



“When You Talk - We Listen!”



MANITOBA PUBLIC UTILITIES BOARD

Re: MANITOBA PUBLIC INSURANCE CORPORATION (MPI)
2022/2023 GENERAL RATE APPLICATION
HEARING

Before Board Panel:

Irene Hamilton - Board Chairperson
Robert Gabor, Q.C. - Board Chair
Michael Watson - Board Member

HELD AT:

Public Utilities Board
400, 330 Portage Avenue
Winnipeg, Manitoba
October 29, 2021
Pages 2796 to 2941

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1	LIST OF EXHIBITS		
2	EXHIBIT NO.	DESCRIPTION	PAGE NO.
3	TC-10	Taxi Coalition submission	2859
4	CMMG-5	Closing submissions of the Coalition	
5		of Manitoba Motorcycle Group Dated	
6		October 29th, 2021.	2918
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1 --- Upon commencing at 9:10 a.m.

2

3 THE PANEL CHAIRPERSON: Good morning,
4 everyone. Ms. McCandless, would you review the
5 procedure for today?

6 MS. KATHLEEN MCCANDLESS: Yes, I will.
7 Good morning, everyone. We did have some offline
8 discussions yesterday among counsel as to the
9 procedure to be followed for this last day.

10 There were concerns raised by the
11 Interveners about MPI's late filing of its written
12 submission, and so what's going to happen today is Ms.
13 Meek is going to proceed with her closing submissions.
14 She estimates about half an hour. Mr. Hacault is
15 going to then go with his closing submissions, and he
16 anticipates about an hour and a half.

17 And the Interveners, particularly Mr.
18 Hacault, would like to review the written submissions
19 filed by MPI last night just before midnight in detail
20 over the lunch break.

21 MPI will provide its reply, and once
22 all the Interveners have had an opportunity to review
23 MPI's written submissions, they will advise the Panel
24 as to whether they are seeking any additional
25 opportunity to make any further submissions.

1 And then there's the -- a second legal
2 brief was filed by MPI yesterday, and Ms. Dilay
3 advised this morning that, in her view, there -- there
4 are elements of that legal brief that are not proper
5 reply. And so she has also asked for an opportunity
6 to speak to that. She has advised that she'd be able
7 to proceed orally today following MPI's reply

8 So MPI has not had an opportunity to
9 speak to what Ms. Dilay has asked at this point, but,
10 that -- that aside for the time being, assuming
11 everyone's in agreement with this, then it would be
12 Ms. Meek, Mr. Hacault, MPI's reply, and Ms. Dilay's
13 reply on the legal brief, with the Interveners
14 reserving the right to seek further opportunity to
15 make submissions.

16 So I hope that's clear.

17 THE PANEL CHAIRPERSON: That is clear,
18 and there's an agreement amongst counsel with regard
19 to that?

20 MS. KATHLEEN MCCANDLESS: This was all
21 sort of worked out on the fly this morning, so I -- I
22 haven't had an opportunity to advise MPI about it, but
23 I don't expect they'd have an issue with allowing the
24 Interveners the lunch break to review the written
25 submissions.

1 THE PANEL CHAIRPERSON: Mr.
2 Scarfone...?

3 MR. STEVE SCARFONE: That accords with
4 what was just discussed, Madam Chair. I guess we'll
5 wait to hear from Ms. Dilay. I don't quite understand
6 why she would characterize anything that we submitted
7 as a reply 'cause it's our closing argument, but we
8 can hear from her on that.

9 THE PANEL CHAIRPERSON: I believe that
10 Ms. McCandless's comment was that she believes that
11 it's not proper reply. Is that correct?

12 MS. KATHLEEN MCCANDLESS: Yes, and
13 it's not with respect to their written submission
14 which, in the normal course, MPI has filed
15 concurrently with its slide deck usually. I believe
16 it's with respect to the other brief on the -- the
17 legal argument.

18 MR. STEVE SCARFONE: Well, and
19 appreciating that they haven't yet reviewed it, it's
20 not in fact. It's -- it's the DVA transfer argument
21 separated from the argument proper just because that
22 was the way the -- the argument was structured by MPI.

23 So we put all of our written argument
24 together, as we normally would, separated the DVA
25 transfer to make it easier for the Board, given what

1 the CAC did with the DVA transfer.

2 MS. KATHLEEN MCCANDLESS: I think the
3 other issue, from Ms. Dilay's perspective, is that
4 she's already delivered her closing submissions,
5 whereas Ms. Meek and Mr. Hacault have yet to do so.

6 So for her, that ship had already
7 sailed, and so I believe it's just affording her a
8 similar opportunity to be able to review --

9 MR. STEVE SCARFONE: I think it's more
10 proper if we wait to hear from Ms. Dilay on how she
11 feels about it.

12 THE PANEL CHAIRPERSON: Yes, we'll do
13 that. We'll hear from her later today then.

14 So we'll start now with Ms. Meek.

15

16 CLOSING SUBMISSIONS BY MS. CHARLOTTE MEEK:

17 MS. CHARLOTTE MEEK: Thank you, Madam
18 Chair. Good morning.

19 The Coalition of Manitoba Motorcycle
20 Groups, or CMMG, appreciates the opportunity to
21 provide the Board with submissions in this year's
22 General Rate Application.

23 This application has canvassed a wide
24 range of incredibly complex issues which are often
25 overlapping and interrelated.

1 Motorcycle claims costs have been on a
2 downward trend for several years now. Yet each year,
3 MPI comes to the Board seeking an increase in premiums
4 for motorcyclists. Despite improved driving
5 behaviour, motorcyclists are being required to pay
6 higher premiums primarily as a result of interest rate
7 changes.

8 MPI's investment strategy has been a
9 sticking point for CMMG for several years now. The
10 last ALM study provided for an investment portfolio
11 for Basic claims that was comprised entirely of fixed
12 income assets.

13 This investment decision has had a
14 disproportionate impact on the motorcycle major class,
15 in particular, as their Basic premium has a very high
16 composition of Personal Injury Protection Plan -- or
17 PIPP -- claims when compared to other classes.

18 While the composition of the motorcycle
19 Basic policy may be relative to the type of risk
20 posed, CMMG submits that the sensitivity to long-term
21 interest rate volatility is a disproportionate and
22 unfair factor that requires addressing.

23 It is the position of CMMG that this
24 issue can be addressed through small improvements in
25 the Corporation's investment strategy. The shadow

1 portfolio 2 includes a mix of fixed-income assets,
2 public equities, and alternatives. Notably, shadow
3 portfolio 2 includes 5 percent private equities, 13
4 percent Canadian equities, and 16 percent real return
5 bonds.

6 Over the period from July 2020 to July
7 2021, shadow portfolio 2 substantially outperformed
8 the Basic policy portfolio, with shadow portfolio 2
9 providing returns of 5.01 percent and the Basic policy
10 portfolio providing returns of negative 3.61 percent -
11 - a difference of 8.62 percent. The Board can review
12 these returns in CMMG-MPI-2-14, page 7.

13 The shadow portfolio 2 raises the
14 question: Why is MPI not shifting towards an
15 investment portfolio with a similar mix, given the
16 better performance of shadow portfolio 2?

17 The refrain repeated by MPI is it's too
18 risky. It's too volatile. MPI has even said equities
19 or growth assets are prohibited from inclusion in the
20 Basic claims portfolio. MPI relies on the very low-
21 risk appetite of its board of directors to validate
22 its position on the portfolio make-up.

23 A review of modern portfolio theory
24 provides some insight as to whether MPI's investment
25 strategy is obtaining optimal risk/reward balance.

1 The efficient frontier was discussed during cross-
2 examination with Mr. Bunston and shows the
3 relationship between the portfolio returns and risk.

4 Constraints on a portfolio -- for
5 example, where certain asset classes are excluded --
6 may have the effect of shifting the efficient frontier
7 down. The cost of this shift will result in either
8 lower returns for the same level of risk or higher
9 risk for the same level of return, or a combination of
10 the two (2).

11 As we know, MPI's board of directors
12 determines the risk appetite of the Corporation. Mr.
13 Bunston indicated that, when examining the efficient
14 frontier, it is necessary to determine the risk
15 appetite first and then seek to maximize the return
16 for that level of risk.

17 It is also important to remember, as
18 was acknowledged by Mr. Bunston, that a portfolio's
19 location on the efficient frontier is determined at
20 the total portfolio level.

21 Asset classes, therefore, should not be
22 independently evaluated for their risk/return nature.
23 Instead, it is necessary to look at the portfolio, the
24 make-up of a portfolio as a whole, to determine what
25 ideal weighting of asset classes can be added to

1 achieve the desired risk of the portfolio while also
2 maximizing returns.

3 CAC (Manitoba) and CMMG questioned MPI
4 on the issue of surplus volatility. Surplus
5 volatility refers to the difference in value of the
6 assets and liabilities in a portfolio.

7 Mr. Bunston agreed at page 1593 of the
8 transcript that surplus volatility is the most
9 important measure of risk for asset-backing claims
10 liabilities.

11 Further, Mr. Bunston agreed that where
12 portfolio A has surplus vola -- has lower surplus
13 volatility than portfolio B, portfolio A would then
14 have higher realized risk-adjusted returns.

15 The results from shadow portfolio 2
16 raise three (3) questions:

17 (1) How do the realized returns for
18 shadow portfolio 2 compare to the policy portfolio?

19 (2) How does the realized surplus
20 volatility for shadow portfolio 2 compare to the
21 policy portfolio?; and

22 (3) Were are the realized risk-adjusted
23 returns for shadow portfolio 2 since inception better
24 or worse than the policy portfolio?

25 To answer these questions, I'd like to

1 look at MPI Exhibit 121, which is response to
2 Undertaking 40. I'd like to take a little bit of time
3 just to look at this undertaking as it wasn't
4 canvassed during the evidentiary portion of the
5 hearing.

6 And I've just highlighted some portions
7 of it for easy of reference with the Board today, so
8 you'll see that I've highlighted in blue the -- the
9 policy portfolio, in pink the shadow portfolio 1, and
10 in yellow the shadow portfolio 2.

11 So, along the top of this document the
12 information provided is provided on a monthly basis
13 since March 2019, so the inception of the shadow
14 portfolios, to the most recent data in September 2021.

15 On the left side of the document, the
16 first heading is, 'Assets, Basic claims portfolio,'
17 and this provides us with the assets for the actual
18 and policy portfolios, and then shadow portfolios 1
19 and 2.

20 Unfortunately, totals have not been
21 provided, but where the asset returns are calculated
22 and compounded over the year, the data demonstrates
23 that shadow portfolio 2 outperformed the Basic policy
24 portfolio.

25 As was also identified by counsel for

1 CAC (Manitoba), the returns for the policy portfolio
2 and the Basic portfolio 1 -- or the shadow portfolio
3 1, pardon me, were approximately on par.

4 So, this answers our first question.
5 Realized returns for shadow portfolio 2 exceeded those
6 of the Basic policy portfolio.

7 The next subheading on this appendix
8 provides the liabilities. And the two (2) headings
9 below are 'surplus' and 'surplus volatility'. Now,
10 the surplus of the portfolio is simply the difference
11 between the assets and the liabilities.

12 You'll see that MPI has provided a
13 calculation of surplus using the nominal liabilities
14 and the real liabilities. The same has been done for
15 surplus volatility.

16 Now, Ms. Dilay touched on this issue
17 during her submissions and noted that:

18 "A nominal benchmark does not
19 recognize inflation risk,
20 conversely, real benchmarking
21 recognizes the nature of the true
22 liabilities.

23 It is CMMG's position, therefore,
24 that, as a result, the nominal
25 benchmark is an unreliable portrayal

1 of liabilities and the nominal
2 results in this undertaking should,
3 therefore, be ignored."

4 On the bottom left of Exhibit 121,
5 appendix A, is a calculation of surplus volatility for
6 the respective portfolios. The second column provides
7 surplus volatility over a thirty-one (31) month
8 period, from March 2019 to September 2021.

9 The realized surplus volatility for
10 shadow portfolio 2 is measured in real terms, was 3.27
11 percent, as you can see highlighted in yellow, which
12 is essentially the same as the surplus volatility of
13 the policy portfolio highlighted there in blue at 3.24
14 percent.

15 So, this answers for us our second
16 question. Surplus volatility for shadow portfolio 2
17 is, essentially, equal to that of the Basic policy
18 portfolio selected by MPI.

19 Finally, then we can examine the
20 relationship between the realized returns of both
21 portfolios and the surplus volatility of both
22 portfolios.

23 This demonstrates to us that both
24 portfolios had similar surplus volatility while shadow
25 portfolio 2 had higher returns. This answers our

1 third question. Shadow portfolio 2 has higher risk
2 adjusted returns than the Basic policy portfolio.

3 So, how can this information then be
4 used to examine MPI's investment strategies? What we
5 can see now is that excluding asset classes from a
6 portfolio due to the nature of that asset class alone
7 has a cost.

8 In this case, the realized returns in
9 the policy portfolio were lower with the same level of
10 surplus risk. Shadow portfolio 2 provides a concrete
11 example with data of the costs constraints on the
12 Basic portfolio have had.

13 CMMG agrees that equities alone may
14 have higher asset volatility than alternatives, like
15 bonds. But from a total portfolio perspective, the
16 inclusion of these more volatile assets can have the
17 desired effect of increasing returns while still
18 maintaining MPI's low appetite for surplus risk.

19 As a result, CMMG submits that MPI's
20 rationale that their Board's low-risk tolerance
21 justifies the exclusion of equities from the Basic
22 portfolio, and that is unsubstantiated.

23 MPI has proposed a new asset liability
24 management study be completed and is working to issue
25 Request For Proposals to conduct the study. CMMG

1 understands it is MPI's position that the ALM study --
2 sorry, the ALM study will take approximately six (6)
3 months to complete, and that does not include the RFP
4 process.

5 While MPI has indicated that they're
6 hopeful and working towards having a study completed
7 for next year's GRA, they have provided no guarantee.
8 CMMG is concerned that, based on this time line, the
9 ALM study may not be completed in a time frame which
10 will allow review prior to the commencement of the
11 2023 GRA hearing.

12 The effect will be that Interveners
13 will not have the opportunity to review the ALM study
14 during the Information Request process, severely
15 limiting the opportunity to properly examine the
16 issue.

17 As acknowledged by MPI, the previous
18 study was completed on an expedited basis of three (3)
19 to four (4) months. CMMG submits that the proposed
20 ALM study should also be expedited to ensure full
21 examination of the study can be completed at next
22 year's GRA. This will benefit the public and the
23 Public Utilities Board panel members.

24 CMMG proposes that the study should
25 provide the Board some insights as to MPI's risk

1 appetite, its ability to incorporate growth assets
2 into the Basic portfolio while still maintaining the
3 desired risk exposure.

4 As a result, CMMG provides the follow
5 recommendations to the Board:

6 1) that MPI be directed to have the new
7 ALM study completed on an expedited basis, the results
8 of which should be filed with the 2023 application;
9 that the new ALM study provide an objective opinion
10 regarding the prudence of including or excluding
11 various assets in the Basic claims portfolio, i.e.,
12 equities or other non-fixed income assets.

13 This opinion should consider the
14 following two (2) points:

15 a) whether the inclusion of growth
16 assets is prudent while maintaining the surplus
17 volatility or the relevant risk at levels that are
18 consistent with the risk appetite of the Corporation;

19 and, b) if so, what weighting of
20 equities and other non-fixed income assets may be
21 included to achieve the best possible expected risk
22 adjusted return.

23 I'd like now to move on to talk about
24 the Driver Safety Rating system. The Driver Safety
25 Rating system has been a topic of considerable

1 interest for this Board for several years now.

2 MPI has come before the Board this year
3 taking the position that the DSR system should remain
4 in place for the next five (5) years. MPI proposes --
5 proposed some changes for this year with more changes
6 to come in future General Rate Applications.

7 The Board has been seeking a thorough
8 review of the DSR model and a pricing examination of
9 both the primary driver and registered owner of the
10 model for years.

11 In the 2020 -- sorry, in the 2018 GRA,
12 the Board ordered a technical conference take place
13 regarding the availability and practicality of other
14 analytical tools and ratemaking methodologies to
15 determine better DSR rates and discounts based on a
16 principle driver rating rather than simply a
17 registered driver rating.

18 In the 2019 GRA, the Board ordered MPI
19 to report on public consultations in the following
20 year and on a decision to collect data for alternative
21 rating models.

22 In the 2020 GRA, the Board ordered MPI
23 to confirm which model it would proceed with, a
24 pricing examination of the primary driver and
25 registered owner models.

1 It is notable that, although seeking a
2 variation of parts of this Order, MPI did not seek a
3 variation requiring a pricing examination of the
4 primary driver model to indicate that they don't have
5 the sufficient data to provide that pricing
6 examination.

7 In the 2021 GRA, the Board ordered MPI
8 to propose driver rates and discounts that are more
9 actuarially sound, and also to bring a plan, including
10 time lines, major milestones, and implementation dates
11 for changes to the DSR system.

12 The history of the examination of the
13 DSR system demonstrates the Board's attempts over the
14 last several years to obtain a fulsome review of the
15 current DSR model, including pricing, as well as a
16 review of alternative models and the potential pricing
17 of those models.

18 As the Board is aware, we are here
19 today still without a pricing examination of the
20 primary driver model. In fact, MPI has not even
21 collected data for this model despite the Board's
22 clear interest in the primary driver model since 2018.

23 MPI has carried out some of the
24 directives above. A technical conference was held. A
25 pricing review of the registered owner model was

1 provided. A public consultation process was conducted
2 and reported on.

3 And this year, some adjustments to the
4 registered -- registered owner DSR system have been
5 proposed with a promise that further changes will come
6 in the future.

7 Of concern to CMMG is MPI's
8 propositioning in their closing argument that, for
9 next year, MPI will undertake a thorough review of its
10 pricing and incentive models, including a work plan
11 setting out the scope and duration of that review.

12 This proposal is starting from square
13 one again. The perspective of starting over was also
14 referenced by Mr. Prystupa starting at page 1,736 of
15 the transcript.

16 Mr. Prystupa was asked whether MPI's
17 position continued to be that only two (2) models, the
18 primary driver and registered owner, were worth
19 considering.

20 Mr. Prystupa indicated that MPI's
21 position is that:

22 "We should look at it with a fresh
23 set of eyes, where no model or
24 combination of models is off the
25 table, and everything really needs

1 to be reconsidered at this time."

2 Ms. Jatana, starting at page 2,369 of
3 the transcript, said:

4 "We need to figure out the problem
5 we are trying to solve."

6 She then concluded by saying:

7 "It's a long story, but what we do
8 know is that it needs some time. It
9 needs some planning. We need some
10 time to even plan what that plan
11 will be."

12 It is CMMG's position that the proposal
13 to start again is completely unreasonable.

14 A pricing analysis of the registered
15 owner model has been completed. We know the
16 registered owner model is not accurately pricing risk.
17 We know, as every actuary in this proceeding has
18 agreed, the primary driver model would be more
19 actuarially sound.

20 The Board has already demonstrated
21 their interest in the primary driver model as being
22 the most reasonable alternative to the current system.

23 Customers have indicated that the
24 primary driver model is also the most reasonable
25 alternative.

1 For MPI to now be implying that we are
2 going to start this painstaking process from the
3 beginning is, frankly, absurd.

4 So let's talk a little bit about the
5 information that we have already reviewed and examined
6 over the course of five (5) different General Rate
7 Applications.

8 The current registered owner model is
9 not actuarially sound. This is undisputed by MPI.
10 The pricing analysis demonstrates cross-subsidization
11 with better drivers subsidizing poorer drivers.

12 Mr. Luke Johnston, MPI's former head
13 actuary, acknowledged the current model is not
14 actuarially sound. Mr. Phoa, MPI's actuarial analyst,
15 who provided evidence in this year's GRA, confirmed
16 the current model does not accurately price risk.

17 MPI has proposed improvements to the
18 current model. A gradual shift, transitioning to
19 additional DSR at the top of the range to be
20 implemented over the next five (5) years.

21 MPI is further proposing that the
22 discount percentages offered at levels DSR ten (10)
23 plus gradually increase to move to more actuarially
24 indicated rates.

25 While CMMG is supportive of this shift

1 in the interim, it is CMMG's position that the
2 ultimate goal of achieving accurate pricing based on
3 risk is unattainable in the current model.

4 The current registered owner model does
5 not prohibit registration of a vehicle by an
6 individual who does not primarily drive that vehicle.
7 No matter how the matter is altered or improved, it
8 will continue to accommodate that risk misalignment.

9 There has been considerable reference
10 in this year's Application of consumers gaming the
11 system. This phrase implies that the system or model
12 is being inappropriately used.

13 This is simply not the case. No
14 customer is gaming the system by operating within the
15 permitted rules of that system. If anything, the
16 current registered owner model encourages registration
17 of vehicles under an individual with the best or
18 better DSR rating.

19 Further, it is important that
20 registration of vehicles is not limited to a
21 household. It is very likely that children no longer
22 living at home continue to register their vehicles
23 with parents who have more favourable ratings.

24 MPI supported its stance in favour of
25 the registered owner model over the primary driver

1 model by arguing that customers do not want this
2 change. This was again referenced by Mr. Scarfone
3 during his closing submissions.

4 As the Board is well aware, MPI
5 conducted a customer survey of the DSR system in 2019.
6 The report provided responses from customers who were
7 in favour of the registered owner model. Customers in
8 support of the current model made references to
9 qualities of the model, focusing on it being fair,
10 that it's accurate, and it works, that MPI should not
11 change what isn't broken.

12 CMMG submits that the customer survey
13 failed to adequately inform customers of the details
14 of the models they were providing feedback on.

15 Customers were not provided with MPI's
16 own position that the registered owner model is not
17 fair, it is not accurate, or working. It is broken.

18 Despite these concerns, the customer
19 feedback indicates the primary driver and registered
20 owner models are the most favoured models by
21 customers.

22 The survey also demonstrated that
23 almost half of respondents prefer a different model
24 from the registered owner model.

25 It is CMMG's position that had

1 customers been properly informed of the issues
2 presented by the registered owner model, as well as
3 the fact that changes to the current system would be
4 required in any event, the responses to the survey
5 would likely have been different and perhaps more
6 favourable to the primary driver model.

7 Throughout the Hearing, MPI raised
8 concerns about the primary driver model, the principle
9 of which was not that it will not solve the current
10 problems that exist within the registered owner model.

11 Mr. Guerra put it to Mr. Prystupa that
12 it would be possible for someone to declare a primary
13 driver who is not, in fact, the primary driver, which
14 he agreed with. Mr. Scarfone, in closing, also
15 touched upon this, saying bluntly, "People lie."

16 While CMMG acknowledges it is
17 conceptually possible for customers to be untruthful
18 in their registration of insurance, however, the
19 proposition that people today who register their
20 vehicle with another individual to reap the benefit of
21 a better DSR level, as is permitted by the current
22 system, that those same people will lie or
23 misrepresent the primary driver of their vehicle under
24 a different model is an assertion unsupported by any
25 evidence.

1 CMMG submits that MPI's position that
2 the primary driver model then will suffer the same
3 risk inaccuracies as the registered owner model has no
4 basis.

5 MPI witnesses commented that the
6 primary driver model would create a burden for
7 customers who may have to report changes in the
8 primary driver throughout -- to MPI throughout the
9 course of the year.

10 On cross-examination, Mr. Prystupa
11 acknowledged, at page 1916 of the transcript, that:

12 "The intention of Project Nova,
13 which is in process now, is to allow
14 customers to renew or purchase plans
15 online. These technology
16 improvements will help to alleviate
17 any burden MPI customers may
18 experience where they need to change
19 the primary driver of the vehicle.

20 MPI voiced concerns with the
21 administration of claims in the primary driver model.
22 MPI seems to implying that where someone other than
23 the primary driver is driving the vehicle during a
24 collision, that this will impede the claims
25 administration process.

1 CMMG submits that the claims
2 administration process under the current registered
3 model -- registered owner model where the driver at a
4 collision is not the registered owner would be
5 unchanged.

6 Finally, we come to the challenges
7 posed by Project Nova.

8 MPI has, in previous years and again in
9 this GRA, said that implementing the primary driver
10 model during Nova is not feasible.

11 MPI's own evidence on this point has
12 been inconsistent. Mr. Mitra, starting at page 2372
13 of the transcript, confirmed that Duck Creek will have
14 the functionality or configuration to implement a
15 change in the DSR system. As he outlined, the ability
16 to more easily make changes is part of the reason
17 Project Nova is happening in the first place. To move
18 away from legacy systems and towards off-the-shelf
19 solutions.

20 Mr. Mitra confirmed that where a change
21 is not made before the 3A release, that does not
22 prevent the Corporation from configuring Duck Creek in
23 the future.

24 Other factors, such as customer
25 communication, determining the detail of the model

1 itself, and legislative changes, are the items that
2 will require some time and resources.

3 CMMG acknowledges that there will be
4 some cost to these changes, but submits that whether
5 those happen -- changes happen now or in five (5)
6 years, the cost to consumers is going to be the same.

7 The challenges and cost to the
8 Corporation must also be balanced with the cost to
9 customers of maintaining the current model. Even with
10 the proposed changes to the DSR system, good drivers
11 continue to subsidize poor drivers. This cross-
12 subsidization will continue to occur during the period
13 that MPI proposes to slowly shift to a more
14 actuarially sound system.

15 Every year that the primary driver
16 model is not implemented is another year of
17 compounding costs to good drivers.

18 MPI provided evidence in last year's
19 GRA, which was then reaffirmed on cross-examination by
20 Mr. Watchman at page 1795 of the transcript, that
21 where the Public Utilities Board makes a
22 recommendation on a change to the DSR model, MPI will
23 initiate the process to have the Lieutenant Governor
24 in Council consider changing the model.

25 While MPI is free to take their own

1 position with regard to a change in the DSR system,
2 MPI must acknowledge the evidence presented in this
3 Hearing.

4 CMMG submits that the various reasons
5 presented by MPI for maintaining the current
6 registered owner model do not hold up on review. The
7 primary driver model provides a more accurate system
8 based on risk. It would be more fair and just as
9 simple as the current registered owner model. It can
10 be implemented within the Project Nova time line and
11 will quickly and efficiently terminate cross-
12 subsidization occurring in the current model.

13 The DSR system is key in reducing
14 collisions frequencies, as acknowledged by Ms. Jatana
15 on page 1892 of the transcript.

16 Further, improvements to the actuarial
17 soundness of the DSR system will lead to further
18 improvements in collision claims, thereby reducing
19 costs and reducing required premiums.

20 MPI's suggestion that they need to
21 provide a business case is another stalling tactic.
22 MPI was ordered by the Board in Order 121 at page 67
23 that MPI bring forward a plan including time lines,
24 milestones, and implementation for any changes to the
25 DSR model.

1 MPI, instead, has not provided this
2 information and indicated it will not move forward
3 with a change.

4 While MPI wanted to provide a business
5 case to the Board, they've had more than ample
6 opportunity to do so.

7 MPI's recommendations on the DSR issue
8 are, therefore, as follows:

9 1. That MPI be directed to immediately
10 commence collection of primary driver data from
11 insureds.

12 2. That in the 2023 GRA filing that
13 MPI provide an analysis of the partial primary driver
14 data collected to date, including, but not limited to:
15 percentage of drivers who have a different declared
16 primary driver from the registered owner; the SR
17 differentials between registered owner and declared
18 primary driver of vehicles; an examination of the
19 impact on insurance premiums a change to the primary
20 driver model would have on those registered owners who
21 have declared a different primary driver for their
22 vehicle.

23 In the next GR -- 2023 GRA filing, that
24 MPI provide a pricing analysis of the primary driver
25 model using the partial data collected, extrapolated

1 for all MPI customers.

2 In the 2023 GRA filing, that MPI
3 provide a discussion of business rules the Corporation
4 would recommend for the primary driver model.

5 And now, I'd like to briefly touch on a
6 couple of other issues starting with ratemaking, and
7 then I'll talk about the Capital Management Plan, and
8 then a little bit about the rebate and transfers to
9 DVA.

10 In the 2021 GRA, MPI was ordered to
11 file an alternate rate indication by major use class,
12 with the use of points on a yield curve. CMMG
13 disagreed with MPI's interpretation of the directive
14 and cross-examined Mr. Phoa on this issue.

15 While MPI acknowledged CMMG's differing
16 interpretation of the directive, they were unable to
17 provide an undertaking using the interpretation
18 advanced by CMMG in time for this hearing.

19 As a result, the Board directed CMMG,
20 the Taxi Coalition, and MPI to discuss the matter and
21 provide wording, which will provide an ultimate rate
22 indication for next year's GRA. As MPI noted in their
23 oral evidence, we have collaborated and reached an
24 agreement.

25 CMMG therefore recommends the

1 following: that MPI be ordered to provide, in the
2 2023 GRA, an alternate rate indication on an overall
3 basis, and by major class, using the yield that
4 corresponds to each major class's average duration.
5 The average duration by major class is to be
6 calculated using only the claims for that particular
7 class.

8 The Capital Management Plan has been a
9 challenging topic in this year's GRA. When the
10 Capital Management Plan was first proposed by MPI, it
11 did not receive a favourable response from the CMMG.

12 As some may recall, Mr. Oakes affect --
13 affectionally referred to it as the Collect More Pesos
14 Program. It appeared to our client that it was a
15 slush fund. A way for MPI to rely on their reserves
16 to ensure any messed-ups made by the Corporation can
17 be adequately covered for.

18 Mr. Oakes compared the CMP program to
19 Cow Brand Baking Soda company where a company which
20 sells baking products wants to more creatively come up
21 with an advertising campaign which encourages people
22 to buy their baking soda and immediately pour it the
23 garbage to make it smell better.

24 Despite these analogies, the CMP was
25 approved by the Board in Order 176/19, for a two (2)

1 year trial period. Unfortunately, that trial period
2 has been mostly subsumed by the current and ongoing
3 pandemic. As a result, MPI has requested from the
4 Board an extension to the trial period.

5 CMMG acknowledges the limitations that
6 have been identified in the CMP over the course of the
7 pandemic. CMMG is not opposed in principle to MPI's
8 proposal that the trial period of CMP be extended for
9 one (1) year. It would be beneficial to the Board to
10 have CMP operational over a more normal year.

11 Unfortunately, we don't know whether
12 the next year will even be normal. Manitoba is
13 experiencing its fourth wave of the pandemic and it
14 looks like it's going to continue going forward. As
15 MPI indicated, it's impossible to predict how the
16 pandemic will continue to play out.

17 It is likely that further rebates will
18 be required in the future. With that in mind, it is
19 CMMG's position that the CMP does require
20 modifications to provide a system for returning excess
21 revenues quickly to ratepayers.

22 CMMG understands from MPI's closing
23 submissions and questioning from the panel, that the
24 capital release provisions will be maintained in the
25 future and that MPI is seeking to remove the 5 percent

1 release only for this year.

2 CMMG is, therefore, supportive of MPI's
3 proposal for an additional year for the Capital
4 Management Plan and looks forward to further proposals
5 from MPI as to how the CMP could be modified to better
6 accommodate for excess retained revenues.

7 The transfers from Extension to the DVA
8 line of business has been a major topic in this year's
9 General Rate Application. Our friends at CAC
10 (Manitoba) have canvassed, in great detail and with
11 great skill, the legislative changes -- or the
12 legislative issues with MPI's decision to transfer
13 Extension revenues to Basic.

14 CMMG supports CAC (Manitoba)'s position
15 and recommends to the Board that the Board should find
16 the transfer from DVA to Extension to be unlawful, and
17 that as a result, the rebate amounts as proposed by
18 MPI should be increased to include the total of \$113
19 million.

20

21 (BRIEF PAUSE)

22

23 MS. CHARLOTTE MEEK: I apologize. I
24 appear to be missing the last page of my submissions.

25

1 (BRIEF PAUSE)

2

3 MS. CHARLOTTE MEEK: I believe my
4 submission said something along the lines, that CMMG
5 supports the recommendations that were made by CAC
6 (Manitoba) in relation to the transfers from Extension
7 to the DVA lines of business.

8 And with that, I would like to thank
9 MPI. I would thank MPI's panel members for their
10 submissions throughout the hearing. I'd like to thank
11 other Interveners for their collaboration throughout
12 this hearing. And I'd lastly like to thank the panel
13 for the opportunity to (AUDIO ISSUES) any questions,
14 that concludes.

15 THE PANEL CHAIRPERSON: Thank you, Ms.
16 Meek. Mr. Gabor...?

17

18 (BRIEF PAUSE)

19

20 THE CHAIRPERSON: Thank you. Ms.
21 Meek, it happens to everybody.

22 MS. CHARLOTTE MEEK: Thank you.

23 THE CHAIRPERSON: I've got one (1)
24 question, and that's on the issue of the investments.

25 MS. CHARLOTTE MEEK: Sure.

1 THE CHAIRPERSON: And the
2 recommendations about the ALM Study and focussing on
3 equities and fixed assets that bring -- bring best
4 returns. But I just want to make sure I -- I have it
5 -- I understand it.

6 As I understand the MPI investment
7 strategy, and there was much more about the investment
8 strategy in previous hearings than in this hearing,
9 but the investment strategy was redesigned to tie
10 certain assets to certain risk and the focus was on
11 de-risking, reducing the risk so that there would be
12 some assurance that there would be monies available
13 for the certain classes of risks.

14 Does your proposed change move away
15 from that concept of de-risking and focus instead on
16 the best returns? And if it does, are you talking
17 about a pool -- pooling the investments back together
18 again to get better returns?

19 Are you -- are you saying, well, no,
20 we'll keep this separate classes, but we'll have more
21 focus on -- on returns rather than risk?

22 MS. CHARLOTTE MEEK: Thank you for the
23 question, Mr. Gabor. And I don't think at all that
24 our proposition is moving away from de-risking. I
25 think as we've outlined, we've talked a lot about

1 surplus risk volatility.

2 And what we've demonstrated is that the
3 difference between the policy portfolio and the shadow
4 portfolio, the risk is the same. That is -- that's
5 the point in -- and this undertaking demonstrates
6 that, right? What we've looked at is -- is when you
7 compare the risk of the two (2) portfolios, there's --
8 there's really no difference when you look at this
9 surplus volatility.

10 And that's what Mr. Bunston confirmed
11 is the most important thing to look at when
12 determining risk. And I agree with what Mr. Bunston
13 said during cross-examination, which is, first you
14 have to determine what the risk is. When we're
15 looking at the efficient frontier, first determine the
16 risk.

17 And we're saying, sure, MPI has a low
18 appetite for risk. What we've demonstrated is that
19 what MPI is doing is they are looking at an asset
20 class individually. They're saying, equities, no,
21 their too volatile. Take those out. And we're
22 saying, you need to look at the portfolio as a total.
23 And Mr. Bunston agreed that when you're looking at the
24 efficient frontier, you look at the total portfolio
25 level.

1 So, what we're saying is, we need to
2 look at how these asset classes blend with one
3 another. So, if you include a small amount of
4 equities, we're not saying add 25 percent equities to
5 this portfolio, what we're proposing in our
6 recommendations is that the new ALM study can look at
7 how can we include a small amount of other asset
8 classes and how can that still be balanced with MPI's
9 risk appetite?

10 So, the risk appetite will remain the
11 same and the -- the returns will increase. And that's
12 what the shadow portfolios have demonstrated to us.
13 Right, shadow portfolio 2 demonstrates the risk is the
14 same and the returns are better.

15 THE CHAIRPERSON: Thank you.

16 MS. CHARLOTTE MEEK: Thank you.

17 THE PANEL CHAIRPERSON: Mr. Watson..."

18

19 (BRIEF PAUSE)

20

21 THE PANEL CHAIRPERSON: Thank you very
22 much, Ms. Meet.

23 MS. CHARLOTTE MEEK: Thank you.

24 THE PANEL CHAIRPERSON: Mr.

25 Hacault...?

1 CLOSING SUBMISSIONS BY TAXI COALITION:

2 MR. ANTOINE HACAULT (by Teams):

3 Bonjour, members of the panel. I would also like to

4 start by thanking everybody in these proceedings.

5 While there's been a minor procedural discussion that

6 was discussed this morning, I -- from my perspective,

7 I can assure this panel and all members here, that the

8 level of calc -- cooperation and collaboration between

9 counsel, with respect to hearings in front of this

10 Board, is a refreshing breath of air compared to some

11 very aggressive adversarial civil litigation that I'm

12 in.

13 So I thank MPI for its collaborative

14 approach when we sat down and -- and got additional

15 information, even though some information came late.

16 Overall, it leads to, I think, good information coming

17 before this Board.

18 With that, though, I'll start on some

19 comments on perhaps a recurring theme in front of this

20 Board, before getting into the merits.

21 And, unfortunately, it is perhaps not

22 only this Crown corporation, but there was a lot of

23 time spent by Board Counsel and others, going over

24 directives, going over things that should have been

25 done or ought to have been done, or ought to have been

1 responded to.

2 And it seems to me, that that's a very
3 inefficient use of regulatory authority and time. And
4 for that reason, you will see in our Issue Brief
5 Number 5, there is a section that talks about a
6 suggestion to consider a directive in your Orders,
7 that would require quarterly reporting or some form of
8 reporting on directives.

9 And, we haven't gone as far as saying
10 compliance filings, where possible, but that would
11 kind of be the logical step. And that would avoid a
12 lot of, what I perceive to have happened, or
13 hopefully, avoid it. I sourced this inspiration from
14 many roles that I've played as, for a -- chair of a
15 board, or meetings with government that only occurred
16 once a year and then all of a sudden people would say,
17 Oh, we didn't understand that, oh, the -- sorry, we
18 didn't attend to this.

19 And you end up after several years, not
20 really having accomplished very much, which is, I
21 submit, what's happened with the Driver Safety Rating.

22 And it's also happened to the CMMG with
23 respect to that revised Undertaking that's taken
24 place. If there had been some kind of a compliance
25 filing or a reporting, that could have been discovered

1 earlier.

2 In fact, unfortunately, the filing only
3 occurred after, you may recall we had this exchange,
4 after IR's were completed by CMMG, which is clearly
5 unsatisfactory from a regulatory point of view.

6 It doesn't allow thorough canvassing of
7 the issue and -- and proper discussion of it and now
8 it's been put off for a year.

9 So I won't belabour the point, but I do
10 refer to sections of the Public Utilities Board Act,
11 which I believe gives this Board authority to, not
12 only issue directives, but do follow-ups on it.

13 And the advantage of that, would be
14 also, if things are off-track, at least on a
15 theoretical basis, Interveners could apply to the
16 Board and say, well listen, we think things are off-
17 track. We're filing a motion and we'd like a ruling
18 on the Board as to whether things are on-track or off-
19 track.

20 With that general comment and -- and
21 that's found, just for reference for the transcript,
22 at Issue Brief 5, pages 5-2 and 5-3.

23 I -- we have filed a fairly extensive
24 brief with a total of six (6) issues being canvassed.
25 The Board may be familiar with the way we usually try

1 to structure these. We try to structure the various
2 issue briefs on issues that we think the Board will be
3 dealing with and try to refer to relevant evidence and
4 transcript extracts in those various briefs.

5 I would propose to start with the
6 Summary of Recommendations. Without going into a lot
7 of details, we request some findings with respect to
8 the issue of increasing passenger Vehicle for Hire
9 rates by a full 20 percent. That's recommendations 1
10 and 2.

11 Recommendation 3, deals with serious
12 loss loading, as does Recommendations 4, 5 and 6.

13 In a nutshell, we say the evidence
14 supports the fact that there should be a serious loss
15 loading. We believe the evidence supports the
16 position that that loss loading, because of the
17 similarities, between passenger Vehicles for Hire and
18 taxis, ought to be at a rate of \$428.

19 We note that that loss loading does not
20 immediately translate into an increased rate because,
21 first of all, there's a capping, that the Board has
22 imposed a 20 percent capping, so even though that
23 might relate, in and of itself, to about 11 percent
24 increase, it is just a loss loading that's there.
25 It'll take a while for the passenger Vehicles for Hire

1 to end up having that reflected in their rates.

2 The Recommendations 7 and 8 deal with
3 the issue that's been canvassed by others and will be
4 canvassed by us. It's the transfer and proposed
5 transfer of surplus from Extension to DVA, instead of
6 Basic.

7 We maintain the position that this was
8 an unlawful transfer and we will set out why we think
9 that to be the case.

10 We will also explain why we think that
11 the financial transaction that did occur for \$60
12 million can be reversed in accordance with their
13 auditor's recommendations. And that there wouldn't be
14 any financial hardship on the Corporation, so there's
15 ways to deal with these deficits, which will
16 accumulate over seven (7) years.

17 You may recall that the 60 million and
18 53 million are pre-funding expected deficits. There's
19 not an actual deficit of a \$113 million.

20 We also, in Recommendations 9 to 11
21 deal with credibility and the evidence, as it
22 developed, and in the reports, we say supports two (2)
23 approaches on credibility.

24 Dion explained and set out the reasons
25 and the calculations for applying full credibility to

1 a group like taxis on the collisions. The collisions
2 are over a thousand a year. For that type of loss,
3 there's no reason not to give full credibility,
4 whether it hurts the taxis or helps them, those are
5 not low probability, low frequency, high value
6 incidents.

7 Contrast that, however, with the way
8 MPI currently loads small uses, and we gave the
9 example of the farmer passengers -- vehicles, with the
10 actual loss incurred by that unfortunate driver in the
11 group of twenty four (24) farmers, with the full
12 loading to be separated by those twenty four (24)
13 drivers, or registered vehicles, unless and until that
14 changes, we need some way to smooth that absurd
15 result.

16 It's unfair and contrary to all the
17 notions that I have of insurance, which is a broad
18 sharing of risk, especially for loss -- large losses.

19 To have a system that requires a very
20 small group to bear a disproportionately large load
21 over ten (10) years, that's a ten (10) year average,
22 and smooth out by, what they call, a 10 percent
23 credibility weighting.

24 We also have made recommendations on
25 generalized linear models. And those recommendations

1 are recommendations 12 to 14. Fourteen has some
2 overlap.

3 We had a lot of discussion last year.
4 And I've -- I had limited my discussion to cross-
5 examination showing that really, in our respectful
6 view, there wasn't much that was done, except for the
7 meetings and collaboration, we acknowledge that, for
8 MPI to comply with each of the directives 8(a) to (I)
9 -- (j).

10 So, we have also a section in our brief
11 to request and recommend to this Board that it re-
12 issue those directives so there's no uncertainty that
13 they're still applicable.

14 There were -- I'll go through them.
15 There were very good reasons why we were asking for
16 data to be collected and analyzed so that there could
17 be a logical link between premiums and this new
18 Vehicle for Hire framework and the risk.

19 How can you assess that unless you
20 collect the relevant data on relevant metrics and
21 analyze it, which has not yet been done?

22 So, we say by MPI saying, well, listen,
23 we'll see what people want us, how they want us to be
24 rated and -- and what they think we should be
25 collecting, and then we'll start collecting and

1 analyzing. Well, no, that's not the way it should
2 work.

3 A properly run insurance company, you
4 collect the data on risk, you analyze it, and you set
5 your rates. And you say, if I'm not getting that data
6 and I think I need it, I can get regulatory changes,
7 I'll get them implemented so I can collect the data
8 that I need to set rates properly.

9 The other matters I think are dealt
10 with fairly clearly, and all the recommendations.
11 This brings me to issue topic number 1, page 1 of 1.
12 As you can see, I'm not going through all the detail
13 of our submission. It's there for review by the Board
14 and its advisors.

15 At the bottom of page 1 of 1, we are
16 recommending that PUB should direct MPI to increase
17 passenger Vehicle for Hire rates by the full 20
18 percent as was done in compliance with PUB Order 1-21.
19 That's off to the next page.

20 It was explained during this Hearing
21 that this was not done. There were further experience
22 adjustments done. And the actual indicated rate that
23 should be applied, which is greater than a 20 percent
24 increase, has never been implemented.

25 And that was explained -- I'll jump to

1 page 1-6. By MPI, you will see in the slide that
2 we've produced, the second bullet, MPI explained that
3 it applied the same experience adjustment rules as
4 applicable to all insurance.

5 So, there was a poke taken at me when I
6 had said the black box. Well, it wasn't -- I knew the
7 credibility stuff; that's -- that's not the black box.
8 You get into this experience adjustment and all these
9 other adjustments that lower the actual indicated
10 rate.

11 And all of the sudden what should have
12 been a 20 percent increase, because they say, well,
13 our experience is a bit different and et cetera, and
14 we're not going to weight the experience as much as --
15 you know, not give it a full weight.

16 Then, all of the sudden, you're no
17 longer at 20 percent. But we say that's contrary to
18 the concept of what the Board was trying to achieve.
19 If the actual indicated rate suggests at least 20
20 percent, then you shouldn't be doing all these
21 adjustments after to say, oh, because we've done all
22 these adjustments on experience, we don't need to make
23 that change.

24 And we've adduced evidence on various
25 issues in support of that. First, if I bring you then

1 next to page 1-10, you see Dion Strategic explained
2 when it was dealing with this directive, number 1 on
3 its slide number 10, that the historical data shows
4 that two (2) 20 percent rate increases brings the
5 '18/'19 loss ratios to 89.5 percent, which is not
6 breakeven.

7 We provided the evidence showing that
8 between 70 and 80 percent is breakeven. If you're at
9 89.5 percent, it means your rates aren't right. MPI
10 is losing money. Other people are subsidizing the
11 passenger Vehicles for Hire.

12 So, that's the first indication that we
13 need the 20 percent. The third 20 percent which we'll
14 be discussing next year, I guess, would bring them,
15 all things being equal, into that proper range, but
16 we're not there yet.

17 The other piece of evidence which we
18 drew the Board's attention to is on page 1-11. Again,
19 you'll see at line 10 of this submission that the loss
20 ratio above 70 to 80 percent indicates that MPI is
21 losing money, not collecting enough premiums, and
22 private Vehicles for Hire is being subsidized.

23 And how do we support that also? If
24 you look at the data that we have that's the most
25 credible, which is the pre-COVID data, I put to the

1 witnesses that there was actually a loss ratio of
2 128.89 percent, significantly over the 70 to 80
3 percent range.

4 The other piece of evidence that we put
5 in front of this Board is at 1-13 in this brief. We
6 said, okay, well, if we're comparing taxis to
7 passenger Vehicles for Hire, has something materially
8 different happened on risk of the need to do this 20
9 percent increase?

10 And this table by Dion says, no, and
11 they explain that in the evidence. The ratios -- the
12 taxis were in 2018, as you can see from the table, at
13 84.23 percent, so they weren't quite where they should
14 be.

15 As you can see, 122.5 percent for the
16 passenger Vehicles for Hire. Well, that's a ratio of
17 1.45 in the range of 1 1/2. What about 2019? Taxis,
18 by then, in that year, are in that 70 to 80 percent
19 range. But the Vehicles for Hire, remember who are
20 increasing in number, they started at four hundred
21 (400), and they went up about two hundred (200) per
22 year, are now at 132.6 percent.

23 COVID's not very reliable, but to the
24 extent that it informs anything, what happened? Did
25 it -- did those ratios change? No, they didn't.

1 Taxis went down to 44 percent, substantially below the
2 70 to 80 percent range.

3 But you can see, even in COVID, that
4 the passenger Vehicles for Hire are very, very close
5 to that 70 to 80 percent range. And so, that means
6 for sure they're underpriced. Their loss ratio
7 compared to the premiums, even in COVID, is nearly at
8 the 70 percent range.

9 Now, what other pieces of evidence did
10 we provide to the Board on this issue? If I go to
11 page 1-15 of our submission, I ask myself, Well, maybe
12 it's all passenger Vehicles for Hire that are kind of
13 in this boat that are at the 67 percent range. You
14 know, maybe that might explain and show that these
15 passenger Vehicles for Hire are in the right range and
16 don't need the 20 percent increase.

17 Well, COVID is not telling that to us.
18 If you look at the table that we produced and the
19 extract, which was TC Exhibit 7, you'll see, in line
20 1, the passenger Vehicles for Hire, on the extreme
21 right-hand side, were at that 67.37 percent.

22 As I previously said, the taxis were at
23 44.56 percent; lower than the class in which they are
24 located. It's the public major vehicle class.

25 But the more telling thing, to the

1 extent that you can put any weight on COVID results,
2 is that private passenger major class was at 40.39
3 percent. So its experience in COVID was about half of
4 the accepted range, which is 70 to 80 percent.

5 Contrasted with the private Vehicles for Hire, who
6 weren't anywhere near that half, they were actually at
7 the 70 to 80 percent range.

8 Now, the table that's later on in this
9 page at line 14 was part of TC Exhibit 6. And the
10 reason I reproduced it again in the submission is that
11 there is a heading called 'Balance Indicated
12 Adjustment'.

13 So you can see now that passenger
14 Vehicles for Hire have moved from four hundred (400)
15 and some to over a thousand (1,000). And it sets out
16 the original rates before the 20 percent. And then,
17 before -- what I've categorized as 'black box'. The
18 column says 'Balance Indicated Adjustment'. What do
19 we see? Everything's over 20 percent. So a 20
20 percent cap makes sense. We've got a range from 22.91
21 percent to 35.56 percent.

22 We understand the Board's concern that
23 increasing rates by that much would constitute a rate
24 shock and that it imposed a 20 percent capping.

25 So we're not going to have the 22.91

1 percent increase. We're not going to have the 23
2 percent increase. All those numbers on that table
3 that would be the indicated rate increase prior to all
4 these experience adjustment, et cetera.

5 But, further, we say -- and we have a
6 discussion on this -- remember, there is no serious
7 loss loading on these numbers. None whatsoever.

8 And as we'll go on later, if we applied
9 the serious loss adjustment to the balance indicated
10 adjustment, it would be in the range of 11 percent for
11 the larger loading of four-hundred-and-twenty-eight
12 dollars (\$428) per unit.

13 This brings me to issue topic number 2,
14 which is a segue to what I said, that there's no
15 serious loss loading to the private Vehicles for Hire.

16 We are recommending, as is seen on line
17 10 of page 1 of this issue brief, that the PUB should
18 find that a serious loss loading of four-hundred-and-
19 twenty-eight (428) for passenger Vehicles for Hire is
20 appropriate.

21 We are also recommending that MPI
22 should study and report -- and this is on the serious
23 loss loading that should be applied to passenger
24 Vehicles for Hire.

25 And that in connection with that -- and

1 it's in the long list of recommendations that we've
2 made -- that PUB should ask MPI to examine appropriate
3 serious loss loadings for other insurance uses that
4 have no serious losses in the last ten (10) years.

5 It's not just a problem with this new
6 class, it's a problem with other classes. And we've
7 illustrated the absurd result that this leads to --
8 when I say 'this' -- the actual way that MPI applies
9 it -- if you're the unfortunate driver in a small
10 group and you get this random event, you get hit hard
11 by that random event.

12 At the bottom of that page 1 of issue
13 brief 2, we -- and we show the figures later -- at
14 line 31, we're confirming that this serious loss
15 loading would result in an approximate increase to the
16 indicated rate. That doesn't mean that because of the
17 capping they aren't going to see that increase.

18 To me, I was initially mulling over,
19 Well, this is a significant change that we didn't
20 discuss in the last Hearing. Maybe we should be
21 asking the PUB to actually -- over and above the 20
22 percent -- add this 11 percent for serious loss
23 loading. Because we were at zero. And that's
24 unreasonable.

25 This brief doesn't ask for that. We're

1 content with the 20 percent, and not a further
2 immediate increase of 11 percent.

3 Now, on top of page 2-2, again, another
4 thing I was mulling. I was listening to all the
5 evidence and said, Okay, well, there's no need to do a
6 serious loss loading because we haven't had one (1)
7 claim of passenger Vehicles for Hire, I said. Oh, is
8 that the way we approach running a business at MPI?

9 Because if I look at the evidence --
10 and you asked to bump up serious loss coverage -- the
11 excess coverage for MPI by \$100 million at a cost of
12 \$1.7 million annual premium -- the Corporation itself
13 is saying, Oh, there may be this big serious loss.
14 The prudent thing is that we have to pay an additional
15 \$1.7 million to bump up our coverage from the 300 to
16 400 million. That's a prudent thing because it is a
17 risk. We can't not insure that risk and we can't not
18 ask all ratepayers to share in that payment of the
19 \$1.7 million.

20 I guess what's good for the goose
21 isn't' always good for the gander. I see that as
22 inconsistent.

23 How can you, in one sense, say, I'm
24 running a business that needs to make sure that I'm
25 covered and I pay for -- not just covered -- I pay for

1 and ask all ratepayers in Manitoba to pay for that
2 \$1.7 million. And then, when it comes to the
3 ratepayers themselves who face a serious loss
4 exposure, that there's this inequity and -- and not
5 proper sizing and calculation of who bears a risk and
6 there should be no premium for that? It just doesn't
7 make sense to me.

8 Moving on to the actual evidence --
9 quite apart from this -- my submissions -- our expert
10 evidence also said it doesn't make sense. That's not
11 what the insurance industry does.

12 And we've set out some quotes at page
13 2-3 as to how the insurance industry deals with that
14 problem.

15 And they say -- you can see at line 8 -
16 - there's always a need to reflect a loading for the
17 absence of data or lack of data. And there's a need
18 to load when you have the risk of a serious loss, at
19 line 21.

20 It's like when you're trying to price
21 the best expected cost and that's not dissimilar to
22 the \$1.7 million that MPI's paying. You don't want to
23 wait for the event to happen and then price it. You
24 want to price it in advance so that when the actual
25 event does happen, you do have enough for adequate

1 rates.

2 And I'm sure that's how that \$1.7
3 million was priced out for MPI, and it has the
4 coverage, and the ins -- and the re-insurer will have
5 enough rates to cover the loss.

6 And Mr. Wong explained at the bottom of
7 this page, at line 31:

8 "I think large losses are random.
9 If I think back to when I started in
10 the industry, one (1) of my mentors
11 said, Large losses may be random,
12 but some uses might be more prone to
13 large losses than others."

14 And that leads us to why we recommended
15 that there should be some study, and I did a line of
16 questioning, have you looked at your serious losses,
17 is there anything that you can glean from them, as to
18 whether there's one (1), you know, type of vehicle
19 driver, bad driving record, time of day as to when
20 these things happen, so you can have some idea of
21 whether or not certain groupings should be priced
22 differently with respect to serious loss. It's not
23 that they shouldn't have a premium, it's just how do
24 you do it.

25 So, I also asked at page 2-5, you'll

1 see some questions of Mr. Phoa, just from a very
2 fundamental basis. I suggested to Mr. Phoa that it
3 would be important to charge a premium which is
4 corelated to losses. I asked him whether he agreed.

5 That's reasonable. It's got to be
6 adequate, not excessive, to cover the losses of a
7 particular group, yes. I think moved on to the risk,
8 which is what we're talking about now, risk of a loss.
9 I would suggest to you that it's important to charge a
10 premium which re -- which is reflective of the risk of
11 loss.

12 Mr. Phoa agreed, but they aren't doing
13 that. And then I asked questions of Dion and this is
14 at lines 26 and following:

15 "So, are you able to comment on
16 whether the goal is, firstly, to get
17 the premium right and then move it
18 up or down as required?"

19 And both experts indicated:

20 "Yes, absolutely."

21 "And why is that so?"

22 And if we go to the top of page 2-6,
23 the answer by Mr. Dion was:

24 "It's a question of fairness. So,
25 we're here to set just and fair

1 rates with other insureds in the
2 pool and it's a question of
3 stability for the future, including
4 that group that may deserve a
5 significant correction."

6 So, MPI said, well, it's a subjective
7 thing. Zero is as good as nothing. We respectively
8 disagree and we adduced evidence that there's a lot of
9 subjective judgments, but they're informed judgments.

10 And Mr. Wong, at line 21 on page 2-6,
11 explained why they had chosen the high range -- which
12 we are recommending -- at 428 of loss loading. The
13 logic being, that passenger Vehicles for Hire can
14 drive 24/7 and operate just like a taxi. So, as a
15 starting point, that we say is an appropriate starting
16 point, pending any kind of study by MPI, which would
17 suggest otherwise.

18 Unfortunately, they haven't collected
19 data, they haven't analysed data, so we don't even
20 know the fundamental characteristics of this group of
21 about a thousand drivers.

22 The second objection and submission
23 that we had heard in MPI's submission is on page 2-7
24 of this brief. Well, if we do that, it's going to
25 make us look at other groups. There was about twenty

1 (20) I think they mentioned, that don't have a serious
2 loss loading.

3 And that's going to make us change the
4 way we do business. I say, well, that shouldn't be an
5 excuse. If it's not right, and Mr. Phoa said you
6 should price risk, why aren't you doing it? Of course
7 you should.

8 Now, I talked a bit about collecting
9 data and studying the data on serious loss loading and
10 I have a discussion of that on pages 2-8 and
11 following.

12 I'm looking at the time. I don't know
13 when we're going to want a break.

14 THE PANEL CHAIRPERSON: I was going to
15 propose that we break after you conclude this section.

16 MR. ANTOINE HACAULT: Okay. I won't
17 be much longer.

18 And so, I asked specifically MPI -- and
19 that's why I'm taking you to this page -- has MPI
20 gathered data for each serious loss claim over any
21 time period to see if there is reliable data on which
22 it can rely to justify differential loading firstly on
23 different owners.

24 Mr. Phoa said:

25 "I would have to say no to the

1 question."

2 Then I went into more detail about that
3 and those exchanges I set out in the next pages, 2-8
4 and -9. There's absolutely no analysis which
5 occurred. It's kind of odd, but that's the fact. So,
6 they didn't look as to whether particular territories
7 had higher risks.

8 They didn't look to see if there was a
9 correlation between a type of vehicle. They didn't
10 look to see if there was a correlation between the
11 driver's driving record. They didn't look at whether
12 it was something that would happen by the registered
13 owner or the driver.

14 The next part on page 2-9, which I just
15 want to re-emphasize, at the very bottom, is the
16 absurd result that this methodology leads to and
17 that's that twenty-four (24) farm passenger vehicle
18 being allocated a loss of over half a million dollars
19 in the past ten (10) years.

20 That loading average is two thousand
21 (2,000) per vehicle. So, we say that this can't be
22 right. It can't be the way insurance is run in this
23 Province, and there needs to be an appropriate loading
24 of serious losses right across the board, even to
25 small groups that haven't had a random event and it

1 needs to change so we don't get these absurd results
2 that we see in the farmer/passenger vehicles.

3 Now, the next part that I just want to
4 deal with, and I'll leave it in more detail, but 2-10.
5 There's a fairly long exchange between Board counsel
6 and our expert witnesses going through some
7 percentages and, you know, analysis based on losses,
8 and serious losses, excluding them, et cetera.

9 And the -- it was unfortunate we didn't
10 get that before so we could have a more thoughtful
11 response on -- on the -- on the panel. But, Mr.
12 Dion's gut reaction was, well, you're using a low
13 subsidised number; that's why you're getting those
14 high percentages.

15 And you may recall then what I did, is
16 I went back to the actual indicated rates as opposed
17 to the low rates that passenger vehicles are actually
18 being charged now, to see whether or not Mr. Dion's
19 gut reaction bore out, and that's found at page 2-12.

20 Between those pages, by the way, is a
21 fairly lengthy discussion, which I don't propose to
22 get into because it's pretty technical and it's
23 looking at all the table and commenting on it.

24 But, just on the fundamental high-level
25 thing which is a lot easier for me to understand and

1 explain, firstly on re-examine you see at line 19
2 there's a reference to the transcript. Mr. Dion
3 indicated he did not see the relevance of the
4 calculation exercise by PUB counsel, but on re-
5 examination, I put to the witnesses, well, what
6 happens if you don't use the artificially depressed
7 insurance premiums that are paid by this group? What
8 then happens to your numbers?

9 And as illustrated in the answer by Mr.
10 Dion at line 33, that brought the percentage down to a
11 7 percent for the smaller increase and it would have
12 bumped it up to 11 percent for the larger increase
13 that could -- continues to the top of page 2-13.
14 That's where his calculation was around 11 percent,
15 which aligned with the numbers that Board counsel is
16 suggesting, well, shouldn't it be somewhere in the 7
17 to 11 percent range? Well, it is if you use what we
18 say are the right numbers.

19 That completes my submission on that
20 issue, Madam Chair.

21 THE PANEL CHAIRPERSON: Thank you, Mr.
22 Hacault. We'll take the morning break now and come
23 back at a quarter to 11:00, please.

24

25 --- Upon recessing at 10:31 a.m.

1 --- Upon resuming at 10:50 a.m.

2

3 THE PANEL CHAIRPERSON: Thanks very
4 much, Mr. Hacault.

5 MR. ANTOINE HACAULT: Merci, Madam
6 Chair.

7 The first thing I ought to do is just a
8 procedural matter. I haven't marked our submission as
9 an exhibit. It -- I believe it be Taxi Coalition
10 Exhibit 10.

11

12 --- EXHIBIT NO. TC-10: Taxi Coalition submission.

13

14 CONTINUED BY MR. ANTOINE HACAULT:

15 MR. ANTOINE HACAULT: The next issue
16 topic, which I'll be addressing, appears to be a hot
17 topic of the day. Summarize it from my perspective.

18 MPI committed to doing something in a
19 Capital Management Plan, PUB approved that management
20 plan. The PUB, which looks forward and retroactively,
21 in deciding to set rates, relied on the
22 representations and commitments of MPI and that
23 management plan, so it set rates based on that plan.

24 And now, MPI, with its political
25 masters, I say 'with its political masters,' because

1 MPI only administers the DVA, has decided, oh, we're
2 going to take some insurance money to pre-fund
3 expected deficits and deficits to date in the DVA
4 line.

5 To me it smacks of just not being
6 right. You've heard MPI say, well, listen, we didn't
7 exactly say that, we said, we -- yeah, only if there
8 was something left at the end of the year.

9 In fairness, that's not what the Order
10 says, that's not what the Order approved and detailed.
11 It almost seems like somebody was asked to say, well,
12 is there a technical way you think we can get around
13 this?

14 What kind of technical argument can you
15 find and what kind of, perhaps little snippets of what
16 somebody said in some kind of a transcript might allow
17 us to do what we want to do. Again, it just doesn't
18 smell right.

19 Now, with those kind of general
20 comments, I have a fairly lengthy submission, both in
21 law and in facts at Issue 3.

22 And I'll go to page 3-2 for a summary
23 of what I think are key points that come out of this
24 hearing, both on the evidentiary record and as a
25 result of previous Board Orders.

1 Firstly, the DVA is a government
2 undertaking which is administered by MPI. I think the
3 legislation is pretty clear on that.

4 MPI is an agent and administers this on
5 behalf of the government. That's Item C in this list.
6 What was even more surprising to me is the government
7 has got oodles of money coming in compared to what it
8 pays MPI. It is not like there's a problem here that
9 the fees that are being paid aren't sufficient to pay
10 MPI to cover those services.

11 And then, CAC eloquently put this, but
12 their view and our view, and our submission, is that,
13 these monies are insurance monies under 14(2) of the
14 MPI Act.

15 For profits earned by the Corporation
16 in the activity of automobile insurance, they are --
17 that's the Extension surpluses -- they are monies,
18 funds or reserves, or personal property, possessed or
19 held by MPI which are being transferred to a
20 government run -- or MPI run government program.

21 And, the government, by receiving that
22 is reducing the amount it needs to take from its
23 profits generated from DVA and its consolidated
24 revenue, the -- the government is avoiding paying to
25 MPI its agent and administrator, the costs of running

1 DVA.

2 It's the government, according to the
3 evidence, that asked MPI to use these Extension
4 profits for government purposes and when MPI is using
5 these funds to run DVA, it is using its funds as an
6 agent in that program. So it is government.

7 The last point on page 3-3, is what I
8 initially started with, transfer of 60 million and the
9 proposed transfer of 53 million are inconsistent with
10 the Capital Management Plan approved by the PUB in
11 Order 176/11.

12 Unless varied by the PUB, the Capital
13 Management Plan must be followed by MPI including the
14 transfer of surpluses from Extension to Basic, and
15 that wasn't qualified with what's left at the end of
16 the year and we magically take out everything that
17 should have been transferred. That wasn't one (1) of
18 the things that was approved in this plan.

19 And we submit for the reasons which
20 follow, that the PUB has broad jurisdiction, which
21 given the existence of an approval of the Capital
22 Management Plan and its role to ensure that customers
23 are paying just and reasonable rates, allows it to
24 exercise its discretion with respect to the transfers
25 of surplus from MPI Extension line to -- of business,

1 to the Basic line.

2 Now, why does this just make good sense
3 also? Let's go to evidence that MPI itself filed and
4 -- or submissions last year -- or -- sorry in the year
5 where this plan was approved, at top of page 3-4.

6 There was a concept that Extension
7 needed to be paid, or there needed to be an off-set
8 for all the benefits that Extension was getting out of
9 Basic.

10 Extension run alone would be a lot more
11 expensive to run. So MPI rightfully puts on this
12 slide, the only way we can make that fair, because if
13 Extension was a stand-alone and had to have everything
14 done without the benefit of Basic and all the support
15 of Basic, it would be costlier to run.

16 So to make it fair, what we're going to
17 do in addition to -- just making good sense, is we're
18 going to do capital transfers from Extension to Basic.

19 Now, why is that important in setting
20 rates? And that's their job is to set rates. Is
21 because, if those transfers don't occur, Basic is
22 unfairly, through its rates, and those are the rates
23 that you set, subsidizing another business of MPI.
24 And that's unfair and it is unjust. So it is part of
25 your ratemaking role in my respectful submission.

1 Now, MPI gave a whole list of years,
2 well, yeah, yeah, we've been doing this all the time,
3 what's the problem? Well, some of the questioning
4 from the Panel Members, well, if you didn't tell us,
5 how could we even comment about it? You know, we
6 didn't know.

7 They only started looking at this and
8 getting information in the last couple years and now
9 we're looking at, they say, whoa, whoa, and you told
10 us you were going to do the transfers of surplus from
11 Extension to Basic.

12 So, in my respectful submission it is
13 disingenuous to kind of say, well, we did it in the
14 past, nobody knew about it, but somehow that implies
15 that it was okay to do and there wasn't a problem.

16 Now, what I found interesting is, and
17 this is on page 3-5 of my submission, is that Mr.
18 Scarfone, maybe unwittingly, but at line 13 of that
19 page 3-5, has in his submissions, I guess, the simple
20 answer, at the risk of offending the Board, is and I
21 put emphasis on this, before the Capital Management
22 Plan, the Board had no jurisdiction.

23 The -- oh -- you just made my case for
24 me. Yahoo. You have a Capital Management Plan. It
25 has been approved. There is a clear link between that

1 plan and the way the Board set rates, and it based its
2 decision to set the rates it did based on that Capital
3 Management Plan.

4 It -- we, therefore, showed a lot of
5 extracts to show that link and on page 3-6, was a line
6 of cross-examination that Board Counsel did.

7 Questioned by Ms. McCandless, it's at line 7 of this
8 page:

9 "Having looked at what was initially
10 provided to the Board in 2019, is it
11 MPI's position that capital
12 transfers were not a fundamental
13 aspect of the Capital Management
14 Plan?"

15 Answer:

16 "They are an integral part. They --
17 they have a material impact on the
18 Plan and the outcome, yes."

19 Now, not only are they fundamental to
20 the Capital Management Plan, part of how you set rates
21 is deciding whether there's enough reserves and enough
22 capital.

23 And if the rates are too low and they
24 need to be increased 'cause there's no transfers,
25 well, then you would have set higher rates. If the

1 capital's too high, then we get into situations like
2 now where we're asking for rebates to customers.

3 Not only is there a link between the
4 PUB's authority to set just and reasonable rates, the
5 PUB would have looked at this information to do the
6 classical test that we always repeat at the beginning
7 of the hearings: weigh the financial health of the
8 Corporation, right, with the fairness of rates and the
9 fairness to the public.

10 Both are taken into account, and the
11 Capital Management Plan is one (1) of those important
12 considerations that the Board looks at to decide
13 what's a fair and just rate.

14 And it seems pretty obvious to us --
15 again, at page 3-7 -- that doing so is inconsistent
16 with the Capital Management Plan. If we look at line
17 14, Ms. McCandless is the star that I'm quoting over
18 often here. She is asking:

19 "And ultimately, as we know, there
20 was a decision made to transfer the
21 Exten -- Extension excess capital
22 over to DVA instead of use as
23 contemplated by the Capital
24 Management Plan.

25 Answer: Yes."

1 So we say there can be no dispute that
2 MPI, as confirmed in its evidence, knew that doing so
3 was not as contemplated by the Capital Management Plan
4 and all the other snippets of, well, you know, he
5 really said at year-end here, so this gives us an open
6 door, is disingenuous.

7 I then at pages 3-9 up to 3-11 set out
8 relevant parts of the legislation, and I'll highlight
9 some of them. The first legislation I refer to is the
10 Crown Corporations Governance and Accountability Act.
11 At line 13, you'll see:

12 "No change for rates and services
13 shall be made without approval of
14 the PUB."

15 Well, when you're looking at rates, and
16 when you looked at rates in 2019 and last year's GRA,
17 Capital Management Plan was a part of setting rates.
18 So we say it's linked to that. And the rates could
19 have been up or down, depending on what was happening
20 in that Capital Management Plan.

21 If we go to page 3-9, line 17, section
22 25(5), you'll see the highlighted wording:

23 "The PUB may take into
24 consideration, in addition to the
25 factors in subsection 4..."

1 And that's a fairly long list that's
2 previously cited. I bolded:

3 "...all elements of insurance
4 coverage affecting insurance rates."

5 We could say that's broad and allows
6 consideration of what's happening in Extension. Even
7 though you're not setting the premiums there, you can
8 still consider it.

9 PUB's jurisdiction under the Public
10 Utilities Board Act. This is lines 22 to 28. The
11 Board has broad power not only to do anything and
12 order things with respect to what's required under the
13 Act or any other Act of the legislature, but it goes
14 and continues and says, "under any order" -- so you
15 had that Order in 2019 that hasn't been varied --
16 "any direction, or any agreement."

17 And I'll take you later on -- on a
18 couple of occasions, the PUB has noted in that
19 decision in 2019 that MPI committed. To me, that
20 sounds pretty like, we agree to do this. You have the
21 jurisdiction to enforce agreements.

22 Now, your authority is fairly broad.
23 You have the power -- and this is 3-10, lines 2 to 6 -
24 - to grant Orders with respect to the rates, but also
25 to grant such further and other relief in addition to

1 what was applied for.

2 We say that you have a fairly broad
3 discretion to enforce the commitments, enforce
4 compliance with the Capital Management Plan, and we
5 say that that's also supported by -- and I'm moving to
6 page 3-11 -- the Interpretation Act.

7 The legislation has required that, in a
8 number of instances, there are matters incidental to
9 your powers which you may need to do. And therefore,
10 the legislation has expressly provided under the
11 Interpretation Act the power to do a thing or require
12 or enforce the doing of a thing includes all necessary
13 incidental powers.

14 Now, at pages 3-11 to 3-12, I extract
15 fairly extensively what I believe are relevant
16 extracts from Order 176/19. The first extract taken
17 from page 10, which is at lines 21 to 24 of my
18 submission, shows that:

19 "The Board appreciated the
20 Corporation's efforts to provide
21 details in support of Extension
22 financial forecast to allow the
23 Board to assess the reasonableness
24 of forecasted transfers from
25 Extension to Basic, a key

1 determinant of a need for any
2 capital build or capital release
3 provision."

4 It also relied on representations in
5 the findings of fact you see at lines 26 to 30 on both
6 historical and future transfers to see what was
7 happening and where rates needed to be. And at lines
8 32 to 36 of my brief, it records that:

9 "MPI indicated that the operating
10 results for Extension are relatively
11 stable and profitable due to the
12 nature of its products. With
13 respect to the premium income, the
14 Corporation has a consistent market
15 share due, in part, to the ease in
16 writing Extension coverages in
17 conjunction with Basic. MPI holds
18 95 percent of the market for
19 Extension products."

20 I'm not saying I was the Board, but if
21 I was the Board sitting there and MPI's telling me
22 this, listen, don't worry, you can have confidence
23 that the premiums that you're setting in Basic are
24 going to be stable 'cause I'm telling you we've got
25 stable income in Extension -- and then it goes further

1 -- and that stable income is going to be put into
2 Basic. Would affect the way I set rates.

3 Now, what was the Capital Management
4 Plan as set out by the Board in that decision? That's
5 at page 3-12. And I've highlighted and emphasized
6 some of the things that the Board recorded as to what
7 it was approving. It recorded:

8 "The Corporation sought the Board's
9 approval of the proposed Capital
10 Management Plan which incorporates
11 [this is the Board's understanding]
12 the hundred percent MCT."

13 That's the first bullet. The second
14 bullet:

15 "What did it entail? A commitment
16 to transfer excess retained earnings
17 from the Extension line to Basic
18 where excess is determined relative
19 to the single Extension target level
20 of 200 minimum -- 200 percent
21 minimal capital test ratio as set
22 out by the regulation."

23 There is no qualification there, well,
24 we could pull it out. And that's inconsistent with
25 their representations that there's a stable revenue

1 that you can count on.

2 And then you can see the other
3 highlight that I put.

4 "There was a determination for the
5 need of any capital build or capital
6 release provisions in each GRA..."

7 Of course, you're going to decide
8 whether rates need to be higher or lower.

9 "...after consideration of the Basic
10 rate level change indication and
11 [there's a clear link] the expected
12 capital transfers from Extension."

13 That was part of the plan they
14 proposed. The other recording again by the Board at
15 page 656 of its reasons, so in that same area of
16 discussion, the Board records:

17 "The Corporation committed to
18 transferring excess retained
19 earnings over 200 percent MCT from
20 Extension to Basic regardless of the
21 Basic MCT ratio at the time."

22 Well, we know that the Basic was high.
23 COVID. Yeah, there's a rebate. But there was a
24 commitment in this plan to transfer that Extension
25 surplus irrespective of what the MCT is in Basic.

1 And then I also say it's disingenuous
2 to say that the government didn't know about the
3 expenses in DVA; that's recorded again in this Board's
4 decision. It's at the bottom of this page 3-12 from
5 lines 30 to 35.

6 There was a discussion with respect to
7 Project Nova budget is 36.6 million in direct costs
8 related to driver and vehicle licensing; that's what
9 we'd refer to as DVA.

10 "MPI has indicated that it is
11 currently in discussions with the
12 province of Manitoba as to how this
13 portion of the project...

14 The expenditures from the DVL
15 portion of Project Nova do not form
16 part of Basic expenses."

17 So, this is not something that was new,
18 something that wasn't anticipated. I know there were
19 questions in this proceeding about that. But it's
20 clearly recorded in this Board's previous decision
21 that everybody was aware, but notwithstanding
22 everybody was aware that it had to fund those
23 additional Nova expenses.

24 The Corporation, nonetheless, proposed
25 to this Board a Capital Management Plan which

1 guaranteed, in my view, because it was a commitment,
2 it guaranteed the transfers from Extension to Basic.

3 So, we say for these reasons that it is
4 appropriate that the Board direct that the Extension
5 surplus transfers be reversed and that this is
6 required in order -- as part of its duties to do just
7 and reasonable rates.

8 And we also support the submission of
9 the CAC that using these insurance funds to pay for a
10 government program which is administered by MPI is not
11 a lawful use of those funds.

12 Now, then I ask myself -- because I'm
13 asking this Board to reverse that transfer of \$68
14 million and to say, if you're thinking about doing the
15 \$53 million, don't do that, that's inconsistent with
16 your Capital Management Plan.

17 Do I put that Corporation in a
18 difficult situation? Because you also consider the
19 financial health of the Corporation and the
20 reasonableness of rates.

21 And I say the evidence says that we
22 could even give more than 113 million. We could go up
23 to 117 million based on the evidentiary record, and
24 the Corporation could still meet its capital targets.

25 So, at the bottom of page 3-14, you may

1 recall that was Exhibit 100, had various scenarios.
2 And it's fairly small on the screen. I apologize for
3 that. But line 3 on that scenario was a scenario
4 whereby there would be a reversal of the \$60 million
5 transfer and there would be a prohibition to using the
6 \$53 million proposed transfer to pre-fund DVA.

7 And, as you can see from line 3, as
8 compared to line 2 -- we go to line 2, and there's the
9 heading, '21/'22, you see minus \$180 million. That is
10 the current proposed rebate together with the 155.4,
11 completes the \$335 million which is proposed to be
12 rebated.

13 Now, if we go to line 3, you'll see the
14 question was: How much could you give back to
15 Manitobans and still meet your hundred percent MCT
16 threshold?

17 So, if you go to line 3, you'll see
18 that was a forced number, '21/'22 at a hundred
19 percent, '22/'23 at 99.9 percent, '23/'24 at 106.1
20 percent. So, in each year, they kind of force those
21 calculations and you back calculate, well, how much
22 could we release? That amount increases from 180
23 million up to 297 million. So, they could release 117
24 million without offending the hundred percent MCT.

25 We're saying reverse the \$113 million

1 transfer. You don't need to go as high as 117.

2 Now, the other question I asked myself,
3 well, okay, I've considered the financial health of
4 the Corporation, what about fairness to ratepayers?
5 Mr. Hacault, you're making a fuss about nothing. If
6 we transfer DVA, it's going to be the same effect.

7 Well, that's why I asked those
8 questions, because I thought, no, that isn't the right
9 answer. And we got it late, but the answer we got
10 from MPI was in the form of Exhibit 97. And I'm at
11 page 3-16 now, at lines 10 and following.

12 We asked the Corporation to provide us
13 scenarios and say, well, listen, how much would it
14 cost the taxis -- or how much are they saving if this
15 \$113 million goes into DVA? Because if there's no
16 difference between doing that and putting it into
17 Basic, well, what's the big fuss, Mr. Hacault?

18 Well, the big fuss is we saw that the
19 scenarios -- and we see at the bottom of page 3-16, at
20 line 25, as I said, had the assumption that the \$60
21 million transfer would be reversed effective March 31,
22 2022, so that's next year; that's doable.

23 The proposed \$53 million transfer
24 wouldn't occur; that's doable. Any increase in fees
25 would be implemented effective April 1. We say that's

1 not critical, but that was a fair assumption. There
2 needed to be time to increase them, and would remain
3 in place for at least seven (7) years. And that's
4 because there's pre-funding if you pump that \$113
5 million, so seven (7) year is a chosen time period
6 that covers that pre-funding.

7 And if we flip to the next page, 3-17,
8 the revised answer was that this would result in an
9 additional -- that's the Extension to Basic -- would
10 result in an additional rebate of a hundred-and-thirty
11 dollars (\$130) per taxi on average.

12 And I'll bring you to that table. It's
13 on the next page. But not right away.

14 And then --

15 THE CHAIRPERSON: Sorry to interrupt,
16 Mr. Hacault. I'm reading that line. Did you mean to
17 say a hundred-and-thirty (130) or nine hundred (900)?

18 MR. ANTOINE HACAULT: Nine-hundred-
19 and-thirty (930). I apologize. Nine-hundred-and-
20 thirty dollars (\$930) per taxi on average.

21

22 CONTINUED BY MR. ANTOINE HACAULT:

23 MR. ANTOINE HACAULT: Now, this
24 scenario was also useful because it illustrated that,
25 really, over seven (7) years, we aren't talking about

1 huge amounts here for the taxis. See lines 14 to 15
2 of my submission.

3 Over seven (7) years, we'd have a range
4 of bumping up those fees for DVA from a hundred-and-
5 nineteen dollars (\$119) under scenario 1 to a maximum
6 of a hundred-and-fifty-four dollars (\$154) under
7 scenario 3. It's not a rate shock. It's not a huge
8 increase.

9 And we've extracted the evidence of Mr.
10 Phoa -- and I apologize to Mr. Phoa if you're on the
11 line for mispronouncing your name before. Hopefully
12 I've got it right now. We've set a table which sets
13 out the evidence that's quoted and that's on page 3-18
14 at line 11.

15 With those two (2) transfers, Winnipeg
16 taxis would get a rebate of a thousand-and-thirty
17 dollars (\$1,030) and then it's lower amounts for the
18 other rural territories.

19 Now, compare that -- as I say on line
20 15 of this submission -- to a total of costs of
21 between a hundred-and-nineteen (119) to a hundred-and-
22 fifty-four dollars (\$154).

23 We say this illustrates the unfairness
24 -- quite apart from all my other arguments -- of
25 dumping this money into the government run DVA, which

1 is administered by MPI.

2 What's the total number? Exhibit TC-
3 8, which was agreed to on the transcript, it's over
4 half a million dollars that would be refunded to the
5 taxis as a group. And the increased DVA fees to taxis
6 required to cover DVA costs are comparatively small.

7 We've set them out, but they're all --
8 I'll call it -- coffee money. From nine dollars (\$9)
9 to twenty-two dollars (\$22) in a year. I know a lot
10 of people spend a lot more than that on Starbucks in a
11 matter of a couple weeks or less sometimes -- in a
12 week.

13 Now, the numbers on those increases are
14 set out at the top of page 3-21. It's a range of nine
15 dollars (\$9) to twenty-two dollars (\$22). And we
16 conclude, at the bottom of page 3-21, with our request
17 on reversing the transfer -- now I neglected to refer
18 you to the evidence on how this would be done from an
19 accounting perspective. And that starts at page 3-19
20 to 3-20.

21 Because the other question I asked
22 myself said, Well, can we even do this? You know, is
23 there an accounting problem here? How are we going to
24 do this?

25 So I asked the question of the MPI

1 panel and, unfortunately, they couldn't respond. They
2 said, Well, we need to refer that to our auditor.

3 But the auditor then did file a
4 response and -- at undertaking 11, and that's on page
5 3-20. MPI external auditors advised that:

6 "The only allowable treatment would
7 be for MPI to transfer the excess
8 retained earnings and offset this
9 with a transfer of investments prior
10 to the month -- final month of the
11 fiscal year, which would end in
12 March 2022, as a prior period
13 adjustment with additional note
14 disclosure for same."

15 The auditors explained:

16 "This treatment is essentially the
17 same as was done previously by MPI
18 to address transfers from Extension
19 to the Basic line of business."

20 So I take that response to say, Well,
21 listen, if the Board Orders this, it can be explained
22 in the audited statements as to why there is that
23 reversal. And it can be properly accounted for
24 without offending any auditing rules or accounting
25 rules.

1 I'll move now on to issue 4,
2 credibility assignments. I get back to what I had
3 started my presentation with. Now, this discussion
4 breaks down credibility for collisions and how you
5 treat those, and credibility for serious losses. They
6 are two (2) distinct type of loses and ought to be
7 treated differently.

8 So at line 19, we explain that our view
9 of the evidence of Dion Strategic being uncontested,
10 that under commonly used and accepted credibility
11 approaches, the loss experience of taxi Vehicles for
12 Hire would be fully credibly for the short-tailed -- I
13 don't know it didn't properly type here -- line such
14 as collision and property damages, which accounts for
15 76 percent of the losses incurred by taxis Vehicles
16 for Hire over the last ten (10) years.

17 Why is this important? Because rates
18 soften, ESR discussion, et cetera. There's over a
19 thousand (1,000) collisions a year. This is not a
20 random event. There's a high amount of credibility
21 according to our experts to the collision data and
22 that needs to be recognized. Whether it's good or bad
23 -- MPI raised that, Mr. Hacault, you'd better watch
24 what you're asking for because if it's bad, then we
25 give credibility weighting to 76 percent of your

1 losses; your rates are going to increase.

2 But conversely -- and that's what the
3 taxis want to have the opportunity to do -- if their
4 collisions go down, they want to have the benefit.
5 They don't want to have to wait forty-three (43) years
6 to get the benefit.

7 Now that's distinct from the serious
8 losses. But our recommendation, as you can see from
9 lines 24 to 29 of this submission, is that the full
10 credibility of 100 percent be put to those losses.

11 And we saw from the tables that MPI
12 separates the non-serious loading from other loading.
13 So it has the data, it's compiled the data to separate
14 non-serious losses from other losses.

15 MPI's current approach with that 10
16 percent credibility doesn't recognize the fundamental
17 difference between collision losses and the frequency
18 of those collision losses versus the infrequent and
19 large loss on serious losses.

20 We also say, with respect to serious
21 losses generally -- and I'm on page 4-12, line 16 to
22 18 -- that MPI should be re-examining the way it
23 chooses the size of subsets of customers sharing the
24 risk for serious losses and report back to the PUB.

25 I deal briefly, at the bottom of page

1 4-2, under a heading 'Dion Strategic Credible and
2 Reliable Experts'. There was cross-examination
3 suggesting Dion Strategic wasn't credible, because
4 they hadn't done government regulated hearings. But
5 we say that MPI didn't show -- did not adduce any
6 evidence to show that the same fundamental concerns,
7 except for profit, are applicable in a not-for-profit
8 and private insurance sector.

9 We want fair rates. We want rate
10 stability. We want proper risk assessment and
11 causation principles. Those are similar principles.
12 And Dion Strategic explained those similarities. To
13 suggest that Dion Strategic was paid -- a paid gun for
14 taxis, we say is unfair and unjustified, on the
15 record.

16 As Dion Strategic confirmed, their
17 instructions were to be looking at this Application
18 and provide assistance to the Board. And we say that
19 becomes obvious, because if they were only there for
20 the Winnipeg taxis, why would they be bringing up the
21 fact that the rural taxis are probably underpaying in
22 the city -- or overpaying -- the rural taxis are
23 overpaying and the city taxis are overpaying in
24 relative terms.

25 They looked at the filing as a whole.

1 They made recommendations with the filing as a whole.
2 So, we say that -- that criticism is unjustified.

3

4 (BRIEF PAUSE)

5

6 MR. ANTOINE HACAULT: I do now want to
7 refer to page 4-4, and extracted evidence there. And
8 this deals with our submission that collision numbers
9 and serious loss numbers should be treated
10 differently.

11 Mr. Wong explained, and this is line
12 14, that for serious loss you'll need a lower minimum
13 credibility to balance the fact that you've got the
14 serious losses.

15 And then he goes:

16 "Well, you know we could go up from
17 10 to 15, maybe 20 percent to reduce
18 the impact [I'm at line 20] of that
19 serious loss."

20 And that's because of the way MPI has
21 been approaching serious losses. So, he explained you
22 needed that lowered credibility to balance off what
23 might be some shock from a serious loss.

24 And Mr. Dion at the bottom, at lines 30
25 to 34 is quoted as saying:

1 "Maybe just to add that in what Mr.
2 Watchman was saying, when we are
3 looking at credibility by line of
4 business, the point of collision
5 comprehensive deserve a higher
6 percentage of credibility based on
7 the activity level that was there."

8 And the report of Dio -- Dion Strategic
9 sets out that thousand eighty-two (1082) number and
10 corresponds with the level of claims in that area, and
11 that is 76 percent of the loss experience in taxis.

12 Now, then...

13

14 (BRIEF PAUSE)

15

16 MR. ANTOINE HACAULT: What about how
17 slow the credibility ratings react for small groups.
18 I'm bringing you to page 4-7. It's more visual. The
19 bottom line, which is a slow curved line, shows that
20 it takes forty-three (43) years to fully recognize a
21 loss experience if you use that credibility. If you
22 use 20 percent, it's more in the range of twenty (20)
23 years.

24 Now, if one (1) of the purposes is to
25 appropriately price product so you send price signals,

1 you aren't achieving it with these credibility
2 ratings, especially not with respect to collision
3 numbers.

4 Now, we also say that doing so is
5 consistent with, and this is at page 4-8, the
6 intention of the new modelling for Vehicles for Hire.
7 Giving hire credibility to collisions is consistent
8 with what's bolded in line 13:

9 "The intent of the surcharge program
10 is to reduce Basic premium for
11 customers with no or fewer at-fault
12 claims and redirect additional
13 premiums to those drivers who cost
14 more accidents."

15 So, it's linking the premiums and
16 trying to get a price signal to the people who cause
17 collisions. Now, what about -- how do you approach
18 the 10 to 20 percent at the bottom of page 4-9, line
19 33?

20 Mr. Dion's advice was to increase the
21 current of 10 percent to 20 percent as a first step in
22 the right direction and maybe re-evaluate in two (2)
23 or three (3) years if more responsiveness should be
24 included. That's with respect with serious losses.
25

1 (BRIEF PAUSE)

2

3 MR. ANTOINE HACAULT: And that leads
4 me to page 4-12 at lines 14 and following. I had
5 asked Dion Strategic, Well, how do we handle this
6 problem that's obvious and shown by the twenty-four
7 (24) farm passenger vehicles?"

8 Mr. Wong explained how that would be
9 done with respect to serious losses. And we say our
10 recommendations are consistent with what's set out in
11 that discussion from pages 4-12 to 4-13. The
12 additional thing on the top of 4-13 at line 5, that
13 Mr. Wong is explaining, and this lines up with our
14 recommendation, is that you can't have these really,
15 really small subsets.

16 You need to group them together with
17 other similar uses that have enough size, and then
18 that other group should have a similar loading
19 applied.

20 So, it gets back to my example of MPI
21 charges the 1.7 -- or has been charged \$1.7 million
22 for that excess 100 million, spreads it out against
23 all ratepayers. Well, if you're going to take that
24 same kind of approach, and that's what I understand
25 Dion to say, listen, you've got serious losses. You

1 shouldn't have really small groups bear that loss.
2 You should be choosing groups that have similar risk
3 profiles, doing appropriate loading for those groups
4 and that is a more appropriate way to deal with a
5 serious loss loading.

6 What can help them to do that? That
7 leads me to issue 5. Generalized Linear Models.
8 Let's start analysing using those models whether --
9 see whether we can get any information on serious
10 losses and appropriate loss loading and
11 characteristics that are relevant.

12 Let's not only do that for serious
13 losses, but it's just a good practice that has been in
14 place for the last fifteen (15) years and is not being
15 used by MPI. I'm not going to get into a detained
16 discussion about that, because MPI has agreed that
17 it's a good thing to do.

18 I'm going to jump to page 5-6, which
19 deals at line 20 with territory differentials, which
20 may exist and should be add -- addressed through
21 improvements to algorithms. The problem is is we have
22 territorial differentials, but nobody understands why
23 that's happening, and what the risks are, and how to
24 price the product appropriate for that risk.

25

1 (BRIEF PAUSE)

2

3 MR. ANTOINE HACAULT: The
4 understanding of that risk is important before you
5 start to tinker it with -- with it too much, is our
6 respectful submission.

7 Now, we've also put in our brief Mr.
8 Dion's recommendations on how it might wish to
9 implement GLM. We've put it there for reference. We
10 don't think that obviously needs to be part of the
11 Board Order.

12 But it would be a staged approach that
13 Mr. Dion has suggested, and we think that that's
14 reasonable. And if MPI is going to do that, that
15 would be great. That discussion is at page 5-4 at the
16 very bottom, line 29. The -- the question was asked:

17 "If Dion Strategic were designing a
18 plan to implement GLMs, what would
19 they do?"

20 And at the top of page 5-5, they said a
21 series of five (5) steps which they would recommend be
22 undertaken by MPI to transition from its minimum bias
23 procedure models to the GLM modelling.

24 We think that that's useful advice, and
25 we would hope that MPI would follow it. That's at the

1 top, for the record, page 5-5, from lines 1 to 12 on
2 that page.

3 We've extracted a lot of the discussion
4 where I was asking questions on the status of the
5 directives A to I. That's directive A. They all
6 related to the Vehicles for Hire.

7 I don't propose -- that's issue 6 -- to
8 spend a lot of time on that. There's a discussion
9 from page 6-1 to 6-3 on things that we were hoping to
10 get, but some of them we only got when we did a motion
11 to compel. And they weren't really responsive.

12 For example, on page 6-2, we had asked,
13 well, can't you give us some kind of analysis as to
14 whether it makes sense to group passenger Vehicles for
15 Hire with taxis? We had to file a motion to get a
16 response on that. That was a directive.

17 Now, what did they file? If you look
18 at what they filed, they didn't do an analysis of
19 whether it made sense based on characteristics, they
20 just said, if we plot passenger Vehicles for Hire in
21 the same group with taxis, this would be the rate
22 result.

23 That doesn't help me much at all, quite
24 frankly. It doesn't inform me, well, are they on the
25 road twenty-four seven (24/7), you know, are they

1 driving in rush-hour traffic, are they having
2 accidents at the same time.

3 You know, all these types of things
4 which intuitively we think are the same and would make
5 it logical that they should be in the same group and
6 rated the same way has not had any collection of data
7 or analysis.

8 So we're left a year later without any
9 useful information because none's been collected. And
10 given that none's been collected, there's no useful
11 analysis.

12 From pages 6-4 to the end, we just
13 restated all the issues firstly, then the answer, and
14 then a short paragraph as to why the answer was
15 unsatisfactory or didn't even deal with the question.

16 And we've filed this in support of our
17 request that this Board reiterate the request, a
18 renewed compliance with the directives set out in
19 previous Order directive 8. As I say, they really do
20 need to be addressed.

21 The only thing that's been happening --
22 and -- and we're not being critical, but it has
23 happened, believe me -- is that at least there's been
24 consultation. That's been happening, but all these
25 relevant data collection and -- and analysis issues

1 have not been dealt with in a meaningful way, in our
2 respectful submission.

3 Members of the Panel, that completes my
4 submission. I thank you very much for your patience,
5 time, and attention, and I'm open to answering any
6 questions which the Panel may have.

7 THE PANEL CHAIRPERSON: Mr. Hacault, I
8 understood that you had hoped to have some time over
9 the noon hour to review the written submission that --
10 that MPI has now filed. Is that required still?

11 MR. ANTOINE HACAULT: That -- that is
12 required. I haven't had a chance to review the
13 submission. We had the fifteen (15) minute break. A
14 quick review would suggest that I may have some very
15 limited comments.

16 There are some extracts that were taken
17 out of context, according to the review by the
18 consultant who's helping me, so I may have some brief
19 comments, but I'd like to have the opportunity at
20 lunch time to read it to see whether I have some brief
21 comments.

22 THE PANEL CHAIRPERSON: Certainly. So
23 what I would suggest is that you do that and conclude
24 your review over the noon hour, provide any further
25 comments, and then we'll have Board questions at that

1 point. Is that acceptable?

2 MR. ANTOINE HACAULT: Sure. Whatever
3 is the Board's wish is what I'll do.

4 THE PANEL CHAIRPERSON: So we will
5 break now then until one o'clock and come back at 1:00
6 for any further comments you may have. Thank you.

7

8 --- Upon recessing at 11:46 a.m.

9 --- Upon resuming at 1:02 p.m.

10

11 THE PANEL CHAIRPERSON: Good
12 afternoon. Mr. Hacault...?

13 MR. ANTOINE HACAULT: Good afternoon
14 all. Madam Chair, I have a -- some very brief
15 comments with respect to the submission, that are as a
16 result of the closing submissions of MPI.

17 In its submission at paragraph 100, it
18 -- it makes the point, and I take it I didn't include
19 that in our submission, that when I had the discussion
20 about the ratios during the COVID year, being at 67
21 percent, that -- that is a correct number, but if you
22 add the 20 percent increase, that actually drops to 56
23 percent.

24 So that the relativities of the general
25 passenger class are at 40 percent and they're not

1 quite as high as I was suggesting, which is the 67 --
2 if you include the 20 percent increase. It would
3 bring it down to about 56 percent.

4 And say my point is still valid, to the
5 extent you're going to use COVID information, it is
6 still indicating that they're underpriced and they
7 need to have that increase.

8 There's two (2) other smaller points.
9 At paragraph 105 of their submission, there's a
10 reference that American Actuarial Principles -- or
11 Canadian Actuarial Principles do not require the use
12 of serious loss loading.

13 While that was correct, our witness, if
14 you go to transcript page 2198.

15

16 (BRIEF PAUSE)

17

18 MR. ANTOINE HACAULT: The complete
19 sentence says -- if you look at line 2 on page 2198 it
20 continues, but it is certainly a good actuarial
21 practice.

22 So, while it is not specifically in the
23 Canadian Standards, the quote saying that there's no
24 actual standard on it, doesn't eliminate the fact that
25 it is good actual -- actuarial practice to add serious

1 loss loading.

2 And then at paragraph 106 of the
3 submission, there's reference again to a transcript
4 excerpt in support of a statement that if no loss
5 occurs in a given period customers would be over-
6 charged, that's part of what was discussed, but the
7 discussion at page 2193, if one continues to line 11,
8 so we'd have to start at line 8 to see where the
9 reference was.

10 Some -- the question was being asked,
11 it's page 2193, hopefully I've got that right, yeah.
12 At line 8 we see that there's:

13 "but that -- could be that the
14 experience below the serious loss
15 would have been such to generate a
16 deficit."

17 That point is made in the submission,
18 but what's not made is the general evidence of the
19 actuaries and -- and Mr. Wong. Because I think the
20 concept of serious loss is not to set it once and be
21 done with it, it needs to be constantly updated every
22 year, with more information.

23 So, it's not -- you're never going to
24 get it perfectly right, that was why our
25 recommendation is to try and get it right and adjust

1 as required up and down. You don't set it at zero and
2 then start adjusting it up, once you get actual
3 experience. That was the point.

4 The -- I think most of the other points
5 we have dealt with in our submission. There is a
6 repeated assertion in the closing submissions that if
7 you make rates more responsive for collisions for taxi
8 cabs, it would be logical to look at whether to do
9 that for all other classes. We agree. That's -- it
10 is -- the way it's set up now for collisions is just
11 not responsive for small groups and that's a flaw of
12 the system.

13 With respect to the legal submissions
14 portion, I'll just make a couple comments.

15 The submission, in my respectful view,
16 misses the point, that MPI only administers on behalf
17 of the government and therefore it is viewed as an
18 agent of the government.

19 And if, the MPI Board is making a
20 decision, as an agent, it is doing it as an agent. We
21 say that it was pretty clear in the evidence that MPI
22 is not in control of DVA.

23 Mr. Herbelin, and that was at page 218
24 to 220, explained that it was not an MPI decision to
25 make to increase or decrease DVA fees. That was a

1 government decision, and it's the government that pays
2 MPI to administer the cost of DVA on behalf of the
3 government.

4 So, if we go to lines 19 to 24, for
5 example, at page -- oh, sorry, Kristen, I meant line
6 11 to 19. Just to remind ourselves as -- what Mr.
7 Herbelin said.

8 "I think there is always an
9 understanding from our executive,
10 that government would actually
11 support the costs endured by the DVA
12 line of business and that there
13 would not be any, sort of, cross-
14 subsidization.

15 But, as a matter of fact, when I
16 arrived we had a couple months ahead
17 of closing the fiscal year and there
18 was no indication that the other
19 source of funding would be available
20 at that time."

21 There continues to be a discussion and
22 the discussion at -- I'd encourage the Board to read
23 all of that discussion again, but at page 220, at
24 lines 19 to 24, Mr. Herbelin explains that there needs
25 to be new parts to Nova being allocated to the right

1 lines of business, as per the practices they had in
2 place, and that it was his view that leaving a deficit
3 in the in the line of business DVA was not adequate,
4 and that he explained that it was going to grow over
5 the years, and that's why they decided to transfer the
6 excess because they weren't getting any kind of
7 commitment from the government on go-forward funding.

8 So, as it relates to the legal
9 submission, there's also a statement that there was no
10 choice. There's always choices. There could have
11 been an inter-corporate loan between the divisions
12 until this thing gets settled. It was something that,
13 as I explained before, was an ongoing matter.

14 Although it may have been unpopular during COVID to
15 raise fees by nine (9) to twenty-two dollars (\$22),
16 there's nothing saying that that can't be implemented
17 now or there can't be that kind of (AUDIO ISSUE) now.

18 And we just reiterate that the monies
19 in Extension were intended to be for the purposes of
20 carrying the powers of the Corporation in the
21 insurance lines, and that our view of the legislation
22 is that it supports that those monies should not be
23 used in the government line of business, DVA, which is
24 being administered by MPI. Thank you.

25 THE PANEL CHAIRPERSON: Thank you, Mr.

1 Hacault.

2 Mr. Watson...?

3

4 (BRIEF PAUSE)

5

6 THE PANEL CHAIRPERSON: Ms.

7 McCandless, are we hearing next from Ms. Dilay or from
8 Mr. Scarfone?

9 MS. KATHLEEN MCCANDLESS: It might be
10 a good time now just to have Ms. Dilay put her
11 position on the record and have Mr. Scarfone or Mr.
12 Guerra speak to it, and then we can decide -- you can
13 decide how you'd like to proceed.

14 THE PANEL CHAIRPERSON: Thank you.

15 MS. KATRINE DILAY: And thank you,
16 Madam Chair. And it will actually be Mr. Klassen, on
17 behalf of CAC, who will be addressing this issue this
18 afternoon.

19 THE PANEL CHAIRPERSON: Thank you.

20 MR. CHRIS KLASSEN: Thank you, Ms.
21 Dilay, members of the Board.

22 CAC (Manitoba) received MPI's Exhibit
23 124 last evening. In that document, MPI addressed
24 section 14(2) of the MPIC Act for the first time,
25 having chosen not to address this section on

1 Wednesday.

2 In a rate application, the onus is on
3 MPI to demonstrate that their application is
4 reasonable. In CAC (Manitoba)'s view, this includes
5 demonstrating that they are in compliance with the
6 law. CAC (Manitoba)'s argument respecting section
7 14(2) of the Act does not constitute a separate
8 application led by CAC (Manitoba); it was an argument
9 made addressing the record of this proceeding as led
10 by MPI. In MPI's closing submissions on Wednesday,
11 they chose to focus on sections 16 and 6 of the MPIC
12 Act to demonstrate their compliance with the law.

13 As a result, despite being provided
14 after CAC (Manitoba)'s closing submissions, MPI's
15 Exhibit 124 appears to be presented as part of MPI's
16 reply. MPI also appears to refer to its legal
17 submissions at paragraph 17 as forming part of its
18 reply, explaining in parentheses that:

19 "The recital here of all the duties
20 --"

21 And in that paragraph, it's discussing
22 the terms of the DVA Act.

23 "-- cannot be completed in the
24 restricted time frame for submitting
25 a reply."

1 MPI had advance notice that CAC
2 (Manitoba) was going to raise section 14(2) of the
3 MPIC Act in our closing submissions, as it was
4 specifically raised in First Round Information
5 Requests as well as in cross-examination. The MPIC
6 Act generally was also referred to in CAC (Manitoba)'s
7 opening submissions.

8 In our view, MPI could have reasonably
9 anticipated that CAC (Manitoba) was going to raise
10 section 14(2) of the Act, but chose not to address it
11 in its argument on Wednesday. Having presented only
12 today to address issues first raised prior to the
13 hearing, CAC (Manitoba) does not view these
14 submissions as properly constituting reply.

15 However, with that said, if the Board
16 chooses to accept MPI's Exhibit 124 in the interests
17 of a public and transparent process, whether as reply
18 or as a late closing submission, CAC (Manitoba) would
19 seek a brief opportunity to reply in recognition of
20 the fact that MPI has effectively reversed the onus on
21 this particular issue. Thank you.

22 THE PANEL CHAIRPERSON: Thank you, Mr.
23 Klassen.

24 Mr. Scarfone...?

25 MR. STEVE SCARFONE: Thank you, Madam

1 Chair. I appreciate Mr. Klassen's comments and, you
2 know, appreciating as well though that he is
3 relatively new to the process; Ms. Dilay, obviously,
4 with more experience.

5 This I would suggest is an exceptional
6 year, in part because the -- the hearing was extended.
7 And so the starting point in our view has to be what
8 brought us to this procedural discussion, and that was
9 the hearing went longer than scheduled.

10 And so MPIC asked this Board to be
11 allowed to submit its written closing argument on
12 Friday rather than submit it like it normally does
13 with the slide deck that we presented on Wednesday.
14 The Board agreed, presumably of the view that it was
15 not an unreasonable request, given that the hearing
16 had ended on Tuesday and MPIC was making closing orial
17 -- oral submissions on Wednesday.

18 I might also add we did first raise
19 perhaps moving the oral hearing closing to Thursday to
20 allow MPIC for more time, but that wasn't an option
21 that was available. Thursday was out and so we had to
22 make our closing -- our oral closing -- on Wednesday.

23 So that's the starting point.

24 Of course, the second starting point on
25 the procedural fairness issue is, you know, I think

1 everybody agrees that the Board would prefer to have
2 MPI's full closing argument before it. And of course
3 the Board would also prefer that each of the
4 Interveners have an opportunity to look at the closing
5 argument and respond to the closing argument. That's
6 -- I think everybody can agree on that.

7 So the remedy that this Board has to
8 make sure those two (2) things happen is to adjust the
9 schedule accordingly. And, Madam Chairperson, you did
10 that for MPI, and so it would seem to me that, if any
11 of the Interveners have been prejudiced in some way by
12 having received the document on Thursday, late
13 Thursday when this Board said we could file it Friday,
14 then they would be allowed that opportunity by again
15 adjusting the schedule allowing for an adjournment.

16 But certainly we don't agree that the
17 CAC has characterized what we submitted last night as
18 a reply. It's a closing argument. It seems that
19 their objection perhaps is just that our closing
20 argument is in two (2) separate documents, but there
21 can be no dispute that it's a closing argument.

22 And if for some reason you look at the
23 reply that CAC has said is a reply to what they
24 submitted, well, then if you were to somehow say, oh,
25 that's not proper reply, you could have anticipated

1 that, well, guess what? The Board doesn't have MPI's
2 closing on the DVA transfer issue. You don't have it
3 because that's our closing on the DVA transfer issue.

4 And so, again, when Mr. Klassen says
5 it's a reply, well, you'll remember in my slide deck,
6 I set out the statutory authority for MPI doing the
7 transfer, and we set out a couple of sections.

8 And so if this Board is of the view,
9 well, you know, that's reply that you filed, Mr.
10 Scarfone, well, could we have anticipated that we set
11 out the statutory authority and they're saying, oh,
12 no, no, there's these other statutory provisions that
13 you haven't considered, and this make it -- these
14 provisions make it illegal for MPIC to do what it's
15 done?

16 So then we addressed those quite
17 properly if this is a reply. It's not a reply. It's
18 still a closing argument.

19 And the second part of that is MPIC, if
20 it's a reply, which we deny, could not have
21 anticipated the CAC making allegations that the
22 Corporation had breached the trust of the public.
23 That was not something that we anticipated and
24 demanded -- my client demanded a response to that
25 allegation.

1 So, all of that being said, we're of
2 the view that what you got on Thursday, what was
3 circulated on Thursday, was our closing argument. And
4 we -- we needed the extra time. As I said to -- down
5 -- we congregate downstairs. You know that. It's --
6 we call it the war room.

7 But I can assure you there is not a
8 workshop of elves down there typing away, making up
9 our closing argument. It's me and Mr. Guerra and we
10 were here for that hearing until Tuesday. And so
11 that's why we asked that this Board consider letting
12 MPIC file it on Friday. In fact, we got it to
13 everybody on Thursday.

14 And so I don't know what the issue is,
15 quite frankly. I have no objection to the CAC taking
16 some time to look at it, but it's our closing argument
17 and we'd like the Board to consider it.

18 THE PANEL CHAIRPERSON: Thank you.
19 One (1) moment, please.

20

21 (BRIEF PAUSE)

22

23 THE CHAIRPERSON: Mr. Scarfone, the
24 schedule refers to today as reply. It was the
25 schedule that was put forward by MPI. I understand --

1 I mean, I'm having problems, so then what you're doing
2 now is not reply. It's just part of your submission.
3 Is that -- is that the position of MPI?

4 MR. STEVE SCARFONE: No, this is now
5 reply, having heard from all the Interveners. When we
6 --

7 THE CHAIRPERSON: But -- but reply --
8 but the whole concept is that, when you file your
9 submission, you file your written documents, as I
10 understood it, it reflected your submission. Their
11 allegation is that you introduced something new.

12 Is 14(2) something new? It wasn't in
13 the --

14 MR. STEVE SCARFONE: 14(2) is not only
15 addressed in that document. It's the whole DVA
16 transfer issue.

17 THE CHAIRPERSON: No, but you -- you
18 didn't address it in your submission until you filed
19 documents after you closed.

20 MR. STEVE SCARFONE: And that --

21 THE CHAIRPERSON: I mean, what we were
22 expecting was a document that reflected what your
23 submission was.

24 MR. STEVE SCARFONE: Yes.

25 THE CHAIRPERSON: And I guess their

1 position is what you got was a document after you
2 closed your submission that introduced something that
3 maybe should have been in your submission, your oral
4 submission, but wasn't.

5 MR. STEVE SCARFONE: No, no. Not at
6 all. Not at all. If that's the case then, Mr. Gabor,
7 our written submission would have to duplicate exactly
8 what's in our slide deck. The slide deck is a high-
9 level overview of what MPIC thinks the Board wants to
10 hear from us orally.

11 THE CHAIRPERSON: Sorry. Then -- then
12 your -- what you put in writing, your view is that
13 when you closed your slide deck --

14 MR. STEVE SCARFONE: Yes.

15 THE CHAIRPERSON: -- and said, we'll
16 give you something in writing --

17 MR. STEVE SCARFONE: Yes.

18 THE CHAIRPERSON: -- you were wide
19 open to give whatever you wanted on any area beyond
20 anything in the --

21 MR. STEVE SCARFONE: Absolutely.
22 Absolutely that's our position, and it would contain
23 quotes that we wouldn't bore the -- the Panel with
24 when making that oral presentation. We would include
25 it in the written.

1 And -- and the other part of that is
2 the slide deck, as I said, has highlights for this
3 Board, and we -- we put what we have as the important
4 issues.

5 At the risk of offending the CAC,
6 section 14 didn't make the cut. As we said in our
7 written submission, it -- it has no merit. We didn't
8 think it needed to be addressed because it's without
9 merit. It's baseless. And so it didn't make the
10 slide deck. That wasn't important to us.

11 And so, yeah, absolutely, Mr. Gabor, we
12 can put whatever we want in that written argument;
13 it's still our closing. The slide deck is just, you
14 know, for -- for your benefit.

15 I mean, if we had to choose between the
16 two (2), we would just abandon the slide deck and the
17 oral. The written is what matters to MPIC, and -- and
18 I encourage you to read it twice.

19

20 (BRIEF PAUSE)

21

22 MR. STEVE SCARFONE: And I might only
23 add, too, Mr. Gabor, that this is no different than
24 any other year where we -- we give a slide deck and a
25 closing.

1 The -- the issue, as I see it this
2 year, is they happen to be spread apart by a couple
3 days. That -- that's --

4 THE CHAIRPERSON: Sorry. But that's a
5 big difference. I mean, the problem is we ran behind.
6 And I'll just go through history. We were going to
7 get -- I mean, the original schedule, I believe, had
8 Tuesday off -- Tuesday off and Thursday off to give
9 you the opportunity.

10 We ran behind on the undertakings on
11 Friday that drifted through the weekend, and we had
12 undertakings coming in on Monday; that's how we lost
13 the schedule.

14 But the process is your submission
15 comes in with everything. And then they put in their
16 case. And then you do proper reply. I understand
17 there was slippage because of scheduling issues, but
18 that's -- that's the problem. That's the proper --
19 that --

20 MR. STEVE SCARFONE: That's what gave
21 rise to all this, absolutely. I don't hear you
22 saying, though, that MPI was at fault for the
23 slippage. We were doing our best to answer all those
24 undertakings.

25 And then we were put in that spot where

1 we were still here on Tuesday having to present on
2 Wednesday morning. And so, I thought the Board did
3 the appropriate thing by saying, yeah, you can get us
4 to your written submission on Friday.

5

6 (BRIEF PAUSE)

7

8 THE CHAIRPERSON: Yeah. Okay, yeah,
9 we'll -- we can take a break.

10 THE PANEL CHAIRPERSON: We're going to
11 take a break. And we'll be back shortly.

12

13 --- Upon recessing at 1:25 p.m.

14 --- Upon resuming at 1:31 p.m.

15

16 THE PANEL CHAIRPERSON: Thank you.
17 The Board notes that the submissions were received
18 last night at 11:46 so on -- very close to Friday
19 morning.

20 Given that the Interveners have not had
21 the opportunity to consider the legal submission, as
22 it's headed in this document, prior to their
23 submission, we will proceed to allow them to make
24 submissions with regard to what's contained within
25 this document. And then MPI will have the opportunity

1 to reply to anything that's new that's been raised.

2 Thank you.

3 MR. STEVE SCARFONE: Just one (1)
4 point of clarification. I don't want to drag this on.

5 But we -- we would like some direction
6 from the Board on the question that Mr. Gabor sent our
7 way. Because if we've been doing something wrong, as
8 it concerns that slide deck vis-a-vis the written, if
9 our position is wrong and that we can only put in our
10 written what we present orally we'd like to know
11 because that's not our understanding.

12 THE PANEL CHAIRPERSON: The problem, I
13 believe, that is posed is that there needs to be all
14 of the points that are important to MPI raised in that
15 submission so that the Interveners have proper notice
16 of what the position of MPI is. And, therefore, I
17 think that if there are things that have occurred
18 during the hearing that have clearly been raised by
19 the Interveners as issues, those should be addressed
20 in MPI's closing submissions.

21 MR. STEVE SCARFONE: In the oral
22 submission? In the -- when we give the slide deck, is
23 what you're saying, Madam Chair, we should include all
24 of the -- if I'm hearing you correctly -- all of the
25 important things that, you know, we should have

1 reasonably anticipated or something like that? Is
2 that -- because then we -- of course, we then submit
3 our written, which is a more comprehensive argument,
4 in our view.

5

6

(BRIEF PAUSE)

7

8 THE CHAIRPERSON: Whether you do it
9 orally or written is up to you. You -- you
10 participate in the hearing; it is final submission.

11 You know, I guess if we had more time,
12 what we would have done is taken another break until
13 everything's done. The problem we have is we have a
14 document that says "legal Submission" that you say is
15 part of your legal submission, not reply. And
16 paragraph 1 says:

17 "The allegations they breach the
18 trust was in their submission."

19 So I don't know how that got into this
20 submission; that's a reply argument. And that's the
21 problem.

22 The problem is it's got to be clear
23 what is the submission and what is the reply.

24 If MPI chooses to Just put in a -- to
25 read in something you've written, as Mr. Hacault did

1 this morning, it's up to you, we don't care. The
2 problem is it's got to be complete so we can follow it
3 because otherwise we run into this -- into this mish-
4 mash as to what's going. And what we want to do is
5 ensure everybody has a fair chance to respond to all
6 of the arguments; not that it's split because that'll
7 go on forever. And that's -- that's the point.

8 So if in future years, you know, you
9 want to do a PowerPoint or you don't want to do a
10 PowerPoint, that's all up to you, but your argument's
11 got to be in the one (1) case and reply is only for
12 new issues that could not be contemplated.

13 THE PANEL CHAIRPERSON: Mr.
14 Klassen...?

15

16 CONTINUED CLOSING SUBMISSIONS BY CAC (MANITOBA):

17 MR. CHRIS KLASSEN: Thank you. We
18 will be brief on behalf of CAC (Manitoba), wishing
19 only to address four (4) discrete points in reply.

20 First, CAC (Manitoba) notes that MPI
21 does not -- does not abide by the principles of
22 statutory interpretation, set out in CAC Exhibit 12-2,
23 at tab 9, which, as confirmed by the Supreme Court,
24 explicitly require reference to relevant context.

25 In its references both to the MPIC Act

1 and the Drivers and Vehicles Act, MPI has chosen to
2 ignore the contemporary purpose, the legislative
3 intent, and the historical context which must guide
4 our application of the law.

5 This is evident, first, at paragraphs 4
6 through 7 of MPI's legal submission, Where MPI
7 proposes a reading of Section 14(2) that constrains
8 the provisions protections to working only against
9 overt actions by government. This proposed
10 interpretation by MPI disregards and makes meaningless
11 the legislature's intent to preserve the independence
12 and integrity of MPI in the interests of Manitoba
13 ratepayers.

14 In the remainder of its arguments
15 respecting DVA, MPI repeats the same error in law by
16 asserting that the administration of DVA is a purpose
17 of MPI, simply because it is listed at Section
18 6(1)(c.1). MPI reads the DVA Act and this section of
19 the MPIC Act in a manner that ignores the history of
20 these provisions, which began with an expressed
21 delegation of responsibility by government, an
22 agreement between MPI and government respecting the
23 parties' roles and the constraints on MPI's authority,
24 and the enactment of the DVA Act and the insertion of
25 this Section 6.1 to formalize the parties'

1 arrangement.

2 And by focusing narrowly on the words
3 of the legislation, MPI also disregards the effect of
4 the transfers to DVA, which serve to subsidize, to
5 directly reduce the amounts that government will have
6 to pay for DVA, and have the same affect as if the
7 government had appropriated the funds itself. A
8 reasonable interpretation of Section 14(2) cannot be
9 to create so large a loophole that government would
10 only need MPI to initiate a transfer in order to avoid
11 contravening it.

12 Second, at paragraph 19 and following,
13 MPI cites a need to pay its bills and a lack of
14 practical alternatives with respect to meeting the
15 immediate shortfall in DVA.

16 CAC (Manitoba) notes that MPI's action
17 was disproportionate to the immediate shortfall in
18 DVA, and also that an apparent lack of practical
19 alternatives does not amount to a licence to disregard
20 statutory protections in place.

21 Third, MPI argues that because the
22 funds in question were never in the Basic rate
23 stabilization reserve, that they are outside of the
24 purview of this Board and the scope of this process.

25 This ignores the fact that the funds

1 transferred to DVA have directly reduced the amount of
2 the special rebate which is squarely within the PUB's
3 rate-setting authority. These funds were brought
4 under scrutiny through the Capital Management Plan,
5 approved by the PUB two (2) years ago, and which was
6 in place for a trial period through this past fiscal
7 year and through the present special rebate
8 application. By the intent of the Capital Management
9 Plan, the funds in question should have been included
10 in the present rebate application and, as presented
11 earlier this week, still can be.

12 Fourth, and finally, with respect to
13 MPI's assertion that it would have no choice but to
14 comply with the reserves regulation, even if in
15 conflict with an order of this Board, CAC (Manitoba)
16 merely notes that MPI's only authority supporting this
17 position is its own statement to the same effect in
18 response to CAC (Manitoba)'s Information Request. We
19 refer the Board specifically to paragraph 32 of MPI's
20 legal submission on this point.

21 More generally, MPI provides no legal
22 authority for the positions taken in its brief or in
23 its prior Information Request on the subject, which
24 speaks to the substantive merits of these documents.

25 CAC (Manitoba) submits that its

1 submissions on the reserves regulation, which are
2 based both in sound statutory interpretation, and case
3 law should instead be followed.

4 Subject to the Board's questions, these
5 are our submissions.

6 THE CHAIRPERSON: Thank you.

7 THE PANEL CHAIRPERSON: Thank you, Mr.
8 Klassen. Mr. Gabor...? Mr. Watson...? Ms.
9 McCandless...?

10 MS. KATHLEEN MCCANDLESS: Yes. Madam
11 Chair, before you proceed your -- with your questions
12 of the MPI panel, Ms. Meek is joining over Teams. She
13 just wants to advise the Board of an exhibit that
14 she's filing. It's just her written submissions from
15 this morning.

16 THE PANEL CHAIRPERSON: Thank you.
17 Ms. Meek...?

18 MS. CHARLOTTE MEEK (by Teams): Thank
19 you, