus dividend, and it was a question that the Corp -- or the Board rather, put to MPI at -- at the close of Hearings, and the Board has the Corporation's response as part of Exhibit Number 33.

And basically, what that exhibit says is that based on the RSR target proposed by the Corporation, there is no surplus dividend to distribute to ratepayers at this point in time.

I think it's important at this time to, again, highlight the policies that had been accepted by this Board for the determination of when a surplus dividend or when a special surcharge should be put in place.

And that is that the RSR must either be above or below, and I'll stick my -- leave my discussion at a surplus discount because that's the issue that we're facing today, the RSR must be above the target and it must be earned and in the bank.

And that means, for our considerations today, that the only amount available to the Board, if, in fact, the Board decides a surplus dividend is appropriate, is the 135 million that sits in the RSR as at the end of February 2005.

And at this point I don't usually take issue with -- with Board Counsel, but I think there's one (1) point that I either have to take issue or perhaps get -- want to clarify.

I understood Mr. Saranchuk to say that because of the 20 million that was transferred from SRE and extension in March of 2005, that that one hundred and thirty-five thousand (135,000) might really be -- sorry, 135 million might really be 155 million.

It doesn't fit with the policy. It doesn't fit with the -- the -- the approach that's being taken by the Board. If we are looking at a figure it's the $135.7 million that sits in the RSR.

The other -- and the reason I say you can't take the -- the -- the transfers from SRE and extension is that they're made in the -- in the current fiscal year and the current fiscal year has not yet closed and we're not sure whether those monies will still be there at the end of the current fiscal year.

The other interesting point that I wanted to draw to the Board's attention has to do with what target should be used if, indeed, the Board decides a surplus dividend will be paid.

I think you've had at least three (3) proposals put forward today. One (1) was that the range should stay at fifty (50) to eighty (80) and that any dividend should be paid on the basis of the Board's stated range, not adjusted for inflation.

You had evidence from Mr. Todd, and I think it was reflected in the presentation by Mr. Williams, that doing a quick calculation and adjusting for inflation which was conceded in the Board's order last year, that that range is really fifty-five (55) to 90 million.

And then, of course, there's the MPI then approved target back in -- in February of '05. The target then was eighty (80) to 100 million. And the interesting point that I thought I would bring to the Board's attention is that the only experience we have with a surplus dividend relates to December of 2000.

When, in Board Order 151 of 2000, the Board ordered a surplus dividend of $75.4 million be paid back to ratepayers. This order is interesting from -- from a number of points. First of all, it was based on a projection. It wasn't a situation where we were looking at the previous fiscal year where the money was in the bank confirmed and that's the basis that the -- the surplus dividend was determined.

This was actually a forward-looking which would, today, be contrary to the policy accepted by the Board. But, in any event, the Board ordered a seventy-five point four (75.4) surplus dividend.

And the impact of that was to reduce the total basic RSR to one point one (1.1) -- or, sorry, $101.9 million. So, in effect, at that time, even though the Board's target was fifty (50) to 80 million they didn't order a surplus dividend for everything over 80 million. They ordered a surplus dividend for the amount over the MPI Board's target of eighty (80) to a hundred million.

I'm going to move now to the -- oh, it should go without saying, despite the -- the discussion of surplus dividend, the Corporation's position remains that the target should be accepted at 214 million, and that no surplus dividend should be paid.

Moving to the IIP, the Immobilizer Project. The Corporation, for a number of years, has been struggling with the fact that auto theft is a major problem in Winnipeg, and to a lesser extent a problem in the rural areas. Significant costs are incurred year after year to pay total theft claims, partial theft claims.

And especially with some developments that have happened in the last year or so, there's an increasing potential for bodily injury claims arising out of stolen automobiles. This is the issue of thieves who turn these stolen vehicles into unguided missiles, by placing a cement block on the accelerator and letting them run loose down the street, risking property, life, limb, whatever.

