# MANITOBA PUBLIC UTILITIES BOARD

Re: MANITOBA PUBLIC INSURANCE
GENERAL RATE APPLICATION
FOR 2007/'08 INSURANCE YEAR

Before Board Panel:

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

HELD AT:

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--- Upon commencing at 9:08 p.m.

THE CHAIRPERSON: Okay. Good morning everyone. We've got a bit of a late start. Traffic was fairly thick and, of course, everyone coming here would want to avoid an accident or a ticket.

So, we'll begin this morning with Board Counsel, Mr. Saranchuk, Ms. Everard.

MR. WALTER SARANCHUK: Thank you, sir. Good morning.

THE CHAIRPERSON: Oh, by the way, we have another -- I should go over to Mr. Williams for a minute. Mr. Williams, do you have an exhibit to file?

Ms. Bowman...?

MS. MYFANWY BOWMAN: Thank you, Mr. Chair. We have the answer to CAC/MSOS's Undertaking Number 1, which was the question that Mr. Dawson had directed to Dr. Hum, but Dr. Hum had to leave. So his response, if we could make that the next exhibit.

And, I'm sorry, the number escapes me.

THE CHAIRPERSON: Number 15.

MS. MYFANWY BOWMAN: And that's already been circulated to --

THE CHAIRPERSON: I was very tempted to say under the B, 15. Thank you.

--- EXHIBIT NO. CAC/MSOS-15: Response to Undertaking 1.

MR. WALTER SARANCHUK: And --

THE CHAIRPERSON: Mr. Saranchuk...?

MR. KEVIN MCCULLOCH: The other thing, one (1) quick thing, Mr. Chairman. Ms. McLaren had asked me to advise the panel that she's attending a funeral this morning but she's going to join us as soon as she can.

THE CHAIRPERSON: Very good, sir.

FINAL SUBMISSIONS BY MR. WALTER SARANCHUK:

MR. WALTER SARANCHUK: Yes. 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 the approval of the Corporation's base rates and premiums charged for a compulsory vehicle and driver insurance, that is its rates for service for the 2007/'08 insurance year which would take effect March 1st, 2007.

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

MPI is seeking approval of rates which are based on an overall decrease of 2.6 percent for all premiums. Experience based rate adjustments are applied ranging from minus 15 percent to plus 15 percent for individual classes with the exception of mopeds, trailers, in excess of -- I'm sorry -- at a value of twenty-five hundred dollars ($2,500) or less, and off-road vehicles.

For all vehicles other than motorcycles, trailers and off-road vehicles classification offset adjustments are applied ranging from minus -- minus 3.3 percent to plus 11.1 percent to achieve revenue neutrality from rate group adjustments.

Capping of all rate changes at 20 percent has been applied except for an average increase of 94.8 percent for mopeds and 73.2 percent average decrease for motor scooters. Driver's licence premiums are to remain unchanged at forty-five dollars ($45). As well, service and transaction fees and permits and certificate fees are to bear no change.

In terms of the updated financial results, the updated financial picture for 2005/'06 and '06/'07, which were the subject of prior years rate applications, are as follows.

Fiscal 2006 results are reflected in TI-13, which is at Tab 3 of the book of documents.

For -- for 2005/'06 fiscal year the basic insurance division recorded a net income of $88.6 million; that compares with a forecasted net income of $53.8 million forecast last year; an improvement of $34.8 million. The change was attributable primarily to an improvement in forecast claims expenses of $10.4 million as well as higher forecasted investment income of $26.9 million, due primarily to additional earnings from the equity portfolio.

Reviewing briefly the results for fiscal 2007, and those are reflected at TI-14, at Tab 4 of the book of documents. This is for the current year, that is the year that we are in.

MPI is forecasting to have a net income of $34.7 million including a $10.7 million transfer from the Immobilizer Incentive Fund, that is known by the acronym IIF. There is a $24 million result in net income prior to the transfer, and that is compared to a projected net income of four hundred and sixteen thousand dollars ($416,000), including a $1.8 million transfer from the IIF forecast in the GRA last year. The result is a $1.4 million loss before that transfer.

The improved experience is attribu -- attributable to an increase in the investment income now forecast to be $103.1 million, an improvement of over $28.1 million from last year's projection.

Dealing with the projected operating results for fiscal 2008, that's the year with which we are concerned in this application, the Corporation's financial statements for that fiscal year are shown in Sections TI-15 and TI-17 in Volume II, Part 2, and that's at Tabs 5 and 7 respectively in the book of documents.

A net income of $4.6 million is projected for fiscal 2008 after the transfer from the IIF of $11.1 million. There is otherwise a loss of $6.5 million before that transfer. Total earned revenues are currently projected to be $684.2 million, compared to $665.2 million forecast in fiscal 2006/'07.

This year's application assumes a 3 percent vehicle upgrade factor for 2007/'08 and that factor reflects the renewal of the vehicle fleet through customer disposal of older units and purchase of newer ones.

As well, like last year's application, this year's application assumes a volume factor, that is the growth in the number of vehicles insured, of 2 percent for 2007/'08. Service fees are expected to be

$18.1 million for 2007/'08, which is an increase from the $15.8 million forecast for 2006/'07.

Claims costs, claims and road safety expenses, loss prevention expenses are expected to increase to $674 million compared to $646.8 million for 2006/'07. Compared to last year's forecast, claims incurred are projected to increase by over $25 million.

Other expenses at $100.6 million are projected to increase by $3.2 million in 2007/'08 compared to last year with operating expenses to increase by $1.4 million.

The projected underwriting loss for 2007/'08 is $90.4 million while investment income is forecast to be $84 million. The result is that overall the basic insurance program is to -- expected to have a net loss of $6.5 million before an $11.1 million transfer from the IIF. Net income for rating purposes is projected to be $4.6 million after that transfer.

In the application at hand, the average rate adjustment for each major vehicle class is; for private passengers -- private passenger vehicles, a 3 percent decrease; for commercial vehicles, a 5.4 percent increase; for public service vehicles, a 2.4 percent decrease; for motorcycles, an 8.4 percent increase; for trailers, a 14.1 percent decrease; off-road vehicles are to experience no change, resulting in an overall premium decrease of 2.6 percent for the fleet.

After consideration of insurance use and territory and capping and balancing for experience rate adjustments, the results are modelled to assess the impacts of various rate and classifications changes, which yield the requested rate changes as follows.

74.5 percent of vehicles will receive a rate decrease, with most decreases being less than fifty dollars ($50). 6.2 percent of vehicles will receive no rate change. 13.2 percent will receive a rate increase of up to twenty dollars ($20). Four percent of vehicles will receive an increase between twenty dollars ($20) to fifty dollars ($50); 1.4 percent of vehicles will receive an increase between fifty ($50) and one hundred dollars ($100) and .7 percent of vehicles will receive an increase greater that one hundred dollars ($100).

Now, reviewing the evidence relative to DVL, the acronym for driver and vehicle licensing department, that is being treated as a fourth line of business after the merger into MPI last year.

The DVL bottom line impacts the extension line of MPI's business and that of course, is outside this Board's jurisdiction. The net cost of DVL in '06/'07 were $29.5 million and are expected to decrease to $26.8 million by the year 2010/'11.

Recoveries are fixed at $21 million and smaller, resulting in extension funding a shortfall of $8.5 million in the current year's forecast; that is for 2006/'07.

A business process review has been undertaken to identify ways MPI can maximize the benefit to ratepayers and vehicle registrants and driver license holders, made available through the merger. The budget has gone $8.8 million over the original estimate of $20 million, driven by $7.1 million for the proposed driver rated -- safety rating program to be reviewed by this Board next year.

Moving on to another major topic, namely, the anti-theft initiatives undertaken by the Corporation. The first is, known by the acronym WATSS, W-A-T-S-S, for the auto -- Winnipeg Auto Theft Suppression Strategy. That was started by the Provincial Auto Theft Task Force, a partnership between MPI, the Winnipeg Police Service, the Manitoba Justice Department and that was to monitor young offenders convicted of auto theft and their compliance with Court-imposed conditions.

MPI has a two (2) year funding commitment of eight hundred and ninety-six thousand dollars ($896,000) per year, expiring in mid-2007. To date, the program's results have been mixed due to rotation of staff at the Winnipeg Police Service and new or older offenders becoming involved in auto theft. However, WATSS was intended as a bridging or short-term strategy with the concept of engine immobilizers being MPI's long term strategy, or long term solution to auto theft.

Speaking of immobilizers, this year has seen a change to the previous immobilizer offer; mainly, that the vehicles on the most-at-risk list, or the top hundred and fifty (150) most stolen vehicles in Winnipeg, are now eligible for a free immobilizer. As well, this program was recently extended to all most-at-risk vehicles throughout Manitoba.

All other vehicles remain eligible for 50 percent of the immobilizer cost of some two hundred and eighty dollars ($280) to be paid by MPI and the remaining 50 percent is to be financed by MPI over five (5) years.

All immobilized vehicles receive an annual forty dollars ($40) discount on their insurance premiums.

In addition, as at September 1, the most at risk vehicles that are brought into Manitoba must be immobilized prior to registration and most at risk vehicles stolen after September 1 must be immobilized before they can be put back on the road.

It should be noted that MPI has

acknowledged that the free immobilizer offer, having been extended to MAR vehicles, that's the most-at-risk vehicles, throughout Manitoba, was done more so for publicity -- for public policy reasons in that a financial payback really cannot be demonstrated.

MPI's goal is to have 90 percent of the most-at-risk vehicles in Winnipeg immobilized by the end of February 2008, which is approximately seventy-two thousand (72,000) vehicles. As of September 27th, 2006, there have been thirty thousand four hundred and ninety-six (30,496) most-at-risk vehicles immobilized, so MPI is at this stage, on target to meet this goal.

If interest in the program falls off over the next number of months, MPI may request in the next year's General Rate Application permission to levy a surcharge against the owners of most-at-risk vehicles that are not immobilized. Through the outlook period, to 2013/'14, MPI is forecasting savings attributable to the immobilizer program of approximately $130 million.

Dealing now with another major topic, namely, investment income. Investment income is a major component of MPI's income and historically has offset annual underwriting losses. MPI is projecting approximately $84 million in investment income to the basic insurance division for 2007/'08, the year of the application.

MPI does not currently include what is known as an equity risk premium in its forecasting; that being, a premium which effectively rewards or recognizes the greater risk in investing in equities rather than the more stable and more predictable bond market. If an equity risk premium of 1.5 percent were included, investment income would be $90.7 million. At 3 percent ERP, or Equity Risk Premium, the projected investment income would be $97.1 million.

The size of the corporate portfolio for the year of the Application is projected to be just over $2 billion, comprised of roughly 75 percent long term bonds, 24 percent equities, 1 percent cash and short term investments and .5 percent of venture capital.

The Department of Finance has ultimate authority over MPI's investments, though there is a joint investment committee in which MPI participates.

The Corporation has had a four (4) year annualized return of 8.6 percent. The investment policy statement of MPI has been revised to include a guideline for realizing gains, based on the level of unrealized gains relative to the book value of investments.

At present, the Corporation is holding unrealized gains of approximately $55 million.

There is a change in accounting policy to be implemented as of March 1, 2007, which will require MPI to show unrealized gains on its balance sheet in the retained earnings section, under the heading, quote, "Other Comprehensive Income", end of quote. It should be noted, in concluding, that MPI has stated it should not be regulated on a comprehensive income basis.

Moving on to the major topic of the RSR, or the acronym for the Rate Stabilisation Reserve. We have learned that the stated purpose over the years has been to protect motorists from rate increases made necessary by unexpected events and losses arising from non-recurring events or factors.

The Corporation's position on the purpose of the RSR according to Ms. McLaren, its CEO, if we were -- quote:

> "If we were writing this today, we might write this to say that it's intended to protect motorists, you know, from large special surcharges to rebuild the RSR made necessary by unexpected events and losses." End of quote.

That's a quote from page 435 and 436 of the transcript of evidence.

That is an obvious change from the earlier years of the Public Utilities Board review where a catastrophic single event like an act of God or a major hailstorm or flood was the rationale.

The application as filed projects the balance of the basic RSR as follows:  For 2006 fiscal year, $173.1 million; that's including consideration of the $37 million in the IIF and $19 in SRE and extension transfers.

For fiscal 2007 a balance of $197.1 million, including consideration of the IIF with no SRE and extension transfers.

For fiscal 2008, $190.7 million including consideration of the IIF, again with no transfers.

For 2009, $185.6 million, again including consideration of the IIF with no SRE and extension transfers.

For 2010, $188.8 million including consideration of the IIF and, again, no transfer.

And for 2011, $199 million including consideration of the IIF with no transfers.

The Public Utilities Board RSR target is $65 million to $100 million for rate setting purposes. The Corporation, as we have heard, prefers the use of the minimum capital test, or known by the acronym MCT, in establishing the RSR range. The test -- the test identifies risks based on the Corporation's current financial statements.

The MCT test is a solvency test utilised by private insurance companies which are regulated by the Office of the Superintendent of Financial Institutions, known by the acronym OSFI, it's OSFI. MPI has indicated that the test is an industry best practice but acknowledges that MPI is not subject to OSFI regulation.

Based on a range of 50 percent of the MCT to 100 percent MCT, MPI proposes an RSR range of 107 million to 214 million. This range -- that's dollars -- this range is significantly lower than the 150 percent target required by OSFI. We know that the Saskatchewan Government Insurance, or SGI, uses a range of 100 percent to 125 percent MCT, and ICBC, or the Insurance Corporation of British Columbia, uses a minimum level of 100 percent MCT.

The range of 50 percent to 100 percent is based on MPI's management judgment. The Board heard testimony from MPI's actuary, Mr. James Christie, in support of using the MCT and it also heard testimony from CAC/MSOS's witnesses, Professors Hum and Simpson, both economists who essentially advised against abandoning the Board's preferred risk analysis approach in favour of

MCT.

In terms of the overall financial wellness of the Corporation being a major consideration by this Board, it is strong -- it appears to be strong with retained earnings of $43.1 million and $47.2 million in the extension division and SRE, respectively, at the end of 2005/'06.

The Corporation has declined to file any forecasts of retained earnings related to SRE and extension, citing the Corp -- the Board's jurisdiction. The Corporation's Board of Directors has indicated that there are to be no more transfers of retained earnings from extension and SRE to basic and that they will not be made pending the outcome of this Hearing.

MPI's overall retained earnings for all business lines totalled $263.5 million at the end of February 28th of this year. For fiscal 2007/'08, that is the year of this application, that will result in the basic insurance RSR being forecast at $190.7 million, including the IIF transfer, well in excess of the top end of the Board's RSR range for rate setting purposes. This amount does not include SRE and extension retained earnings.

Moving on now to claims incurred. Claims experience rate adjustments made by looking at historical data and projecting that into the future to determine the expected cost of claims for all the different categories is the claims experience, and that is in order to achieve revenue neutrality.

Net claims incurred results and forecasts are as follows, briefly. And this is taken from TI-6, which is at Tab 2 of the book of documents.

For PIPP coverage, that's the Personal Injury Protection Plan, the actual results at the end of fiscal '06 were $194.5 million in claims incurred. The forecast for the current fiscal year is $226.2 million and the projection for 2007/'08, the year with which we are concerned in this application, PIPP costs are expected to be at $237.3 million.

Under the cover of collision the actual results for the past fiscal year were 207.3 in collision -- $207.3 million in claims for collision costs, and $228 million being forecast for the current year with the projection for 2007/'08 being $241.1 million.

In terms of the comprehensive cover, the actual results in terms of net claims incurred, as at February 28th of this year were 68 -- $68.3 million, the forecast for the current year being $62 million, and the projected for 2007/'08 being $60.6 million, recognizing the reduced theft costs.

The total for net claims incurred as at the end of February 28th, 2006 was $520.9 million, the forecast for the end of this current year is $550.7 million, and the projection for 2007/'08 is $574.9 million.

Claims incurred are, therefore, projected to increase by some -- by some $54 million or 9.4 percent over the next two (2) years. We heard evidence and there was evidence filed with the application relative to claim costs control initiatives for bodily injury and all perils and those continue to be implemented and are addressed in SM-5.3 and 5.4 of the Volume I of the application.

Dealing now with motorcycles, mopeds and scooters. If the increase in moped rates were capped at 20 percent, the rates for other vehicles would be slightly higher. If the decrease in motor scooter rates were capped at 20 percent, there would be virtually no change to other vehicles due to the small number of registered motor scooters.

MPI is requesting that an exception to the 20 percent maximum increase be made for mopeds, where 94.8 percent increase is proposed, as the current rate structure is inequitable in comparison to motor scooters. This would result in 91 percent of moped owners facing an increase of a hundred dollars ($100) or more with a maximum being a hundred and eighteen dollars ($118).

Over a number of years we've heard that MPI's been phasing in a rate line adjustment for motorcycles and that will be complete in 2009. The data in the current application reflects the effects of the Board's decision last year with respect to loss transfer which has lowered the required rate increases for motorcycles and increased the required rate increases for commercial vehicles. All other classes are, essentially, unchanged.

Briefly, under the heading of Claims Expenses, there has been an increase in the current year over last year of some 23 percent with a further projected increase for the year of the Application of 1.93 percent.

Operating expenses are attributable to basic -- or attributable to basic, have increased to $39.8 million in the current year from $36.8 million last year and are projected to increase further to $41.3 million in the year of the application.

Relative to MPI's safety initiatives, the three (3) main priorities continue to be occupant restraint or seatbelt usage, impaired driving prevention, and unsafe speed. However, the largest expenditure in the current year relates to auto crime prevention or anti-theft strategies with Basic's share being some $12.3 million.

Under the heading of Capital Expenditures, the main Corporate expenditure is a business process review that I mentioned earlier, now being undertaken.

It has an expected budget from 2005/'06 to 2008/'09 of some $28.7 million.  Essentially, the business process review is to identify service improvements and cost reductions by way of changes through MPI's current business practices.  The total amount of the current -- of capital expenditure is forecast for basic for the year of the Application is $15.5 million.

Finally, under some miscellaneous issues, interprovincial trucking for one, there is at present a rate subsidization being borne by MPI rate payers in favour of interprovincial truckers with respect to injury claims costs, approximating $1.8 million per year over the last five (5) years.

In terms of sustainable development, suffice it to say that MPI will continue to consider the contributions it can make to sustainable development in Manitoba.  And, to my understanding, it has undertaken to at least review or research the concept known by the acronym of PAYD, P-A-Y-D, or Pay-As-You-Drive insurance.

And finally, with respect to driver safety rating, MPI is currently undertaking a process to implement a new system to replace the current Bonus/Malus system and that's to be the subject of a special hearing in May of next year. The cost of this initiative is to be $7.4 million with an additional $1.7 million contingency. And the target is to implement the new system by August 1, 2008 with transition for all drivers to occur by July 1, 2009.

Those are some of the issues arising from this Hearing, Mr. Chairman, and in closing, I would like to thank the Board, the Intervenors, MPI's panel, MPI's Counsel for the indulgence and cooperation extended during the course of this Hearing. Thank you.

THE CHAIRPERSON: Thank you, Mr. Saranchuk. We'll move now into the Intervenors and first up is Consumer Association of Canada Manitoba Society of Seniors, Mr. Williams and Ms. Bowman.

MR. BYRON WILLIAMS: Thank you, Mr. Chairman. Just before we start, there's one (1) handout that I would like to refer to but we haven't provided it to Mr. Gaudreau yet, nor have we shared it with Mr. McCulloch, but it is sourced from the record. I wonder if you'll accept that?

I -- we'll share it with you in...

(BRIEF PAUSE)

THE CHAIRPERSON: Mr. Williams...? Mr. McCulloch...?

MR. KEVIN MCCULLOCH: Yes, Mr. Chairman. I believe that the handout does reflect information that was elicited in cross-examination by Mr. Williams.

THE CHAIRPERSON: Yes.

(BRIEF PAUSE)

FINAL SUBMISSIONS BY CAC/MSOS:

MR. BYRON WILLIAMS: You aspire for -- so much for me, Mr. Chairman. With me is Ms. Desorcy or with -- behind me, looking carefully over my shoulder is Ms. Desorcy. I thought I might have exhausted her and Ms. Hunter after the two and a half (2 1/2) hours I took getting instructions from them yesterday, but she's here cheering me on; I hope.

Mr. Chairman and Members of the Board, good morning again. And Mr. Saranchuk did his thank you at the end. I just -- because I tend to forget these -- I do want to, again, thank Board Counsel and Board

Advisors. I think they make our job much easier and we learn a lot from both their interrogatories and their questions. So I want to express our appreciation to them.

For the past two (2) weeks I've been taking some shots because I didn't bring any props to the Hearing; you know, usually I bring dice or cards or coins. I didn't bring a prop because I've been carrying around this weighty tome, being Volume II of the -- the Kopstein Report. This tattered copy I've -- I've been reading through religiously for quite some time.

And I think, in particular I recommend to the Board Position Paper Number 7, an excerpt of which was provided as a -- as an exhibit in this proceeding.

And why I think the Kopstein report is so interesting, valuable, is it really sets out the roots of many of the debates that we're still having today. It chronicles some of the trials and tribulations of this very proud and very important Crown corporation at a different time, during the 1980's, the mid-1980's; a time before the Corporation had an internal actuary, a time before the Public Utilities Board was granted jurisdiction over changes to the rates for service to Manitoba Public Insurance, a time when the Corporation appeared to consider budgeting for a loss to be acceptable practice.

And we all know, based upon our own memories and also based upon this excerpt from Kopstein which was provided in -- in the record, that the -- the 1986/'87 and '87/'88 years were very tough years for the Corporation. In '86/'87 it faced a $62 million loss, almost equally contributed to, one third/one third/one third, by three (3) -- three (3) things:

1) Budgeting for loss.

2) Adverse weather conditions.

And 3) A significant actuarial adjustment.

The thing that I find so interesting and so valuable, is that out of these trials and tribulations, out of the experience forged by adversity, came a Corporation which certainly in my client's views is stronger, more stable, certainly better regulated and in my client's view also probably better managed.

Indeed, when we look to the current MPI, a modern, relatively dynamic Crown corporation, with reserves in -- in basic and extension and SRE, as Mr. Saranchuk just summarised, well in excess or somewhat in excess of a quarter of a billion dollars, it's hard to imagine that we're talking about the same corporation that we saw in the mid- 1980's.

Much of the credit for this should go to the Corporation itself. It's handled significant challenges, such as the transfer -- the transition to no-fault. And as Mr. Palmer confirmed in his cross-examination by Board Counsel Everard, it's greatly improved its forecasting ability.

It's come a long way from the first year of -- or the '95/'96 year of PIPP, when it -- there was a 16.6 percent variance from forecast.

With no undue modesty, when we look at the improved situation of the Corporation, I think it's fair to say some of that credit should also go to consumers. In the early 1990's it was consumers who were saying, Don't budget for loss.

In the year 2000 and -- with regard to the 2004/'05 rate application, again consumers were arguing, Don't budget for loss; we don't want to go back to the bad days -- the bad old days of the mid-1980's.

And I think it's also consumers who deserve some of the credit for the change in the Corporation's investment policy. Some of the pushes that were made in the 1990's were instigated by consumers and consumer witnesses.

Much of the credit, as well, for this improved situation should go to His Honour Judge

Kopstein, who way back in 1988 offered a recipe and the key recommendations to the -- which underlie in our submission the Corporation -- the strong, healthy Corporation we have today.

What were those four (4) key recommendations?

1. Don't budget for a loss.

2. Build the reserve for variances, such as weather, to protect against those extreme events, those outliers way beyond forecast.

3. In setting these reserves, don't rely upon a private sector test. Realize that the reality of Manitoba Public Insurance, a compulsory product in a monopoly environment with the implicit backing of the Government, is a different reality, than the reality of private sector companies.

And 4th, once you've established an appropriate range for your reserves, if you get outside those reserves built them back up again; what we now call surcharges.

Finally, since I'm giving out credit to MPI and to consumers and Judge Kopstein, I think a fair bit of it goes certainly on behalf of my clients, to the Board itself. It was this Board which in the mid-1990's and the late 1990's took the bull by the horn and gave substance to the Kopstein suggestions.

It approved an RSR rebuilding charge -- rebuilding plan, by a surcharge.  It developed a comprehensive approach to establishing a rate stabilization reserve; first of all, by asking what is the purpose of the RSR; secondly, by asking given its purpose, how do we determine an appropriate amount; and third, by asking in the event that we're somehow outside the appropriate amount -- outside that range, what do we do, how do we rebuilt it in bad times, how do we return excess reserves to consumers in good times?

And again, my clients would submit that the Board also deserves credit for its decision with regard to the '04/'05 GRA, when it said no to a rate smoothing application by MPI, when it was seeking to budget for a loss; when it was seeking to budget for a loss, notwithstanding the facts that its reserves were below -- not only the PUB target range, not only the MPI target range, but well below almost $70 million below the amount suggested by the DCAT.

I want to turn to the actual risk analysis, which I would suggest is a product of the recommendations of His Honour Judge Kopstein and the efforts of MPI consumers and the Public Utilities Board over the last better part of a decade to come to grips with how should we give reality to the suggestions made by Judge Kopstein.

As I've said before, the first question asked by the risk analysis is, what are you trying to achieve? The answer, and Mr. Saranchuk spoke to it this morning, the RSR is intended to protect motorists from rate increases made necessary by unexpected events and losses arising from non-recurring events or factors.

There's the question. The issues is the impact on rates, not the question of whether MPI will stay in business.

And what's the RSR for? It's to mitigate rate impacts in response to unforeseen events. In essence, variances of the forecast -- from the forecast to the actual. By answering what the RSR is for, we can also answer what it's not for.

It's not there to ensure the MPI can pay claims. MPI is not like a private insurer who can't raise rates after a bad year due to competition. The RSR is not there due to concerns about insolvency or claim payments.

In essence, we've created a fund to protect ratepayers against large, unforeseen events that do not occur frequently.

MPI has been authorized to pre-collect a certain amount. The hard part, of course, is what's a certain amount? How do you make sure you don't collect too little or that you don't over collect?

The Board, it its wisdom, has said the RSR should not just be a number, it should be a range, with the purposes of the lower and upper bounds of the RSR target range being trigger ports. If below the lower, we rebuild with a surcharge; if above the upper, we rebate via surplus dividend.

So, given the purpose -- given the trigger points, how do we get to the rate range? The approved method is to quantify risks looking at the 95 percent or 97.5 percent probability that the RSR would drop below zero.

