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MANITOBA PUBLIC UTILITIES BOARD

RE:

MANITOBA PUBLIC INSURANCE
DRIVER SAFETY RATING

Before Board Panel:

Graham Lane - Board Chairman
Len Evans - Board Member

HELD AT:

Public Utilities Board
400, 330 Portage Avenue
Winnipeg, Manitoba
April 23, 2009

Pages 1031 to 1079

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1 --- Upon commencing at 10:04 a.m.

2

3 THE CHAIRPERSON: Well, I am sure it is
4 no reflection on Mr. McCulloch and the comments that he
5 is going to make, but I notice the crowd has thinned out
6 somewhat. Anyway, good morning everyone. Good morning,
7 Mr. McCulloch, Mr. Palmer.

8 MR. KEVIN MCCULLOCH: Good morning, Mr.
9 Chairman, Mr. Evans. Yes, not only has the crowd thinned
10 out on the right side of the room, from -- from my
11 perspective, but also at the -- the lead table.

12 With us though this morning is MaryAnn
13 Kempe, who's the Vice-President of Human Resources. And
14 Ms. Kempe will be observing the -- the proceedings today.

15

16 Jumping right into it, if -- if the Board
17 is ready.

18 THE CHAIRPERSON: I think we are ready.

19

20 CLOSING SUBMISSIONS BY MPI:

21 MR. KEVIN MCCULLOCH: In our opening
22 comments back on April 6th Ms. McLaren observed that
23 Driver Safety Rating has been a long time coming. And
24 those opening comments start at page 55 of the
25 transcript. And we know from your own personal history,

1 members of the Board, that DSR has been a topic of
2 discussion at General Rate Applications for a number of
3 years, and that this particular Hearing, dedicated to
4 Driver Safety Rating, has been in the planning for some
5 time.

6 In her comments, Ms. McLaren stressed that
7 it was critical to proceed cautiously with this program.
8 This is a program that affects each and every Manitoba
9 driver and vehicle owner. She stated that from the
10 Corporation's point of view, the program must be fair, it
11 must be equitable, and it must provide strong incentives
12 for safe driving behaviour. And those points are covered
13 in the stated goals of the program, which we will talk
14 about in more detail a little further on.

15 On the face of it, the Application before
16 the Board is simple, almost deceptively simple. It takes
17 two (2) pages, one (1) of which isn't even the full text,
18 and the second page is a chart. So when you look at it
19 from that point of view, as opposed to a General Rate
20 Application, it is indeed, on the surface, a very simple
21 application.

22 And I would suggest that, in fact, the
23 task before this Board is also quite simple. The Board
24 is being asked to consider and approve driver premiums
25 and vehicle premium discount levels that are tied to

1 Driver Safety Rating merit and demerit levels. And the
2 basis of the program is confirmed and set out in
3 government regulation.

4 At page 164 of the transcript, Ms. McLaren
5 speaks to the relative roles of MPI, the Manitoba
6 government, and the public utilities Board, in the DSR
7 process. And basically what she says in that section of
8 her evidence is that there are three (3) actors involved
9 in this process: The Corporation, who had the obligation
10 to build the system, build the program, and propose it to
11 government; Government, which had the option to approve
12 the system, which it has done through to passage of
13 Manitoba Regulation 13/2009; and the final stage is the
14 role of the Board, which will be to determine the rates
15 that are to be applied to the Driver Safety Rating
16 system.

17 Now, the fact that there are three (3)
18 actors, or participants involved in this DR -- DSR
19 process, doesn't diminish in any way the role of any one
20 (1) of those three (3) participants. And while the Board
21 may have what could be seen as a limited or a focussed
22 role in looking at and approving rates, that, by no
23 means, diminishes the role of the Board in the overall
24 development, or the overall implementation, would be the
25 more correct word, of the DSR system. DSR can't go ahead

1 without rates approved by this Board.

2 And once this Board has made its decision,
3 the government will then close the loop by passing a new
4 regulation, which will be part of the Automobile
5 Insurance Certificates and Rates Regulation, which gives
6 legislative sanction to this Board's order. And as this
7 Board is well aware, the government is constrained under
8 the provisions of the MPIC Act, in that it can only pass
9 a rate regulation that has been approved by this Board.
10 So while the focus of the Board may be limited or
11 restricted, the impact certainly is not.

12 As I said, the DSR Program and its
13 progress has been the topic of discussion in a number of
14 MPI GRA applications in previous years, and it's been the
15 subject of a number of recommendations by the Board. And
16 it's fair to say that -- and particularly some
17 Intervenors has -- have expressed concern or a little
18 frustration perhaps over the delay in coming forward with
19 this program.

20 But I think when you look back at the --
21 the stated objectives and the description that Ms.
22 McLaren and Ms. Palmer gave in their evidence, as to how
23 the Corporation, Number 1), approached this project, and
24 Number 2), how it applied MPI rigour -- if you'll accept
25 that as -- as the definition of how they -- MPI

1 approaches projects, the MP -- the rigour that MPI
2 applied to coming up with a proposal -- there was a great
3 deal of -- of effort and time spent on making sure that
4 the proposal that was brought forward was the correct
5 proposal and that it would meet the stated goals.

6 And if you look at the transcript at page
7 899 and following, Mr. Palmer and Ms. McLaren both gave
8 evidence on how MPI's project management processes were
9 applied to the DSR project. The Corporation established
10 a working group with representatives from a cross-section
11 of departments across the organization. And the leader
12 for the working group was the business innovation group
13 at MPI.

14 This working group, according to the
15 evidence given by Mr. Palmer and Ms. McLaren, included
16 representatives from the actuarial department; insurance
17 operations; business analysts; driver and vehicle
18 licensing, which clearly has an impact on this system;
19 driver improvement and control, and that's an arm of MPI
20 that I'll be mentioning a little later on when we're
21 talking about incentives to drivers, but driver
22 improvement and control played a big role in bringing
23 forward this DSR application; the representatives from
24 legal, from claims, from communications and customer
25 service. So you can see that the entire spectrum of work

1 and -- and departments at MPI had an important role to
2 play in the development of DSR.