So, this is not just an insurance problem, it's been recognized that it's a societal problem and that it has an impact on all Manitobans. It doesn't just impact the individuals who belong to the private passenger vehicle class where most of these stolen vehicles come from.

It doesn't just impact people in Winnipeg, it impacts all of Manitobans.

In previous years the Corporation gave evidence before this Board that it felt it wasn't the sole owner of the auto theft problem. That there were other elements in Manitoba who ought to take some ownership of auto theft. And the Corporation worked long and hard to bring those elements together to try to communicate effort -- or to get cooperation, coordinate efforts and have a joint approach to defeating auto theft.

It wasn't working. The -- the numbers continued to rise, the incidences of -- of auto theft continued to go up.

So, as indicated at last year's Hearing, the Corporation decided that it was going to have to step up to the plate and solve this problem. And there had been a number of significant steps that the Corporation has taken to address the issue of auto theft.

Internally, the position of Director of Auto Theft Prevention has been created, reports directly to the president, and has responsibility for coordinating the efforts of all the stakeholders. So we're still working with the City of Winnipeg, RCMP, Department of Justice, but we're recognizing the fact that we're willing to take the lead role.

You've heard about the interim measure, the Winnipeg Auto Theft Suspension Strategy, two (2) year pilot, based on the experience in Regina, where offenders and a targeted group of offenders who are, as a result of being convicted of auto theft, put on curfew and other restrictions, are being monitored on a regular basis to ensure that they're living up to the terms of their curfews, and if they're not, that they are immediately apprehended and brought back into the judicial system.

There's evidence before you that it's

costing MPI approximately nine hundred thousand dollars ($900,000) a year for this two (2) year project, but that the cost to other stakeholders, particularly the Department of Justice, is considerably high as well. They're having to process these people through the Courts. In -- in many instances they're having to detain them in youth centres.

So this is a truly cooperative approach focussed on the worst offenders. And as Mr. Bedard said in his testimony, in response to questions on cross-examination, there appears, in the last number of months, to be a decline -- there is a decline in the auto theft experience in Winnipeg, and that I believe he said he was cautiously optimistic that this program had already begun to show results.

The difficulty with that program is that it is an interim measure, it's a stop gap measure, while something more permanent is put in place. And that something more permanent is the long term measure, the Immobilizer Incentive Plan.

The Corporation determined that the surest way to stop auto theft was to make it impossible for the vehicles to be stolen. Now Transport Canada has reached that same conclusion but they have put in place a requirement that, commencing in 2008, all vehicles must come with a factory installed immobilizer. That doesn't provide much of a solution for Manitoba.

Number 1, it's some three (3) years down the road in any event, and number 2, due to the average age of the Manitoba fleet which is running somewhere in the neighbourhood of fourteen (14), fifteen (15) years, it would take until 2023 or beyond before we had any real chance to see the entire Manitoba fleet immobilized.

So the Corporation established the Immobilizer Incentive Plan, negotiated a fixed cost two hundred and eight dollars ($280) covering purchase and installation of an immobilizer. MPI pays half up front, hundred and forty dollars ($140) and is willing to finance the balance hundred and forty dollars ($140) over five (5) years by way of an interest free loan.

And that's why I was a little confused by one of the comments that Mr. Roberts made when he was talking about the immobilizer program and he said, Well the up front cost could be a deterrent for some of the poorer members of society. But there is no up front cost, there's no need for anybody to incur an up front cost.

And over and above that, once they install the immobilizer, they get a reduction of forty dollars ($40) a year on their annual Autopac premium. So they're netting twelve dollars ($12). It seems to be a win/win situation. It's been described definitely as a novel approach. It's been described as unique to Manitoba.

And it seemed to me that one of the interveners was suggesting that that made the program somehow less acceptable or -- or more questionable. I totally disagree. I think that this applicant has shown the lead in many instances in the insurance field and -- and this is just another instance where MPI's out front leading the way.

Now, it has been identified that one of the issues is that it's a voluntary program. And as long as it remains a voluntary program, the Corporation is going to have to work very hard to bring the right people to the table.

But again, you've had evidence before you that the uptake in -- since the program was -- was announced in the summer has been very encouraging, that capacity is increasing almost daily so that the -- the ability to meet the demand is -- is there if not -- or almost there, will be there very shortly.

And also that the Corporation has a number of -- of plans in place to ensure that the owners of those one hundred (100) most at risk vehicles come into the plan. So for the time being the Corporation is going to continue with the voluntary program.

The Corporation has given a commitment to this Board and elsewhere, that it will report on progress, it's tracking progress. I can tell you everyday a screen pops up on -- on my computer that tells me how many people phoned yesterday and -- how many appointments are available.

So all of this information is within the Corporation's control and for that reason the Corporation is -- is willing to follow the program and see how it unfolds. Specifically when we start making the specific contacts to the -- the individual owners. And that will be reported on.

There's also been some question with respect to the fund itself.

The Corporation disagrees with Mr. Todd that retained earnings are not the appropriate source of funds to back this Immobilizer Program.

And we also disagree with his analysis that this is really an investment. The position that the Corporation takes and the questions were put to Mr. Todd, and I believe this is the point that Mr. Williams said his client disagreed with Mr. Todd's position, is that this isn't an investment.

It's not like an investment in a building where you have an asset at the end of the day or a -- an IT system where you certainly hope you've got an asset at the end of the day.

This is money flowing out. This is money that eventually will have a positive impact on the Corporation's claims experience but other than that impact, the Corporation doesn't have any concrete asset in its hands as a result of spending this money.

There's been plenty of discussion about the accounting approach and I think that you've got clearly on the record that the method that the Corporation has used to account for this immobilizer fund is according to the GAAP principles.

And also that the reason the Corporation chose this approach was to provide transparency and clarity. And when you look at the financial statements and the projections going forward it's identified right up front.

It shows the fund. It shows how it's being depleted. Readily apparent to anyone reading the financial statements as to how this money is being spent.

And for that reason, and I think it's a valid reason, the Corporation chose not to include these expenses as part of normal operating expenses which would be much less transparent and much less clear.

So, again, I think that the evidence and really the approach taken by many of the Intervenors is an acknowledgment that this is a good program. They might have done it a little differently. They might have found, you know, a different approach.

But no real challenge to the validity and -- and the benefit that this program will provide to all Manitobans. There's some issues with respect to, are some people subsidizing the program because they don't -- their vehicles don't qualify. Motorcycles don't qualify and some large trucks don't qualify.

Well, I recall Mr. Oakes giving evidence through -- not giving evidence, but making the comment that most motorcyclists own motor vehicles. So, to that extent, in any event, they're able to benefit from the program.

The fact that theft experience is lesser in rural areas doesn't preclude rural residents from taking advantage of the program. It's open to all. It's not restricted to Winnipegers. It's not restricted to high risk vehicles. It's open to all.

So if there is any subsidization, I would suggest that it's very minor. And, what's more, when you accept the fact that this is a societal problem that impacts all Manitobans, it's not really subsidization;

it's a reflection that this is a major issue for all of the province.

I'm moving now to comments and reflections on positions taken by the Intervenors in -- in their closing argument.

And starting with CAC/MSOS --

THE CHAIRPERSON: Mr. McCulloch, if I may ask, how much more time do you think you'll be going?

MR. KEVIN MCCULLOCH: I expect, and I'm not the best estimate of time, but I expect a half an hour.

THE CHAIRPERSON: Then we'll just take a five (5) minute break right now.

--- Upon recessing at 4:53 p.m.

--- Upon resuming at 5:04 p.m.

THE CHAIRPERSON: Any time you're ready, Mr. McCulloch.

MR. KEVIN MCCULLOCH: Yes, Mr. Chairman, as I indicated, I'm moving to responses to some of the items raised by counsel or Intervenors in their closing submissions.

And I'm by no means going to touch on every issue. I'll try to restrict it to -- to issues that I think are -- are of importance in connection with this rate application.

Starting with Mr. Williams and his presentation on behalf of CAC/MSOS. My comments with respect to the risk analysis earlier in -- in my presentation go to respond to Mr. Williams' statement and position taken on the risk analysis.

As I indicated, this is an analysis that's based on a number of assumptions, all of which are open to challenge and debate and it's not as has been suggested by both himself and Mr. Oakes, an issue that provides, sort of, an agreed formula, the magic answer to what an appropriate RSR would be.

I'm concerned with some of the comments that Mr. Williams made with respect to how MPI arrived at the MCT calculation. I would suggest that there's absolutely no evidence before this Board that these numbers were pulled from the air as he would have suggested.

The basis of the calculation is clearly set out in the applicant's evidence. We applied a -- we've attached a copy of the report prepared by the external actuary and it's -- it's clearly obvious that this is an empirical analysis of a -- of our Corporation's capital requirement.

Mr. Williams, I believe, dealt with an issue that he took from the evidence of our strategic research area where it talked about the emotional approach or an emotional appeal in various safety -- road safety advertising and issues.

And he seemed to be suggesting that the comment in that strategic research report was identifying emotional appeal as the basis on which resources were allocated.

I would suggest that the appropriate reading, and I'll leave it to the Board to read that portion, I believe it appeared, I'll give you the tab reference, Tab 23 of the CAC/MSOS book of evidence, response to second round number 18.

But if you read that, I'd suggest that what is being referred to in that -- in that comment is that this is a research term that describes the top of the mind response that you're eliciting from the people who are being polled.

So it describes the emotional appeal of the -- of the commercial or the road safety message. It's not talking about the means for measuring the effectiveness of the road safety message.

I'm interested with respect to the comments made by Mr. Williams with respect to driver's education and, again, I believe that there was evidence before this Board, either last year or perhaps the year before, that the very researcher who had done the study for MPI had indicated that crash analysis and injury frequency are not appropriate measures for the success of a Drivers' Ed program.

And Mr. Williams seemed to be criticizing the Corporation for not catching that data as a means of analysing the efficiency of its Drivers' Ed program.

I think there's also been evidence before the Board that that same expert is working on a revised curriculum and there will be in that curriculum measures to assess the effectiveness of the program.

I think the other thing that must be said when we're talking about Drivers' Ed is that I want to remind the Board, and I don't think any of the present panel would have been on the Board at that time, but some years back in the mid-'90's the Corporation and through its Board of directors, took the decision that it would abandon its support and its sponsorship of the Drivers' Ed program on the basis that they couldn't establish a cost benefit analysis of the program.

And the absolute uproar from Mr. William's own clients, the consumers of Manitoba, forced a reversal of that decision and made it quite clear that Manitobans expect MPI to deliver a Driver's Ed program for their children. And you can't lose sight of that, and you can't ignore that.

There were comments made with respect to Mr. Bedard's evidence that the Transport Canada 2010 Report, was showing a decline in serious injuries and deaths in Manitoba. And Mr. Bedard did give that evidence, indicating that this came from a 2003 Transport Canada Report.

And the other issue, and again I want to be careful on this one (1), but I believe this has been discussed in previous Hearings, and -- and it may sound strange, but there are actually different ways of counting fatalities.

The Corporation in its counts, includes individuals who may die months after the accident, but resulting from injuries suffered in the accident. The Corporation also includes non-residents who suffer fatal automobile injuries within Manitoba. And I believe there's been evidence before the Board that Transport Canada doesn't count fatalities in the same manner.

There was also discussion as to the methodology for calculating the volume factor, that was an issue that Mr. Williams raised. And I'm advised that the methodology is clearly set out in the Corporation's materials, TI-19.

The other item that I misspoke myself, and I have to correct on the record is that I suggested that the average age of the fleet in Manitoba was fourteen (15) to fifteen (15) years, it's actually nine (9) years. So it would move the -- the period from 2023 to approximately 2019, if my math is correct, or '18, in that area.

There's one (1) other issue that I want to -- and this is one (1) that -- that I think is important in -- in Mr. Williams' submission that -- that I want to correct.

He referred to a response provided with respect to CAC/MSOS-1-3, that he said disclosed how the current RSR surplus of $135 million was achieved. And he broke it down into four (4) components.

He identified an RSR surcharge of 55 million, profit on operations of 150 million, or is that profit on gain, I'm reading Mr. Galenzoski's handwriting. Sorry, that's profit on basic, 150 million. Transfer from extension 4.3 million, and transfer from SRE, 48 million. And he says that's how that was accounted for. Take off of course the -- the surplus dividend.

In fact, if you look at his very own -- or the response to his very own Information Request, the --

the correct figures are that first of all we started off in this time frame and it goes back to 1989/90, with a deficit of 7.8 million in the RSR. The RSR surcharge did account for 55 million.

Profit on basic was 62.5 million, and when you then take off the surplus dividend of 80.3 million, you're left with 29.5 million. So that's the -- the basis for that 135.7. You then add to that the 48.2 million from SRE, he had that figure right.

But in fact, the transfer from extension was not 4.3 million, it was 58.1, because there was a -- a specific transfer in 1992/93 from extension.

So, really the -- the SRE and the extension transfers far and away constitute the -- the amount of that $135 million, and other operations only accounted for $29.5 million.

Again, I think it's -- probably not much turns on it but it's -- it's an important correction to be made, in my mind.

The last thing I want to mention about Mr. Williams' submission deals with his parent suggestion that the Corporation should appear at next year's rate application to justify the collective bargaining contract or the contract rather with its employees that's achieved through collective bargaining.

I note Mr. Rodger's, our VP of Human Resources was sitting here at the time. I don't know how he would react to having someone else at the table, but it seems to me that the contract will be what the contract is. And I don't think the Board should ask the Applicant to justify the result of its collective bargaining process.

I want to move to comments from the counsel for CMMG. Quickly we're looking for 12.7 percent from the motorcycle class. The preliminary opinion provided by Mr. Palmer was that the loss transfer ordered in June would, in all likelihood, have a positive impact but not a particularly large impact on the motorcycle rates.

It should also be noted that Mr. Palmer's opinion was predicated on the understanding that the twelve point seven (12.7) would be granted this year. So clearly if the twelve (12) -- if the freeze that Mr. Oakes is suggesting should go in is -- is acted on, then that projection by Mr. Palmer is -- is not reliable.

Loss transfer won't take effect until March 1 of 2007. The indicated rate for March 1, 2006 for motorcycles shows an 18.3 percent rate requirement. The 12.7 percent which is the result of the capping provisions that are set by the Board brings that down to

-- to 12.7 and that is required. And the Corporation feels that there's no justification for freezing that rate for, in effect, a full year before the impact of loss transfer will be felt.

I also want to generally talk about an issue that -- that arose through Mr. Oakes' evidence or -- or cross-examination rather, and was one though that really impacts the entire Hearing.

Mr. Oakes produced two (2) tables to be used as part of his cross-examination of the MPI Panel. One of them at Tab 19 of his Exhibit Book, Table 2, was the charting of the rate line for motorcycles. As pointed out, once the Corporation had a chance to check that, that had failed to include Rate Group zero, which happens to be the largest rate group in the motorcycle pool.

And when the Rate Group 0 was added to that graph, it made a significant difference in the -- in the shape of the graph and I would suggest significantly undermined the point that Mr. Oakes was attempting to make.

The other exhibit and -- and I don't have a number for it, but I think the Panel will probably remember it, had to so with some mathematical calculations that had been put together and presented to

MPI Panel for cross-examination.

And the end of it, as I understood it, was that Mr. Oakes was trying to show that -- the Corporation was playing with the margin calculation that was having a direct impact on the total reserve.

Now that was accepted on the basis of subject to check. And Mr. Oakes went through a number of questions and cross-examination on that and -- and got responses as best he could from the MPI Panel.

After the check was done, it turned out that the figures were incorrect. And, in fact, the conclusion that Mr. Oakes was drawing from those figures, was also incorrect. The margins hadn't changed to any significant degree.

Now I think this is something that the Corporation will probably address in its response to the Board with respect to the new rules of procedure which are -- are to become permanent. I would suggest that the approach taken by Mr. Williams is much preferable, where if he's planning on giving a table or a chart or -- or a calculation to the -- the Applicant's Panel, he produces it sometimes just a few hours before his cross-examination, sometimes the day before to give us opportunity to check it.

I can tell you that in the past this has been his practice and it has resulted in changes to the figures as he had calculated them. And it makes for a much more meaningful cross-examination.

The next area and it -- it fits into the -- the comment that I just made about producing information on -- at the last most moment before the Panel. Mr. Oakes brought forward some transcripts from the ICBC rate application.

And basically the purpose of that was to suggest that the MCT calculation when it looked at the allowance for unrealized gains at -- you're allowed 50 percent from your -- your capital requirement, was in fact a reflection of the requirement to pay income tax.

And -- and he had, as part of that transcript, an indication from one (1) of the witnesses that they'd spoken to OSFI and yes, there was an income tax consideration in there.

Mr. Galenzoski then countered with evidence that he had spoken to our external actuary. And, in fact, the external actuary said, No, it's got nothing to do with income tax, it has everything to do with market volatility.

Again, acknowledging that I'm not giving evidence I'm just going to suggest that if Mr. Oakes -- and if his -- if the Board is interested in doing it, had checked further with the record the transcript from the proceedings in British Columbia, they would have found that, in fact, there was confirmation that income tax was not something to be taken into account and that OSFI had given the opinion that if in fact one (1) of the companies it was regulating was not liable to pay income tax, that they still would not allow a greater reduction than 50 percent, primarily because of market volatility.

So I think those sorts of issues could be avoided if there was sufficient opportunity to examine the material and it -- it's a rule that would apply to MPI counsel in cross-examination as well.

Enough said about that. The rest of -- of Mr. Oakes' presentation, and I'm not going to go through it line by line, but I think it's worth highlighting. He raised a number of questions, no evidence, a number of questions as to the applicability of, for example, the ICAC and -- and he said if -- if you changed an assumption it would -- it would lower the rate by seven dollars ($7) or the -- or the assumption that you've used has raised the rate by seven dollars ($7).

I think it has to be made clear that the requirement for an ICAC provision exists, the Corporation is required to -- to disclose that and it must be booked and it gets sign-off from the external auditor.

The same has to do with the PFAD; that's an actuarial requirement that must be calculated, must be disclosed. And the actuarial standards that -- that bind not only the internal actuary but the external actuary require that you discount reserve -- discount the claims and apply a PFAD.

So these are issues that really can't and shouldn't be subject to the type of cross-examination where you say we think you should have -- you could have used a different assumption. We think this is appropriate -- inappropriate.

All of these issues have been properly included. They're there to meet either GAP, actuarial standards, or accounting standards and auditing standard requirements. They're there, and without them the Corporation wouldn't get the sign-off from their auditors and the actuaries.

And by getting the sign-off it indicates that the Corporation has done the calculation in accordance with allowable and acceptable practice and -- and shouldn't be subject to -- to the sort of challenge that it was put to.

I'm going to move very quickly to the -- the MUCDA presentation. Again, they spent a lot of time questioning the IIF. I don't agree with -- I think we've answered the -- the challenges to the accounting approach taken with respect to the -- the IIF.

We have indicated that the calculation that they did, and this was in response to -- to cross-examination by the MPI panel that, in fact loss of interest revenue had been included in the calculation of the cost of the immobilizer fund.

And the loss of revenue was considered by not built in to the cost of the loss related to the reduction in premium which is a reduction that everyone who buys a new vehicle that has a factory-installed immobilizer also gets. So that was, I believe, the explanation given by the panel as to why that wasn't factored into the costs.

Another issue, Mr. Roberts was suggesting that somehow the dealers had been subsidizing the program. In effect, the dealers rates had been -- or that they had contributed -- sorry, that was his point, they had contributed to the surplus and -- and were entitled to share in the surplus dividend.

I think it's clear that the rates charged to dealers have been insufficient for a number of years and that's why their rate increases are being requested.

Again, I think it's fair to categorize both the -- the cross-examination that Mr. Roberts conducted and the -- the final submission as falling into the category of, if I pick at enough little items I might convince the Panel that the whole application should fail. And I've already addressed that in my remarks as to why that is not an appropriate approach.

I'm going to spend a few minutes on the submission by the Manitoba Bar Association and, in a way, it's unfortunate that Mr. Dawson isn't here to -- to hear me say this, but I guess he can read it in the transcript.

I, like Mr. Evans, often appreciate and -- and find interesting the presentations made by Mr. Dawson. I have a concern with relevancy but from the point of view of presentation and process it can be quite entertaining.

I want to deal directly with his suggestion that MPI failed to respond to the Board Order to conduct a study of personal injury lawsuits.

I believe that -- and on behalf of the applicant I stress, that the response brought forward by the Corporation was appropriate. There's a line from an old Dylan song:

> "You don't need a weather vane to know
> which way the wind blows".

You don't need a detailed cost study to

know that opening personal injury lawsuits to uninsured motorists is not going to increase revenue for MPI.

Clearly, it was in evidence last year and it was in argument last year, the Corporation already has the right to sue extra-territorially insured motorists for damages, injuries, PIPP claims that they cost within Manitoba; that's where the money is.

It isn't with the uninsured motorist. So opening up personal injury lawsuits in any of the three (3) instances that were identified by the Bar Association last year is just plain senseless.

And I think the Corporation made that point in its -- in its response. And the issues -- he calls them excuses, but the issues raised by the Corporation are real and genuine. Who has conduct of the action because that drives cost?

If the sole purpose of the action will be recovery of PIPP benefits that would flow back to MPI, why on earth would an individual want to incur the cost of a personal injury lawsuit? So the question was asked, who has conduct?

If you allow personal injury lawsuits with allegations of defective vehicles and you've got a situation, again, where the main beneficiary is going to be the Corporation, the individual single vehicle accident, crashes into a tree and is injured comes forward and says, well, the brakes failed. They must be defective.

Who has the direction? Is it in the hands of -- of that claimant to be able to go forward, sue the manufacturer and incur costs and probably incur costs on behalf of MPI because they don't want to admit that it was their negligence or their error that -- that caused the accident?

Once you open that door you can't shut it. You can't say it's only for claims that MPI agrees are caused by defective vehicles. You can't say that it's only for claims where MPI agrees that the uninsured motorist or the extraterritorially insured motorist was at fault. Once you open the door you have to allow everyone to pursue the action whether they have a chance of success or not.

And I think that the Corporation has identified that in its response as being a major flaw in the proposal put forward by the Manitoba Bar Association.

I want to quickly deal with Mr. Dawson's suggestion that the Board should now order MPI to expand that action against defective vehicles, expand it from just personal injury to include property damage.

There is no bar on MPI suing an automobile manufacturer for property damage caused by a defective vehicle, so there's no need to lift the bar, the action is already extant; it's available, it's there. There's no need to -- to expand a study for something that isn't banned. It's only the personal injury lawsuit that is -- is barred under -- under the MPI Act.

The other thing that I want to deal with and it's the last point is Mr. Dawson's plea for a claimant advisory office. And when he was cross-examining Mr. Bedard running through the litany of poor souls who couldn't handle their personal claim or couldn't understand and -- and couldn't properly be guided by the MPI case manager with respect to their entitlement.

He talked about people who were not well educated, who had difficulty with the language, who were old, who perhaps had mental conditions.

I must admit my thought sitting here was, how on earth do these poor souls manage to hold employment, enroll their children in school, maintain a household, and generally function as members of our society?

I think before you would be justified in ordering the sort of study that Mr. Dawson is requesting there would have to be some evidence before the Board that there's a need for it out there.

He does mention the fact that there has recently been introduced by the government, not by ACAC, it wasn't a decision of the Appeal Commission, but a decision by the government to introduce a claimants advisory office for individuals who are processing their appeal in front of the Appeal Commission.

It's a very restricted function that the claimants advisory office has and I would suggest to this Board that the reason that office has a restricted function is that there was no indication to the government that there was any need to expand it beyond that.

The government doesn't legislate by bits and pieces, it looks at an issue and it legislates a solution to that issue and clearly there's a lack of evidence that has been brought before this Board that would indicate there is a wholesale need for a claimants advisory office.

I also think that it's quite obvious that establishing a claimants advisory office is, number 1, going to be expensive. Right now there's no provision in the MPIC Act or the PIPP program for payment of expenses. If you're going to open up an office like that, someone is going to have to pay for it and you'll bet it won't be the government, it'll be MPI.

And the other issue and there was evidence before this Board last year, Mr. Bedard gave evidence that our experience on the internal review files is that when lawyers and outside advocates are involved there's considerable delay in processing the claim and that's an issue that I think would have to be addressed.

So in the absence of a proven need I think there's no doubt and -- and Mr. Dawson was very upfront, he said this was a perception. This was a perceptible argument. A straw man, if you will, that he was putting up.

But before the Corporation spends and uses its resources to address an issue like that, I think it's fair to say there has to be a demonstrated need and there has been none given to the Board -- provided to the Board.

That concludes my comments. I don't want to recap. I think I've made it clear and I'm not suggesting that I'm in any way restricted by time, but I recognize the fact we have been here a while.

It's on the record. The applicant's position is on the record. It usually comes to me as counsel to also give an indication to the Board as to when a ruling is required by the Corporation; that hasn't changed.

The beginning of December, obviously earlier if possible. But the beginning of December is the, sort of, drop dead date as far as the Corporation is concerned for getting the changes processed and getting them out in the renewals that start going out in the middle of January.

As with the other counsel and Intervenors, I want to thank the Board for its attention and for the consideration that it's given to this application. Thank you.

THE CHAIRPERSON: Thank you very much, Mr. McCulloch. So, we have come to the end of the public aspect of the GRA for this year. The Board has received evidence and comments from the parties present and we'll now retire to consider our findings.

The Board Order can be expected no later than presumably about this time next month, so we should be well in advance of the time you were speaking, Mr. McCulloch.

We appreciate the efforts of all of those connected to the hearing, particularly those from MPI that provide the application to which the others respond.

We want to thank MPI's team, those that stand behind them, as well as those that are back in their offices supporting the venture.

As well, we want to thank the Intervenors, their counsels and advisers, the presenters that appeared before us, the Board advisors and our staff. All were very helpful to the proceedings.

These hearings provide a transparency, explanation, discussions that speak to reviewing and, on occasion perhaps, improving the insurance program we rely upon.

MPI and its programs are clearly of importance as acknowledged by the fact of the Intervenors present and the other interest that's always shown and displayed at these hearings.

In closing, then, I note that our transcripts are now on our website and our thanks for this major improvement goes to Digi-Tran and Ms. Wilkinson. We greatly appreciate that. It should simplify our order writing process, I believe.

So our Order will flow in due course and this concludes the public hearing. Thank you to everyone.

--- Upon adjourning at 5:35 p.m.

Certified Correct

____

Carol Wilkinson