On the operational side, we use the risk analysis; a tool, and I think Mr. Todd made this point very well in evidence a couple of years ago, which MPI is very familiar with. Essentially, the risk analysis uses past experience to predict the -- the distribution of forecast errors in the future. And there's a particular focus on the size of prospective negative errors or outliers that might exceed the RSR.

On the investment side now, of course, we use the VAR.

And it's important just to go back to

first principles and to understand that the consequence of the RSR dropping, dropping outside the range, is not that claims don't get paid but rather that a larger than otherwise indicated rate increase -- increase is required.

And the reason that we're prepare to tolerate some risk of going below that range, is that the consequence is a rate increase; it's not insolvency.

Essentially, the Board has looked at a trade off before how much you can -- how much you can pre-collect from customers and put into the RSR, either deliberately or by luck, in order to avoid future rate increases relating to large, unforeseen events that do not frequently recur. The issue is a timing one and the Board has wisely recognized that there's a limit to how much consumers are willing to prepay.

There's another critical element of the PUB approach to setting the RSR into the targets and also the dividend rebate policy. And it's not expressed in our view, but we would submit that it's implicit. It's the assumption that the regulator will appropriately manage the rates for service of the Corporation, i.e., the regulator won't allow the Corporation to budget for a loss.

It will require it to re -- have a

rebuilding plan in place when the reserves get below the target level. And we think that's implicit if not necessarily explicit in the plan.

CAC/MSOS firmly believe that this approach, this risk analysis, is an approach that the regulator can be proud of and that consumers can be proud of.

It's not a situation like in British Columbia where the appropriate range, i.e., the MCT range, is set by a government fiat. It's set by the Cabinet not by an independent regulatory process. It's not a situation like in Saskatchewan where we're not quite sure what -- what happens there, but it's clear that it's -- it's not determined by an independent regulator.

In the -- in the view of CAC/MSOS, the Manitoba approach builds upon Manitoba's unique experience using Manitoba's own data and a methodology with which MPI is intimately familiar.

Put another way, the current regulatory approach respects the history and the experience of MPI and it seeks to avoid the mistakes of the past while building on the rich experience of the last few years.

In the respectful view of CAC/MSOS, this approach has been under-challenged by MPI for the past three (3) or four (4) years. The challenge began, in the view of CAC/MSOS, in the 2004/'05 General Rate Application with the attempt by MPI to repudiate Kopstein in the sense that they were trying to -- brought in a projected or budgeted loss in the General Rate Application.

Last year we saw the Corporation repudiate the advice of Kopstein again, that it not adopt a private sector test in setting their RSR, as it officially asked the PUB to adopt the MCT.

This year we have seen the Corporation appear to reject historical facts. For example, at page 64 and page 65 of the transcript there seems to be a suggestion that the problem incurred by the Corporation way back in 1986 and 1987 was exclusively related to actuarial adjustments, when we know instead that they were related to budgeting for a loss to weather variances as well as actuarial adjustments.

In the current application we have also seen the Corporation, in the respectful view of CAC/MSOS, appear to reject part of the historical tradition of the RSR by downplaying the importance of unforeseen variances due to weather or to catastrophe like hail, notwithstanding the $19 million variance which -- due to weather which took place in '86/'87 as well as the 12 million variance in '95/'96, and notwithstanding its -- the Corporation's own evidence last year where I could swear that the need to protect against heightened catastrophe risk was central to its argument in favour of the RSR.

More importantly in this proceeding, and Mr. Saranchuk alluded to this in -- in his submission, we have seen the Corporation, in our view, or in the respectful view of the CAC/MSOS, radically repudiate twenty (20) years of thinking on the RSR by suggesting that we need reserves which are large enough, not only as Kopstein and the PUP have found, to buy a bit of time while we rebuild the RSR's, MPI now says, and Mr. Saranchuk quoted that -- that statement, that we need an RSR to protect consumers against an RSR surcharge.

Now, of course, we haven't heard the Corporation argue that we need a great big RSR to protect consumers against an RSR rebate, but perhaps that's the implicit thrust of their argument on this point.

Taken together, when you look at the big picture, over the past few years we have seen the Corporation invite the PUB to reject history and to rely upon the Corporation's own judgment as -- as to the appropriate -- appropriate purpose of the RSR and the appropriate level of reserves to protect Manitoba ratepayers.

(BRIEF PAUSE)

MR. BYRON WILLIAMS: Just by way of a not very clever segue and just to summarise, the position of CAC/MSOS is that the Corporation is inviting the PUB to reject or to radically change the original purpose of the RSR by suggesting that it's even to protect against an RSR surcharge, and secondly, to repudiate the many years that have been spent refining and developing the risk analysis. And -- and CAC disagree on both points.

In terms of whether MPI has erroneously re-interpreted the original purpose of the RSR, we would direct your -- your attention to the transcript of this proceeding.

And I'm not going to go through this. Mr. Saranchuk in the first Wednesday of the Hearing covered this in some detail. And he also covered this at pages 741 -- or, excuse me, 471 to 475 of the transcript, when he put to MPI the thrust of the Board's orders back in Board Orders 168-90 and 174-92. There's no need to go over that.

I'd also direct when the -- when the Board is looking at whether MPI's approach is inconsistent with history to refer to the CAC/MSOS cross-examination at pages 1652 to 1659 of the transcript; in which we discuss the purpose of the RSR as identified by Judge Kopstein.

CAC/MSOS believes that those transcript references establish, first of all, that the MPI approach is out of step with history and secondly that the historical reasons for developing the RSR in the way that we did are still just as valid today.

CAC believe, and MSOS, that the historical approach of prudent fiscal management in order to protect the Corporation ratepayers including, don't budget for a loss, build prudent reserves, rebuild if too low, rebate if too high; have stood the test of time; that's why they rejected the smoothing approach of MPI in 2004/05 and that's why they reject the MPI proposal today.

In particular, and I canvassed this with my clients yesterday, CAC/MSOS take issue with the idea that the RSR should be so large as to forestall any need for surcharges or implicitly, so large as to imply any possibility of a rebate.

When CAC/MSOS look at the RSR today, they see it as a measured way to provide some security against unforeseen variances, to protect consumers against exorbitant rate increases.

But they also note that if the Corporation pre-collects too much money, that's money that should -- would be better off in consumer's pockets, where they can use it most prudently in their self-interest.

Just as importantly, CAC/MSOS have the concern that if the Corporation has too much in reserve, it will be less rigorous in its fiscal accountability and they note, just on that point, that the Corporation is looking at forecast increases in operating expenses for '06/'07 of 8.34 percent and for the -- and the change again from '06/'07 to '07/'08 of 3.59 percent.

CAC/MSOS are organizations which manage tightly to budget. They think that this is, you know, it's not always comfortable, but for those corp organizations it allows them to manage better, it allows them to be more fiscally prudent, it allows them to be more entrepreneurial by necessity.

That's the same wish that they bring to MPI. If MPI has too much in its pockets, CAC/MSOS are concerned that it becomes too comfortable.

So, recommendation 1 of CAC/MSOS is to maintain the original purpose of the RSR. Do not accept the radical interpretation offered by MPI.

Mr. Chairman, I've got -- this is kind of a -- not a bad segue. I can stop here for five minutes and then -- then move through and I'll probably carry you through to a bit after 11:00.

THE CHAIRPERSON: Okay. Very good then. We'll have a break now.

--- Upon recessing at 10:02 a.m.
--- Upon resuming at 10:15 a.m.

THE CHAIRPERSON: Mr. Williams, Ms. Bowman?

CONTINUED BY MR. BYRON WILLIAMS:

MR. BYRON WILLIAMS: Thank you. We had just addressed the disagreement of CAC/MSOS with the purpose of the RSR proposed by Manitoba Public Insurance.

We're now moving to the other big corner of their argument, the -- the MCT and the proposal to replace a risk analysis with the MCT and to establish an MCT target range for the RSR judgmentally selected to be between 50 percent and 100 percent of the MCT ratio.

And it'll come as no surprise to you that CAC/MSOS take issue with the proposal to use the MCT for the purpose of setting the RSR.

But I want to -- before I get to the -- the -- the merits of that argument, I want to make a key point. Mr. Todd made it last year as I was reviewing his oral evidence.

I'm not sure Dr. Hum made it in his written evidence, but he tried to make it strongly in his oral evidence as well.

And the point is, CAC/MSOS are certainly not arguing that MCT and DCAT are bad tests. They're not taking issue with whether they're appropriate in the context of OSFI. What they are taking issue with, is whether they're the correct tests for the purposes developed by the RSR and by the PUB over history.

And we've already discussed what -- from the purpose -- from the perspective CAC/MSOS what the purpose of the RSR is and also why CAC/MSOS believe that the risk analysis is a good approach.

I want to elaborate on why in the -- in the CAC/MSOS view, the PUB should not use MCT/DCAT for purposes of determining an appropriate RSR.

The starting point is to recognize that the MCT was created by a different regulator with a different mandate in a different competitive context, for a different purpose. And recall that I'm pretty confident you're aware of your own jurisdiction which is over rates for service.

And the PUB, of course, regulates one (1) single auto insurance company operating in monopoly environment, offering compulsory products. So, when it comes to auto insurers, MPI is, in effect, the apple of the regulator's eye. It's the only one you got.

By contrast, OSFI has no jurisdiction over rates for service and to the best of Mr. Christie's knowledge, no rate setting role and that's at page 1179 of the transcript. Instead, its mandate is well set out in its annual report which is marked as CAC/MSOS Exhibit number 8.

And I won't go through in burdensome detail the entire mandate, but if you go to page 77 you'll see a key one is:

> "To supervise federally regulated institutions to determine whether they are in sound financial condition and meet a minimum plan, funding requirements respectively, and are complying with their governing law and supervisory requirements."

And if you stay with that exhibit and this was also acknowledged by Mr. Christie in the transcript, rather than the one (1) -- oh, thank you so much, rather than the one (1) auto insurer under the PUB's jurisdiction, OSFI, O-S-F-I, regulates approximately a hundred and eighty-nine (189) companies with assets in the range of $91 billion, and it does so, not companies in a monopoly environment, but in a vibrant competitive market.

And that contrast between those two (2) regulatory roles is very apparent. The key issue before the Public Utilities Board: rates for service. At the end of the day, you're looking at a just and reasonable rate and the balance between ratepayers and the Corporation.

When you look instead to how OSFI interprets its mandate, and I direct you to pay 16 of -- of the CAC/MSOS Exhibit 8, its mandate is very different.

It acknowledges the need to allow institutions to compete effectively and take reasonable risks. It recognizes that management, Board of directors, and plan administrators are ultimately responsible and that financial institutions can fail.

It sees its key strategic objective in terms of financial institutions, and this is at page 16 of Exhibit CAC/MSOS number 8:

> "To regulate and supervise, to contribute to public confidence in Canada's financial system and safeguard from undue loss, OSFI's..."

I might have misspoke when I said that

earlier.

"...safeguards depositors, policy holders, and private pension plan members by enhancing the safety and soundness of Federally regulated financial institutions."

The question posed by the RSR:

"How do we protect ratepayers from undue rate increases in the face of large unforeseen rarely-occurring losses?"

The question posed by OSFI is quite different, and I'd refer you to -- when you -- at your leisure, to CAC/MSOS Number 7, which sets out an advisory from OSFI dated December 2, '03:

"What is the purpose of the 150 percent MCT ratio?"

In the words of OSFI:

"The supervisory target of 150 percent, while not measuring solvency in the strict sense of the term, is a regulatory trigger point. A company that breaches the supervisory target of 150 percent will attach increased regulatory attention and at a minimum an early warning intervention status."

Again, when you look at how OSFI interprets the MCT, go to page 2 of that same advisory report:

"OSFI's regulatory supervision does not attempt to ensure that no company can ever fail, rather OSFI attempts to intervene at an early stage in a company's difficulties for there to be a realistic prospect for the situation to be rectified.

The purpose of having companies establish and operate target capital levels at or above the supervisory target level is to provide adequate time for them to revolve -- resolve financial problems that may arise [and I'll underline this] while minimizing the need for OSFI's intervention."

A very different purpose.

And the point to underline is this is not the question posed by the RSR, which is protecting from impacts from rate increases. Instead, the MCT can be seen to be essentially survival related, minimizing regulatory invention by -- for a very busy regulator with a hundred and eighty-nine (189) companies to supervise, a test to -- a regulatory trigger point. It asks a different question in a different context.

And I thought it was interesting that Mr. Christie in his pre-filed written evidence doesn't deny the solvency purpose of -- of the MCT. He says, at page 2 of his evidence, that it's more than just a solvency test, it's really a measure of the relative financial strength of various insurers, but he doesn't deny it's a solvency test. And I'll go to that relative financial strength in just a minute.

So in essence the MCT, it's a good tool for a busy regulator supervising a hundred and ninety (190) companies under its jurisdiction, in a competitive market. It's a quick test to see, are there problems going to solvency, are there problems which raise the issue of whether the Corporation will lack sufficient capital to weather adverse events in the context of a competitive marketplace.

So one of the key issues that CAC/MSOS take with -- with the MCT is it asks the wrong question. The other key issue that they have with the MCT is that it doesn't appropriately measure and not in a quantifiable way the three (3) things that critically distinguish the MPI experience from those of the companies under the OSFI jurisdiction. Namely, it's a monopoly insurer offering a compulsory product with implicit government support.

So, in summary, in terms of the MCT, CAC/MSOS suggests that they ask the wrong question and it doesn't measure the real strength of the Corporation.

Now, MPI may try to arbitrarily amend the ratio to address the fact that it asks the wrong question and fails to measure the true strength of the Corporation. But in the respectful view of CAC/MSOS, to adopt that judgmental approach is to simply endorse a number, not to prove a methodology, which offers any analytical reader.

Now, in the course of his evidence, Mr. Christie suggested, at least, and I hope I'm not doing injustice to his evidence; he suggested that well, if you want to know what kind of MCT ratio is appropriate for Manitoba Public Insurance, you can get some guidance in that by using the DCAT or dynamic capital adequacy test.

Again, CAC/MSOS takes issue with that approach. And while they have no doubt that the DCAT serves a valuable purpose in testing the adequacy of capital for private sector companies in a competitive market, they raise two (2) primary concerns about its analytical value as it relates to the purpose of the RSR.

The first issue with the DCAT relates to the fact that the PUB in terms of the RSR, has expressly said that its operating under certain confidence levels, 95 percent confidence level, 97.5 percent confidence level, and that's -- that's setting the outer limits of the range of the RSR.

Essentially the PUB has indicated that seeking a reserve of a magnitude as made to correspond to a one (1) in twenty (20) year or a one (1) in forty (40) year event.

Mr. Christie in his evidence, repeatedly suggested and this is on October 11th, 2006, that he was testing for the adequacy of reserve for that one (1) in one hundred (100) year event.

And moreover when you actually got to the heart of his -- the DCAT test as applied to MPI, the 3 percent adverse inflation increase; he indicated -- and this is at page 1191 of the transcript that, of course, it was mandatorily directed by his code of practice.

But there was no guide as to whether this was a one (1) in fifty (50) probability; a one (1) in one hundred (100); or even a one (1) in two hundred (200) year event. So this is not meant of a criticism of Mr. Christie, he has to test what his standards of practices tell him to test.

Nor is it meant as a criticism of the actuarial standards of practice. In a different environment, CAC/MSOS is quite sure it's an appropriate approach. But the fact is, something like that offers very little guidance when you're testing for a one (1) in twenty (20) or one (1) in forty (40) year event.

Especially when you're not sure if you're testing a one (1) in fifty (50), a one (1) in one hundred (100) or a one (1) in two hundred (200) year scenario.

The other key concern that CAC/MSOS have with the DCAT approach, is in their view it offers little insight into an appropriate reserve in the context of the original purposes of the RSR. And I'll elaborate on that.

And if you recall the key point from Kopstein in 1988 and this same point was made by the Public Utilities Board in the 1990's; the RSR is only one part of a broader approached endorsed by Kopstein and the Public Utilities Board to ensure that Manitoba ratepayers did not see a repeat of the experience of 1987/'88.

Again, to remind you, Kopstein had a number of key recommendations. Improve your forecasting by an internal actuary, and test those numbers, as well, by external reviews, by the external actuaries, by auditors, by the regulator.

Another key recommendation, don't budget for a loss. Another key recommendation, rebuild the RSR when its below that target level.

Yet when you look at the inflation scenario, the plausible assumptions developed by Mr. Christie, those don't reflect that Kopstein Public Utilities Board reality.

And I provided for the Board's benefits, because it's kind of hard to articulate, just this one (1) page -- page handout without footnotes because I dictated it about 12:30 at night, so I apologize for that.

But, its source is -- the source for this -- for the first two (2) lines is from the transcript, pages 1197 and 1198 and for the last three (3) lines is -- is the actual evidence of the dynamic capital adequacy testing of Mr. Christie from September 2005 and I believe it's page 11, but I'm going off of memory.

So this is the catastrophic management action scenario of Mr. Christie and I just want to walk you through it quickly so you understand the point that I'm attempting to make.

You see in March 2005, we have this unanticipated rate increase of -- excuse me, unanticipated inflationary effect of about 3 percent. No relative rate increase, so there's an implied rate shortfall of 3 percent.

Notwithstanding the fact of that variance from forecast in March 2006, again no rate increase, an implied rate shortfall of plus 6 percent.

Again, March 2007, there is a rate increase, a late breaking one of plus 3 percent but again an implied rate shortfall of 6 percent and again, even in March 2008, plus 6 percent but implied rate shortfall of plus 3 percent. Finally, by March 2009, there's a no implied rate shortfall.

So remembering the purpose of Kopstein, remembering the approach that he recommended, look at the key assumptions that Mr. Christie has made here and first of all I -- and again, this is set out in the transcript at page 1197.

For the '06 year, at 1197 he indicates:

> "It would probably be -- there would probably be some indication of a need for additional rate increases. But there might be some reluctance both on behalf of MPI management to ask for rate increases immediately and on PUB's part to allow a significant rate increase."

So, that doesn't sound like the PUB that I know and so that's something that in the -- in the scenario where there's evidence of a need for an additional rate increase but no regulatory action.

And then I went through this in cross-examination with Mr. Christie. When you get to the '08/'09 year, MPI, at that point in time, and it's not on this little table, but it's facing the experience of a $51 million loss in '06/'07 and it's with an MCT of minus 6.5 percent, breaching -- breaching that target range with prejudice, yet no RSR surcharge. And that -- that is set out at pages 1186 and 1187 of the transcript and also page 1204.

So look at these kind of key assumptions of -- of Mr. Christie and then question when -- how much value it offers in terms of setting the Rate Stabilization Reserve.

Assuming, 1, that PUB will not direct a surcharge or rebuilding, even when the RSR's far below target range.

Number 2, that even though there's an indicated rate increase by the 2006/07 year, MPI is not being directed to -- to break even.

And the other assumption, of course, is -- is that there is a -- not very much action in terms of trying to create -- to respond appropriately to the actual forecasts that are coming out here.

If you're three (3) -- if you're having unanticipated 3 percent rate increases due to an -- or a 3 percent inflation effect, certainly that would be -- doesn't sound like the Don Palmer I know.

And I think Mr. Christie inadvertently undermined the -- the value of this analysis when his own -- with his own comments at pages 1163 to 1165 of -- of his evidence.

He said, at page 1163, that it would be:

> "imprudent for a company not to ask for a surcharge when the MCT target was breached."

So the bottom line is, that while the DCAT, which CAC/MSOS assures is a very appropriate stress test for other purposes, it's not appropriate in the context of the MPI approach to forecasting, not appropriate in the context of PUB which is committed to not allowing the Corporation to budget for loss, not in a -- appropriate this kind of analysis in the context of a public utilities board which has said, When you're below target range you have to have a plan to rebuild.

Two (2) other smaller points regarding the MCT. One (1) is that it has severe limitations when it comes to -- or, excuse me, I misspoke. It has limitations when it comes to investment risk and those limitations are well set out in the PUB first round interrogatory number 31, and they're also highlighted at the transcript, and at pages 713 and 714.

And the question was put to MPI both in that interrogatory and at the transcript:

> "What happens to the MCT if MPI was to change its investment portfolio mix to increase in diversification within existing markets?"

And MPI confirmed that that would have no effect upon the MPI results.

And likewise the question was asked:

> "If MIP was to change its investment portfolio mix to increase exposure to international markets, all other things being equal, what effect would that have on the results of the MIP model?"

And the answer of course is that it wouldn't.

The final point -- and this goes back to a comment I made sometime ago. Mr. Christie was arguing, of course the MCT is more than a solvency test, it's one way that you can directly compare the results of Manitoba

Public Insurance to ICBC because they have an MCT or to the Saskatchewan Auto Fund.

But the important caveat about that is you have to ask yourself how are -- is ICBC determining the appropriate MCT range. When it's Gordon Campbell or the -- the Government dictating what the MCT should be for for ICBC. One wonders whether that's a very valuable test. It's not a -- a number approved by a independent regulator. Likewise with the Saskatchewan Auto Fund.

The last point on the MCT/DCAT, and this was really highlighted right at the start of the direct evidence of Manitoba Public Insurance. At the end of the day Manitoba Public Insurance, in asking the Board to repudiate its risk analysis, said and encouraged the Board to rely upon the incredibly deep, intuitive knowledge of our business and what's right for our business, held by Manitoba Public Insurance.

And on behalf of CAC/MSOS I can indicate that they have no doubt that Ms. McLaren and the MPI senior management care deeply about the Corporation and its ratepayers. But over time, reviewing history, one can see the incredible pressure put on the Corporation's management in trying to balance and reconcile the interest of the Corporation, the Province and ratepayers.

And I went through some of that history

with Ms. McLaren at pages 1645 to 1664 of the transcript. We talked about management judgment being exercised in the 1980's as they budgeted for a loss. And even in the early 1990's management judgment again being exercised, they again budgeted for a loss notwithstanding the Kopstein report.

As recently as 2004/'05, again the Corporation in management's best judgment budgeted for loss notwithstanding the fact that the RSR was way below the PUB, MPI, and DCAT suggested target ranges.

The point is -- and I guess this applies to my clients as well as to MPI -- is that the ultimate judgment for setting rates rests with the Public Utilities Board. It should respect the advice it gets from MPI, but consider the context, just as it should respect the advice it gets from my clients but consider the context.

And it should not be expected or invited to defer to MPI judgment, because the past history shows that only an independent regulator can appropriately balance the interest of the ratepayers and the Corporation.

So recommendation number 2 -- and they're going to be coming a lot more quickly now, Mr. Chairman, but -- is that the PUB reject the use of the MCT/DCAT or

-- and the MCT target range of 50 percent to 100 percent for the purposes of setting the RSR.

So assuming that the Public Utilities Board in its wisdom rejects the MCT approach, which may be a big assumption, I'm not presuming anything, but lets assume it does. The issues that then follow are: What do we do with the risk analysis? And I would frame the issues related to the risk analysis threefold. What of the three (3) proposed -- what should the Public Utilities do in terms of the three (3) proposed changes or in quotation marks, "improvements", made to the risk analysis by Manitoba Public Insurance?

The second question I would raise on behalf of my clients is: What of the MPI proposal to assume perfect correlation between investment and operational risk as the upper bound for the RSR, notwithstanding MPI's suggestion that there is no statistical -- statistically significant relationship?

And third: What of the suggestion by Professor Hum and Simpson, that the VAR is not necessarily the best measure of investment risk in the context of the RSR?

And I'll turn to each of these suggestions in turn, but I want to focus first upon the -- start to -- turn towards the three (3) suggestions by MPI relating to the alleged improvements to the RSR, which also tend to increase the RSR target range.

And I won't do justice perhaps to those improvements or changes except for to summarize them very quickly as the adjusting historical loss costs revenues and expenses to current dollar items and that's a big ticket item.

Shortening the investment time horizon for the purposes of the VAR, which is also a big ticket financial item. And third, adjusting historic loss cost and revenues to reflect current re-insurance terms, which is not necessarily quite as big of a change to the RSR.

Before directly addressing the merits of these three (3) proposals I want to address the issue of credibility. And on behalf of my clients, I want to respectfully remind the Board that the three (3) proposed changes are brought to you by the same Corporation that brought you the argument of dread in social context in the 2001 GRA and perfect correlation in the 1999 GRA, and the argument of year to year variance in the 2000 GRA.

All three (3) of these approaches were found by the Board in the past, to be analytically unsound. And in the past and today, CAC/MSOS will argue that MPI is -- owes it allegiance more to a result -- there's a number it wants to achieve, rather than to a risk analysis process, and MPI has made no bones of the fact that it wants a bigger RSR.

So it has a history when it comes to the risk analysis, and CAC/MSOS would urge the Board to view the MPI proposals with a somewhat jaundiced eye.

So, in terms of the three (3) proposals and I want to start with the proposal adjusting historical loss costs revenues and expenses to reflect current dollar values and volume of business.

And the best description of this, and I'm not sure there's a great description anywhere, but in Dr. Simpson's evidence at page 27 and 28 of his evidence and he talks about what MPI has tried to do here, and he suggests that they adjust past net revenues, loss costs, claims revenues and operating expenses, pro rata to current levels.

In terms of the consequences of this, without commenting on the merits to start with, he notes that:

> "Since standard deviations are sensitive to the units used, the statistical effect of this adjustment is predictable.
>
> Past forecast errors are adjusted upwards resulting in a larger standard

deviation for the forecast errors and higher operational risk assessment."

Dr. Simpson offers two (2) objections to this procedure. First, he suggests there's no indication that the growth and the magnitudes of net revenues, loss costs, claims revenues and operating expenses involves an unanticipated component.

More importantly, he points to the fact, and this appears at page 27 and 28 of his evidence, that when he runs the -- the range of forecast errors through statistical tests, the forecast errors associated with net operating income are not growing larger over time. So he attacks the basic premise of the MPI proposal.

And Mr. McCulloch may try to correct me on this, but I'd suggest to you that Dr. Simpson's evidence on this point was not challenged by MPI in cross-examination and it certainly was not effectively challenged to the effect -- to the degree to which at least MPI tried some peripheral challenges to it.

In oral evidence, Dr. Simpson elaborated on this and he -- and he just commented upon the -- the mistake underlying the MPI approach which was the simplistic assumption that the only thing that changes over time is inflation.

And his point, and I didn't pursue this in cross-examination because I thought the point was well made by Ms. Everard in her cross-examination of the MPI panel and, in particular, I'll point you to three (3) key points of her evidence -- excuse me, of her cross-examination which appear at page 616 of the transcript, and page 617 through to 620.

And what Ms. Everard did in her cross-examination was -- and not with any adversarial approach, but just to get out the facts, she pointed to the key reality that, as a starting point, when we're looking at the MPI numbers in terms of its ancient -- its old numbers from the 1995/1996 year, these are numbers -- there's -- very significant stat -- statistical variances for these years and this is noted at page 616 of the transcript.

She points a 16.1 -- she points to a 16.1 percent difference between forecasts and actual. And Mr. Palmer confirmed, at page 616 and 617, that this was -- met his definition of an outlier.

Then Ms. Everard, in her cross-examination noted the passage of time and suggested to Mr. Palmer that -- that it was lack of experience with PIPP at this particular point in time. And at page 617 Mr. Palmer confirmed this. He -- he confirmed:

"I would say that that was a

contributing factor. '95/'96 was a very bad year. We didn't know at the time because we didn't have the experience, so the -- you couple the facts that -- fact that we didn't have historical experience, didn't understand the plan as much as we do today and had a very bad year, and all those things contributed to that, and if that's an outlier, then sure, I'll accept that."

At page 618, Ms. Everard confirms what they did with this outlier.

"And just to confirm, Mr. Palmer, the inflation adjustment that's reflected on the next page is being proposed by the Corporation as improvement to the risk analysis."

And what it resulted it -- and this is set out, pages 619 and 620, is the -- the figures from the '95/'96 year were converted to a dollar amount in the range of $93.9 million.

So the simple point is, in Dr. Simpson's evidence, he raised concern with the simplistic approach in terms of adjusting this historical data forward. The

-- he tested it and for the -- and challenged the premise that risk was increasing over time.

The cross-examination of Ms. Everard on this point in a different way, outlines the fallacy with the MPI revisions in that the -- they revised results forward from an outlier year based upon a different forecasting experience -- a different company in terms of its ability to forecast these losses.

So that's the point with the -- with -- with the -- that adjustment and certainly CAC/MSOS will be recommending that it be rejected.

The other big ticket item proposed to the risk analysis by MPI, related to shortening the time horizon to the -- for the VAR from two and a half (2 1/2) to one (1) year.  In making this argument MPI, as I understand it, made three (3) major arguments.

First, it -- first, it argued that it's wrong to assume that -- that risk decreases as the time horizon was extended.  And it -- MPI suggested that that assumption has been shown false by several authors.

Secondly, MPI suggested that the best practice is to calculate the time horizon over a year.

And thirdly, it argued that the appropriate time frame for VAR calculations is a period that it would take to adjust the portfolio to respond to market events and it said, in -- in the context of MPI it was not appropriate to -- to suggest that that was two and a half (2 1/2) years.

I want to spend a bit of time on the VAR. And I know it's a bit burdensome but I -- but I have to. And I -- I think it's important before moving to the specifics of the time horizon issue, is that there are three (3) key elements that can drive the VAR results.

The first is the nature of the model used.

The second is the data inputted.

And the third is the time horizon used.

And the importance of which model you use -- and we confirmed in cross-examination that there's at least three (3) models, the historical model, the co-variance/ variance model which is the most common, and the -- the mega- complex Monte Carlo.

The importance of which model of which model you used was confirmed by Mr. Galenzoski at page 1730 of the transcript. And I asked him if he would -- I suggested to him that because of the different modelling techniques and assumptions associated with the VAR, there is no assurance that the resulting VAR calculations between two (2) managers will be comparable.

And I went on to suggest that there are several different methods for calculating VAR. All are conceptually valid and all can produce significantly different routes -- results.

And I suggested to him that a single manager who uses -- who measures VAR using historical simulation will get a different result than if he uses the variance/co-variance methodology. And in fact that even two (2) managers using a variance/co-variance approach will likely obtain results that are not comparable. He did not take issue, in my respectful view, with that suggestion.

And what it's important to recall is that back in 2001, and this is confirmed at the transcript, at page 1727, MPI in performing its vari -- value-at-risk analysis, then used the more sophisticated and more common variance/co-variance model.

In 2006, and this is confirmed at the transcript at pages 1724 and 1725, MPI did not use the same model as the Board implicitly approved in 2001. It used the more simplistic historical approach and this was confirmed, again, at page 1732. And I asked Mr. Galenzoski, and I suggested to him:

> "I thought the Corporation had indicated last week that it used the same methodology in calculating the VAR. Would I be right in suggesting to

you that the model used in 2006 is
different from the model used in 2001,
sir?"

And the response was:

"You're correct."

At page 1728 and 1729 Mr. Galenzoski also confirms that the results might have been different if he would have used the variance/co-variance model which was used in 2001. And in fact, we would suggest to you that you can be quite confident that the results would have been different.

So the reality is, that MPI simply did not use the DAR methodology employed by its consultants back in 2001 and implicitly approved by the Board. And in the view of my clients, that fact must cast a shadow over the entire VAR approach.

What of the argument that MPI should use the shorter time horizon, a one (1) year horizon? CAC/MSOS would argue that that is inconsistent with the nature of the MPI portfolio and investment strategy and also is based upon the misguided belief that portfolio risk does not decrease over time.

A key point to remember about the VAR is that it measures how much is at risk within a certain degree of confidence if the portfolio had to be liquidated over a certain period of time. In selecting the appropriate time horizon, it's generally agreed that it should reflect the reality of a specific portfolio.

And it's also important to recall that there's no industry wide best practice. What makes sense for a day trader in terms of the VAR assessment, in terms of the time horizon, doesn't make sense for a Corporation like MPI. And this -- this point was put to MPI in the cross between pages 1697 and pages 1706 of the transcript.

And MPI confirmed that it's not a day trader, we're not taking short terms advantages, and that's page 1701. They confirmed that's in the investment business for the long haul. It confirmed that it has a high percentage of MUSH, M-U-S-H; not very liquid and generally held for over ten (10) years.

And it confirmed that it has a huge percentage of bonds, passively and conservatively managed. It confirmed that portfolio managers are evaluated over the long term, four (4) years. A relatively conservative, relatively passively managed portfolio, managed over the long term, whether the Board agrees with that approach, or not; these are all factors that argue against a time horizon of one (1) year.

Measuring risk on such a short term time horizon is inconsistent with the MPI view of their investment. The buy and hold strategy, the evaluation of an -- equity investments over four (4) years and a high portion of MUSH, debunk the arguments that the DAR calculation should be based on one (1) year.

And I think Mr. Galenzoski said it the best himself at page 1701. And I confirmed this in cross-examination, when he confirmed:

"You're not going to switch your entire portfolio over in the course of a couple of days or even the course of a year, would that be fair?

That's correct."

That was his response. Mr. Chairman, I have -- I'm guessing twenty/twenty-five (20/25) minutes or so. A three (3) -- just a very quick break would be appreciated, I'm sorry.

THE CHAIRPERSON: Okay. Five (5) minutes, thank you.

--- Upon recessing at 11:00 a.m.

--- Upon resuming at 11:10 a.m.

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

MR. BYRON WILLIAMS: Thank you, Mr. Chairman. For a few more minutes, I just want to stay on the issue of the shorter time horizon suggested by MPI.

And, of course, they argue that one (1) of the key reasons why a shorter time horizon should be adopted, I'm referring to page 3 of Appendix B, to AI-16, is that the previous model assumed that risk decreased as the time horizon was extended. This assumption has been shown to be false by several authors.

And the -- one (1) author that they cite is Philippe Jorion 2001 at page 106.

Analytically, CAC/MSOS takes issue with the suggestion that risk does not decrease as the time horizon is extended and they suggest that that's inconsistent with the entire theory of the MPI portfolio.

Now, CAC/MSOS would acknowledge that when people say that risk increases as time goes on, perhaps they're speaking either of forecasting being riskier, the further out you go, or perhaps they're referring to long term assets which are riskier than the short term counterparts because recovery of the returns is over a longer period and there's greater risk of default.

But with respect to investment and financial assets within a diversified portfolio, CAC/MSOS would argue strongly that just the opposite is true. And we'll provide some authority for that on the record in just one (1) second.

And perhaps a simple way to ask this would be to ask MPI whether it would be more likely to receive the average daily return on an index of SMP stocks held for only one (1) day, or rather is it more likely that you would get this return on average if you held the portfolio for one (1) year, two (2) years or longer?

Or another way to put the question is: Why is the advice for prudent investors to buy and hold quality diversified portfolios, because the day to day variations in market value will be greater than the longer period variations from trend growth, and you don't worry about day to day variations unless you're speculating?

So, CAC/MSOS would argue that the assumption on a portfolio basis that risk does not decease as the time horizon extends is inconsistent with the philosophy underlying the MPI portfolio.

Now, MPI specifically relies upon Jorion as support for the proposition that the assumption that risk decreased as the time horizon was extended has been shown to be false by several authors.

But we went through that reference to Jorion in the transcript at pages 1735 to 1749 and, with respect, I would suggest to you that MPI was overstating the conclusion that one can draw from Jorion.

And it's notable as well that MPI dismissed as irrelevant the two (2) authors that Jorion quotes on page -- on that very same page. Nowhere does he state that the assumption that risk decreases as time horizons is extended is false and I'd refer you to pages 1742 and 1743 of the transcript specifically.

Moreover, if you look at 2001 value-at-risk study produced by MPI in 2001, as I just stated, at the exact same time as Jorion was publishing his work, you'll see a different suggestion and you'll -- I'd refer you to pages 1745 and 1746 of the transcript.

"As time progresses..."

And this is from MPI's report the very same year as Jorion.

"...the expected cumulative rate of return of the portfolio increases at an increasing rate because of the positive effects of compounding. However, portfolio volatility increases at a decreasing rate, therefore the further the holding period is extended, the lower the chances are that the portfolio's cumulative return will fall below zero."

And again, I'd refer you to the COMSTAT report provided in 2001 of -- which appears at Appendix attached to CAC-148 in this proceeding. And again COMSTAT makes a point that there is much debate about VAR practitioners with respect to determining the appropriate time horizon for any portfolio. And they make the point, or I would infer from that, that they make the point that there's no best practices; those practices should be specific to the specific situation and objective of the Corporation.

So what can we make of the MPI approach on -- in terms of the VAR?

Three (3) kind of conclusions that we would suggest to you. First of all, that MPI did not employ the PUB methodology as implicitly accepted in 2001.

Secondly, we would suggest that its approach is further compromised because the relatively short-term horizon employed does not reflect the reality of MPI's portfolio or investment strategy.

And thirdly, we would suggest that their argument on this point is absolutely undermined by the questionable assumption that portfolio risk does not decrease over time.

So recommendation number 4 from CAC/MSOS is that the MPI proposal in terms of shortening the time horizons should not be adopted.

In terms of the third change to the risk analysis, namely the adjustment to current reinsurance terms, I don't have a lot to say on behalf of CAC/MSOS. I'd note that Doctor Simpson raised questions in his oral evidence about approving the inclusion of a willful assumption of more risk.

And I guess another way to -- to put it is that if you allow this -- this change to the analysis to be adopted, you could be argued that doing so would offer an incentive to the Corporation to be less efficient in its purchase of reinsurance, because the less they buy the greater the risk margin calculated.

But beyond that, I don't have a lot to say about that change. It's not a very large change. CAC/MSOS would not recommend it to the Board, but they don't take as much issue with it as they do with the -- the first two (2) changes proposed. So that would be recommendation number 5.

Recommendation number 6. In setting the upper limits for the rate stabilization reserve the PUB should not employ perfect correlation between the value-at-risk and the operational risk. And that's particularly the case given that in MPI's evidence they suggest that the relationship between the two (2) risk components are not statistically significant. And that's at AI-16A, page 6.

Another short snapper on the question of investment risk -- and -- and I think I'm probably not doing justice to it today because of time limitations, but -- Doctor Simpson and Doctor Hum raised an important question when they asked whether the VAR is absolutely the best measure of investment risk as it relates to the rate stabilization reserve.

And I -- as I understand their point, they question whether that was the best measure or whether the investment risk would be better analysed by looking at the variability of expected returns from forecast with the particular emphasis on outliers.

For the purposes of this proceeding CAC/MSOS would suggest that the VAR is certainly the one the Board has adopted in the past. It's an approach that the -- the Board has some confidence in and it probably should be -- continue to be employed for the purposes of rate setting in this context. But it might be worthwhile to look, in the next General Rate Application, at whether there are better ways to assess investment risk within the context of the purpose -- purposes of the rate stabilization reserve.

Where does this leave us in terms of the rate stabilization reserve? Last year the Board approved a target of between $65 and $100 million, taking -- and from the perspective of CAC/MSOS, taking into account both operational risk and a VAR assuming a two point five (2.5) year time horizon. That range is more than enough to meet the appropriate reserve needs of Manitoba Public Insurance in terms of the RSR. So that is a range that CAC/MSOS feel that the Board can have some confidence in.

Looking at the MPI as a whole, given its retained earnings of 173 million in terms of basic at the end of '05/'06 and the strength of the Corporation as well as an extension in SRE being over a quarter of a billion dollars in total returned earnings, CAC/MSOS believe that a $70 million rate rebate would be appropriate and arguably conservative.

So recommendation number 8 is an RSR rebate of $70 million. I kink of choke up when I -- when I say that number.

The other key issue from a rate setting perspective before the Board, is a proposed 2.6 percent rate reduction. And on behalf of my clients, I have to indicate that while they're strongly supportive of rate rebate of the magnitude suggested, they are uncomfortable with a rate decrease of the magnitude of 2.6 percent.

And you may have gathered this from my cross-examination of the MPI Panel last Friday, but a key reason by the clients are uncomfortable with a rate decrease of this magnitude, is the forecast savings in the 2007/'08 year associated with the IIP and auto theft. And if you're looking for an indication of some of the sources of my client's discomfort, I refer you to pages 1666 to 1688 of the transcript, as well as the response to CAC/MSOS-2-40.

At a high level -- and I actually think that the debate at those pages summarizes the issues quite well, but at the high level, in terms of the concerns of CAC/MSOS in terms of building in forecasted savings with regard to the after-market immobilizer program, I think they're three-fold.

First of all, the IIP program is novel. We're -- it's in -- across Canada.  I think MPI has made that point itself.

The second point and I think this came out in the discussion with Mr. Palmer, is that there's no significant or frankly, we're not even sure if there is any actual discernible trend or experience in the 2005/'06 year, related to most-at-risk vehicles and the after market immobilizer.

So that's of grave concern to my clients. There was some experience from WATSS, W-A-T-S-S, but, there's no experience if you look at the answer to CAC-2-40 or the cross-examination between 1666 and 1688, no meaningful experience.

Now, as I understand Mr. Palmer's evidence and I hope I've done justice to it, MPI did build in, and certainly he had some experience in the 2006/'07 year with factory installed immobilizers, but those were a slightly different beast. They're not targeted at the most-at-risk vehicles. And so that's another factor that gives CAC/MSOS some discomfort.

The final concern relates to the actual experience to date in the 2006 year. It's not been very good. And if you look at the first six (6) months in terms of total thefts, it was pretty poor. And there is ongoing negative experience in terms of attempted thefts, as well.

So when you sum it up, my clients were uncomfortable with the forecast savings associated with the IIP and in the '07/'08 year, in part, because it's a novel program, in part because there wasn't much actual experience with aftermarket immobilizers to build upon for the '05/'06 year, and in part, because the numbers to date from the 2006 year are not incredibly -- are not that good. So that's a big concern for my clients.

The other issue for the clients and this is more a point of principle, not one that they're expecting to be necessarily successful on, in this Hearing, but they continue to have concerns with the funding of the IIP via retained earnings.

They -- the clients do not support the idea of using retained earnings to effectively cover program costs. They don't believe retained earnings should be drawn down for those purposes and they don't believe that it aids in transparency. Clearly, they have a different view than the Board and different view than MPI on this point, but that is a concern that my clients continue to express.

They were concerned last year when we were talking about funding the IIP in Winnipeg. I think they're even more concerned when we're looking at the IIP in rural Manitoba where there's a much weaker business case.

The client's recommendation primarily focussed on the concerns with the comprehensive claim -- claims incurred forecast for '07/'08 is that they do not support a 2 percent or 2.6 percent rate reduction. And, frankly, they would not be uncomfortable with a -- somewhere closer to zero in terms of a rate reduction.

Just some last comments, Mr. Chairman, and -- and Members of the Board. I want to talk about road safety for a few minutes.

I won't refer you to the page numbers of -- of my cross-examination but if you wish to look at a high level about the concerns expressed by the clients in terms of road safety, the starting point is that the relative position of -- of Manitoba across Canada in terms of deaths per billion kilometres travelled is not great.

It's not -- it's a little bit above the Canadian average which is not where you want to be, although MPI and Manitoba, in fairness, is clustered with a lot of other jurisdictions.

More concerning to my clients is the internal report of MPI speaking of a growing number of collisions, a growing number of injuries and a growing severity of injuries.

So that's the big picture causing concerns for my clients. My clients continue to have concerns with the use of the decision making tools within Manitoba Public Insurance in terms of road safety, especially as they relate to program design and measurement.

And just as one example, last year we all applauded the fact that MPI was developing some cost estimates in terms of impaired driving. But there was very little evidence that those costs estimates were being used for program design or evaluation of programs.

Another concern in terms of how MPI is evaluating programming is that it's not building or using the experience in other jurisdictions. The example we gave was the example of 55 Alive in British Columbia; an important program, certainly from the perspective of seniors.

We had asked MPI in July of this year whether they even had reviewed or had in their possession that evaluation and they had not reviewed that evaluation; yet it was an evaluation that showed some disappointing results with the 55 Alive program in British Columbia. And certainly those results were a now -- were applicable to Manitoba. And that's something that we think MPI might be encouraged to do a better job of.

Concerns with the evaluation budget that's employed by Manitoba Public Insurance; it's fairly small. And also concerns with the outcome of another driver education program, COPPS where the conclusion from that report is that the -- the results of that program may be deleterious to consumers.

So we're looking -- and from the clients' perspective there is moving forward in terms of recommendations on road safety, we have a number.

One is that MPI should provide an update on the graduated licencing program review. There is a study in terms of its benefits and costs which is ongoing which that should be provided at the earliest possible date.

MPI should be directed to advise the program or, excuse me, the Board, at its next Rate Application, of changes made to the COPPS, C-O-P-S (sic), I believe, and 55 Alive Program as a consequence of studies showing a counterproductive or potentially counterproductive effect of these programs.

In terms of Driver's Ed and this is a point that I didn't do justice to in my preamble, Driver's Ed, certainly CAC/MSOS applauds MPI re-examining the program, but they're concerned with the question of whether there's enough hours behind the wheel with a trained instructor.

That certainly seems to be a concern raised not specifically to MPI but with Driver Ed programs in particular, by the Triple A Foundation in the United States. And it's also seems to be a -- not a recommendation but some discussion within the curriculum review committee of MIP about whether there should be increased hours with instruction -- with an instructor behind the wheel. And CAC/MSOS would hope to embark upon that debate in the -- in the next proceeding.

Also, and the Board referenced this in its decision last year, the importance of costing exercises in terms of program allocation and budget allocation and program design, and we think MPI should be requested to provide a -- an update on their costing exercises and how they're being employed in program design and evaluation.

Offline, we -- CAC/MSOS have had some discussions with MPI about getting a better understanding of their road safety programming, of their road safety evaluation approach, and that's certainly something CAC/MSOS would like to do with MPI, and I think the interest is mutual. So from the client's perspective that would be valuable and something to be encouraged.

Pay-as-you-drive, just some brief comments about that. In the course of this proceeding CAC/MSOS have just tried to nudge the debate along a little bit farther on that subject in terms of pointing out that there are -- is some Canadian data available out of -- out of Vancouver in pointing out that some of the projects which were previously considered to be pilot projects are actually functioning in the -- the market, for example, the Norwich Union project in -- in the

United Kingdom.

Also, CAC/MSOS have tried to -- to make -- to make the point that this is something that requires further study. And they certainly would propose some sort of round table to include all relevant stakeholders, including MPI, CAC/MSOS, RCM/TREE and others, to examine options including Pay-as-you-drive or others for reducing driving exposure and achieving both environmental benefits and cost reductions.

And, Mr. Chairman, subject to any questions of the Board, those would be my long-winded comments.

THE CHAIRPERSON: Thank you very much, Mr. Williams.

Mr. Oakes, you're up next. If I could ask you, do you think you'd be finished by lunch or --

MR. RAYMOND OAKES: I certainly would, Mr. Chairman. I'm also prepared, if the Board has some timing difficulties, I could file it as written argument taken as read. I'd prefer to provide it to the Board but I recognize that the Board may have limitations on time.

THE CHAIRPERSON: Please proceed.

FINAL SUBMISSIONS BY CMMG:

MR. RAYMOND OAKES: Thank you, Mr.

Chairman.

With respect to the MPI's 2000 rate application, this was a rate application that was of intense interest of the Coalition of Manitoba Motorcycle Groups as they had certain expectations about the implementation of lost transfer.

The Coalition goes on record that they're pleased that lost transfer has been implemented and hopes that there'll be further steps in that regard, but they're certainly less than happy with other aspects of the MPI application.

The issue of the size of the rate stability reserve once again has raised its head at this year's hearings.  Last year the Coalition was quite pleased to have seen this issue put to rest it thought. It was a surprise when MPI came back asking this Board to reconsider its previous rulings related to the minimum capital test and the size of reserves.

The Coalition's view is that the Board had it right last year and MPI has provided nothing new that supports their suggestion that the MCT should be increased to as much as $214 million.

The Coalition will be going through the key elements of the MPI argument related to the MCT and the RSR shortly.  However, prior we suggest to this Board that little credence be placed in the MPI Board's position that they will continue to suspend transfers to basic from Autopac Extension and SRE if this Board does not comply with their wishes.

MPI suggests that the excesses from these sources may be rebated to policy holders in those categories solely, as shown PUB/MPI Interrogatory 1-37. In this regard MPI seems to forget that Autopac extension and SRE customers are also basic customers. If rebates flow from those sources, they will be going to a group of basic customers.

Those basic customers who do not receive a rebate will necessarily be MPI's public relations issue alone. This Board has the right to set the RSR level and order rebates from basic. Nothing in the Board's -- MPI's Board's edict changes that right.

We're all aware that we have seen a remarkable change in MPI's Board's position with respect to the RSR in the number -- last number of years. Historically, it was the MPI Board who supported the risk analysis approach as well as transfers from the Autopac extension and SRE divisions.

The Coalition, as well as, other groups assembled here are aware that these divisions exist solely as an adjunct to basic and derive significant benefit from the monopoly position of basic.

Despite what some might view as the petulance displayed in point three (3) of the response to CAC/MSOS MPI 1-5, what is to say that the MPI Board will not change its view sometime in the near future, adopt a lower RSR, transfer reserves from Autopac extension and SRE, and provide refunds?

Without being too glib, from a Corporation/Board perspective, I'm sure they'd rather have the kudo's for a rebate applying to themselves as opposed to having the Public Utilities Board order that.

The regulatory tradition of this Board with respect to the RSR has been to consider the whole health in a financial sense of MPI as shown at page 51 of PUB Board ruling 179/'01; where the Board states:

> "Any future decisions of the Board that impact the level of the RSR will be made taking into account the overall financial wellness of the Corporation."

In considering the whole health, this Board is somewhat inhibited obviously, since it does not have any regulatory control of the Autopac extension and special risk extension rates.  It does, however, have the ability to control the basis Autopac rates.

While less than a desirable outcome, this

Board has the ability to use those rates to draw reserves from the other divisions as necessary and given MPI's rate conservatism, which we'll deal with, that is not without merit.

Finally, in an indirect manner, MPI's approach seems to buttress a view that the original specification of the Crown Corporation's counsel and Public Accountability Act was erroneous in failing to include Autopac extension and SRE extension in the regulatory scheme.

MPI provided Mr. Christie as an expert witness in support of their position. With respect to Mr. Christie's testimony, the Coalition uncovered a variety of weaknesses which in its view, limit its veracity or applicability.

First, Mr. Christie is clearly not an expert on value at risk as described in response PUB/MPI-3-4 and page 1215 of the transcript. Yet, Mr. Christie offers opinions with respect to VAR in his pre-filed evidence at page 3.

The Coalition of the view -- is of the view that any remarks made by Mr. Christie related to VAR should be disregarded. Mr. Christie does not qualify as an expert on investments or investment risk, yet also makes additional pronouncements in this regard.

In particular, page 1066, line 23 through pages 1067, line 3; he suggests that the VAR result of no investment risks at a longer than one (1) year time horizon does not make sense.

Given that MPI's buy and hold strategy which we'll deal with in detail and common investment practice relating to the desirability of holding investments over the long term to reduce risk, Mr. Christie shows his lack of knowledge in this area.

Mr. Christie compounds his lack of knowledge in this area by suggesting at lines 4 through lines 7, at page 1102 that there's little MPI can do to reduce to its investment risk.

Mr. Christie, with the greatest of respect, we would suggest is out of touch with modern portfolio risk management tools such as hedging.

Mr. Christie, openly admitted he had little knowledge or risk assessment and management tools deployed by other professional groups such as the Global Association of Risk Professionals or the Professional Risk Management International Association, the latter group which is sponsored, at least in part, by his firm.

Mr. Christie, in preparation of his material failed to adequately research the situation at other public insurers, which has significant consequence to his evidence. Clearly, he did not contact his colleagues in either SGI or ICBC jurisdictions to find out if they use DCAT analysis in conjunction with the MCT as shown at lines 18 and 19 of page 1049 of the transcript.

At page 1225 of the transcript, lines 1 through 5 he openly admits he does not know of the situation in Quebec related to the MCT where, in fact, we would suggest to this Board that the MCT is not used.

When asked if the MCT had been tested by the regulator in either Saskatchewan or BC, as shown at page 1250 line 13 through page 1251 line 2, he displayed a similar lack of knowledge, when, in fact, the MCT has not been subject to regulatory scrutiny in either province.

Compounding this lack of knowledge is the remarks at page 1250, lines 16 through 20 where he suggests that the use of the MCT should not be reviewed by the regulator, in this case for SGI.

Clearly, he seems to forget the connection between excess capital and the ratepayer funding of this excess capital.

Mr. Christie was also not very knowledgeable about the Basil Accords, Basil I and II, while those Accords originally focussed specifically on banks, they spill over into the financial institutions, generally, and apply to insurance companies.

Mr. Christie and MPI implied throughout the process that the MCT is an objective test or as was arithmetic.

Certainly the calculations performed are simply arithmetic or formulaic as Dr. Simpson described it in the transcript, pages 1435.

Unfortunately, the methodology and data supporting the calculations are largely judgmental. With respect to the capital factors which are the key components of the MCT methodology, they were simply based on the judgment of a group of individuals with no statistical science in its application.

This is shown at page 1217, line 13 through page 1220 at line 23.

Similarly, the data supporting the calculations are strewn with judgment. As I will discuss shortly, the determination of policy and claims liability reserves is based on judgment as is the PFAD and as are investment gains and losses.

The MCT supporting player, the DCAT, is also judgmentally laden as shown at page 1054 lines 18 through 24.

In addition to being judgmentally laden, the results from DCAT models will vary by actuary as shown at page 1228, line 18 and at -- right through to 1229, line 10.

After some prodding, Mr. Christie suggested DCAT different models will produce different results.

In the end, when the evidence is summed up, the Coalition concludes that the MCT and the DCAT are really subjective, non-duplicable models.

Comparatively, the risk analysis is an objective duplicable model. Mr. Christie provides us in evidence under cross-examination at pages 1230 through to page 1231.

Dr. Simpson, at page 1439, lines 15 through 25 suggests the same outcome. Dr. Simpson further confirms that the DCAT method is deterministic in nature and not stochastic as shown at page 1438 lines 13 to 18.

Dr. Simpson further indicates that stochastic models such as the operational risk analysis are more statistical in nature, reference page 1439, lines 4 and 5.

This indicates that it is a better fit with the concept that rates should be statistically driven.

It is clear to the Corporation that based on the scientific nature of the risk analysis model it is clearly superior to the MCT/DCAT approach and will continue to serve this process in the future.

The Coalition's recollection from the early days of this process and from Judge Kopstein's report is that rates were to be statistically driven in addition to being actuarially based.

Certainly, this criteria implies meeting the tests of good research and science such as duplicability.

It does not suggest that judgment is the approach to use. It also makes no reference to intuition which Ms. McLaren indicates was an important factor in the Corporation's decision making, relative to the MCT at page 59 of the transcript.

Managing by judgment and intuition was one (1) of the reasons that MPI found itself under review.

MPI hinges its suggestion that -- that the MCT is a superior approach to the risk analysis framework on several arguments, most of which Mr. Christie simply paraded in his paper. We will get to the inadequacy of those arguments shortly. While his testimony was interesting the Coalition believes it did little to buttress MPI's point of view.

The Coalition suggests he did not prove much with respect to risk assessment generally, except that his view is one (1) of a relatively small group of professionals who developed the MCT.

When questioned in cross-examination about the development it was clear that insular committee of actuaries who did not invite members of the public, consumer groups or the public insurers to the table in terms of their deliberations, and the reference is page 1216 through 1217.

This is important to this Board from the corporation -- from the Coalition's perspective since the view held by Mr. Christie was quite narrow, as was the view of the group that developed the MCT. A broader, more encompassing view would have uncovered other important developments such as the important focus of the Basil 2 Accord. Basil 1 was discussed by the OSFI/MCT Committee, as shown as page 1217, line 6 through 14.

Basil 2 has an important focus on the development of in-house risk models. As well, a broader view would have also encompassed the unique positions of the monopoly public insurers who do not have solvency risk or loss of market share risk.

Mr. Christie suggests that the time period used in the risk analysis is too short to adequately reflect the potential for unexpected non-recurring events. This is in spite of being MPI's external actuary when such an event, the -- the major hail storm of 1996, occurred. He ignores this and the use of confidence intervals in the calculation of the risk analysis.

Confidence intervals being precisely used to account for events which are outside normal random events as described by Doctor Simpson at lines 3 through 23 at page 1434.

As Doctors Hum and Simpson put it, a 97.5 percent confidence interval handles a one (1) in forty (40) year event in the 99.5 percent confidence interval, which is described at page 1356, covers a one (1) in two hundred (200) year event.

Mr. Christie and the Corporation also ignore their own use of shorter time periods for forecasting. Mr. Christie has no problem forecasting ultimate claims cost for coverages such as personal care or weekly indemnity for many, many years into the future based only on the short amount of time since the introduction of PIPP, as shown at pages 1231 and 1232.

Page 936 of the transcript through page 938, ending on line 17, show the relatively short time periods MPI uses for forecasting loss cost which are typically only three (3) or four (4) years. For trend analysis twelve (12) years of data, for VAR analysis the Corporation uses three (3) years of data.

Mr. Christie's perspective of length of time is particularly curious since other actuaries, including Mr. Cook who's a fellow and Mr. Quintilian, have no -- no problem in extending the length of time to periods prior to the introduction of PIPP in their operational risk analysis filed as part as -- part of CAC/MSOS/MPI-1-48.

We are left to ask why MPI chose not to perform such an analysis. While they were strictly perhaps following this Board's previous orders, there's nothing in those orders suggesting that they not prepare additional supporting work to the risk analysis if necessary. Simply saying twelve (12) years of data is too little and we did nothing else, does not meet the onus on the Corporation for proving its case.

If there are concerns related to past events such as policy and claim liability, reserve changes, then the Corporation could have simply extended the time frame and the analysis capturing all of these adverse events.

In terms of the timing of these adverse events as described by Ms. McLaren at lines 9 through 13 of page 65 of the transcript, three (3) of the four (4) events have occurred within the time frame of the operational risk analysis prepared by MPI with this application. The other could have simply been handled through extension of the analytical time frame in the same manner as Mr. Quintilion and Mr. Cook did.

As well, the change in retirement income benefits occurred during this time period as described at lines 1 through 15 of page 75 of the transcript. Relating to this, it was provided as an example of the risk from a legislative change. The Coalition does not believe any of us here are so naive that we believe such changes merely drop from the sky at the whimsy of the government.

Obviously, these legislative changes are assessed carefully for financial affects and affects on consumers by both the Corporation and the government of the day.

Such changes, if they were to imperil the health of basic Autopac and by extension cause undue stress to the government, simply would not proceed through the legislative process.

As well, we should all bear in mind that legislative change can have a positive affect on MPI a leading example being the move from no -- from torte to no fault coverage.

A final leg of Mr. Christie's argument with respect to the use of the MCT is it allows comparability with SGI and ICBC as shown in PUB/MPI 3-1.

In comparing MPI to ICBC and SGI; while the three (3) firms look the same, there is significant differences in operations amongst them which makes the comparison relating to the use of MCT incorrect.

First, ICBC operates in a substantially more competitive market than MPI as shown at page 1251, lines 3 through 23, in BC collision and comprehensive coverage is optional and sold in competition with other insurers.

Given the greater importance of the competitive market products in the ICBC operation, some 40 percent of its business, it makes better sense for the MCT to apply on those products and subsequently for consistency purposes to the compulsory portion of the business.

The reason is simple, it levels the playing field on the competitive lines with other competitors. It also ripens the basic business for potential sale, thereby keeping that option open for policymakers.

In Saskatchewan, SGI operates not only

the auto fund but a variety of other private insurance companies across Canada, as shown on page 1249 of the transcript.  In those private companies, supplying the MCT may make some sense and spillover into the Auto fund for practical purposes, may also be reasonable.

MPI has a virtual monopoly on its extension products as described by Dr.'s Hum and Simpson at footnote 9 of page 11 of their report.  This is confirmed in the cross-examine -- cross-examination of Dr. Simpson, page 1437 and 1438.

In view of MPI being a monopolist on extension was also confirmed by Mr. Christie at page 1252, lines 5 through 7 who suggests that as much as 90 percent of the extension market is held by MPI.

As well, MPI does not operate in other jurisdictions.  The result is that the comparison to SGI and ICBC is rationale for the MCT is invalid.

The Coalition noted that MPI is not itself convinced that SGI's basic program is that similar to Autopac basic.  On questioning by the Coalition relative to the programs at pages 1881 of the transcript, when Mr. Galenzoski was asked if the SGI program is similar to the basic program; he carefully notes it's only somewhat similar.

Mr. Christie suggests that the risk

analysis takes many more resources than preparing MCT. As a general rule, customization will always take more resources than mass production, so this is nothing new.

The principal reason for customization is, of course, that it results in a better product for the consumer. In this case, the consumers -- this Board, the Intervenors and the ratepayer is for basic.

In terms of resources, these need to be considered in terms of the total resources of the MPI staff which is expected to increase by one hundred and twenty-nine point seven (129.7) full time equivalents from 2000 to 2007; as shown in CMMG/MPI 1-58.

As well, Mr. Christie, neglects to account for the additional consulting costs of the DCAT analysis with respect to using the MCT.

Mr. Christie, also suggests that an advantage of the MCT is that it can be applied on a quarterly or even monthly basis. The risk analysis also may be applied on a quarterly or monthly basis in a similar manner simply by using a twelve (12) month rolling total.

If the Coalition were to agree that perhaps it's easier to apply the MCT quarterly or monthly, the question would be why? This Board only reviews rates once a year.

While different than in past hearings where economists were not directly involved in testimony, the Coalition found the testimonies of Dr. Hum and Dr. Simpson enlightening and particularly the Coalition's pleas that the more encompassing view of economists who have long been involved in other types of regulatory proceedings as shown at pages 1443 and 1444 of the transcript, have been brought forth at these hearings.

In addition to Mr. Christie's comments, MPI suggests that the risk analysis could be improved on several fronts which, in the end, results in the number generated as being similar to the number generated from the MCT.

These suggestions of MPI includes shortening the investment time horizon and the VAR analysis, adjusting costs to current levels reflecting reinsurance changes.

With respect to the first, MPI's views are provided in AI-16, Section 5.1.  The CMMG concurs with the information gleaned by CAC/MSOS cross-examination in that regard.

The reasons suggested by the Corporation are that a shorter time horizon is more appropriate, does not reflect common investment theory or the reality of the MPI's business.

First, MPI primarily uses a buy and hold investment strategy for the bulk of its investments, fixed income securities as described in its investment policy statement at AI-24.2 at page 5.

The upshot is that MPI has a long investment horizon not a short one. MPI further suggests that investment risk does not decrease as time horizon increases.

This logic flies in the face of all modern investment management advice where it's commonplace for recommendations that equities and other investments be held for the long term.

It is also at odds with the investment policy statement.

If risk does not decrease with time horizon, MPI should not be using a buy and hold strategy.

MPI suggested during the hearings that the RSR is funded from two (2) sources; rates and returns on investments. This is baffling to us. The reason MPI has money to invest is because of the rates paid by the ratepayers.

The claims related to those investments are the ratepayers' claims funded by those rates. There was no capital or other funding put in by other parties.

Consequently, at the end of the day, all the funds in the RSR had to be derived from rates paid by ratepayers.

MPI suggests that one (1) year is appropriate since that is their budgeting cycle and API recommends that cycle.

API, when it was known as COMSTAT suggested a longer time period during its other studies of VAR at MPI. Those are shown at pages 10, 11 of the COMSTAT report dated April 6th, 2001 filed with CAC/MSOS-1-48.

It's also important to consider the wording of the API information. The wording in AI-16 Appendix A does not suggest a recommendation by API.

It merely reports what API does for other clients. Those clients, of course, are not using VAR in connection with rate regulation.

As well, the wording does not suggest that one (1) year is best practices.

Second argument MPI makes is that the costs should be indexed to current levels. CMMG suggests that such indexing is not appropriate when it comes to measuring risk.

Fundamental use of the RSR is to cover situations when MPI has mis-estimated its costs due to one (1) time non-recurring events.

The size of these one (1) time non-recurring events does not necessarily increase with time. One (1) would expect them to vary through time, for example, a haste -- a hail storm in 2007 might be larger or smaller than the one that occurred in 1996.

There is no basis for indexation since the risks are random in nature. This randomness is covered by providing for a confidence limit around the estimated risk level.

Similarly, a change in -- change in medical technology may reduce claims costs rather than increase them as MPI has suggested.

For example, medical technology that allowed a person to return to work which may have upfront medical costs would reap considerable savings in income replacement and potentially other benefits over the long term.

With respect to reinsurance, the Coalition argues that if a change in reinsurance is the rationale for higher risk analysis amount, then that cost should have been part of the analysis of the cost considered when the reinsurance program was changed.

This fuller analysis with these potential effects would potentially have led to a decision where the reinsurance program was not changed, given the total cost.

As it stands now, MPI has not filed any evidence that these effects were part of the analysis of their reinsurance program changes.

Further, to allow changes in this manner where the ramifications on the RSR are not considered sets an unfavourable precedent. It enables MPI to make decisions that affect the RSR with these decisions somewhat sheltered.

Once again, the onus is on the Corporation to prove its case. The onus is not on the Intervenors or this Board to disprove it.

Mr. Chairman, I can indicate we're right at noon and I am not yet halfway through.

THE CHAIRPERSON: How much longer to you think you'll be, Mr. Oakes?

MR. RAYMOND OAKES: I thought I would be a half hour, I've been I believe about twenty (20) minutes now and I would assume it might be another fifteen (15) minutes or twenty (20) minutes.

THE CHAIRPERSON: Okay. Just keep going.

CONTINUED BY MR. RAYMOND OAKES:

MR. RAYMOND OAKES: The Corporation, in the view of the CMMG, played a little fast and loose in its interpretation of the previous Board ruling with respect to the RSR.

First, its approach to the VAR calculation is not the same as used in the previous analysis. In the analysis filed this year MPI used the historic approach which is -- is at odds with the approach used previously by COMSTAT.

Secondly, the Board Ruling 179-01 was quite clear on its expectations with respect to a change in this risk circumstances of the Corporation and the RSR. As stated at page 51, the Board states:

> "If there are significant changes to the risk exposure faced by the Corporation in the future, the Board will expect the Corporation to bring forward an updated report at that time."

Surely the Corporation is not expecting those assembled here to believe that miraculously overnight there was a huge increase in its risk exposure. Quite to the contrary, using statistical approaches, the exposure is virtually unchanged.

If risk had been increasing from a maximum range of $80 million, as indicated in Ruling 179-01, to a maximum of 214 million that MPI suggests today, one would have expected to have seen MPI having applied a few years ago for a higher RSR with the appropriate documentation.

If 2002 was such a bad year, one would have expected to see a risk analysis showing up in 2003. Instead, last year an attempt was made to increase the RSR based on documentation related only to the MCT that this Board had already ruled is irrelevant. This is shown at Board -- in the Ruling 179-01 at page 51, and the comment is:

> "Accordingly, the Board finds the consideration of the MCT to be of no direct relevance in establishing the Corporation's RSR for rate setting purposes."

This was followed up by Ruling 150 of '05, at page 3, which states:

> "The Board rejects MPI's proposed application of the MCT used to regulate private insurers."

A further area where MPI's approach is at odds with the previous Board Order related to the risk analysis relates to the use of the correlation between investments and the operational risk, which we'll discuss in more detail.

With respect to the correlations used in the operational risk assessment itself, MPI suggests that the correlation coefficients are unstable. However, what has actually occurred was MPI changed the treatment of certain costs during the last number of years, specifically, road safety and loss prevention costs were removed from operating expenses to claims expenses in 2002, as shown in the response to CAC/MSOS-1-26.

Given the data change it is not surprising that the correlation coefficients changed. MPI confirmed this at pages 940 and 941. Doctor Simpson agreed that a data change such as this would surely change the correlation coefficients as shown at page 1441 and 42 of the transcript.

Clearly, the instability is not a result of the methodology of the risk analysis but changes MPI made in the treatment of certain costs. The instability of correlation coefficients argument that MPI uses does not hold up.

Overall the Coalition argues that the position MPA -- MPI found itself over the last few years of having unprecedented wealth due to excessive rates. In order to retain this wealth the Corporation has been attempting to increase its reserves rather than returning the monies to the rightful owners being the ratepayers.

With regards to the reserves outside of the RSR, the largest is the provision for adverse deviation. As shown in CMMG-2-11, this reserve has doubled in five (5) years from 144,854,000 in 2002 to 211,710,000 in 2006.

More troubling is the growth in the percent of PFAD to underlying claims costs with an increase from 19.29 percent to 22.23 percent over the same time period.

We learned during this Hearing as shown at page 930, that the selection of the PFAD factors is largely judgmental. This judgment results in the PFAD for weekly indemnity increasing by 9,404,000 due to an increase in the risk margin as shown in CMMG 2-10.

If the MCT is used to test the level of the RSR, such increases in the PFAD margins results in a tax on tax affect. The MCT is based on policy and claims liabilities inclusive of the PFAD as shown in cross-examination of Mr. Christie, reference page 1220 and 1221.

An increase in the PFAD increases the proposed RSR. MPI suggested throughout the proceeding that its two (2) greatest risks in regard to the balance sheet are claims liability and investment income as shown on pages 65 and 66 of the transcript.

A re-occurring theme was that higher interest rates may have a significant negative leverage impact on the investment portfolio, due to the amount of fixed income securities held.

It is correct that higher interest rates will reduce the value of fixed income securities unless portfolio risk mitigation strategies are used.

What MPI disregards is the simultaneous affect of interest rate changes on claims liabilities. As interest rate rise the discount rate for liability determination will also rise, decreasing claim liabilities.

So while investments fall in value, so do the liabilities they're held against. It is simply not realistic on the part of the Corporation to suggest the effect is one (1) way, where an interest rate results in investments falling, yet discount rates for claims liability purposes are unchanged.

Similarly, MPI attributes great weight to the leverage affect of inflation on policy and claims liabilities. However, as Mr. Palmer testified, page 563, lines 18 through 20; MPI discounts policy and claim liabilities using real rates of return.

Real rates of return being returns without inflation, that is the inflation rate minus the nominal interest rate. The advantage of this approach is that when the liabilities are determined, inflation is not a concern.

The suggestion that there is a $70 million risk to a 1 percent increase in inflation, given the approach used by MPI to determine policy and claim liabilities, is simply not credible.

As well, when questioned several years ago, MPI indicated it is -- it did not actively hedge its investment portfolio against interest rate risk. A reference in this regard is page 1350 of last year's transcript.

If this is such a risk and so important to the requirement for a higher RSR level the Coalition asks why did MPI's management actions not match the threat that it perceives.

Logically, they would be hedging against interest rate changes. Similarly, with respect to unexpected affects on policy and claims liability, reinsurance is used in such circumstances; which MPI in fact used in the runoff of its tort book of business.

If there's such a large risk to policy and claim liabilities, why is such re-insurance not being acquired?

The answer is clear to the Coalition. The risks are not that large and they're already covered under other buffers that MPI holds.

With respect to the affects of inflation at page 66, the Coalition notes the effect of a 1 percent increase inflation could not possibly be $400 million on annual operations. More likely the affect is 3 to 4 million as shown in PUB/MPI 1-28.

Coalition urges the Board to disregard these interest rate and inflation risk assumptions made by MPI in support of their case based on those points.

In the Coalition's view, Mr. Christie makes an even more perplexing claim with respect to the MCT. Page 1090, lines 20 and 21, Mr. Christie mentions that one (1) of the major exposures to MPI is structured settlements.

As we understand automobile insurance, the large Court awards relating to lawsuits related to bodily injury claims are aware the Plaintiff has the right to sue which, of course, is not the case in Manitoba.

As we've heard in cross-examination of Mr. Christie at page 1227 lines 1 through 9, such events manifest themselves not only on the balance sheet, they flow between the income statement to the balance sheet.

If a $70 million change in claim and policy liabilities were to -- were to occur as described in PUB/MPI-I-28, this would have to flow through the income statement; similarly investment losses.

As part of the income statement their affects would be completely accounted for in the operational risk analysis.

What would happen is MPI would have a new analysis in a forthcoming year which would be used by the Board in setting the RSR limits.

In the Coalition's view this is exactly what this Board was referring to in Order 179/01 when it referred to significant changes in risk exposure.

We learned once again during this hearing that on top of management judgment, actuaries also make subjective judgments.

The CMMG cross-examination showed how these judgments can vary between actuaries. As an illustration, CMMG reviewed the claims excess and deficiency provisions for SGI with Mr. Christie and we saw that post-Christie reserves were decreased substantially by subsequent actuaries Allard and Gauthier.

In each case, the reserves met the test of being actuarially sound. However, the judgments and opinions varied substantially based on the level of conservatism as shown, line 2, page 1242 of the transcript, through line 10 of page 1244.

There are two (2) primary sources of these judgments when actuarial policy and claims reserves are determined.

Judgments with respect to PFAD itself and the judgments with respect to the selection of loss development factors or simply the loss development expected on claims.

Mr. Christie explains these on page 1233 of the transcript over to page 1234. The Coalition notes that MPI does not prepare exhibits to its annual report which show these excesses and deficiencies in a manner used by SGI and ICBC.

As a suggestion to improve the hearing process, the Coalition believes this type of information by year showing excesses and deficiencies are shown by policy year becoming part of the regular filing.

Mr. Chairman, just on a time note, it must be that the words are getting longer, 'cause I don't seem to be getting through as rapidly as I thought.

I'm suggesting it may be quite a bit longer than I anticipated and -- which is standard practice, I think, for lawyers, but...

THE CHAIRPERSON: Okay, then, we'll stop for now and come back at 1:30. Thank you, Mr. Oakes.

--- Upon recessing at 12:15 p.m.
--- Upon resuming at 1:34 p.m.

THE CHAIRPERSON: Well rested, Mr. Oakes?

MR. RAYMOND OAKES: Always, Mr. Chairman.

THE CHAIRPERSON: Anytime you want to begin again.

CONTINUED BY MR. RAYMOND OAKES:

MR. RAYMOND OAKES: Thank you. When we broke for lunch I was speaking about claims reserves and policy reserves in relation to the RSR, and the linkage of the RSR to policy and claim liability reserves through the IBNR and PFAD are of great concern to the Coalition.

First, such an approach results in an ongoing increase in the RSR.

Second, it puts Intervenors in a very difficult position with respect to this Board process. It will require that the Intervenors use actuarial experts to support their intervention. The simple reason being that through adjustments to the policy and claim liabilities and PFAD, MIP can adjust the RSR higher as it sees fit. In order to test those judgments Intervenors would need their own actuarial experts available to testify about the policy and claims liability reserves and PFAD.

Given the contingent basis of funding for Intervenors, it is hard to visualize that any expert actuarial fellows from the very small consulting community, which was described in the transcript at page 1252, would be willing to assist the Intervenors. Given this situation, the Coalition most strongly suggests that the Board ruling fix the RSR amounts at specific levels as has been the past practice and prohibit indexing of the RSR in any manner.

Overall the Coalition is quite disturbed by the growing creep of judgment into the MPI rate application. We have discussed PFAD and policy and claim liability reserve judgments, general management judgment and the subjective judgment related to the MCT and DCAT.

During cross-examination MIP suggested it also used judgment with respect to the allowance for doubtful accounts on receivables, as shown at page 930 of the transcript, relating to realizing investment capital gains at page 934, doubtful accounts for re-insurers at page 935 of the transcript, judgment related to motorcycle relativities at page 867, the amount of data that results in full credibility at page 899, with respect to the weighting of accident benefits and the assignment of rate groups at page 913, and in assigning vehicle classifications, the reference being page 1011.

The Coalition sees this as an erosion from using statistical methods and procedures to support rates. Its view is that the Board should require MPI to use more statistical justification for many of these judgment decisions.

Overall for the basic program, if the Board approves MPI's application total reserves that the Corporation proposes to hold on as basic balance sheet are in the range of $480 million. This consists of 212 million in the PFAD, 214 million in maximum RSR, 22 million in allowance for doubtful accounts, the reference being CMMG-2-13, 2 million in re-insurance doubtful accounts, as shown in PUB/MPI-2-5, 31 million in unrealised capital gains per CMMG-2-12.

What MPI is telling everyone here is that they each need, of the five hundred and twenty-seven thousand (527,000) customers shown in CMMG-1-61, to provide insurance to the Corporation in the amount of nine hundred and ten dollars ($910). Not nine dollars ($9), not ninety-one (91), but $480 million divided by five hundred and twenty-seven thousand (527,000) customers is nine hundred and ten dollars ($910).

The cushion MPI proposes to hold is about equal to the total Manitoba budget for advance education and training and about one-half of the amount made available for family services and housing.

In addition to these basic buffer reserves the Corporation held $90,370,000 in retained earnings in the Autopac extension and SRE divisions, as at year end. From the whole -- whole health perspective the Corporation would be holding about $570 million in buffer reserves or about a thousand eighty dollars ($1,080) per customer.

We learned during the course of the Hearings that as of the second quarter of the '06/'07 year, MPI had profits of $65,400,000 confirming its overall financial good health.

Under cross-examination at page 441, line 9, Mr. Palmer suggests that there's no direct relationship between the PFAD and the RSR. While from a usage of RSR perspective, Mr. Palmer's comment makes some sense, in the case presented by MPI where the MCT is to -- is used to construct the RSR, the statement is no longer correct.

First, there is the marriage of the size of the RSR through the effect that PFAD has had on policy and claim liabilities and hence the required capital in the MCT as discussed earlier.

Secondly, MPI hinges its belief on the

need for a higher -- higher RSR and the effect of inflation on policy liabilities, the so called $70 million amount mentioned earlier. However, clearly the PFAD would take account of the effect of uncertainty as -- in assumptions as stated in the Canadian Institute of Actuarial Standard of Practice, 1740; which is evidence from prior hearings. Inflation would be one of those uncertainties.

CMMG questioned MPI on its risk profile during the Hearings, using the profile suggested by OSFI as described at line 1 of page 942 through line 7 of the following page of the transcript. We heard once again that MPI is a well run company with no change in risk profile during the last year.

As shown in page 931 lines 6 through line 3 of the following page, the Corporation shows it has neglected to consult the public at-large or the business community related to the required level of the RSR. While MPI may argue that that is the role of this forum, the Coalition notes that MPI over the years has been quite vigorous in its opposition to Intervenor costs.

We also note that if that were the case, MPI would have been bringing other consumer services issues, say relating to claims coverage, directly to the assembled group over the last number of years.

Page 62, lines 5 and 6 of the transcript, Ms. McLaren suggests that MPI is faced with the same financial risks as private companies, except market share risk. Ms. McLaren fails to provide one (1) important detail that relates to market share. As a monopolist MPI has the ability to completely recover from a bad year through rate adjustments.

It also has the time to recover. Private companies may not have that ability as customers shift to other insurers as rates rise. The Corporation even has the luxury of time in a recovery since it cannot lose its position in the market.

The Corporation is not concerned that this Board would grant them the necessary rate to recover financially. That's clear from Ms. McLaren's testimony at page 64, lines 13 through 20. To the Coalition this is an extremely important consideration which results in a much smaller RSR requirement.

At page 64, lines 13 through 20, Ms. McLaren also suggests that such a rate increase would not be helpful to Manitobans, since it violates the concept of rate stability and predictability.

This argument completely flies in the face of the actual rate setting process and the information filed by the Corporation. As shown in section TI.3 part two (2), only fifty three thousand four hundred and thirty-nine (53,439) vehicles have no change in rate for 2007'08. Eight hundred and ten thousand, six hundred and forty-seven (810,647) or 94 percent of motorists will experience a change.

Clearly, for individual consumers rates are nar -- neither stable nor predictable; some up, some down. With respect to the risk analysis approach there were some incorrect statements made by the Corporation which we wish to bring to the Board's attention.

Under cross-examination by Mr. Saranchuk at page 488, lines 11 through 15, Mr. Galenzoski suggests the VAR risk calculation prepared by the Corporation is ident --identical to that used in the previous RSR analysis.

We believe that to be incorrect. The VAR analysis used by MPI is based on the historical approach. The previous study prepared by COMSTAT using the variance -- co-variance approach or what is commonly known as parametric VAR.

The formula shown at page 13 of the COMSTAT report filed with the response to CAC/MSOS-I-48 shows the variance/co-variance approach used, which is a more sophisticated method.

During the same part of cross-examination, Mr. Saranchuk asked Mr. Palmer to confirm that the actual correlations were used in the operational risk report, referring to Appendix A, Exhibit 16. This must have been what Mr. Palmer was referring to.

In this case, with MPI's suggested improvements using actual correlations, the risks margin is 89,900,000 at a 95 percent confidence limit and 107,122,000 at a 97.5 percent confidence limit.

To this simply MPI simply adds a one (1) year VAR to derive the 136 to 186.6 million range. At that stage, the correlation between investment risk and operational risk was not included.

This is unlike the previous report filed in response to CAC/MSOS/MPI-1-48 where the correlation was a consideration as shown in the appendices.

Further the actual correlation between operational investment risk in case was negative, typically around minus .60, meaning that when investment risk is added in using correlation the total risk decreases. Referring to Board Order 179/01, page 50, the use of the actual correlation in this case is required.

To gain a better feel for this effect, the Coalition, through its resource person, tracked the changes through the report filed with CAC/MSOS-1-48.

At page 6 of the report it shows an

operational risk margin of $45.1 million at a 95 percent confidence limit and a $53.7 million at a 97.5 percent confidence limit.

Assuming no correlation related to investments, this results in a margin of $52.4 million at the 95 percent confidence limit, and $81 million at the 97.5 confidence limit as shown at Table 5, page 9.

This is equivalent exclusive of the adjustments MPI made to the data to the MPI range of 136 to 183.6 million, where a correlation with investment is considered due to the negative correlation, the margins decrease.

In this case, the results are shown at page 10 of the report where the PUB approach yields a range of $39.5 million to $47.1 million.

The risk margin using correlation is 75 percent of the non-correlation case, at a 95 percent confidence limit and 58 percent at a 97.5 confidence limit.

Given MPI's failure in providing an equivalent analysis, the Coalition suggests even if MPI's adjustments are accepted and a one (1) year time horizon is used, if this correlation had been applied as required, roughly the risk margin would fall with similar amounts at the 95 percent level and 97.5 percent confidence limits.

This would indicate a margin between 102 million and 106 million. The decrease in the spread of the margin being due to MPI's assumption of a one (1) year time horizon on investments which results in a much smaller change in the investment risk margin relative to the use of a longer margin in the 2001 report.

Of course, if there are no adjustments made by MPI and the correct investment time horizon had have been used, the margin would be much smaller.

In both cases, they would be a long way from the upper limit of 214 million that MPI has proposed.

In summary, with respect to the RSR, the Coalition's view is that MPI has not proven their case that the RSR should be based on 50 to 100 percent of the MCT.

Quite the contrary; the MPI case is full of holes and inconsistent logic. The Coalition believes this Board had it right in 2001 and last year when it found the MCT irrelevant.

The Coalition is of the opinion an RSR of a hundred thousand dollars ($100,000) or less is suitable for the Corporation. Excesses should be rebated to ratepayers.

The Coalition also has a grave concern about the effect of tying the RSR level to the MCT and thus the level of policy and claim reserves in the PFAD. Such a tying will place the Intervenors in an extremely disadvantaged position in the future.

The Coalition was hoping with the dispensing of the RSR issue at last year's Hearing and that a greater focus during this Hearing would be direct rate issues, where we still have many concerns.

Given the dominance once again of the RSR the Coalition has focussed on a few of its key areas including some areas where members have interests as private passenger vehicles -- owners, since more than 80 percent of motorcyclists also have other vehicles. It will retain a keen interest in issues affecting those vehicles as well as those affecting motorcycles.

Firstly, safety. CMMG is appreciative of the efforts made by this Board and MPI over the last number of years with respect to motorcycle safety. The Coalition however views it as safety light, where they desire a program that is much more pro-active. Education is fine and a new curriculum is useful. However, at the end of the day the membership wonders how much of this material will be retained by new drivers and affect motorcycle riders in any substantive way.

In addition to these approaches the Coalition suggests that the MPI take a more pro-active role in assuring the safety of the road network for motorcyclists.  We believe that MPI has taken a laissez-faire approach in this matter.  As shown in response to CMMG-1-55 and pages 893 and 4 of the transcript, MPI has not undertaken any activities related to castoffs from pothole fixing for example, not so much as even a phone call to ask the City if there's something that MPI can do in this regard.

Contrast this with the pro-active approach taken in other jurisdictions and we demonstrated signage programs dedicated to motorcycles and reference that at page 895 of the transcript.

Perhaps this lack of attention is due to lack of funding.  Based on a percent share of expected claims cost as shown in cross-examination, motorcycle safety should be funded at around $361,000 for '07/'08, the reference there being page 891 of the transcript.  This compares to actual funding of 146,223 as shown in CMMG-1-52.  The immobilizer incentive fund is of course irrelevant to motorcycles since they cannot directly participate in the program or gain from the program in terms of cost reductions.

With respect to safety the Coalition

expects the Corporation would take a more pro-active approach with respect to motorcycle safety, expending an equal share of funds as compared with other vehicle classes in support of these initiatives. One method to do so would be to add it as a separate pillar to its safety program, removing it from the other road users pillar.

As owners of other vehicles, Coalition members suggest there's a variety of areas where MPI can improve its customer treatment. The first relates to coverage problems with lay-up coverage, as discussed at pages 949 and 950. While MPI may say that this is not germane as extension coverage, it is germane since inadequacies in this coverage force certain actions related to basics.

Coalition members are unhappy to learn that when they lay their vehicles up that third-party coverage is not provided under Autopac extension or even available through SRE division. The consequence is they are forced to lay up their vehicles using basic coverage in order to protect themselves.

While Ms. McLaren on this point pointed out that if they're laying it up for the winter there wouldn't be an additional cost to leave on the basic insurance, if for example they can't ride for a year, if they have a health complaint or simply can't afford the insurance, there is no lay-up coverage that they can buy that would have a third-party liability.

Imagine the situation where a retiree lays their vehicle up and it burns down the condo in which they live in, they simply have no coverage to them. And because of the effective monopoly there's no other providers of lay-up coverage in Manitoba.

Due to the high rates on motorcycles, many motorcyclists have a second vehicle that's often older. While MPI suggests at page 920, lines 10 through 13, that these older vehicles are stepped down or vintage based on rate, this is not the case.

For example, we went through the example of the 1989 Dodge Caravan and at page 918 of the transcript it showed that their rate groups do not change. Their rate groups are identical between the 2007 and 2000 rate applications for 1989 and older vehicles, as shown in Table AI.5 Part 3 of the 2006 application and AI Part 3 of the 2007 application.

Similarly, other vehicles do not change. In this regard, the lack of vintaging of these older vehicles is a significant problem. This is quite peculiar given the efforts MPI has put into getting the rate line right for private passenger vehicles and light trucks so that the rates would be sufficient at lower rate groups. It is also strange that MPI vintages all older heavy trucks by one (1) rate group annually until they reach Rate Group 1, as shown in Section SM-4.3(a).2.

The Coalition suggests the Board order MPI to perform consistent annual vintaging of these vehicles in a manner -- manner similar to heavy trucks until the rate group reaches zero. If MPI currently does vintage these vehicles as it suggests, then it should be able to show this information in a clearly before-and-after, the vintaging format as part of its rate case.

With respect to the assignment of rate groups in the new vehicles the Coalition is concerned with the rapid growth in rate groups as shown in the responses to CMMG-1-36 and CMMG-1-39. The average rate groups for new car owners increased from fifteen (15) in '97/'98 to twenty-three (23) in '05/'06. For trucks the increase was from eighteen (18) to twenty-three (23); suggests rising prices may be a significant factor.

Coalition brings this up for two (2) reasons. First, it perceives at times a slippage -- I'll move on from that point.

Related to these ranges the Coalition is of the opinion that it's time to raise maximum insured values. While MPI may suggest that average prices have not risen that much, the Coalition is of the opinion that while the average may be rising slowly, there's getting to be a greater proportion of higher valued vehicles. The Coalition showed the simple mathematics of that situation by example in cross-examination at pages 915.

Coalition requests the Board order MPI to provide additional information on assignment of rate groups to new vehicles, including the price sensitivity for next year's hearings. As well the Corporation should be required to produce data with respect to the distribution of new vehicle sales by dollar range, as shown in CMMG-2-16.

With respect to rate group assignment based on the rate making methodology, tables 13 and 14, about 60 percent of the rate requirement is due to physical damage cost with a remainder of 40 percent due to injury related cost. This contrasts with the weighting used to apply the clear rate groups which, as shown in the response to CMMG-2-18, is heavily oriented to collision and comprehensive cost. Indeed, the maximum of adjustment for accident benefits is plus or minus two (2) rate groups.

For next year the CMMG would like to see further evidence provided by the Corporation as to the validity of this limited adjustment for accident benefits and related statistical evidence that would support his position.

With respect to the issue of loss transfer, as the Coalition expected loss transfer bore fruit.  As we heard in cross-examination, without loss transfer the required rate adjustment for motorcycles would have been 29.1 percent.  This fell about 15 percent to 13.7 percent under this much fairer system.

Coalition is also aware that this is only partial loss transfer and that collision claims have not been included.  The Corporation under cross-examination, at pages 858 and 859 of the transcript, suggested it had not yet considered the feasibility or effect of loss transfer for collision coverage.  For motorcycles the urgency of such a change is considerable.

We know from CMMG-2-6 that 77 percent of motorcycle cost related to PIPP.  The rest is related to collision.  If this remaining 23 percent is effected in the same positive manner as PIPP the motorcycle community would be further positively affected.  They anticipate rates will fall within that change.

The Coalition is requesting the Board order MPI to provide the study of extended loss transfer including impacts on rates by vehicle insurance use and territory as part of its 2008 application.

During cross-examination the Coalition covered the issue of single vehicle accidents and the inconsistency of MPI's data relative to other jurisdictions.

The Coalition is particularly concerned with this as the number of single vehicle accidents directly impacts the effect of loss transfer.

The Coalition asked MPI to provide data with respect to single vehicle accidents in CMMG-1-12. The instability of the MPI data is quite evident with single vehicle accidents dropping by nearly 10 percentage points during 2005, a trend which appears to be back towards the industry norm.

Further, when comparing this response to the data filed in MPI's motorcycle risk study shown in CMMG-2-5, there is substantial change to the historic data.  For example, in that report from several years ago in 1996, 28.3 percent of motorcycle accidents were single vehicle.

Based on the information filed with this Application in CMMG-1-12, for the 1996 data, MPI says 38 -- I'm sorry, based on the current information in 1-12, MPI says 38.9 percent of motorcycle accidents were single vehicle.

MPI was silent on the reason for this

change or the steep drop in single vehicle accidents in 2005. Strange indeed that the data for single vehicle accidents has been adjusted upwards now that loss transfer is in effect.

The Coalition is of the view that further investigation is required in these data inconsistencies particularly the change in between the motorcycle risk study and currently reported. Inconsistencies in this area have a great effect on a small pool like motorcycles. The Coalition requests the Board order an independent audit of this data.

Doctors Hum and Simpson pointed out in their paper MPI rates are biassed upwards meaning that the financial forecast and related indicators filed with this Board are conservative in nature, overstating the rate requirements.

In direct testimony, Mr. Palmer at page 76 of the transcript, suggested this was not an important factor.

The Board and the assembled Intervenors have additional evidence in this regard, nothing less than they expected -- the above-expected profits the Corporation has experienced in the last number of years.

If rates were not biassed then we would expect a pattern where there were lower than expected profits one year, followed by higher than expected profits the next.

The Coalition suggests that a significant factor in this conservatism has been MPI's ongoing low-balling of investment income when calculating rates.

Referring to Mr. Galenzoski's previous testimony and cross-examination at pages 925 and 926, we hear the same theme every year and have done since 2004. Investment income in every case was higher than expected.

The CMMG suggests that one reason for understatement of investment income when calculating rates is the failure to include an equity risk premium.

We heard during cross-examination at pages 927 and following that MPI includes an equity risk premium when doing asset allocation studies as well as when calculating value at risk in the Mercer report filed at PUB-1-72 at page 80 where equities have a return of 18 -- 8.2 percent.

In spite of this, MPI does not include an equity risk premium when calculating rates.

With respect to the Ibbotson report, the Coalition has one (1) brief comment. First, Mr. Andrews is not an economist, so his views with respect to the future and the economy and related financial issues should be considered in that context and we would contrast it with Dr. Simpson's testimony at page 1442 which indicates that the equity risk premium would be greater than zero (0).

If a 1.5 percent premium was included, as shown in the response to CMMG-2-14, profits would be considerable over the next number of years.  This results in retained earnings more than doubling compared to a scenario where the equity risk premium is excluded.

For example, in PUB-1-1 with a 5 percent decrease in 2007/'08, the total retained earnings for basic are projected to be $134,805,000 in 2010/'11.

Referring to CMMG-2-14, the same scenario with an equity risk premium results in retained earnings of 173,255,000, an increase of about 38 million -- 38.5 million.  The Coalition proposes that this Board direct MPI to apply an equity risk premium in its rate applications.

While MPI has been understating potential revenues the Coalition believes the Corporation has lost some of its diligence with respect to cost control.  In the last five (5) years commissions and premium tax expenses for MPI increased more than 69 percent. Comparatively similar costs increased only 26 percent in Saskatchewan.

As was discussed at previous hearings

commissions are payed on a flat-fee basis in Saskatchewan while a percentage or premium basis is used in Manitoba. The Coalition suggests that a similar method of payment is appropriate in Manitoba for basic Autopac.

The Coalition also learned during this application that MPI had increased staff by some hundred and twenty-nine (129) positions in the last number of years. This increase occurred outside of the addition of DDVL. Relative to SGI and -- and ICBC, the rise in operating and claims expenses was quite high, as shown in CMMG-1-57.

MPI's response to this seems to be that they have more work to do. At the same time the Coalition believes that SGI and ICBC would also have more work to do if that was the case. Given the expenditures the Corporation has made on computer technologies, our clients are confused as to why the Corporation has not leveraged these technologies rather than constantly adding employees.

With respect to operating costs the Coalition suggests the Board order a review of methods of broker payment as well as more thorough supporting documentation for increases in MPI's operating and claims expenses. Ideally the latter would focus on concrete measures of work activity and exclude operations related to DDVL.

Moving to the rate line, the Corporation has undertaken some work with respect to the rate line adjustment over the last number of years. The Coalition has concerns with respect to their process, which I'll deal with in a few minutes. The adjustment to members' way of thinking of -- is of little value if motorcycles are assigned to incorrect declared value range.

Through questions CMMG-1-46 through 1-50, the Corporation provided evidence with respect to the problems faced by a motorcyclist when declaring values. The reference CMMG-1-46:

> "If the motorcyclist declares a value greater than the correct value they'll receive only the correct value in case their -- in the event their motorcycle is written off."

In essence, they paid too much for that coverage. In this case the motorcycle is not even rebated the excess premium.

The opposite case occurs when they declare too low a value, as shown in CMMG-1-48. If the value declared is too low they will have too little coverage. In CMMG-1-50 we saw that MPI offers little assistance with respect to declared values. Comparatively, as shown by CMMG-1-49, this is not an issue for passenger vehicle and light truck since the rate group is assigned by the Corporation.

During cross-examination of the Corporation the Coalition learned, as shown at page 905 of the transcript, that MPI has publications and other tools used by its adjusters in assessing the value of motorcycles. The Coalition requests that these be made available to the brokers and the broker requirement to discuss declared values with motorcycle owners be strengthened. In this manner greater equity can be obtained for motorcycle owners.

With respect to the rate line adjustment itself the Coalition continues to oppose the methodology that has been used in performing this adjustment. First, given the rates for motorcycles are dependent both on the declared value and engine displacement range, which then comprise rate groups similar to a passenger vehicle or light trucks, the analysis is incomplete unless both declared value and engine displacement are considered simultaneously.

MPI apparently has prepared such an analysis but has not provided that to this Board, as shown at page 898 of the transcript. MPI suggests that this is all right since the vast majority of motorcycles are in the highest engine displacement range. The problem with this conclusion is that it suggests there's something amiss in part of the classification plan then that relates to engine displacement ranges.

For example, for private passenger, the vehicles are dispersed widely across the rate groups and other classification components. What MPI's response in this regard suggests is that there's too few engine displacement ranges, especially when it comes to motorcycles that have larger displacements.

Secondly, there's an inconsistency in the data used to calculate the rate line adjustment compared to other motorcycle rating data. We covered that at pages 896 and 97 of the transcript.

For some reason ten (10) year's of data are used, it appears, in the calculation of the rate line while only five (5) used -- years are used in the calculation of the rate. MPI was silent on the reasons for this different approach.

Finally, the approach to credibility used was different than that that was used when calculating private passenger and light truck rate group differentials as shown at 901 of the transcript. An approach to credibility similar to that used for passenger vehicles and light trucks would potentially reduce the effect of their rate line adjustment.

The Corporation was surprised as to the comments of zero credibility being assigned to accident benefits, reference page 901 of the transcript.  It's hard to believe that motorcycle rates are actuarially sound if PIPP costs for motorcycles has no credibility at a rate group level.

The overall affect of MPI's approach will be a continued adverse affect for the least valuable motorcycles.  During cross-examination we heard that the increase for rate group zero vehicles would be 29 percent, roughly, over in the next two (2) years as shown at page 903 and 904 of the transcript.

With respect to the rate line adjustments, the Coalition requests that the Board order MPI to treat the engine displacement issue more expeditiously including the consideration of additional displacement ranges.

Coalition is of the view that further adjustments to the rate line be suspended until that review is completed.  All of the foregoing discussion is driven towards the Coalition's last few area of concern.

In spite of lost transfers motorcycle rates will have increased by 124.4 percent in the last ten (10) years if the Board approves MPI's application;

this compares to a cumulative decrease for private passenger vehicles of 7.1 percent.

Relative to our neighbours, motorcycle premiums are extremely high in Manitoba. We need to look no farther than Saskatchewan where the insurance rate for a typical 2004 Harley Davidson worth fifteen thousand (15,000) is about nine hundred and thirty-five dollars ($935) compared to seventeen hundred and twenty dollars ($1720) in Manitoba.

In Saskatchewan this lower rate includes comprehensive coverage, something that Manitoba motorcycles pay extra for in Manitoba. The Coalition has several concerns relatively related to the treatment of sport bikes.

The first relates to the classification error of certain motorcycles as sport bikes and the second relates to the calculation of rates for sport bikes. In cross-examination, the Coalition showed that MPI was made aware of the error in classifications for bikes as early as October 2004, reference is 872 of the transcript, yet MPI did not correct the error in and will not until March 2000 about two and a half (2 1/2) years later. MPI implies somehow the reason for that delay was as much the fault of motorcyclists as MPI's.

We would suggest no validity to this

argument since onus lies with MPI and MPI has the resources in-house to have completed the work. MPI's other suggestion is that they can't make changes until the rate hearing. In the past, the Corporation has applied on an interim basis to correct rating anomalies, for example, related to City of Winnipeg transit bus rates in recent years and classifications to farm, truck body styles at a much earlier date in the history of this process.

Simply, MPI had the resources and ability through the regulator to affect the change much earlier. Given that ability and the delayed response of the Corporation, the Coalition seeks refunds of the excess rates charged to motorcycle owners who were improperly classified as sport bikes for '05/'06 and '06/'07.

This year MPI is proposing a 15 percent increase in rates for sport bikes. The Coalition contends that MPI has not proven its case in this regard.

First, the basis of the rate increase is a very small grouping of sport bikes, approximately nine hundred (900). Given the mis-classification of other motorcycles as sport bikes, the Coalition believes that this pool may in fact even be smaller than that.

Second, if these other motorcycles were mistakenly classified as sport bikes, then the claims cost data with respect to sport bikes must be unreliable. What if the bulk of the cost attributed to sport bikes were really attributable to other types of motorcycles? MPI has not taken any -- undertaken any analysis to ensure the integrity of the data used.

Third, as shown during cross-examination, the methodology used to assign rates to motorcycles varies from other types of vehicles. This includes the assignment of an additional set of steps which increase the relativity for all types of motorcycles except motor scooters which is substantially decreased.

This is found at pages 865 and 866 of the transcript and is clear in rate making methodology Exhibit 18-5. As shown in that document MPI builds up the relativities from the actual claims experience credibility weighted by prior rates.

This results in the credibility weighted relativity which then builds to the balanced credibility weighted relativity and subsequently the selected relativity. A change in these relativities changes the rates paid by the different types of motorcycles.

The higher the relativity, the higher the rate group relative to other groups of motorcycles. The Coalition's view is that this process is arbitrary and has resulted in incorrect rates particularly for sport bikes. When adjusting between the credibility rate -- weighted relativity and the balanced credibility weighted relativity, the relativity for moped, other and touring motorcycles, motor scooter and sport bikes increase.

For example, the relativity for other and touring motorcycle increases from 1.0010 to 1.0951. For sport bikes it increases a significant amount from 1.5837 to 1.7327.

When the selected relativity step is performed, the changes are even more difficult to accept. For mopeds the relativity was increased from .0794 to 1, for other and touring motorcycles it is increased from 1.0951 to 1.1. For sport bikes it was increased from 1.7327 to 1.75. Yet for motor scooters it was discreet -- decreased substantially from .5932 to .1.

The effect of these steps is to increase the rate for motorcycles and mopeds and to suppress the rate for motor scooters. The most affected by this arbitrary adjustment upward is sport bikes. MPI suggests this is a minor effect. If that was so, why in fact would it make such an arbitrary adjustment?

Based on the arbitrary nature of this adjustment, the Coalition requests the Board eliminate the '07/'08 rate adjustment differentials within the motorcycle class with each type of motorcycle receiving the same rate of change, and particularly the Coalition specifically requests the higher rate adjustment for sport bikes be eliminated.

The Coalition questions the Corporation with respect to the large number of motorcycles insured in Territory 2 versus Territory 1, average motorcycle rates were substantially lower in Territory 2 than Territory 1.

The reason appears to be the unaffordability of rates in Territory 1 and suggests that for a small distinctive major class light motorcycles the territory rate differentials could be eliminated with a uniform rate applied across all territories eliminating that problem.

The Corporation continues to suggest during these Hearings that there are competitors to MPI and we wish to make it clear through the motorcycles experience in the local market, competitors do not exist and coverage is unavailable except through MPI.

The Corporation wishes -- or the Coalition thanks the Board, the Intervenors and the witnesses of the Corporation I can tell you on a personal basis of the great respect that I have for the executive of MPI and it makes me proud to be a Manitoban.

We appreciate the indulgence in what's

become a very long hearing and I think that if the Corporation knew I was -- or if the Board knew I was going to take this long, perhaps it would have accepted my offer to take this by way of written argument, but we thank you for your indulgence.

THE CHAIRPERSON: Thank you, Mr. Oakes.

Mr. Roberts, for MUCDA?

FINAL SUBMISSIONS BY MUCDA:

MR. NICK ROBERTS: Thank you, Mr. Chairman. That's a -- Mr. Oakes leaves a big shadow to follow after that.

Mr. Chairman, once again, it's been our pleasure for the MUCDA to attend these hearings and to work with your Board and MPI.

With respect to dealer rates, the MUCDA notes that there are really two (2) components. The first part of the rate is attributable to cost for policies issued during the 2007/2008 insurance year. This is the ongoing rate. The second part is the funds held by the Corporation from the public in the form of the RSR in excess of the PUB target range.

The failure of MPI to provide a rebate on its own initiative suggests that these are also a rate from a practical perspective. In a sense, it's like withholding refunds from a taxpayer once they file their year end tax return.

With respect to the ongoing part of the rate, the MUCDA's position is that dealer vehicles have been inappropriately assigned to the commercial class. During cross-examination, MPI agreed that dealer all-use vehicles are used for both private usage by the dealer in day-to-day personal activities and for more commercial activities involving the sale of vehicles.

In the latter case, we are all aware that it is typically individuals who will be using a vehicle for a personal use who would test drive a dealer plated vehicle.

Similarly, the private passenger class currently has vehicles that are used for both commercial and private use. Both the all-purpose passenger vehicle and all-purpose truck use have these type of vehicles. Over thirty thousand (30,000) farm light trucks are included in the private passenger class.

We learned during cross-examination that the assignment of insurance uses and vehicles into the major class was done internally by MPI staff without the consultation with industry.

We believe that consultation has at least partially taken place as part of these hearings and the outcome is that dealer all-uses should be placed in private passenger use, making it compatible with other vehicles in that class. The alternate is to move many vehicles from the private passenger class to commercial. A much greater number of vehicles that would be dislocated from a move in that direction suggests that it is not practical.

On loss transfer, the MUCDA was pleased that loss transfer resulted in a better balance of claim costs for dealers and other groups of vehicles.

We were somewhat unhappy that MPI could not provide us with greater assurance that the data anomaly had pretty much worked its way through the rates. We remain curious as to the large variation between balanced raw relativities and new relativities and are hoping MPI can provide more information in next year's Application with regard to its selection of weighting when developing these relativities. Ideally, we believe this would include statistical or scientific justification of its weighting schema.

Now, to the second part of rates that, as we call it, the tax refund, that MPI insists on not providing to ratepayers.

At MUCDA we are not as concerned as how much -- as much with the how question of the RSR but the size question. We note that PUB increased RSR limits for 2006/2007 and now MPI is suggesting they be increased further.

The practical effect of these -- of this request being that some $60 million in excess RSR at the end of 2006/2007 will not be rebated to tax -- ratepayers. MUCDA sees from evidence that based on statistical analysis of actual, not artificially inflated operational and investment risks, that the overall -- that overall the Corporation's risk profile on a statistical basis has not changed.

This suggests that the PUB revised target is more than adequate. In spite of its many arguments related to MCT, the MUCDA does not believe this is a suitable approach for Manitoba. In particular, it fails to recognize the risk reduction aspects of MPI's monopoly position, legally on basic and, in essence, on extension.

And finally, on auto theft, I'm going to ask for a little leeway on this. I -- I have something I'd like to read into the record.

MUCDA, along with the National Committee to reduce auto theft believes that there should be amendments to the Criminal Code of Canada in regards to auto theft.

Although MUCDA recognizes that it is well beyond the jurisdiction of this Board to address these issues, it would certainly go a long way to have the support of this Board.

And I've just -- I'll -- these are just brief. These recommendations would be that auto theft needs to have its own specific comprehensive section within the Criminal Code of Canada, that progressive penalties should be imposed on repeat offenders similar to dispositions regarding impaired driving.

Each subsequent time an offender is charged mandatory minimum penalties need to be imposed and increased punishment with each violation. Stolen vehicles make criminal activity possible for many offenders, often it is the tool used by many criminals, ultimately enabling them to commit many other offences in the community.

For this reason, we would like to have an auto specific section which would address all related offences and ensure the prosecution of auto theft by offenders, rather than allowing auto theft to be plea bargained away as often it is the lesser offence.

Auto theft profile needs to be increased and recognized for the offence it really is. Not only does it have violent connotations, but it facilitates the commission of many other offences.

Auto theft needs to be recognized as a violent crime, specifically where youth are involved. They do not possess the skills to operate a vehicle, resulting in the vehicle becoming a weapon in their hands.

In respect to the auto theft crisis in Manitoba, we commend the Corporation on its Immobilizer Incentive Program. The immobilizer Program is the only long term solution to halting the auto theft epidemic in Manitoba.

The dealer community will support the program by installing immobilizers in as many of the most-at-risk vehicles as possible. With dealers now being able to be involved, we believe that the dealer body will have a significant impact in immobilizing a large percentage of these vehicles.

MUCDA would like to see the free immobilizer program extended to include more vehicles. Manitobans have the reputation of throwing nickles around like they were manhole covers. Be it right or wrong, Manitobans love the word, free. Seeing the update on the free immobilizer speaks volumes.

The most-at-risk vehicle list is what we like to call a moving target. By that we mean, as more of the most-of-risk vehicles are immobilized, these will move onto to other types.

We would recommend to the Corporation that this list be revisited at least twice a year. And also in closing, I would be remiss if MUCDA did not acknowledge the efforts of MPI's auto theft prevention unit, Director, Mr. Tim Arnason and his staff, for all their work in helping dealers in the transit to immobilize their inventory.

We've had many meetings with Auto Theft Prevention Unit and they have been very accommodating in helping dealers in this regard. So once again, in closing, MUCDA wishes to thank the Board, Board Counsel, the Corporation and the other Intervenors for the time and attention given to us at this Hearing.

Thank you.

THE CHAIRPERSON: Thank you Mr. Roberts.

Ms. Dalman, for CAA?

(BRIEF PAUSE)

FINAL SUBMISSIONS BY CAA Manitoba:

MS. DONNA WANKLING: Good afternoon, Mr. Chairman. Thank you to the Public Utilities Board for this opportunity to speak briefly on behalf of CAA Manitoba. My name is Donna Wankling and I'm the Vice-

President for CAA Manitoba.

CAA has been part of these rate application hearings since before MPI ran into financial in the early to mid-1990's. At that time, CAA along with others recognized the urgent need to deal with the financial shortfalls of the Corporation, because we understood the implications for motorists.

We were part of the transition that saw the introduction of no-fault and PIPP. We supported the establishment of a rate stabilization reserve fund and supported a method of building up that reserve to protect Manitobans against the kind of financial problems facing us at that time. We recognized and supported the implementation of premium surcharges in the range of 2 to 4 percent over a period of four (4) to five (5) years that would be dedicated to this rate stabilization reserve.

As an organization, we took all kinds of negative feedback from our members during that time, but we supported the initiative to regain solid financial ground for the longer term.

Along the way, we've monitored the RSR levels together with the Public Utilities Board. When the RSR had grown to such a significant level that MPI was suggesting that transfer of some $26 million over to the universities, we criticised MPI profoundly because we believed that ultimately the monies belonged to the motorists of this Province.

We publically objected and MPI relented by returning the excess funds back to the ratepayers. In fact, on two (2) separate occasions, motorists have received a return from MPI in terms of a rebate in one (1) year and a cheque in another year.

During all of this time while building the reserve and effectively managing the claims side, MPI is to be hugely commended for their sound financial management of the Corporation. We believe that that is still the case.

Today, we find MPI with retained earnings reported at the end of the second quarter to be in the range of $329 million. CAA strongly suggests that the precedent has already been set in terms of returning excesses back to ratepayers and that this should occur again.

It is our view that the present level of the RSR set by the Public Utilities Board at 65 to 100 million should be maintained. We were there when MPI was experiencing financial problems. We are here again today when MPI is experiencing a surplus and we will be here in the future should MPI be in a position of need.

On the issue of extension insurance, CAA recognizes that the PUB hearings are not the forum for discussing the relevance because both MPI and the government believe that extension represents a competitive line of business.

Nonetheless, CAA wishes to once again persuade the PUB to challenge the validity of this view. The facts for this are:

1. The MPI extension business has grown to capture the lion's share of the market. One would be hard pressed to argue that there is significant competitive threat to this line when MPI holds a market share of some 88 percent.

2. CAA holds the view that this dominant market share has been driven by the perception of ratepayers that because MPI is the sole source of auto insurance in this province, there are limited, if any, alternative options for extension insurance.

Additionally, the method of purchasing extension insurance is driven from the same computer system that supports basic insurance.

CAA was one of the few Intervenors who supported MPI when presented with a need to upgrade the system at considerable cost.

Today, this same computer system is more than competitive with other extension insurers, because MPI's extension can be purchased with the push of a button, while for competitors, forms need to be filled out manually.

3. The excess returns on extension insurance belong to the same ratepayers who are buying basic insurance, since without the purchase of basic, there would be no need to offer an extension insurance line.

CAA has a major concern that if the excess generated by extension insurance does not flow back to the basic RSR, ratepayers run the real risk of having the next flavour of the day project, be it health care, education or even general revenues, funded by them through MPI.

All of this, under the present view that extension is a competitive line, and beyond the purview of the PUB, would happen without anyone even finding out about it. CAA strongly advocates and will put its views forward that extension insurance become part of this public and transparent process.

On the issues of immobilizers, auto theft, and road safety initiatives, CAA commends MPI for being involved and reinforces their continued efforts to influence positive behavioural change in the motoring public.

With regard to the funding initiatives directed towards the Winnipeg Police Service and Justice, it is our understanding that these were started as a temporary fix for a resource problem at both the Winnipeg Police Service and Justice.

It appears that this temporary fix is becoming more permanent and, as an organization that has strongly objected to using motorists' money for other things, we caution this double taxation.

As MPI expects, and we hope, the immobilizer program will deliver the solution to the auto theft problem and dismiss the need for this double taxation.

On the issue of budgeting for an operating loss in this 2007 Rate Application, CAA, like CAC/MSOS, has never supported that MPI budget for an operating loss.  We see no need to change our consistent position on this issue.  At these hearings over the years, we in fact, supported the fact that rates should be higher than what was being applied for in order to avoid a budgeted loss.

We have heard the rationale that the budgeted loss will be more than offset by income from other sources, sources such as investment income and, if need be, the RSR.

CAA's view is that the budget should be set to break even and that the RSR should be funded at the appropriate PUB-ordered levels with excess income returned to ratepayers.

In closing, I'd like to thank all the members of Board Counsel and the MPI panel for the courtesies extended to my colleagues over the past two (2) weeks as we've participated in these hearings.  Thank you.

THE CHAIRPERSON:   Thank you very much.  I think we will move on now to Mr. Dawson, the Manitoba Bar Association -- Canadian Bar Association

FINAL SUBMISSIONS BY CBA/MBA:

MR. ROBERT DAWSON:   Thank you, Mr. Chairman, Members of the Board, I also plan to break my comments into three (3) large sections.  First I have two (2) preliminary points, then the bulk of my comments will relate to four (4) topics on which I have submissions. And then I'll have one formal note to close on.

Before I begin in terms of my preliminary comments, the first one relates to a word of thanks which like Mr. Williams, I'll otherwise forget if I don't do it right off the top.

Certainly, this is the third year in which I personally have had conduct of this file and I can say without reservation that this Board is one of the most attentive and well prepared. So I thank you on behalf of my client as well as me personally.

And I'll also indicate for the record that over the past three (3) years I found nothing but great help from the staff of this Board so I appreciate that. I also very much appreciate the courtesy and fullness of responses that we get from the MPI witness panel. Sometimes witnesses appear before tribunals and they try more to score political points or public relations points than providing information and I'm happy to say that that's not the case.

And I'm also, of course, grateful to by other co-Intervenors including especially Mr. Williams who's always very helpful in providing suggestions.

My second preliminary point relates to an outstanding undertaking which just for the record I can indicate arose on page 1320 of the transcript which is Undertaking 30. As far as I know and according to Mr. McCulloch this morning, has not yet been filled and that relates to the way in which MPI publicizes the exemption from disclosure of personal data.

It's hardly pivotal to the argument I'm

about to make but certainly by making this argument, I'm not at all waiving that undertaking. I do want the answer at the earliest possible moment.

Now to turn to the bulk of my submissions and those fall under four (4) headings. The first will deal with PIPP and PIPP benefits. The second will deal with the way in which MPI has funded police, justice and probation services.

The third will deal with environmental issues, specifically under the heading of Pay As You Drive and lastly I'll close on the RSR.

In terms of PIPP, of course the Manitoba Bar Association has throughout my conduct at least of this file, always expressed its concern about the way in which the applicant has handled some claims of victims relating to personal injury or arising out of the operation of motor vehicles.

And even though this has not been one particular topic but we've emphasized in this year's intervention, I wish to stress that it continues to be an area of concern for my particular client.

It's clear in my cross-examination of Mr. Bedard that not much has changed since I went in detail with him two (2) years ago in the way in which those claims are handled.

There still is, much to the distress of certainly claimants themselves and also members of the Bar, the lack of an independent advisor to assist claimants especially relating to personal injury from the very beginning.

And we specifically canvassed off also the question of the way in which surveys are being used to support the supposed customer -- level of customer service and Mr. Bedard at page 1480 of the transcript acknowledged that the surveys continue to be conducted in much the way that they had been when I cross-examined him two (2) years ago and when, at that point, I suggested to the Board that there were some problems.

It's important to remember that pointing to those who take appeals of their claims that for each one of those individuals presumably there has been either a diminution or a suspension of benefits that relate to their injury claim.

And even if one claim goes to appeal and results in the Corporation having been found wrong in its interpretation of the way those benefits should be handed out, we have to remember that there actually is an individual who, for at least that particular individual no matter how small the amount of money, has been tremendously inconvenienced and distressed and presumably suffered as a result of that.

So even though it's important to keep our eye on the way in which income -- or rather cost controls are focussing on, for example, income replacement programs or the whiplash program, it's important and the Bar Association certainly always keeps in mind that there are victims of personal injury who do need assistance and continue to need assistance in the way that their claims are being handled.

Of course this Board may or this -- this Panel of the Board may say, well, if that's so important to the Bar Association, why didn't you deal with it in greater detail this year?

And I suspect that that's my choice as counsel to some extent. You'll remember that in 2004, we went through that in rather great detail and I suggested that in my closing submission that there was a lack of independent advice to claimants. There had been a reduction or denial of benefits in some cases and there were problems in the way in which customer service was evaluated through surveys.

And we urged at that point, that the applicant should look and compare its way of doing business with other claims handlers or handlers of injury claims; and specifically I had mentioned at that time the

Workers Compensation Board.

The history indeed of what happened next is outlined in this years filing by the applicant at AI-22, namely -- perhaps as a result of our submission, but certainly one way or the other, Board Order 148/05, number 5 ordered a benchmark study.

And just very quickly, I'll remind the Board that that said that:

> "Manitoba Public Insurance develop claim benchmarks for duration, frequency and costs for comparison with its own experience and that of other no fault jurisdictions and agencies; and file a summary of the benchmarks established by the Manitoba Public Insurance with the Board at the next General Rate Application."

And, of course, we know that in 2005 which was the next General Rate Application, that study was not filed. Instead we had only a request for proposals. And as a result, the Bar Association felt that it may not be the appropriate time to pursue with the same detail and vigour the issues that had been raised in the previous year; allowing this study to be evaluated and we did some tidying up of issues, but we moved along.

And the Board reminded the applicant at -- in its Board Order of 150/05, number 7, that the applicant should and I quote now:

> "Develop claims handling, PIPP and other operating cost benchmarks, perform analyses comparing MPI experience with that of other comparable insurers and file a report with the Board at the next GRA providing the findings."

So, in essence, I'm interpreting that and I'll suggest that this is a reasonable interpretation with which the Board might agree, that in 2005 the Board reminded the applicant that the Board was still waiting for the benchmark study that it had requested in 2004.

And, of course, we come to this year, 2006, and find again that the study has not been filed and in the course of the cross-examination that I conducted, both of Mr. Bedard and Ms. McLaren, the Panel will remember that a couple of issues did arise out of that.

The first and most distressing is, is that although this study is still ongoing, there's no guarantee that the study will even be adopted by the applicant. And as a result, at least my client is left wondering whether over the past two (2) years some sort of study has been undertaken, or might have been undertaken; but might actually not go anywhere.

In short, we're waiting to pursue cost controls as well as ensuring the entitlement of claims -- claimants related to personal injury and at the same time the Board is -- or rather I'm sorry, the applicant is continuing to consider studying the matter.

Part of the problem, I think, may relate to some other issues that arose out of the cross-examination that I conducted. First, was the fact that the study as MPI seems to be structuring it, goes well beyond, and Ms. McLaren admitted this in cross-examination, goes well beyond a mere benchmark analysis. It's now grown into a grandiose study that goes well beyond what I suggest the Board originally ordered.

And in addition, the targets for comparison have grown I think again beyond what this Board had ordered in 2004 and repeated in 2005.

And as a result, that comes to the first recommendation that my client makes to this Board and that is, this Board should order that at the next GRA the applicant file the benchmark study originally ordered in Board Order 148/05, but limiting the scope of the study to the subject matter and comparable organizations that were defined in that original order.

In essence, my client is urging this Board to remind the applicant to do what this Board had originally asked for two (2) years ago, so that we can deal with ways in which to test how this applicant handles claims made by victims of personal injury.

That's the submission of my client on PIPP and that's also by way of explanation why we have not gone into any great detail this year. It seemed to be not an appropriate or apt year to talk too much about the detail.

We'd like to see what that report has to say. We'd like to understand how the claimant can balance on one (1) -- or rather how the applicant can balance on one (1) hand the -- its attempts to control costs as well as to ensure the entitlement of victims of personal injury to those benefits that they're legally and contractually allowed.

Let me pass then to my second major topic and that deals with, what I'll call for shorthand purposes, MPI Funded Initiatives and that relates to the police, prosecutions, and probation.

Just by way of very brief summary, this Board will remember in my cross-examination of Ms. McLaren at page 1,274 I put before the Board the fact that there is an agreement between MPI and the Winnipeg Police Service whereby officers are dedicated to the investigation and ultimately hopefully arrest of culprits relating to the theft of automobiles. And that also ties into Manitoba Bar Association First Round Interrogatory Number 9 where a copy of that contract was produced.

And it's important at this point that we pause and say that no one at all is faulting MPI for undertaking this particular initiative. It seems only logical that at almost any expense the insurer itself should certainly want to take steps to make sure that auto theft is curbed.

The unfortunate sidebar of all of this is that the question arises of why the Winnipeg Police Service wouldn't share the presumably reasonable approach that the insurer itself is taking. And I simply ask that question open-ended at this point.

The second initiative that MPI undertook, again laudably it's suggested, relates to establishing a prosecutions unit dedicated to curbing theft -- auto theft -- as well as fraud on insurance claims. And that, for the record, appears in my cross-examination of Mr. Bedard beginning at page 1,279 and it relates to an agreement that was produced as part of Manitoba Bar Association First Round Interrogatory Number 13 where the contract between the applicant and the Department of Justice is set out.

There again it was, I think, an arguably open question as to should anyone bear blame again for having this particular contract entered into. And one (1) of the great things about appearing before this Board and putting questions to the Witness Panel is that sometimes additional information that might have escaped or been overlooked by others outside of this process comes to light.

And we found, much to the credit of MPI, that while certainly these payments do go to the Department of Justice and do result in dedicated prosecutors being made available to do work that concerns the insurer, the contract also encourages the development of stronger cases through training, for example, of MPI investigators, encouraging even ordinary claims adjustors to be made more aware of what kinds of red flags to watch.

So unlike the police contract where one scratches one's head and wonders why aren't the police doing what they ought to be doing to begin with, we can say that Yes, why aren't the prosecutors if -- in essence going ahead to prosecute these cases. But as Mr. Bedard pointed out they would have gotten to that in any event.

They simply do so faster but now with an added benefit of helping MPI itself curb the problems and to build stronger cases.

And then the third kind of contract that we explored related to probation services and that appears in my cross-examination of Ms. McLaren at page 1,297 where we talked about the contract between the applicant and the Department of Justice, specifically its Probation Services Unit. And that's set out at Manitoba Bar Association First Round Interrogatory Number 11.

And of course that's an agreement whereby those, especially young offenders who are most likely to offend again, are put under close monitoring. And the cost of that, of having additional probation officers do that is paid for by MPI.

And that is another contract where we see again perhaps more like the police, we wonder why MPI -- we wonder why MPI has to be doing something that Probation Service presumably should be doing on its own.

Ms. McLaren described the amount of money involved as not insignificant, and I think she's being polite. I would say that when we talk about millions and millions of dollars the amount relatively speaking is not substantial, but there are a couple of problems that arise out of these agreements.

First, again I want to emphasis that no one is going after MPI in any way to criticize it for taking this initiative and if anything, MPI is to be commended for taking these steps. But, there are problems.

By allowing MPI to use essentially ratepayer's money in order to have a dedicated police unit carry out investigations and arrest people; by having MPI rate money again being used to hire prosecutors to pursue criminal charges against those people who are arrested; and by using MPI ratepayer money also then to pay probation services to supervise these individuals; are we not effectively shifting the burden that taxpayers as a whole ought to be paying, away from the tax base and on to ratepayers?

And there is one (1) additional problem and this is more of a legal argument. And I don't want to spend too much time here, because to some extent it's speculative.

And this focuses on the relationship that could be painted between MPI and the Special Prosecutions Unit.

And before I go any further, we have to emphasize, as indeed we did when -- the course of cross-examination, that no one for a moment is suggesting that any of the lawyers, any of the staff of MPI are involved in any kind of wrongdoing, any kind of unethical behaviour, anything less than what would be expected of a well run prosecutions office.

So once we've put that aside, that we're certainly not alleging that there are any problems, it's important to note that at law, it's important not only that justice be done, but that it be seen to be done. And there could be an argument that a crafty criminal lawyer could argue that there is a reasonable apprehension of bias by reason of this agreement.

And let me explain how I would do this, if I were hired and perhaps this is my sales pitch for the criminals out there. This is the argument that I would be using if you were paying me to defend you.

First we have prosecutors who are being paid by MPI. So we have somebody appearing to point an accusing finger, paying -- being paid for by MPI. Now, of course, let's remember that they're paid for by MPI on a contract that's a limited term. The implication therefore is, is that perhaps if performance is not up to snuff, this term might go away.

Now, as the prosecutor I wonder to myself, where would my job go? Would I have to go back to 405 Broadway and prosecute jaywalkers? This is a nice cushy job. I get to work here at what used to be Eaton Place, City Place. I get to have a nice comfortable job. Presumably they also get the cookies that the MPI people share with us.

There are plenty of perks and reasons that prosecutors might want to work there. In addition to all of this kind of -- and I'm being silly, I realize, but nonetheless all of this -- there's a question also of the physical proximity of these special prosecutors. They have offices, as we know from the testimony, within the same building that houses MPI. There's regular contact between MPI investigators and those prosecutors.

Undoubtedly the results of this effort of the Special Prosecutions Unit are being tracked by MPI. When we couple this kind of a contract, together with the agreement with the police, an argument could be made that prosecutors instead of being fair and open minded, are driven by the system itself to try and seek convictions.

I want to stress again, that we're not pointing that finger. No one is saying that this is happening. No one has any evidence whatsoever and indeed from those lawyers that I know who work at that office, I would be extremely surprised and flabbergasted if that were happening. No one is pointing an accusing finger.

Nevertheless, this kind of an argument

certainly has been raised not in this context or in this Province. But prosecutorial bias and the whole question of a reasonable apprehension of bias are regular tools that criminal's lawyers will use to try and disrupt the process.

Therefore, that brings me to a recommendation. Namely, that MPI should be asked to review its arrangements with the Winnipeg Police Service and with Winni -- Manitoba Justice, to identify any -- and address rather, any concerns that its contracts with those parties could be used as the basis of an argument that there exists a reasonable apprehension of prosecutorial bias.

And of course, it comes down to something very simple. If we're spending all of this money and going through all of this effort, should not the applicant be somewhat assured that it will have the convictions that it's looking for, as opposed to having its cases tossed out.

I suggest that it's probably only a matter of time if I -- someone who doesn't practice in criminal law and probably am not all that bright, can figure this out, you can imagine what the smart criminal lawyers out there are thinking.

Now, Mr. Chairman, noting the time, I'd

just point out that I'm on my second of four (4) topics. It may very well be that the Chair would like me to plough ahead, in which case I'm prepared to do so, or this would be a convenient time to pause. Whatever you'd like.

THE CHAIRPERSON: Please proceed?

CONTINUED BY MR. ROBERT DAWSON:

MR. ROBERT DAWSON: Thank you, Mr. Chairman. I'll move to my third topic then. This relates to the question of pay-as-you-drive.

And again, one of the benefits to some extent of having the Manitoba Bar Association as an Intervenor is that clearly this is not an issue on which the Bar Association would, of its own initiative, thought it should take it up. But in many ways, while we're here, we might as well have our say.

As Ms. McLaren helpfully pointed out in the course of cross-examination, the Sustainable Development Act is rather useless. In her words, she simply agreed that it was vague and didn't provide guidelines, so I'm going to go further than that and say that this is an Act that purportedly binds both the applicant as well as even this Board, to undertake to promote sustainable development principles.

It's written in such a way that I suggest to you could never be enforceable. It's written in such a way that it can only do one (1) thing which is to paralyse any organization that feels bound by it, because there are no specific and clear guidelines. If anything, this legislation seems to have been prepared merely for the purposes of having a press issue -- press release issue indicating that Manitoba now has a concern about sustainable development.

But, we're stuck with this legislation. What can we do? Well, one proposal that's been put forward, both now as well as in past hearings, relates to this concept of pay-as-you-drive.

I'm prepared to start off with the premise that there are other Intervenors, and indeed, other parties here who know a lot more about that particular subject than my client does, and at the most I can limit myself to providing certain comments that may relate to the legality and legislative worthiness of this kind of an approach.

First of all, as Ms. McLaren agreed with me in the course of cross-examination, there is no legislation presently in place that could compel the invasive monitoring of the way in which Manitobans drive their vehicles.

Unlike, for example, the forcible installation of immobilizers in certain cars, there is no comparable legislation that would, for example, allow anyone to have access to a GPS device within a car, or even, as some cars already have, black boxes that are installed to somehow allow access to that, as part of a process relating to somehow enforcing pay as you drive.

So we start off with the practical and certainly not insurmountable problem of there is no legislative basis.

The second, that I would suggest to you, huge issue would relate to privacy concerns and I don't want to revisit the area that I went through last year in the course of cross-examination of Mr. Bedard and Ms. McLaren, where I suggested that as a lawyer, I would love to be able to know that there is sitting somewhere a black box that I could subpoena and I could then know where somebody had been on a particular day.  It would be a treasure trove of useful information for litigants around the Province.

Clearly, whatever would be done with this data would have to be carefully controlled and, again, there is no legislative basis for that.

And then we come to some of the inequities that pay as you drive seem to introduce, and I'm going to leave aside any of the actuarial concerns that MPI panel might have. We've already heard from them that it would be impossible to apply the present clear data to somehow interpret risk on a pay-as-you-drive basis.

So that then brings me to the first inequity of, is there in fact a connection between distance and risk? I suggest to you at the moment there is no evidence before the Board. That doesn't mean it doesn't exist. It may mean that it has to be developed, but at the moment, we have no basis on which to point to that connection.

Secondly, as Ms. McLaren mentioned in passing, there would be the problem of penalizing, almost, rural drivers who, of course, drive much greater distances than city drivers and who, apparently, under this program would be paying an awful lot more, perhaps. If not, would there then be some sort of subsidization by city dwellers of rural drivers?

And again, these are questions for which I certainly have no answer and for which there has been no evidence led on that topic. And even if, at least as a pilot project, this were made to be somehow a voluntary program, there's no evidence before the Board that would explain how the costs of this voluntary program, would actually be borne by the system.

Let me explain what I mean by that. Essentially, of course, anyone who chose to participate as a volunteer in pay-as-you-drive, would presumably be withdrawing from the flat rate premium basis that we know today and as a result that cost would have to be made up somewhere. If I withdraw from the program and MPI loses my thousand dollars ($1,000), where do we get that thousand dollars ($1,000) from?

So that brings me to yet another recommendation and this is, is that MPI should identify legislative and other legal obstacles to implementing pay-as-you-drive and present that information at the next General Rate Application.

With that recommendation in mind, it seems that the next step could be to then go to the Government and see what needs to be done legislatively or statutorily in order to give effect to this kind of a program, if in fact, that were desirable.

So in terms of my major points, we've dealt with PIPP, we've dealt with MPI funded initiatives, we've dealt with the environmental pay-as-you-drive and that beings me lastly to the rate stabilization reserve.

And it's important to note that the Manitoba Bar Association takes no position as to what should be done with the rate stabilization reserve. We have led no actuarial evidence and my detractors in the gallery would probably say, and I wouldn't have understood it in any case.

So the most at this point that the MBA can do, is to comment upon the public policy issues that underlie the RSR debate and perhaps those comments will be of some assistance to the Board.

So, for example, the comments -- in taking no position, the comments that I'm about to make should not, in any way, be interpreted as supporting for example, higher premiums that might indirectly benefit or subsidize a future insured. And similarly my comments are -- that follow are not intended to urge the Board one way or the other, to order or not order a rebate to policyholders.

In any event, my client wishes to make it very clear that it takes no position on the rate stabilization reserve.

There are two (2) aspects to the RSR as far as it seemed sitting at my desk. One (1) is what is its purposes, and secondly, what's the appropriate amount at which it should sit?

Certainly, there are plenty of other issues that arise, but those I'm going to suggest of more of interest to those who are actuarially inclined and happily other Intervenors are here to deal with that issue.

Dealing then with the purpose on the -- of the RSR, it seems that at best and being generous, the RSR's purpose is ambiguous.  It seems that historically it was designed to protect against rate shock and indeed that's still the purpose when it comes to comparing comparable reserve funds in some other jurisdictions. And I point, for example, to the SGI's annual report which is excerpted at Public Utilities Board First Round Interrogatory 25.

Instead the applicant has testified that it views the RSR as a reserve against unexpected fund -- or unexpected events, other than catastrophic losses for which it has told us that re-insurance is taken.

And the Board can refer, of course, to a cross-examination conducted by Mr. Saranchuk and also My Learned Friend, Mr. Williams, at page 435 of the transcript and also at my cross-examination of Ms. McLaren and Mr. Galenzoski at page 1502.

Indeed Ms. McLaren has said that the purpose of the RSR is to, quote:

> "Create a reserve fund to protect against unexpected events and losses. But then we go on to say..."

Continue the quote:

"But then we go on to say that the very nature of those events and losses are currently unknown."

At one (1) point in my cross-examination of Ms. McLaren and my notes indicate that this happened at page 1503 of the transcript, she agreed with me that this was a fund that's established so that we don't actually know what we're going to use it for, we don't know when precisely we're going to use this money, and we don't know how exactly we're going to use it. In fact, the only thing that she could tell me was, that we knew we were going to use it.

This sounds like a slush fund from my perspective, but I'm hardly an actuary. If I told you that I needed money, but I didn't know why, I didn't know when I would actually use it, I didn't even know how I was going to use it, I suspect most people would have a problem with that.

Now, maybe this is just because I'm not an actuary, but it just doesn't strike me as being sensible that we should be building up a fund that would be used, at some point, for a reason we don't know now and we don't know how we're going to do it and we certainly don't know when.

One (1) of the arguments that had been used relating to the need for an RSR fell under what I'm going to call the jargon term of inter-generational inequity, which amusingly at least to me, in Dr. Hum's undertaking, replying and commenting on that, he begins a new whole set of jargon calling it inter-temporal inequity.

So I'm not quite sure but I'm going to assume that the bottom line is, is that things that are happening are unfair, either in the future or in the past, to those who are present.

Inter-generational inequity, said Mr. Christie in my cross-examination of him at page 1,254, involved benefiting today's ratepayers and burdening tomorrow's insured, and he said in his words he would advise against that practice.

And I think an example of that, in his idea, was that we shouldn't cut down today's premiums to reduce the RSR because that would have an unfortunate affect on tomorrow's insureds because it would burden them to have to rebuild that fund if it were needed.

That sounds pretty good. But then because I'm not an actuary I asked what I thought was pretty much an obvious question and I said, Well, does this work both ways, to which much to my surprise he said, I actually hadn't thought of that, but it does.

And so he said at page 1,255 that it might also be inadvisable to burden today's insured to benefit tomorrow's policyholders or tomorrow's insured, which made me immediately wonder why the man who had been paid for by the applicant to come here to testify on behalf of the applicant and support the applicant's position was now somehow attacking the Immobilizer Fund, for example.

And there again that's where I closed my cross-examination because he agreed with me that it seemed to undermine the notion of the Immobilizer Fund. But this is clear nonsense.

Is there any doubt that every insurance scheme obviously has, what we're going to use this jargon term of inter-generational inequity?

Every insurance scheme by its very nature involves the following premise. Give me your money today and in future you might get a benefit but you might not, and if you drop out of our little monopoly here you're never going to see your benefit.

It doesn't involve future rateholders. If I buy insurance today from the applicant and I live through the term, I may presumably have derived the benefit that I thought I was going to get as a result of that contractual bargain. But if I buy the insurance today and as my doctor would love me to believe, my burgers come back to haunt me and I drop dead tomorrow, I will not derive the full benefit that I expected even if I'm given back money representing every day for which I'm dead during the term when I was covered.

Why? Because built into the very fact that I've been alive for at least part of the term is the salaries that will pay the people who will work tomorrow, is the -- the electricity that will pay the building to operate tomorrow. Always inevitably payments made today in an insurance scheme are going forward.

So this whole notion of inter-generational inequity, whether we look well into the future or whether we look presently clearly is not only nonsense but it's really irrelevant, is the submission I'm making. And therefore however this Board decides to deal with the RSR, the submission that I would make is that we certainly must not rely upon this notion of inter-generational inequity as the foundation or one (1) of the foundations that would support whatever conclusion we arrive at.

And so that then brings me to the question of how should we calculate what the RSR should be? What is a sufficient reserve? What's the appropriate amount?

Happily I have much less to say on this

because this is now more of an actuarial topic. Mr. Williams has aptly commented already in his closing arguments on the appropriateness of using MCT as an appropriate test and whether it should be applied to a public sector which is -- a public sector insurer which holds a monopoly in the area.

And indeed, in the course of my cross-examination of Mr. Galenzoski, at page 1492, I made reference to Public Utilities Board First Round Interrogatory Number 49.

And that, the Board will remember vaguely, was a table or a form that was produced, presumably by OSFI, and certainly intended for use by insurance companies generally to calculate what their MCT should be.

And one of the questions I asked Mr. Galenzoski was to explain why, on that form, there were a number of entries, for example, legal expenses, that had no application in this area and most notably why, in the upper left hand corner of that form there was a line that said, much like a Grade 3 form, Name of Insurer.

And, of course, the answer was is that this was just one (1) form that was used, but it really, in the words of the MPI panel, had not full application to Manitoba.

And so this again supports some of the things that Mr. Williams was saying this morning about the appropriateness of using MCT. Clearly, even the tools that were used to come up with MCT aren't designed for Manitoba.

I'll just remind the Panel that the Manitoba Public Insurance Act, the very legislation that creates the applicant, at Section 6, Subsection 1, Clause A, describes its primary function as being:

"Offering universal, compulsory automobile insurance."

Once we start from that premise it certainly must be true that this applicant has, of course, the implicit backing of the Government. If the government has legislated its existence to provide universal, compulsory automobile insurance, there surely must never be a concern about insolvency; there surely must never be a concern that claims might go unpaid.

And so this then draws into further question whether or not the MCT is appropriate. Assuming that the Board agrees with what at least Mr. Williams was arguing that it is not, the next question is, what is the appropriate basis?

And rather unhelpfully, all I can say is that, having gone through the case law and having gone through the legislation, and having gone through Hansard which explains how the legislation came into place, I at least, find nothing that would assist this Board.

There is nothing in the nature of the Manitoba Insurance scheme that would indicate how one ought to calculate what an appropriate reserve is; that then, I suggest, falls to the actuaries.

I have no recommendation relating to RSR because, of course, our -- my client is not adopting a position with respect to that. These are comments that, shall we say, are merely a -- an outsider's eye casting a logical, if not inconsiderate view, of what the argument is.

So those are the four (4) points that I wish to put forward before the Board. One related to PIPP benefits, the other MPI-funded initiatives, the third pay-as- you-drive and lastly, RSR.

And that brings me to one (1) sentence of a formality which I'm required by the Board's rules to say, that this applicant, or this Intervenor, rather, will be making an application for costs.

Failing any questions from the Board, that concludes this submission.

THE CHAIRPERSON: Thank you, Mr. Dawson. And on that note, we will take a short break and come back at 3:30. And we have three (3) Intervenors yet to hear from: Ms. Reilly, Mr. Sousa and Professor Miller.

So, see you back at 3:30.

--- Upon recessing at 3:12 p.m.

--- Upon resuming at 3:32 p.m.

THE CHAIRPERSON: Well, the ranks are thinning a little but everyone gets a transcript. Ms. Reilly, your turn.

FINAL SUBMISSIONS BY MCA:

MS. PAMELA REILLY: Thank you, Mr. Chairman, and members of the Board.

The Manitoba Chiropractors' Association has welcomed this opportunity to participate in public hearings this year. Personally, as a first time advocate before this Board, I have been impressed by the open nature of the process and the expertise of the MPI Panel.

The Manitoba Chiropractors Association has been mindful of the purpose of this application by the Corporation and that is to seek Board approval of the Corporation premiums charged with respect to compulsory vehicle and driver insurance, in accordance with the provision of the Crown Corporation's Public Review and

Accountability Act and the Public Utilities Act.

As I often do when making a closing statement before a Board or a Court, I review where I began with my opening. And when I reviewed the initial application filed by the Manitoba Chiropractors Association for Intervenor status, I concede that the request for that status was rather ambitious in its proclamation and so no entirely helpful.

I trust my opening remarks three (3) weeks ago were more helpful to the Board in understanding the Manitoba Chiropractor's Associations' unique perspective in seeking Intervenor status this year.

And that perspective was to test the Corporation effectiveness in its approach to injury case management and determine if indeed, there is appropriate focus upon the needs of the injured claimant. The Manitoba Chiropractor's Association concentrated its interest on the rehabilitative services, particularly the pilot project referred to as the Prolonged Recovery Unit; the review and appeal process, particularly the relatively recent claimant advisor office and its effectiveness and assistance to claimants before the Automobile Injury Compensation Appeal Commission.

And finally, the Manitoba Chiropractors' Association touched upon the Corporation's policy in maintaining a seven (7) day waiting period before claimants may collect income replacement benefits.

And the Manitoba Chiropractors Association considers these issues to be compelling policy considerations and relevant elements of insurance coverage affecting insurance rates, over which this Board has jurisdiction pursuant to the Crown Corporation's Public Review and Accountability Act.

Getting to the point then.  The Manitoba Chiropractors Association has three (3) Board recommendations which I'll itemize and then discuss in turn.

First, the Manitoba Chiropractors Association will be seeking a Board recommendation that the Corporation reconcile and account to the Board the reason for the distinct drop in numbers of chronic pain claims, starting with the year 2003.

The second recommendation.  The Manitoba Chiropractors Association seeks is that the Corporation liaison with the Automobile Injury Compensation Appeal Commission, to commence a detailed study into the cost effectiveness of the claimant advisory office in its assistance to claimants appearing before the Automobile Injury Compensation Appeal Commission, and address the reason for the increasing gap between claims filed and decisions rendered.

The third recommendation is that the Corporation study what the effect would be on the Corporation's financial situation and therefore the basic rates charged, if the waiting period for income replacement benefits were eliminated or reduced.

So then moving to a discussion of the first recommendation posed. The Manitoba Chiropractors Association finds the numbers for a chronic pain type of injury as revealed in the Public Utilities Board 1-13 schedule, which was at Tab 20 of the Public Utilities Board book of documents, remarkable.

That is the seven (7) year trend in numbers for years 1996 to 2002 inclusive, are roughly three (3) times the four (4) year trend in numbers for the years 2003 to 2006 inclusive.

And the Manitoba Chiropractors' Association has remarked, well, why is this so? Chronic pain or at least chronicity is a prevailing issue for the Corporation when dealing with injured claimants, so much so that it's commenced the pilot project known as the Prolonged Recovery Unit.

And looking at the cost savings that have been reported by the Prolonged Recovery Unit and that is the $2.86 million in less than two (2) years, exceeding even the Corporation's expectation, well that result says success.

And it's hard to argue with that kind of success, but the Manitoba Chiropractors Association has questioned that success because its members treat those injured claimants and it asks, At what price, success?

Is it at the cost of claimants being declared as no longer suffering from chronic pain because they have returned as much as possible to their pre-accident activities and, therefore, no longer fall within the Corporation's definition of chronic pain?

The stated purpose of the Prolonged Recovery Unit that is, and I quote:

> "To return injured parties to normal activity to the extent possible." End quote.

And the definition of chronic pain, and again I quote from the Corporation's definition:

> "Ongoing pain that lasts beyond the usual recovery time for the injury and that prevents the claimant from return to full work duties and/or active participation in life three (3) months post active treatment." End quote.

They present an interesting combination.

If an injured claimant is returned to normal activity to the extent possible, then arguably that claimant also no longer suffers from chronic pain as they are no longer prevented from returning to work and/or active participation in life.

So the result is a success for the pronged -- Prolonged Recovery Unit in that less medical benefits or less income replacement benefits are paid and in tandem the numbers of chronic pain claims drops.

Of further note is the fact that the reduction in numbers of chronic pain types of claims coincided with the implementation of the Corporation's current definition of chronic pain. And that's in the transcript at page 1521 lines 5 to 11.

And that's were Mr. Bedard further conceded that the Corporation had no explanation for the drop in the trend that I mentioned. Again that's at transcript page 1523, lines 3 to 9.

And Mr. Bedard also admitted that part of the explanation could be attributed to the use of the Corporation's definition of chronic pain. And again I refer the Board to the transcript page 1523, lines 19 to 25, and page 1524, lines 1 to 12.

So what does this all mean? Well, again the purpose of the Manitoba Chiropractic Association questions was to test the Corporation's effectiveness in its approach to the injury case management and determine if the focus is indeed upon the needs of the claimant.

And the Chiropractors' Association suggests that one (1) inference the Board can draw from the evidence is that while the cost savings realized by the Prolonged Recovery Unit are laudable they may have been at the expense of those claimants with a chronic pain type of claim.

And the Manitoba Chiropractors' Association will grant that the evidence is by no means conclusive, but perhaps there's some support in the customer satisfaction survey data.

Of the fifteen thousand eight hundred and twenty (15,820) personal injury claims reported for the past year, at the time of the rate application 68 percent of those claimants were satisfied with the service, but conversely 32 percent were not and that translates to five thousand sixty-two (5,062) injured claimants.

And so with what were those five thousand sixty-two (5,062) claimants dissatisfied?  Well, we don't know precisely.  The survey questions and results may have provided some insight and the Manitoba Chiropractic Association requested but was denied a copy of the most recent survey questions.

The Corporation declined the information requests citing the fact that the measuring system, and again I'll quote:

"Is a large and extensive process encompassing a large number of surveys and data gathering mechanisms." End quote.

And that was the response to MCA-2-5.

I note, however, that survey questions were provided in 2004 and that was in response to Mr. Dawson's position at that time. We also know from Mr. Bedard during his cross-examination at this Hearing that the Corporation continues to draft the type of questions used in the customer satisfaction surveys and in fact has made a few minor alterations to the surveys, as Mr. Bedard put it, in the transcript at page 1490, lines 20 to 25, page 1560, lines 11 to 19, and page 1561 at lines 1 to 11.

So my point in drawing these facts together for the Board's consideration is to emphasize the control and discretion that the Corporation exercises over first defining the types of injury claims it charts and second in adjusting its survey questions to determine and then report to this Board how effective its injury case management is in meeting the names of -- needs of the claimant.

And in light of the purpose of the Public Utility Board to publicly inquire into the Corporation's activities and the Corporation's corresponding obligation of transparency, the Manitoba Chiropractors' Association, has some concern about the lack of disclosure of the surveys.

Now, granted and I concede the Manitoba Chiropractors Association did not pursue the issue of disclosure through a motion. However, the Manitoba Chiropractors Association trusts that this summary that I've just provided of the circumstances, provides the foundation for its first recommendation, in that the Corporation study the issue thoroughly and provide the Board with a reconciliation of the drop in those chronic pain numbers, from the seven (7) year trend from 1996 through to 2002, to the current trend which started at 2003, to-date.

The second recommendation that the Manitoba Chiropractors Association proposed involves the cost effectiveness of the Claimant Advisors Office and the assistance that office provides to claimants before the Automobile Injury Compensation Appeal commission.

The Chiropractors Association notes Mr. Bedard's comments that it is too early to study or obtain any data regarding the success of the claimant advisor's office; it's only been in operation since May of 2005. And Mr. Bedard made those comments at page 1496 at lines 17 to 23 of the transcript.

But, it is also true, as stated by Ms. McLaren, that the Corporation wasn't consulted when the claimant advisor's office was being set up and so has never had any input into its cost effectiveness. And that was at the transcript, page 1308, lines 24 to 25, and page 1309, lines 1 to 5.

Essentially, the Corporation simply pays the bills sent by Corporate and Consumer Affairs, billing the cost of the appeal commission that they're expecting in the coming years, and similarly the situation exists regarding the expenses of the claimant's advisors office. And Mr. Galenzoski provided that information in the transcript, page 1545, lines 22 to 25 and page 1546, lines 1 to 3.

And these circumstances the Manitoba Chiropractors Association would submit, are all the more troubling given the data so far revealed of the total number of appeal decisions rendered in 2005, versus the percentage of appeal decisions rendered in the claimant's favour.

Now, initially the figures that were shown in the Manitoba Chiropractors' Association response -- or pardon me, the Corporation's response to the MCA Second Round Request 2, which was that table, that revealed a marked decrease in 2005 of the successful claimant appeals. They were down by 10 percent from the previous year of 2004.

And then the Corporation put those figures in context in answering Mr. Dawson's Undertaking Number 29 and presented Exhibit 30 and provided the follow-up table showing the percentage of successful claimant appeals, out of the total appeal decisions rendered. The percentage is now down by 11.1 percent from 2004.

But, I would submit that the more troubling conclusion that seems to appear from that table, Exhibit 30, which was the second table provided, is that of two hundred and twenty-eight (228) external appeals filed in 2005 only twenty-six (26) decisions have been rendered.

And in fact, a look at both of those tables, and that was again the table that was provided in response to MCA-2-2 and then Exhibit 30, the data there revealed that while in 1996 and 1997, the decisions rendered almost matched the number of decisions filed. The trend since then shows that the number of appeals filed is, in the last couple of years, in particular, about triple the amount of decisions rendered.

And so the trend suggests that there's a tremendous backlog in the system of claimants waiting for their appeals to be heard. And undoubtedly many of those claimants are without either all or part of their medical or rehab benefits or their income replacement benefits, or both.

And further the worst year for decisions rendered in favour of the claimant in comparison to decisions filed, is also the year in which the claimant advisors were introduced.

Now, the Corporation has indicated that its internal review office and the appeal commission are, and again I quote Mr. Bedard's words:

> "Very sensitive to cases where the Corporation has ceased income replacement and all parties try and fast track those as much as possible."
> End quote.

That's at Mr. Bedard's cross-examination page 1496, lines 10 to 15.

And this concern has led to, and again I quote, "discussion and dialogue in how to improve that back log." But the data indicates that that backlog has steadily increased so something, clearly, something more is required than discussion and dialogue.

So with -- while the cost savings that have been achieved as a result of the Prolonged Recovery Unit have been significant, costs have also increased in the appeal process. And how delays in the appeal process may impact those costs, the Manitoba Chiropractors' Association submits that the Corporation really doesn't know.

The Corporation simply relies upon the information received from the claimant advisors' office and the appeal commission as to its anticipated costs and it budgets accordingly.

And while the claimant advisors' office has only been in operation for little over a year, the appeal commission has been in operation for at least ten (10) years and surely it has, by now, some experience and some data which would reveal why the backlog is increasing.

The Manitoba Chiropractors' Association therefore seeks a recommendation that the Corp -- Corporation liaison with the Automobile Injury Compensation Appeal Commission to formally study the cost effectiveness of the appeal commission process including the claimant advisors and report on the reasons for that increasing gap between claims filed and decisions rendered.

Finally, the Manitoba Chiropractors' Association questioned the appropriateness of the seven (7) day waiting period by claimants of their income replacement benefits. That seven (7) day waiting period puts the financial burden on the claimant. As Ms. McLaren stated at the transcript, page 1562, lines 18 to 19:

> "The waiting period is a form of deductible and, yes, it's similar to other jurisdictions."

But is it justified?

It appears from the testimony of the Panel Members that the Corporation has not studied what the impact would be on basic rates if the waiting period were eliminated or even reduced.

There is no question that the claimant currently bears the burden of that waiting period and therefore the Manitoba Chiropractors' Association submits it would be a worthwhile study to determine what impact such a reduction would have on the basic rate.

And that would be the Chiropractors' Association final recommendation that such a study be undertaken.

So the Manitoba Chiropractors' Association submits that the foregoing recommendations are compelling policy considerations. They are relevant to insurance coverage affecting basic insurance rates, and trust that the Board will also find them so.

And that is my segue into my submission for costs and, as indicated in the initial application for Intervenor status, the Manitoba Chiropractors' Association will submit its hearing and summary sheet for costs within thirty (30) days.

And I am mindful of the Board's comments in procedural Order 103/'06 that I review the Board's rules of practice and procedure and in particular, took note of the somewhat chilling comment that the Board has a practice of not awarding costs to Intervenors representing a party with commercial interest and means to pay.

And I do want to make a few comments with respect to the criteria. Clearly, the Board requires that the Intervenor advance issues that make a significant contribution, that's relevant to these proceedings, and contribute to a better understanding of the issues.

And I submit that the Manitoba Chiropractors' Association has done that. The issues concerning the interplay between the Corporation's requirement to meet the claimant's needs in the injury case management process and its determination of that requirement based upon customer surveys are certainly relevant in the context of both the cost savings initiatives and the appeal expenses incurred by the Corporation.

The Manitoba Chiropractors' Association exploration of that interplay and the discussions of the data pertaining to successful appeals raised relevant questions of the cost effectiveness of that process. And those questions are relevant to all Manitobans.

The Manitoba Chiropractors' Association consulted with other Intervenors to avoid duplication of areas covered by those Intervenors in both this, as well as previous hearings, and sought to update injury case management issues previously accepted as relevant. The cross-examination was not unduly repetitive of the other evidence presented.

On the criteria of business interest and means the Manitoba Chiropractors' Association is in the business of treating patients who require chiropractic care. The Chiropractors' Association trusts that by virtue of entering into a fee arrangement with the Corporation which as stated by Mr. Bedard has created a positive working relationship and some consistency that this has not prejudiced the Manitoba Chiropractors' Association or indeed precluded it from advancing issues on behalf of all patients who are also beneficiaries and claimants of Manitoba Public Insurance.

The Manitoba Chiropractors' Association did not intervene for, and I quote:

"The sole purpose of protecting its business interests which is the stated criteria set out in Section 44, Sub I, of the Rules of Procedure."

Of the one hundred and fifty thousand (150,000) Manitobans the Manitoba Chiropractors' Association treats with chiropractic care per year roughly seven thousand (7,000) are claimants of the Corporation.  That represents less than 5 percent of the patients treated by the Manitoba Chiropractors' Association, however, I would respectfully submit that the issues advanced by the Chiropractors' Association during these hearings are relevant to all Manitoba ratepayers.

And there may be an assumption that the Manitoba Chiropractors' Association consisting of its modest membership of two hundred and fifty-nine (259) has the financial resources to pay legal counsel to advance the issues that it has; unfortunately it does not.

And therefore this Board's award of costs is my only guarantee of whether or not I receive some compensation for advancing the Chiropractic Association issues before this Board.

And having said that I reveal the basis for my earlier remark of the chilling affect the Board's reminder to me of its criteria for costs. Quite frankly I am requesting this Board consider as well my circumstances as a sole practitioner seeking to realize some income for the time spent preparing and participating at these hearings.

And therefore, in closing, I again thank the Manitoba Public Insurance Corporation Panel for their cooperation. Mr. Gaudreau for his patient assistance in answering my questions on procedure, Mr. Williams and certainly Mr. Dawson, as well for their guidance and insight.

And again, on behalf of the Manitoba Chiropractors' Association it does express its appreciation, once again, for granting it the opportunity to participate this year. Thank you.

THE CHAIRPERSON: Thank you, Ms. Reilly.

So, Mr. Sousa, this time you're not last.

MR. CLAUDIO SOUSA: Thank you, Mr. Chairman, it feels good.

FINAL SUBMISSIONS BY SCOOTERING MANITOBA:

MR. CLAUDIO SOUSA: I don't think I can possibly stretch this out to 8:00 p.m. my -- my summary is, in fact, very short which should allow Dr. Miller ample time to -- to go through his material.

Since our founding in 2003 Scootering Manitoba has represented the interests of the scooter and moped community. As an organization committed to ensuring that scooters remain a safe, affordable, and accessible form of transportation for Manitobans we also feel, Mr. Chairman, that we do represent an aspect of consumer choice and public interest in this matter.

In this our third hearing process I've attempted to highlight through our information requests and through cross-examination the concerns of our membership and the community at large.

Along with a significant increase to moped class rates, clearly an area of great concern to our membership, MPI has also proposed a number of changes which our organization fully supports. We do support the 70 percent average reduction in motor scooter rates. For nearly a decade as across the board increases were applied to motorcycles the few motor scooters that did exist were raised without examination or question as to the actual insurance risk they represent.

Even as body styles differentials began to be applied the few motor scooters were unfortunately not considered until very recent rate applications.

MPI has proposed a 70 percent decrease to this body style of motorcycle to rectify the matter and to paraphrase Mr. Palmer correct a longstanding mistake.

This rate reduction will also bring the rates of small motor scooters, that is those under the -- under 100 cc into the range of the premiums of moped class scooters and mopeds where virtually all of the modern 49 cc scooters are classified.

For the 20 percent of moped class owners, who have their class 6 license, this means that they will be able to register their scooters as within the motor scooter class where they can freely de-restrict them, to obtain more suitable and safe commuting speeds within urban areas.

For the remaining 80 percent of owners who can afford the cost and time to obtain their class 6 license, this will also be a viable choice.

As echoed by Mr. Saranchuk this morning in his summary, MPI agrees that allowing this decrease will not be detrimental to other ratepayers given the small number of motor scooters that exist in the Province.

In previous hearings, Scootering Manitoba expressed concerns regarding the mixing of rental use within the all purpose moped class and the possible effects this has had on the claims experience.

In this rate application MPI is introducing a rental use class for mopeds, ensuring that future claims experience is segregated and rates become reflective of the insurance use and risk for those two (2) very differing insurance purposes. We fully support this segregation.

Clearly, the 100 percent rate increase proposed for the moped class is troublesome to our membership.

MPI has suggested that without this -- without this increase, subsidization would be significant and would continue for a decade. They've based -- or reached this conclusion based on their past experience with motorcycles.

We would respectfully suggest that 49 cc bikes, their claims experience both in frequency and severity are quite different than those of motorcycles. And that this analogy perhaps is not correct.

With increases in the dollar range that will exceed or are around the hundred dollar ($100) mark, MPI is proposing an increase that is comparable to the top twenty-five (25) vehicles in private passenger class as part of the rate application.

In other words, a two to three thousand dollar ($2000 to $3000) moped class scooter, is going to experience the same increases as a thirty to forty-five thousand dollar ($30,000 to $45,000) 4X4 truck.

We believe that since the vast majority of moped class bike owners choose these vehicles for their affordability, this degree of increase would clearly constitute rate shock.

The concept of rate shock should be set aside, that is, the rule should be set aside in rare and exceptional circumstances. Our membership would suggest that MPI has not provided evidence that would fit the definition of rare, exceptional or unusual circumstances.

In fact, we would submit that the only thing unusual and rare are the troubling inconsistencies in how mopeds and their claims experience has been handled by MPI. We respectfully remind the Board of several important facts, concerning the MOPED class which have been highlighted during the course of this and previous hearings.

Number 1. The five (5) years of moped class claims experience contains an unknown quantity and severity of claims experience from rental use. The limited analysis which could be performed on mopeds registered to businesses, as part of the 2006 proceedings, showed a loss ratio which was significantly poorer than those registered to private individuals.

However, due to the fact that no true segregation of rental use was possible, the effect of rental claims on the claims experience of mopeds remains uncertain.

Are there rental claims responsible for some of the few but large personal injury claims in that class? We just don't know. During this year's hearing, it was also identified that MPI claim adjusters have no flat rate manual for scooter and moped repair costs and estimation.

The adjusters in our opinion, rely heavily upon dealers for repair and vehicle market values. The lack of having a flat rate manual means that there is nothing that adjusters can actually use to validate or confirm that information provided from dealers is an accurate and fair representation of the costs to repair the vehicles that are involved in the collision.

Since all but one (1) dealership in Manitoba are not MPI accredited repair shops, we believe there exists an inherent incentive for overstating repair costs and vehicle values to incent the total loss and therefore a sale of a new vehicle, rather than the repair of the existing one.

The Board has heard a presentation from prominent scooter dealership, Mr. McNaught of Vespa Winnipeg who has echoed these concerns over MPI adjusters contacting his dealerships for facts, figures and, in his opinion, occasionally advice on whether or not to write off a scooter.

With the limited number of dealers in the province, in some cases MPI is relying exclusively on the data and opinions of one (1) individual in one (1) dealership.

While MPI maintains that their salvage department would provide a balancing effect to any artificial inflation, we do remind the Board that the determination of whether or not to repair or write off a vehicle is based, in part, on the market value and the repair costs that are estimated for the particular damage at hand.

What does this mean to the proposed 100 percent increase? We believe that this is clear evidence that the vehicle damage costs which account for over a hundred thousand dollars ($100,000) or 17 percent, approximately, of the claims experience may, in fact, be significantly inflated and otherwise unreliable.

Combine this with the unknown effects of rental related claims over the past five (5) years and we believe the Board -- we believe that the Board will agree that the foundation upon which MPI has based the rate making for this class is, indeed, shaky.

Lastly, the moped class is plagued by outdated legislation and outdated insurance definitions. Vehicle classification of moped class scooters by MPI has been difficult and admittedly frustrating for them to administer as well as being very frustrating and confusing for the consumer.

Scootering Manitoba has taken pro-active and positive action to modernize and reform its legislation bringing this forward to both MPI driver vehicle licencing and the Department of Transportation.

In the interim, our organization would be pleased to work with MPI to find solutions that preserve MPI's responsibility for vehicle classification while improving clarity for the consumer.

We find that the current practice of placing onus on the consumer to determine whether or not a vehicle qualifies as a moped is impractical and unfair and an inappropriate delegation of responsibility for vehicle classification to the consumer.

Scootering Manitoba would like to thank MPI and the Board for their time and consideration during the hearing process.

We, too, have found MPI's willingness to provide information and being transparent in this process to be exceptional.

We hope that the Board has understood our concerns and considers the affordable environmental consumer choice in transportation that the motor scooter represents, when levying its Decisions.

Thank you, Mr. Chair.

THE CHAIRPERSON:   Thank you, Mr. Sousa.

Well, Professor Miller, you're batting clean up.

FINAL SUBMISSIONS BY RCM/TREE:

DR. PETER MILLER:   Finally, and it's only fair, I've been accommodated throughout this process with my somewhat erratic schedule and I certainly appreciate that.

As indicated by Patricia Fitzpatrick in her opening remarks when I was away, Time to Respect Earth Ecosystems or TREE and Resource Conservation Manitoba, RCM, are NGO's committed to the advancement of a more sustainable society and economy in Manitoba.

These organizations have engaged in a series of interventions in Manitoba Hydro and Centra Gas rate hearings over the last several years to promote conservation and sustainability based rates, incentives and program initiatives.

Our interventions have been founded on the premise that rates should reflect the public interests as defined by principles of sustainability and justice.

We believe that Manitoba Public Insurance rates and programs should be reviewed in the same light.

In a brief last year, we argued that some version of distance based insurance charges or pay as you drive would appear to better reflect the principles of justice and sustainability than the current rate regime.

We will consider MPI's response to this proposal later in the brief.

First, I want to consider sustainable development at MPI as -- as the record reveals. In Manitoba, the concept of sustainability has legal force through the Sustainable Development Act and includes a number of principles, guidelines and definitions to flesh it out.

MPI acknowledges that it has responsibilities under the Act and indeed has a variety of initiatives to fulfill these responsibilities, documented in its annual sustainability report.

And we are pleased to see the ways and

extent of which MPI has tried to integrate sustainability principles into some of its departments and operations through such mechanisms as the Directive G-23 which is their polic -- sustainable development policy and guidelines, action plans, sustainable development impact analyses for various policies and proposals and the year end environmental audit and Sustainable Development Report.

And I think this demonstrates concretely that Mr. Dawson's somewhat cynical view that the Sustainable Development Act is useless is mistaken, and I -- I trust that that's shared by the -- the Board and MPI as -- as I'm sure it is with Manitoba Hydro.

In a number of respects their management systems and concrete initiatives in environmental monitoring, pollution prevention and mitigation, building and vehicle efficiencies, procurement practices and recycling efforts appear to be exemplary.  There are, however, important gaps in the implementation of sustainable development principles acknowledged by MPI.

The procedures section of G-23 indicates that the elaborate management system for the implementation of sustainable development policy applies to only four (4) of the departments at MPI.  Many more can ignore it.

Indeed, the Corporation's core activities of rate setting and public education programming are not evaluated by principles of sustainability as indicated in RCM/TREE-24 and confirmed by Ms. McLaren in -- in cross-examination.  Integration of sustainable development as described at 1-3, RCM/TREE-1-3, is quite proscribed and no example of full cost accounting that included externalized cost was produced.

As observed by PUB counsel and confirmed by MPI the principles are applied internally, not externally.  Indeed, but for the temporary posting of the 2007 GRA filing no one could gather from MPI's public web pages that the Corporation has any obligations under the Sustainable Development Act or initiatives to fulfill them.

The public persona of MPI appears to be divorced from sustainable development despite its good works glimpsed through the filing documentation and internet awareness module.  The Corporation hides its light under a bushel.  Now, I stand to be corrected in that in your final argument if I missed something.

In contrast, the Manitoba Lotteries Commission explicitly displays its sustainable development commitments among its web pages and of course the Manitoba Hydro home page and other public message aids like billboards are dominated by PowerSmart information.

Moreover, a growing number of private corporations regularly broadcast their environmental and sustainable development commitments and accomplishments. MPI would do well to look to these and other examples for guidance in corporate branding and in the provision of public information revelatory of its obligations and commitments and helpful to the public.

Indeed, the positive perception of any new sustainability initiatives may depend upon a public awareness that sustainability is an important and mandated part of MPI's corporate identity.

And now I'd like to consider some of the positions before the PUB. In PUB Order 150/'05, last year, Recommendation 10 was that MPI consider in more depth environmentally friendly insurance concepts such as pay-as-you-drive insurance, along with other initiatives that would enhance sustainable development objectives.

At SM-8-9 of the filing MPI indicated that it accepts the recommendation but that other corporate priorities have prevented further investigation of these matters on their part.

In oral testimony MPI confirmed that it takes its commitment to sustainable development seriously and will continue to look for opportunities to implement the principles. Indeed, Ms. McLaren acknowledged the legitimacy and urgency of my question in cross-examination about a more public role for MPI in greenhouse gas mitigation.

And my question was, although it's everyone's business to do their bit, does the Corporation recognize any special responsibilities stemming from its position as a Crown under the Sustainable Development Act in a province which has made climate change mitigation a signature policy with a customer base responsible for almost a third of the greenhouse gas emissions in Manitoba?

In reply, Ms. McLaren, very helpfully and candidly clarified that it is not just an information void or technical reasons that hold MPI back from demand management through pricing of insurance, but a tension between such a policy, or I should say, a perceived tension between such a policy and MPI's historic mandate.

And I'm quoting from the transcript, from Ms. McLaren:

> "I certainly accept the legitimacy of the question. It's a very good question. And I would ask you to consider the role of this particular

Crown in Manitoba as one charged with responsibility for providing guaranteed access to automobile insurance. The concept that this Corporation was created because automobiles and therefore automobile insurance were deemed to be a necessity for Manitobans. That puts our response to a question about what exactly is our role in assisting in the reduction of greenhouse gases, generated by those vehicles to which insurance has been determined a necessity, is a very difficult one to answer."

And she continues that government -- and she hopes that government will provide the answer and define an appropriate role at some time in the future, at the same time, recognizing that the question is quite urgent.

So, in these remarks, Ms. McLaren sees the issues as morally pressing but, with no clear resolution other than by a new government policy.

At this point, I will merely comment that, even if automobiles are regarded as a necessity for large numbers of Manitobans, and it is the mandate of MPI to guarantee access to automobile insurance; that does not mean that every kilometre driven is equally necessary.

Economic incentives provide a steady pressure to make choices that reduce demand, as explicitly described in Sustainable Development Guideline 1. Moreover these economic incentives are justified if they reflect real costs, and they are still compatible with broad access to transportation.

The generic policies of the Sustainable Development Act provide the framework for decentralized and innovative implementation as opposed to micro-management by the central government.

The people who know the business are the ones who should be developing policies in conformity with the Act, as well as, their own mandates; in other words, somehow resolve that tension.

An analogous situation exists in the supply of energy to homes. Access to energy is a necessity in our climate, but an unlimited supply at cheap rates is unsustainable and unnecessary with appropriate demand management.

This principle is recognized in many US jurisdictions in the form of inverted rates for electricity and natural gas, which provide an initial block to dwellings at a lower price and escalate the rates as more is demanded. Manitoba Hydro has indicated that it is moving in this direction.

In addition to the above policy issues, MPI has specific problems with pay-as-you-drive proposals. And I've just listed a few of these difficulties and have quick replies, but obviously much more discussion is required. But there's not the time to take it and indeed my proposals will be to conduct the appropriate research and consultation and so on to work through these things.

But, just to -- to make this clear, and more was said perhaps in last year's brief than I'll say right here:

First problem. MPI lacks statistical data to support the claim that risk increases with distances driven and counter examples can be provided.

Reply. Individual counter examples can be provided for any classicatory scheme subject to statistical analysis.

In the counter example provided, drivers of unequal skill levels are compared. It is not necessarily the case that driving skills vary in direct proportion to distances driven. Bad habits and carelessness can also develop.

Is it reasonable to suppose that the high mileage driver who averages an accident every two hundred thousand (200,000) miles, would lose half his skills and increase his accident frequency to one (1) in one hundred thousand (100,000) miles if he cut his annual mileage in half.

An empirical resolution of this issue is desirable and MPI should acquire the missing data and commission the research.

Another problem. At the same time MPI says that the distance factor is already included implicitly in classifications of the purposes for which vehicles are driven, for example the pleasure versus all purpose and delivery vehicles and taxis and so on. So there's no need to consider it separately.

The snap reply. Distance provides a further refinement within categories that plausibly is linked to risk subject to empirical verification. Distance-based premiums unlike these others create an economic incentive to reduce mileage and risks that the product categories lack.

And I should just make a comment on another of Mr. Dawson's claims that this is somehow biassed against rural clients. I think the Board and MPI understand that the distance rating is in conjunction with the other classifications, not a replacement of them so rural drivers would be compared against rural drivers and urban drivers against urban drivers.

A third problem. There are problems securing verified distance data from customers by which to set the -- the rates and this has two (2) legs; one (1) is the GPS alternative and the other is the odometer alternative and MBA just focussed on the GPS one (1) and said that it raises issues around privacy and -- and so on. Other problems with it is it adds to the expense -- more expensive technology and more difficult to install on older vehicles.

Reply. Insurance schemes that employ this technology like Norwich's in England are voluntary which mitigates these issues at least. It's not a universal compulsory requirement that everyone have their every move audited; that's a voluntary undertaking by those who think it's worthwhile to -- to get the special premiums.

And presumably the results of their pilot project were sufficiently actuarially sound and statistically driven to permit them profitably to implement a pay-as-you-drive scheme as a regular offering or I guess they're just in the process of -- of doing that according to a newspaper article that I think Mr. Williams tabled.

But these privacy issues and the issues

that were raised by Mr. Dawson may be reasons for MPI to consider an odometer-based scheme as a more universally available alternative.

Another red herring that MBA raised was that program costs, where do we get the replacement dollars that someone withdraws from the flat rate pool?

Well, they may be withdrawing their premium; they'll also be withdrawing their -- their risks and where is the problem and it's -- it's just like someone switching from -- deciding to -- to give up the car for commuting and -- and giving up their all purpose and going for the cheaper pleasure.

So I think you folks understand that even if Mr. Dawson doesn't.

Another -- so we switch to the other alternative, odometer readings. They provide less information than GPS units, in particular concerning where and when a vehicle was driven which may be more relevant to risk exposure than mere distance and self-reporting of odometer readings may be unreliable.

Just a comment or two (2). Some of the other classifications such as territory and purpose may have to suffice to capture where and when vehicles are driven but these can be further refined by adding a distance factor.

The Dutch poli -- direct model of insurance based on an annual odometer reading should be examined and I -- I think you made an undertaking to do that.

Mr. Dawson pointed out through cross-examination that large portions of MPI's data from insurance applications is self-reported, medical problems and so on, indeed whether you use it for pleasure or all purpose and what we need for that is an enhanced database for one (1), a more complete record of -- of vehicles' mileage and periodic checks and audits or -- or to -- for self-reported data.

Another problem raised by Mr. Palmer is that the voluntary pay-as-you-drive is a form of anti-selection that unfairly raises the rates for other customers. This criticism would be true only if those selecting pay-as-you-drive as a group actuarially imposed higher cost than their premiums and share of investment earnings yielded.

Again, this is an empirical question and an analogous to the question of whether those who elect the pleasure category are justified in playing -- paying lower premiums than those with all-purpose.

My general point -- I don't claim that this is any kind of exhaustive rebuttal, it's just the kind of discussion that needs to take place, and in much more detail.

My general point is that these issues need to be resolved by investigations into relationships between risk and distance, the elasticity of driving behaviour subject to economic incentives, and examples of implementation such as Norwich for the GPS type and Polis for the odometer type.

These are -- at least the Polis is a going concern, the Norwich one, I guess, committed to being a going concern. I'm not sure what stage of implementation they're at.

If MPI does not have the time or inclination to conduct these investigations themselves, they should commission the research to be done by others. Where there's a will there's a way, at least to gather the information needed for informed policies and decisions.

But according to Ms. McLaren these questions for investigation are not the real stumbling block. It's a huge policy issue. That's where we have to start. It's not lack of data -- and I'm quoting from transcript 986 and 7:

"I don't foresee a time when we answer those fundamental questions. I will sit here and say, Well now we've got all that sorted out and I'd really love to but I just don't have the data. We will find a way to do whatever is determined to be the appropriate thing for this Corporation to do."

And she was very emphatic about that.

"We will do that. We will find an appropriate way to do whatever is determined to be an appropriate course of action."

So these remarks seem to me to -- to indicate some kind of a crux of -- of the issue. And perhaps the most important role that the PUB can undertake in -- in connection with this issue which is to advise MPI how it can start to move down the road that Manitoba Hydro has begun to take and to clarify in the context of Manitoba Law and Policy and the pressing issues of climate change in particular and other forms of social utility, what is the appropriate course of action.

I think it's your role to interpret law and policy and I don't suppose you need to be reminded of that section from the Crown Corporation's Public Review and Accountability Act which gives you broad discretion to consider many factors, taking into consideration for instance any compelling policy considerations that the Board considers relevant to the matter and any other factors that the Board considers relevant to the matter.

I'm -- I'm sure you're well apprised of that discretionary and -- power and I would say responsibility to interpret policy.

I want to say a little about full cost accounting. Sustainable Development Guideline 1, Efficient Use of Resources from Schedule B of the Sustainable Development Act, not only calls for demand management with appropriate pricing and incentives but also employing full cost accounting to provide better information for decision-makers.

Our recommendation is that MPI initiate several components of a full cost accounting framework for the activities that it insures. It doesn't have to be anything fancy to start with but just to gain some familiarity with the concept.

For example, in addition to the claims paid out by MPI collisions have external cost, that is external to the MPI financial system, imposed on the medical system which are uncompensated by MPI. I assume that you only pay clients for costs that the medical system doesn't cover, you don't pay the surgeons and -- and so on, that are provided under -- under Medicare.

Well, there must be estimates around of what those costs are. People could generate ball park estimates based on the types of injuries and medical care that -- that various people suffer and that would be an example of a social externality of the transportation sector in accident mode that you folks don't cover.

In addition to that, of course, the one (1) that perhaps you feel I've somewhat too -- too single mindedly I've been harping on, are climate change impacts.

And there are ways that have been developed for -- for estimating damage costs per tonne of carbon, CO2 equivalent, in the Costs PUB Order they cited some work done here at IISD which tracked some of those costs.

The basic idea is you take a -- the increment of events like Katrina, you can't take a single event, but to what extent is there an increase in that type of event, an increase in the scope of damages from it, and these are very real damages.

And death and injury, social disruption and so on. It's not just hypothetical.

And relate that back to incremental greenhouse gases and through that somehow apportion it out per tonne and various costs have been proposed.

One (1) that was used most recently in the costs hearing was twenty dollars ($20) a tonne. There, obviously, are a wide range of variation on that.

But the point is there are very real costs that some kind of a dollar value can be attached to and that would be another example of quantifying some of these externalities.

So the PUB has ordered Manitoba Hydro to provide that kind of information and in fact, even to go further and allocate it amongst the difference customer classes.

Maybe that is too much for a first step for you, but at least to get some kind of a grasp of, and what some of these global costs are.

It would be a useful exercise and -- and the Sustainable Development Act says this is important for informed decision making, whether it's internal through the Corporation or before the -- the PUB.

So, I would hope that some effort by -- along those lines could be done and submitted along with the GRA next time around.

I'm just quoting a couple of things from the PUB's August 2nd, 2006 Order 117/'06 which observed:

"Global warming is affecting Manitoba as it is the rest of the world and ignoring it in rate setting is not in the public interest."

So, a position has been taken with respect to Manitoba Hydro. Climate change brought about by carbon emissions brings particular risks to Manitoba Hydro and to Manitoba and they ask them to submit marginal cost data and environmental costing that could begin to provide a full costing -- full cost accounting of electricity usage by Manitobans.

And the Board and I'm quoting again:

"The Board will review the information to be supplied by Manitoba Hydro with respect to marginal and environmental costs and with the assistance of Manitoba Hydro and registered Intervenors to the next GRA hearing, reach a conclusion on the weight to be provided to the results in rate setting."

So, regulatory consistency and so on there with Crown Corporations, I might suggest that some movement in this direction is an appropriate one (1) for MPI.

And as I indicated, there are folks right down the street at IISD, Hank Vanneban (phonetic) and

Steve Barg who -- who wrote the volume that was cited in the -- in that PUB Order.

And someone like Bill Hamlin at Manitoba Hydro is on top of these issues.  So there's -- there's help in that type of exercise available locally.

Let me summarize.  We believe that the PUB should first, help MPI clarify its mandate under the Sustainable Development Act.  The Corporation is obviously conflicted in trying to reconcile its historical mandate, created well before sustainable development legislation and emerging climate change policies and the encompassing requirements under the Sustainable Development Act.

I recall a certain point of cross-examination of the chief financial officer at Manitoba Hydro by Byron Williams, who was going over what are the objectives that the -- and the corporate purpose and he was going through a statement from the Manitoba Hydro Act.

And he said, is perusing the public interest there?  And the Chief Financial Officer said, well, not that one (1) is not there, although we may have personal opinions on that, it's best we not speak them.

And it sounds -- feels like there's kind of a -- a compelling moral sense that something ought to be done, on the other hand, is there -- is there real room within the operations of the -- and responsibilities in the Corporation to initiate that in this area, acknowledging the many areas that you have initiated it.

And the answer there is, the Manitoba Hydro Act and the Public Insurance Act, are not the only pieces of legislation. That a broad vision of the public good is provided through the Sustainable Development Act.

And that it's not a question of somehow trying to work your private conscience into the operations of this corporation which is bound by certain historic charges; it's right there in legislation.

When people considered sustainability issues and there was broad consultation in doing this and wrote up the Act and wrote up the principles, they said we want this in law; we want this to guide society as a whole, but let's start with government and the Crowns.

So, perhaps the Board can help in developing a perspective on that so that it doesn't seem like a renegade thing. I appreciate you've been burned by actions that you've taken in the past, but maybe the PUB will share the heat, I don't know.

Anyhow -- second recommendation is to convert that recommendation in the last year's Order into an order so as to raise its priority. And that was the -

- you know the environmentally sensitive initiatives and pay-as-you-drive as an example.

And elaborate and specify as you see fit. This is a recommendation to the PUB in developing its order. And here are some recommendations I have for specifying it, whether it goes in the form of an order or taken as advice to MPI.

I think there is a need to improve the database and research and policy deliberations required for informed decision making, employing consultants where necessary to get the job done, recognizing how busy you folks are.

Another aspect of this is the full cost accounting exercise that I went through a few moments ago. A third is research into implemented pay-as-you-drive systems, such as Norwich in the United Kingdom and Polis Direct in the Netherlands, which nicely represent the GPS alternative and the odometer alternative.

So they should provide some practical insights and there may be others out there that are worth looking at.

Research into transportation elasticities, with various economic incentives.

Research into distance and risk relationships requiring an augmentation and analysis of the MPI database. You know, Mr. Dawson stresses the legal obstacles, but I'm -- I'm sure that if you recorded the mileage for every claim, not just write-offs, you wouldn't need any kind of new law passed to do that.

Your -- your information brochure to the public indicates that you gather information for various purposes including the development of -- of future rate policies and so on. This is -- would be in line with that.

Odometer readings and annual renewal of registration by self-report, that doesn't mean that you necessarily refuse to issue -- if someone conscientiously refuses to put their odometer reading on there but how many are going to do that?

And reports from other sources. I think in last year's presentation I cited a -- something from the Quick site or whatever those legal database is about Georgia Straight, the -- the newspaper appealing to the Privacy Commissioner to get ICBC to release larger portions of a technical report that studied distance-based insurance. So there is such a report. Fragments of it have been released to the public. Maybe you could be more successful if you have good relationships with ICBC.

Then pursuing at a broader scale the idea of, you know, kind of brainstorming and -- and evaluating an array of possible sustainable development initiatives to engage the public with pros and cons and evaluating how they fall out in terms of the various principles and mandates that you were subject to.

Something you could do right away is publicly identify MPI as a corporation subject to the Sustainable Development Act.  I mean you have stuff on your internet which does that, you know, a small amount of editing becomes a public page and the public now knows that.

Develop educational messages and we discussed this in cross-examination on sustainable development issues and what you can do in areas where externality mitigation converges with safety; properly inflated tires, controlling speed, leave the car home and take a bus.

These are all things that promote both safety and -- and greenhouse gas mitigation and promoting safety both helps you and -- with your claims -- and the medical system.  That's -- so we've go two (2) externalities that benefit and you that benefit if people make that decision.

And finally I think Byron Williams mentioned a round table of stakeholders -- I -- I call the service Sustainable Development Reference Group -- to assist in the above including, you know, the Intervenors here.

There are obvious other ones. There's the Transportation Institute at the two (2) universities, there's the Manitoba Roundtable on Sustainable Development, there's IISD, there's Manitoba Hydro, and the Minister responsible Transportation and Government Services, Energy Science, and Technology, Climate Change Branch; these would be people that you'd -- you'd think of or institutions that you would think of trying to get represented on a group that is trying to consider what are the -- what is the -- the role of the Corporation? What are the potential roles and what is -- what is the -- what are the ones that make the most sense?

So those are -- and I'm speaking from experience of fifteen (15) years with an organization on the east side of Manitoba, the Manitoba Model Forest which has four (4) First Nations, quite a few communities around the Pine Falls area, the Manitoba Forestry Association, Copa Lengos (phonetic), the -- and more recently the Assembly of Manitoba Chiefs.

We've had -- developed programs with research and -- and various community themes for fifteen (15) years and I'm very aware of this because we're now applying for renewal. And in my experience an -- an awful lot can be done in that kind of a -- a circumstance.

And -- but you need, you know, a couple things. You need, you know, goodwill, you need a -- a commitment to a purpose, which is to -- the purpose of extending sustainability in the transportation section and out of that try and find the appropriate roles for the Corporation.

And some resourcing of research because, you know, stakeholders can kind of formulate issues but how do you resolve them, or do you just go around the circle with uninformed opinions going back and forth. You need a -- some commitment to -- to research.

So again, I want to thank you folks for accommodating my schedule. I feel like I somehow haven't contributed as fully as I -- as I might have and am accustomed to with, you know, a technical submission, and I missed a lot of sessions and in particular last Friday night.

But -- and I -- I do want to thank Ms. McLaren for, you know, helping to focus the issues in -- in such a vivid way. I think it helps all of us to understand, you know, what those -- those policy issues are. And I'm looking forward to -- to see the -- the

Board's response to that and -- and likewise the Corporation's. Thanks.

THE CHAIRPERSON: Thank you again, Professor Miller, for your participation.

This concludes the Intervenors' closing statements, which leaves us with Mr. McCulloch and MPI for tomorrow at one o'clock. So we look forward to seeing you tomorrow.

We stand adjourned.

--- Upon adjourning at 4:45 p.m.

Certified Correct.

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Carol Geehan