3 Ms. McLaren also talked about the fact
4 that the Steering Committee for this project was
5 Management Committee. So the six (6) Vice-Presidents and
6 Ms. McLaren as President formed the Steering Committee
7 for the DSR project. All aspects of the program that
8 were developed at the working group level were then sent
9 up and considered by the Steering Committee as decision
10 points were reached in the development of the program.
11 And in that regard, I believe Ms. McLaren mentioned that
12 it was one (1) of the reasons why she had so much detail
13 on buyback provisions, because that was one (1) of the
14 issues that came forward to Steering Committee.

15 So again, it -- it's important, I think,
16 for the Board to have an appreciation that this wasn't a
17 project thrown together in a short period of time without
18 considerable review, testing, and decision-making
19 process. This was a major -- major project at MPI.

20 Now, the stated goals for the DSR Program
21 are set out in the transcript at page 68. And I want to
22 talk briefly about the goals and -- and the measurements
23 that -- that apply to those goals.

24 The first goal was to provide a higher
25 reward for safest -- for the safest drivers.

1 Number 2, to provide stronger incentive
2 for higher risk drivers to improve their behaviour.

3 And thirdly, to improve driver's
4 understanding of how their driving behaviour can affect
5 the amount that they pay for auto insurance.

6 And I don't believe that in the course of
7 these proceedings anyone has seriously questioned that
8 the Driver Safety Rating Program, as presented, has
9 addressed each and every one (1) of these three (3)
10 stated goals. On Goal Number 1), providing higher reward
11 for the safest drivers, it's clear from the Application
12 that drivers in the new DSR Levels 8, 9, and 10, will
13 receive an immediate, if modest, reward.

14 Ms. McLaren spoke of the need to kick
15 start the program, and that's in the transcript at page
16 877, and that she viewed, and the Corporation viewed, the
17 provision of these modest improvements, these modest
18 rewards to the safest drivers, as an important part of
19 kick-starting the program. It would give the Corporation
20 something to focus on in its communications when talking
21 to the public about the program once the Board has
22 approved the rates.

23 There was also discussion that there were
24 plans in the -- in the future to increase the merit
25 levels; it currently stops at ten (10). Evidence from

1 the transcripts show that the Corporation will be
2 bringing forward a proposal to the Public Utilities Board
3 to increase these levels to fifteen (15) as being the
4 top. And the reason, of course, that that would come
5 before the Board is because as you introduce a new level
6 you'll be introducing a new premium, and perhaps a new
7 vehicle premium discount, which requires Board approval.
8 So those enhancements will be brought forward, and at a
9 later point I'll give some explanation and talk about why
10 the Corporation settled on ten (10) for the purposes of
11 this introductory program.

12 So the second goal: Stronger incentive to
13 improve driver behaviour. In this program, individual
14 involved at -- with at-fault accidents will move down the
15 scale, and depending on their initial placement may move
16 into a demerit position as a result of an at-fault
17 accident.

18 This is a new provision from the previous
19 program that was in place, which as you know was a
20 combination of four (4) surcharge rebate driver premium
21 rebates. It was a combination of four (4) systems
22 working together, or at times it appeared working at odds
23 with each other.

24 So the -- this idea of assigning demerits
25 to at-fault accidents replaces the at-fault accident

1 surcharges that were a key element of the prior program.
2 And as you know, those at-fault accident surcharges
3 ranged from two (2) to four (4) to eight hundred dollars
4 (\$800), depending on the number of at-fault accidents
5 that a person might have, if they were a one (1) time
6 surcharge and they've been replaced by a process that
7 puts people who have at-fault accidents, either one (1)
8 or multiple, into the Driver Safety Rating scale, and
9 makes them part of this program.

10 In addition, to meet the second goal of
11 providing a stronger incentive to improve driving
12 behaviour, the forms had been designed to highlight the
13 impact of good driving behaviour and to point out to
14 Manitoba drivers and vehicle owners, the impact of bad
15 driving behaviour. And we'll have some discussion at a
16 later point about the forms. The only point I'd like to
17 make here is that the forms were put in, I believe it was
18 in response to a PUB Information Request. The forms are
19 provided: PUB 1-11, I believe.

20 And the interesting thing with that is Ms.
21 McLaren, again, in her opening comments, talked about how
22 pleased the Corporation was with the development of these
23 forms. And we did get some input from the Intervenors:
24 Ms. Bowman asked a number of questions in relation to the
25 forms, and of course, has some suggestions for

1 improvement in the closing presentation.

2 The only thing I would say at this point -
3 - and I believe there's an old saying that an elephant is
4 a horse designed by a committee -- as a member of the
5 Steering Committee that sat on presentations, with
6 respect to the forms, I can tell you I almost felt the
7 same way. Designing forms by committee is a process that
8 is probably left to someone else, as far as I am
9 concerned.

10 But in any event, the forms are there and
11 I think they do meet and take a big step towards the
12 second goal. They also have a role to play in the third
13 goal which is improving the understanding of Manitobans,
14 as to how their driving behaviour impacts the cost of
15 auto insurance.

16 Those forms provide the Corporation with
17 the opportunity to tell drivers, this is where you are on
18 the scale and if you go a year without any incident,
19 being an at fault accident or one (1) of the listed
20 convictions, this is where you'll be next year. And it -
21 - it's clear, to people who look at those forms, and take
22 the time to look at it, that there's a direct link
23 between their behaviour and the premiums that they're
24 going to be paying.

25 Now, we also talked about measures for

1 each of the goals. And the first goal, that being of
2 providing a higher reward for safest drivers, the measure
3 that the Corporation relied on in talking about that
4 goal, was found in MPI Exhibit Number 5. That was the
5 chart that Mr. Palmer, in his evidence, talked about how
6 pleased he and the actuarial science's people were when
7 they did the modelling, produced the -- this exhibit,
8 produced the chart, and it absolutely confirmed the
9 expectations and the predictive nature of the material
10 that they had applied and the material that they had made
11 part of this DSR Program.

12 So this is where we get into the question
13 of actuarially -- actuarial soundness and statistically
14 driven rates. And you're well aware that in the General
15 Rate Application, the Corporation takes great pains,
16 through its evidence, to assure the Board that the rates
17 that are being applied for are actuarially sound and
18 statistically driven.

19 With this particular program, there's a
20 slight modification of the position of the Corporation.
21 And what you were told in evidence by Mr. Palmer, is that
22 the test here is one (1) of actuarial direction. And
23 you'll find that at page 71 of the transcript.

24 So in order to test the actuarial
25 soundness of the rates that are being proposed, the real

1 test to be applied is actuarial direction. If the risk
2 increases with the movement up the scale, then you have
3 actuarial confirmation that the program is moving in the
4 right direction. The risk is lower for individuals with
5 more merits, the risk is higher as you move down into the
6 demerit end of the scale, and the Exhibit 5, which went
7 back and applied, retrospectively, corporate experience
8 over the period 2001 to 2006, confirmed that the approach
9 being taken was predictive of risk.

10 And specifically, if you look at MPI
11 Exhibit Number 5, what it shows is that the risk of the
12 person with twenty (20) demerits, having an at-fault
13 accident, is ten (10) times greater than the person who
14 has fifteen (15) merits. And this, of course, is at full
15 implementation when the program goes to a fifteen (15)
16 merit level.

17 And again, when you look at the chart you
18 get that ten (10) times rating by seeing that the risk
19 shown for the person at twenty (20) demerits is in the 30
20 percent range, while the risk of having an at fault
21 accident for a person with fifteen (15) demerits --
22 sorry, fifteen (15) merits is at 3 percent, so ten (10)
23 times greater.

24 The one (1) thing this chart also
25 highlights, I think, and we'll get to it when we start

1 talking about the costing of the program, and the rates
2 to be applied, is that you could never charge that
3 individual at twenty (20) demerits ten (10) times as much
4 as the person who's at fifteen (15) merits. Such action
5 would conflict with the principle of universal
6 accessibility. And we talked about that in a number of
7 different -- on a number of different occasions, that the
8 -- it is not the intent of a DSR Program to introduce
9 such punitive measures, that individuals are going to be
10 unable to afford the cost of a driver's licence and are
11 going to be out driving on the streets unlicensed and
12 breaking the law from the point of view of -- of driving
13 without a licence.

14 Again, rely on Exhibit Number 5 as proof
15 that the program, as presented, properly reflects the
16 risk that the individuals at the various RSR levels bring
17 to the -- to the system. Obviously, and again, this was
18 a commitment made in evidence, MPI will continue to
19 monitor this information, and the results will be
20 monitored, and the concept of the program will be tested
21 and challenged to make sure that this relationship
22 continues to exist and that it is, from an actuarial
23 point of view, properly directional.

24 The second measure that the Corporation
25 talked about for measuring the goals of -- of this

1 program, dealt with improved understanding of our
2 customers. And there was a lot of evidence brought
3 forward as to the amount of surveying that MPI has done
4 to, first of all, determine how well our customers
5 understood the existing program. And while those results
6 showed that most people would respond, yes, they -- they
7 understood it, when they were tested on that
8 understanding, their understanding was woefully lacking.
9 So the Corporation will continue to do its public
10 information testing, do its polling, and to ensure that
11 the program is understood.

12 The third measure relates to the goal of
13 influencing driver behaviour. And that one (1), quite
14 frankly, is a little more difficult to measure than the
15 other two (2). And there has been an extensive
16 literature review that was conducted by MPI, and that was
17 set out in the response of MPI to CAC/MSOS Pre-Ask Number
18 1. They listed a great number of studies that were
19 looked at in the development of -- in the early stages in
20 the development of this program.

21 Now, in the pre-ask, CAC/MSOS listed a
22 number of other study -- or listed a number of studies
23 and asked whether the Corporation had looked at these
24 studies. And there was overlap. There were situations
25 where studies put forward by CAC/MSOS had indeed been

1 considered by MPI. There were other studies considered
2 by MPI that weren't on the CAC list, and there were
3 studies on the CAC list that weren't on the MPI list.

4 The only point I would make here is that
5 with this concept of driving behaviour impacting
6 insurance claims, driver behaviour impacting the cost
7 that's brought to the -- the Insurance Program, this
8 isn't something that you have to review every study
9 that's been done in the last twenty (20) to thirty (30)
10 years.

11 I think that very soon, anyone looking at
12 those studies would come upon the common theme and the
13 common trend. And the common trend, as far as
14 influencing behaviour, indicates that in fact it is
15 possible to influence driver behaviour. The actual
16 measurement of that behaviour, since there are other
17 variables that come into play, is a little more
18 difficult.

19 Now, that takes us through the -- the
20 discussion of the three (3) goals, and -- and the
21 measures, and -- and how the -- the Corporation is going
22 to -- to monitor its success, but it became quite clear
23 in -- in the process and early on in the process that
24 there was a fourth goal lurking out there; that being the
25 goal to reduce claims costs and to reduce the number of

1 accidents. And really, I think that's a common theme
2 that came from the Intervenors, and to some extent, in
3 Information Requests from the Board itself, some asking
4 the question quite bluntly: Why isn't it a goal of this
5 program to reduce claims costs, reduce the number of
6 accidents on the road?

7 Now the Corporation's response to that is
8 that it's extremely difficult to predict and even more
9 difficult to include in a claims forecast the expected
10 positive benefits of behaviour modification. We are
11 dealing with behaviour modification, and there was
12 evidence from Ms. McLaren that, in her view, the success
13 of behaviour modification depends on enforce -- it's not
14 enforcement, sorry -- it depends on immediate repetitive
15 input to the individual and guarding against
16 extinguishment.

17 The Corporation's position, again, clearly
18 stated in the evidence, is that it would be best to wait
19 and see the impact of behaviour modification, if in fact
20 it is successful, rather than to build expected claims
21 cost reductions into the forecasts, and expected savings
22 and reductions into projections for future claims
23 experience. The Corporation feels and has stated that
24 when these reductions occur, they will be reflected once
25 they are identifiable as trends. And again, this is in

1 compliance with actuarial principles that require
2 validation of these savings before they can be properly
3 reflected in forecasts.

4 In the DSR Program, we are dealing with a
5 projected reduction in accidents and claims, again based
6 on behaviour modification. Contrast this, if you will,
7 to MPI's approach to claim cost savings in two (2) other
8 areas that have been brought before this Board.

9 In the immobilizer program, we were
10 dealing there with mechanical modification. There was no
11 doubt, based on the science, that an approved immobilizer
12 installed in a vehicle prevents theft and therefore
13 prevents theft claims resulting in claims savings.

14 Faced with the understanding that the
15 Corporation was dealing with a mechanical modification,
16 the Corporation built into its forecasts projected claims
17 cost savings due to reduced theft claims. The
18 Corporation had full confidence that those savings would
19 be achieved, and the results have proven that that
20 confidence was warranted.

21 In the second area that goes a little
22 further back in time, in 1993 the Personal Injury
23 Protection Plan was introduced into Manitoba, and it was
24 to take effect March 1 of 1994. At that point in time,
25 the Corporation -- prior to the introduction of the

1 legislation, the Corporation had already filed its
2 General Rate Application for rates to commence March 1,
3 1994, but with the introduction of the PIPP legislation,
4 the Corporation amended its rate filing to reflect
5 savings anticipated from the PIPP program.

6 Again, they were dealing with a situation
7 where the design of the program in effect guaranteed a
8 reduction in claims costs over time, and certainly
9 provided close to a guarantee of a reduction of costs
10 over the existing tort program. Again in that instance
11 the Corporation was confident in including projected
12 claims savings into its forecast, and into its go-forward
13 projections, and in fact did so.

14 So I think that when you're looking at the
15 question raised by some of the Intervenors as to whether
16 or not anticipated claims costs should have been included
17 in these forecasts, you have to look at the basis on
18 which one would anticipate the costs. And it is risky,
19 if not foolhardy, to project based on behaviour
20 modification. Surely the more prudent approach is the
21 one taken by the Corporation, that those changes will be
22 reflected when and if they are achieved.

23 At this point I want to address a number
24 of issues raised by various of the Intervenors. From the
25 point of view as to how these issues impact the

1 Application as a whole. And quite frankly, the items
2 that we're going to be discussing in the next few
3 minutes, represent some major frustrations provided to
4 the Applicants by the positions taken in these Hearings.

5 The first deals with the suggestion that
6 the Board should not approve these rates, because to do
7 so would offend the principles of regulatory best
8 practices. It's the Corporation's position that this
9 Application, the way it was presented, and the way it has
10 proceeded, up to today, is in full compliance with
11 regulatory best practices. The Application had been
12 discussed and planned for years.

13 There was never any question that it would
14 be a standalone application, separate and apart from the
15 General Rate Application. And the reason for that, is
16 that this program was involving a totally new concept, a
17 new program. And the need for a standalone hearing was
18 there so that even though the Board and the Intervenors
19 might not have control over certain elements of the
20 program, they were entitled to have a full and complete
21 understanding as to how the program was developed.

22 So in this Hearing, there were a lot of
23 questions asked, and a lot of answers given by the
24 Corporation, on points that the Board will not be able to
25 rule on. There was a fair bit of discussion as to how

1 the determination was made to include certain offences in
2 the listing of offences that will attract demerits, and
3 to exclude other offences.

4 And as a matter of fact, since some of the
5 preliminary studies were filed in previous rate
6 applications, it was clear from the evidence that
7 recommendations that the Corporation had considered, for
8 example, to attach demerit points to roadside
9 suspensions, were not approved by the government when it
10 finally approved the form of the program. So there was
11 definite movement, there was definite give and take.

12 There was a need at a standalone hearing,
13 to talk about the principles that were behind the
14 introduction of this new program. And those principles
15 are key, not only to an understanding of the program, but
16 also key to an understanding as to why the rates that
17 have been applied for have been applied for.

18 And those principles include things, for
19 example, the understanding that under this program,
20 virtually no one should be worse off than they were under
21 the existing program. And that, to a large extent, is
22 driven by fairness. Your current surcharge situation and
23 premium discount situation is determined by activities
24 that have occurred in the past.

25 To introduce a program at this point --

1 and we're not sure which specific date, we'll talk about
2 that later -- but to introduce a program, whether it's
3 November 1 of 2009 or February 1 of 2010, and say to an
4 individual, By the way, we're introducing a new program,
5 and you know all those things that you've done in the
6 past five (5) years, all those at-fault accidents, and
7 all those speeding tickets, instead of the nine hundred
8 and ninety-nine dollar (\$999) surcharge that you might be
9 facing, you're now going to be paying fifteen (15) or
10 sixteen hundred dollars (\$16,000), whatever the amount
11 might be; an individual could quite fairly say, Well,
12 hang on, when I committed those offences, those were not
13 the penalties that I was -- that I was aware that I was
14 going to face.

15 So I think it is important to accept and
16 to acknowledge that principle. That -- the direction,
17 and clearly, it's -- it's the direction that's given in
18 the regulation that has been passed, is that people who
19 are moving into the demerit side of the DSR scale will
20 not be worse off under the transition provisions of this
21 program -- will not be worse off than they were under the
22 existing system.

23 The other issue that I would take with
24 those who suggest that these proceedings run contrary to
25 regulatory best practices is that all of the interested

1 parties knew the proposed timetable, they knew that DSR
2 Application would be filed in January, that there would
3 be a pre-hearing conference in February, there would be
4 one (1) round of Information Requests, April hearings,
5 with a request that a decision be rendered in May. No
6 one at the Pre-Hearing conference raised an objection
7 that somehow this system was unworkable and that this
8 Board should only consider a DSR Rate as part of a
9 General Rate Application.

10 The next area that created a fair bit of
11 frustration, as -- as far as the Applicant was concerned,
12 was a number of financial considerations were raised as -
13 - as a reason why the Board should not consider a ruling
14 on this Application at this point in time, but should
15 defer it to the General Rate Application. These include
16 -- or included things liked -- like the marked
17 deterioration in investment income. Well, I don't think
18 the marked deterioration of the equity market suddenly
19 arose on the 6th of April, when we started these
20 Hearings. That's a situation that we've all been living
21 with for well more than -- than six (6) months.

22 Another interesting one (1) is a
23 suggestion that there's uncertainty over the Board's
24 intentions with regard to RSR. And for that reason,
25 that's given as -- as another financial uncertainty that

1 would justify deferring consideration of these DSR rates
2 until the General Rate Application.

3 Well, there's not doubt that there has
4 been some discussion on the record, both at the last
5 General Rate Application and in the order of the Board,
6 no doubt that there's been some discussion about
7 attempting to resolve a difference of opinion between the
8 Applicant and the Board. And that is what it is, but
9 there's certainly nothing on the record that would
10 justify saying to this Board, Well, hang on because
11 there's no doubt that there's going to be some radical
12 changes to the RSR position, and we should wait to see
13 what those are before we proceed with this Application.

14 I mean, that -- there's just no
15 justification for delaying a program that's been on the
16 agenda for some years for an event that has no prescribed
17 timeline as to if and when a change may occur to the RSR
18 position.

19 The other financial consideration that has
20 -- has been suggested is, well, we should hold off
21 because it may cause confusion in the public, or even
22 backlash, if, as a result of the rates that are being
23 applied for here in the General Rate Application coming
24 up, there'll need to be a rate increase. And this has
25 been referred to as rate ricochet and we want to be afra

1 -- we want to stay away from rate ricochet, so defer the
2 decision until the General Rate Application and we know
3 what the -- the position will be on -- on rates for the
4 entire program.

5 Now, at page 549 of the transcript, I
6 would suggest that Ms. McLaren put that argument to death
7 firmly when she said, It would not happen; that the
8 Corporation would not have brought this Application
9 forward if it in any way felt that, as a result of the
10 reduced income that will result from this Application,
11 the Corporation would be forced to seek a Rate
12 Application two (2) months down the road when they file
13 for the next General Rate Application.

14 Now, obviously, that is not an ironclad
15 guarantee. No one can give an ironclad guarantee, but I
16 would suggest that it's as close to an ironclad guarantee
17 as this Board can get, that the issue of potential rate
18 ricochet does not justify deferring a decision on this
19 Rate Application.

20 Another very interesting issue raised as a
21 financial consideration was, Well you know, there's an
22 untested improvement in claims costs, and perhaps you
23 shouldn't consider this Application until there's an
24 opportunity to test that claims costs improvement at a
25 General Rate Application. I mean, these are the same

1 Intervenor who for the past four (4) years had been
2 accusing the Corporation of being overly conservative in
3 its claims costs estimates.

4 These are the same Intervenor who, in
5 cross-examining Mr. Palmer last year, got an admission
6 that, yes, after four (4) -- looking at the four (4)
7 years of experience, even though if you went further back
8 it didn't support the allegation they were making, but in
9 any event looking at the four (4) years of experience, it
10 was time to determine whether, in fact, there was a trend
11 there that should be recognized by the Corporation.

12 I would suggest that that is exactly what
13 you have in the financial picture that has been presented
14 to the Board in these Hearings, a reflection of the fact
15 that there has been an improvement in claims costs, and
16 that is hardly a justification for deferring a decision.
17 It's interesting that when suddenly the Corporation
18 responds to what it now acknowledges as a trend, it's
19 accused of bringing forward an untested improvement.

20 The last financial issue that has been --
21 or the second to last perhaps, that has been raised, and
22 this is one (1) that really got some people going, is the
23 questioning dependability of the forecasts. The position
24 has been taken by a number of the Intervenor that this
25 DSR Application is based on old forecasts, and there'll

1 be new forecasts coming forward in the General Rate
2 Application in -- that will be filed in June of this
3 year, and you really should wait until you get a chance
4 to see those forecasts before you make a decision.

5 Well, let's examine what we're talking
6 about here. These forecasts were part of the filing with
7 the PUB in June of 2008. They were fully -- sorry, June
8 -- yeah, June of 2008. They were fully tested at the GRA
9 hearings which took place in September of 2008. Those
10 were the forecasts that were subject to the rigorous
11 testing of the Board and the Intervenors in September of
12 2008.

13 These are the forecasts that were
14 considered by the Board when it issued its Order in
15 December of 2008. And these are the same forecasts that
16 just over seven (7) weeks ago, March 1, 2009, MPI began
17 charging rates. These are the forecasts that the current
18 rates are based on, and these rates were approved by the
19 Board. It makes no sense to suggest that somehow they're
20 so old and untested that they can't be relied on for the
21 purposes of this DSR Hearing.

22 And you'll recall, those forecasts will
23 bring in 740 million in premium income to the Corporation
24 in the next insurance period, and these forecasts cover
25 expenses, claims and otherwise, that go forward all the

1 way to February 2011. So I think it is just totally
2 ingenuine to suggest that these forecasts can't be relied
3 upon for the purposes of these Hearings.

4 There was also evidence from Mr. Palmer
5 that the forecasts had been updated for the purpose of
6 these Hearings to reflect the third quarter results. So
7 there has even been an update to what I would suggest the
8 Board should consider fully valid and dependable
9 forecasts.

10 Really, I think it comes down to a
11 situation of it's, to use a vernacular phrase, it's time
12 to fish or cut bait, and the Corporation is suggesting
13 it's time to fish. We've been through this process.
14 We've given it the care, the thought. It's had the
15 examination during the course of these Hearings, and it's
16 time for the Board to make a decision in accordance with
17 the suggested timetable.

18 Another issue that I want to deal with is
19 the reduction in revenue that will result from the rates
20 proposed for this DSR Program. And I'll get into a
21 little more detail further on in the submission, but what
22 I want to deal with here is the suggestion from certain
23 Intervenors that this constitutes a draw down on the RSR.
24 I don't think it's just a matter of semantics. I think
25 it's important to note that you can't draw down what

1 isn't there. This Rate Application is no more a draw
2 down of the RSR than is, for example, a decision to
3 increase benefits.

4 When back in the late 1990s, the PIPP
5 Program was amended to provide for a retirement income
6 benefit, that decision had the impact of increasing
7 claims costs, absolutely. But it was viewed as a -- in
8 the positive context of improving benefits for
9 Manitobans.

10 Retirement income benefit was something
11 that hadn't been anticipated in the PIPP Program. People
12 beyond age sixty-five (65) were not able to receive any
13 income or ongoing income replacement. But obviously that
14 is going to have the impact of increasing claims costs.
15 It's going to have the impact of reducing income to the
16 Corporation in the future. But it should be viewed as an
17 improvement of benefits, not as a drawing down of the
18 RSR. And I would suggest that this Application should be
19 reviewed in the same vein.

20 It introduces a vastly improved system for
21 rating the risk that drivers and vehicle owners bring to
22 the insurance scheme, while providing an immediate though
23 modest reward to the safest drivers. Approach it in that
24 manner, and you don't have to worry about concerns over
25 drawing down an RSR that doesn't exist because it's a

1 projected figure in the future.

2 There were also questions raised as to why
3 there were only ten (10) merit steps. Why not more? And
4 included in that discussion was a point made many times
5 by Mr. Williams in his outline of his argument, that
6 lumping the ten (10) plus people in one (1) group created
7 a highly aggregated grouping.

8 Now Mr. Palmer conceded that, in fact,
9 that was the case. It is highly aggravated. But we are
10 dealing with a new program, and a transition phase in a
11 new program. Ten (10) merit points is double what the
12 existing program had at five (5).

13 A new plan should have some degree of
14 transparency and simplicity when you introduce it. And
15 what's more, the Corporation acknowledged that it has
16 future plans to add Levels 11 through 15 which will be
17 fully vetted as part of subsequent General Rate
18 Applications since the PUB will be approving, or ruling
19 on any premium discount levels for those new ranges. So
20 there's a good and reasonable explanation as to why ten
21 (10) was a good starting point for the cap of merit
22 levels.

23 I want to move on to some specific
24 observations on -- on positions taken by the Intervenors,
25 and the first one would be counsel for CMMG who talked

1 about the flipping of ownership of vehicles and manipul -
2 - manipulation of the system, whereby a driver who is
3 facing a demerit situation and loss of a 25 percent
4 vehicle premium vehicle discount would transfer ownership
5 of the vehicle to an individual who would qualify for the
6 discount. And the solution put forward by CMMG was that
7 there should be a transfer of vehicle premium discounts
8 to the driver's premium.

9 And the explanation was given as follows:
10 That if today's base rate say is a thousand dollars
11 (\$1,000) and is subject to a 25 percent discount, you
12 should reduce the base rate to seven hundred and fifty
13 dollars (\$750), because in any event, there's a large
14 number of people who qualify for the 25 percent discount,
15 reduce the base rate to seven hundred and fifty thousand
16 (\$750,000) -- seven hundred and fifty dollars (\$750)
17 rather, and collect that 25 percent through driver's
18 premium increases.

19 But in response to PUB 1-38 it's disclosed
20 that we would be talking about a \$33 million transfer of
21 obligation onto the drivers of Manitoba. No guidance was
22 provided by CMMG as to how you could -- you could
23 transition that movement and how you would transition the
24 gap between the reduction of vehicle premium and the
25 transfer to the -- the drivers. And there's not doubt

1 that if you were to take that sort of action, then every
2 driver in Manitoba would have to share in that \$33
3 million expense, including the good drivers, the best
4 drivers, and the safest drivers.

5 The Corporation also has admitted that the
6 ratio between driver's premium and vehicle premium is one
7 that hasn't been looked at, hasn't been studied, for some
8 considerable period of time. It's not something that can
9 be addressed on an ad hoc basis at hearing such as this,
10 in response to a request from an Intervenor. But,
11 rather, it's something that will require some preliminary
12 study, research, and perhaps at some future rate
13 application, a response or a position to the Board as to
14 what the appropriate ratio should be and how movements
15 should be planned to achieve that ratio.

16 Counsel for CMMG also included proposals,
17 such as allowing motorcyclists to purchase their
18 insurance directly from the Corporation, thereby
19 achieving savings on the broker commissions. He referred
20 to the current deal -- or agreement rather between IBAM
21 and Manitoba Public Insurance as a sweetheart deal.
22 That's the deal in which the current broker commissions
23 of 5 percent on Basic premium will, over time, be reduced
24 to 2.5 percent. And the savings from those commission
25 reductions will be applied to the Driver's Safety Rating

1 Program. So it -- a 2.5 percent commission, according to
2 Ms. McLaren, is fair and reasonable.

3 Yes, a lot of the routine work of having
4 to appear before a broker annually to renew your driver
5 licence and your insurance will no longer be required,
6 but the brokers will still be relied on not only by MPI
7 but on Manitobans to continue to provide advice and
8 direction on changes in their insurance needs, changes in
9 -- when they purchase new vehicles, changes when they
10 perhaps start using a vehicle for a different use,
11 preferred versus pleasure.

12 All of these functions will still be
13 carried out by the broker, and it was the Corporation's
14 evidence that, in it's view, a commission of 2.5 percent
15 on the basic premium was a fair and reasonable
16 compensation to the brokers for that continued service
17 that they will provide to Manitobans.

18 I had some difficulty reconciling the
19 approach taken by CAA, and some of the comments and
20 observations that were included in their closing
21 argument. It seemed to be, to some extent, an attack on
22 the public awareness campaign that the Corporation had
23 conducted as part of its research and part of the
24 background in coming forward with the DSR proposal.

25 In fact, CAA's position is that the

1 Corporation may have oversold the program, and that
2 people are not going to be happy when they realize the
3 modest savings that they will see, particularly in the
4 area of the driver premium discount.

5 Well, I don't know that there was any
6 evidence to support that position, and the other point
7 that has to be taken is that there's only so much of the
8 driver's premium that you can give away. I mean, the
9 premium is what it is. It's a fairly low dollar amount.
10 The discounts can be as high as eighty (80), or 100
11 percent. So when you view it from that point of view,
12 it's a substantive benefit to the safest drivers. And
13 you can't, in effect, give more than you're charging as a
14 discount.

15 Also I believe the comments put CAA at
16 odds with CAC/MSOS which, from my reading of their
17 comments and the closing argument, clearly supports the
18 stand that the Corporation had taken on public
19 consultation.

20 The other issue that was raised in my mind
21 with the CAA presentation is that a number of unanswered
22 questions were identified as part of the closing remarks
23 and closing presentation, went through saying, This
24 hasn't been answered; that hasn't been answered; we don't
25 know about this; and that's another reason why the

1 decision should be deferred.

2 Well, I guess one (1) immediate response
3 could be to run to the record, and check to see why we
4 didn't answer the Information Requests filed by CAA. And
5 the obvious response to that is, they didn't file any
6 Information Requests.

7 If you're part of the process, and you
8 don't chose to participate in the process, I don't think
9 it's fair to the Applicant, or to this Board, to raise
10 issues that you didn't raise and you had an opportunity
11 to raise in the course of the proceedings, and then say
12 that's a reason why the decision should be deferred.

13 And I also believe that the presentation
14 and the suggestion for deferring the decision, not only
15 by CAA but other Intervenors, failed to adequately look
16 at, adequately consider what the result of the suggested
17 deferral would be, and I'm going to deal with that in a
18 moment.

19 The approach taken by CAC/MSOS could
20 almost be described as schizophrenic in that they clearly
21 support the program. They say that clearly. They
22 support the program. They like the -- they see it as an
23 improvement. No -- they're -- no one's suggesting it's
24 perfect, and they have pointed out areas where
25 improvement can occur, but they see it as a positive

1 program.

2 They also make the statement that they
3 would prefer to see the program implemented sooner rather
4 than later, and that's a direct quote. They support the
5 prompt introduction of this program.

6 They support the statement that was made
7 by Ms. McLaren, that giving an immediate modest benefit
8 to drivers in 8, 9, and 10 would provide a kick start to
9 the program. It -- it would provide a positive focus for
10 the Corporation in its communications. They supported
11 all that.

12 On the other hand, they raise questions
13 about the process not being part of a General Rate
14 Application, questions on the forecasts, questions on
15 claim reductions and material uncertainty of the RSR.
16 And on that basis, CAC/MSOS suggests that there should be
17 a deferral of the decision until a General Rate
18 Application.

19 Let's look now at what the impact of that
20 deferral might be. As filed, the Application called for
21 a sixteen (16) month program commencing November 1, 2009,
22 ending February 28th, 2011. In the transcript, at page
23 879, Ms. McLaren spoke to the Board about the need to
24 change the implementation date from November 1st, 2009,
25 and her suggested preference was February 1st, 2010.

1 That would mean a thirteen (13) month application,
2 bringing the Driver's Safety Rating Program up to
3 February 28th, 2011.

4 And Ms. McLaren explained that there were
5 pressures of work and -- and other implementation issues
6 that necessitated this change from November 2009 to
7 February 2010. But what she was clear on, that this
8 deferral did not in any way change the need for a 2009,
9 May 2009 order from this Board. So the Corporation still
10 needs a decision from the Board on the rates that are to
11 be charged in May 2009.

12 She advised the Board that this lead time
13 was required, that we couldn't go with less, and the
14 reasons provided were the extensive communications that
15 are required, the fact that the Corporation is planning
16 modelling opportunities on the website so that the public
17 could become familiar with the system, and that can only
18 happen when the rates are known and when the -- when the
19 start date for the system is known. And also, there are
20 considerable issues with relation to staff and broker
21 training.

22 And as this Board is well aware, the
23 Corporation is, at the same time, moving towards the one
24 (1) piece driver licence, enhanced driver licence, and
25 identity cards, both basic and enhanced. So the lead

1 time is clearly required by the situation that the
2 Corporation finds itself in.

3 Now what would happen if the Board were to
4 act on the recommendation by a number of the Intervenors
5 that this decision should be deferred to the upcoming
6 General Rate Application?

7 Well, that Rate Application won't be filed
8 until June of 2009. The hearings are scheduled for
9 October 2009. And the expectation, as in previous years,
10 is that an order would issue in the late November, early
11 December time frame, applying the same requirement for
12 lead time to implement the DSR program, we'd be looking
13 at an implementation date of either August or September
14 2010, with the program to run through to either March
15 2011, which would be a stub six (6) or seven (7) month
16 program, or a full eighteen (18), nineteen (19) month
17 program to March 2012.

18 And if the Board did accede to this
19 request and defer the decision, and give an Order in
20 December of 2009, with an implementation of
21 August/September 2010 to run to March of 2011, the stub
22 six (6) or seven (7) month program, you'd be in a
23 situation where you'd be in hearings in October 2010 on a
24 program that had only been in place for a month or two
25 (2).

1 And what's more, if you defer the decision
2 and consequently defer the implementation, you're dealing
3 with a situation where you have hearings here and now in
4 April of 2009 for a program that won't take effect until
5 August or September 2010.

6 That just doesn't make any sense as far as
7 the Corporation is concerned. The Corporation, as far as
8 an implementation date, is satisfied that, with an Order
9 in the May 2009 time frame, it can implement February 1
10 of 2010.

11 However, if the Board feels strongly that
12 there is a need to align the implementation date with the
13 start of the 2010 insurance year, in other words
14 implementation in March of 2010 as opposed to February,
15 the Corporation would certainly present the Board's
16 position on that implementation date when it approaches
17 government to set a new date because, clearly, the
18 November 1, 2009 date has to be changed.

19 So in a rather cumbersome fashion, I think
20 what I've just said is that the Corporation would prefer
21 to go with a February 1, 2009, but if this Board strongly
22 feels that a March 1, 2009 is preferable the Corporation
23 would have no difficulty bringing that before the
24 government when they seek instructions on a new
25 implementation date.

1 And sorry, that's March 2010, if I was
2 getting my years confused. We're looking now for
3 February 1, 2010, but it's potential for March 1, 2010.

4 Now I know at the commencement of my
5 presentation this morning I characterized this as being a
6 simple Application. I hope I haven't clouded the issue
7 in the presentation, but clearly there were a number of
8 issues that came up in the course of the Hearings that
9 had to be addressed.

10 So, at this point, I would like to set out
11 what the Corporation, as Applicant, feels this Board
12 ought to do, and this is what the Corporation is seeking.

13 The Corporation urges the Board to approve
14 the Application as presented and, quick review, the
15 reasons being it's a transition from a complicated four
16 (4) tiered system to a more simple understandable DSR
17 scale that seems to be widely acknowledged and recognized
18 by all participants. It does allow for a modest
19 immediate benefit to the safest drivers, and it meets the
20 tests that virtually no one will pay more on the move to
21 the new system.

22 And as I said, that is of particular
23 importance when you acknowledge that the activities that
24 will determine a person's level on the DSR scale are
25 activities that occurred prior to the introduction of the

1 new system.

2 The other alternative open to the Board,
3 and the Board has full jurisdiction and discretion to do
4 whatever it wants, obviously, with rates, but the other
5 alternative that the Corporation would put forward, not
6 as a proposal but as another possibility, would be to
7 remove the modest benefit that has been planned for those
8 in the Levels 8, 9 and 10.

9 And on that, it's worth taking some time
10 to talk about the -- that portion of the Application, the
11 increased benefit to these individuals, has been
12 estimated for a \$10 million cost. The total loss of
13 revenue, if you will, from the introduction of this DSR
14 as proposed would be \$18.2 million dollars, and that's
15 found in SM-4.

16 And that's the difference between premiums
17 written with DSR, premiums written without DSR. But of
18 that 18.2 million, 10 million relates to reduced driver
19 premiums for those DSR Levels 8, 9 and 10.

20 The remaining 8.2 million, and this is in
21 the information, it's in the facts, this is an
22 explanation that's drawn from the material and the
23 evidence that's before the Board, the remaining 8.2
24 million relates to transition adjustments that were
25 required to the vehicle premium discounts for the purpose

1 of fairness.

2 And I think the one (1) example that I
3 would like to leave with the Board, from the material,
4 was the individual who is at, in the current system, zero
5 merits, and five (5) claims free years. In the current
6 system that individual would get zero discount.

7 If -- or under the Proposal, the DSR
8 Program would move him to Level 5. Now in the existing
9 program, all he would need to gain a 25 percent discount
10 is one (1) merit. So this individual, and I believe it
11 was a term used by Mr. Palmer, could be within a hair's
12 breath of getting a 25 percent discount.

13 Now in determining where that individual
14 should be placed on the new DSR scale, the Corporation
15 proposed putting the individual at Level 5. To leave him
16 at Level 0 on the DSR scale would mean it would take him
17 seven (7) years of incident-free driving to get to a 25
18 percent discount.

19 But if he's placed at the merit Level 5,
20 he immediately qualifies for a 15 percent vehicle premium
21 discount, as well as a fifteen dollar (\$15) driver
22 premium discount. And two (2) years later, under the DSR
23 Program, he will be at his 25 percent full vehicle
24 premium discount. That's assuming, of course, incident
25 free.

1 most important functions as general counsel at Manitoba
2 Public Insurance, and I'm sure that my successor will
3 approach the task in the same vein and with the same
4 view.

5 The experience has been challenging, both
6 professionally and personally, and with the possible
7 exception of some mind numbing evidence on perfect and
8 imperfect correlations, it's never been dull.

9 I am most grateful to the Board, to Board
10 counsel, to the Intervenors, and to Intervenor counsel
11 for the courtesy that I've been shown over the years.
12 And while it would be my normal practice to thank all
13 those involved for their participation at this hearing,
14 since this will be my last I'm extending it back over the
15 period of time.

16 Thank you.

17 THE CHAIRPERSON: Thank you, Mr.
18 McCulloch.

19 This brings to a close the public
20 involvement segments of the MPI's DSR Application. The
21 Board has heard from three (3) Intervenors, the
22 Corporation, and with respect to an overview of the
23 process to date by Board counsel. The Board will review
24 and consider the evidence in depth and come to a decision
25 on the Application. A decision may be expected by no

1 later than the end of May 2009.

2 I want to extend thanks to all
3 participants, MPI Intervenors, Board counsels, advisors
4 and staff, and Digi-Tran. But before adjourning, the
5 Board wants to particularly express its sincere best
6 wishes to Mr. Kevin McCulloch for, and this we
7 understand, his impending retirement. Through many
8 Hearings -- he mentions fourteen (14) years, I think our
9 count is sixteen (16) Hearings, two (2) special ones,
10 rather than fifteen (15) -- the Board has found Mr.
11 McCulloch to be a capable, conscientious, thorough, well-
12 spoken, and always civil element in the MPI hearings and
13 related processes. We will miss very much his
14 participation.

15 I want to now call on Mr. Saranchuk, who I
16 think he wants to add to our comments.

17 MR. WALTER SARANCHUK: Yes, thank you,
18 Mr. Chairman.

19 On behalf of Board counsel at Pitblado
20 LLP, on behalf of our advisor group, we certainly want to
21 congratulate Mr. McCulloch on his retirement. We wish
22 him well in the future in terms of good health, and
23 prosperity, and longevity, and we expect that, in the
24 future, the only rates he'll be concerned about will be
25 on his investment returns.

1 On a personal matter, I can tell you that
2 we, Mr. McCulloch and I, go back many decades, back to
3 his initial time at MPI, and, certainly, at all times he
4 has demonstrated himself as -- to be of upstanding
5 character and an excellent counsel. He has served his
6 client well.

7 And if I may, can express the view that I
8 believe that he has certainly contributed to the PUB
9 process in terms of assisting the Board in meeting its
10 mandate of serving the best interests of the public.

11 So on that point, I would like to wish Mr.
12 McCulloch well in his future years, as he rides off into
13 the sunset on his golf cart. Thank you.

14 THE CHAIRPERSON: Thank you, Mr.
15 Saranchuk.

16 Ms. Bowman...?

17 MS. MYFANWY BOWMAN: Thank you, Mr.
18 Chair.

19 I would like also to express, on behalf of
20 CAC/MSOS, and Mr. Williams and myself, our
21 congratulations on your impending retirement, and to let
22 you know how much your participation in these proceedings
23 over the years has been valued by our clients and
24 ourselves. I'm a newcomer, but I can tell you that
25 you've been very well spoken of by Mr. Williams and by my

1 clients, so we wish you all the best in your retirement,
2 and say thank you so much for all that you've done.

3 THE CHAIRPERSON: So on that note, this
4 Hearing is adjourned. Thank you.

5

6 --- Upon adjourning at 11:25 p.m.

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11 Certified Correct,

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Cheryl Lavigne

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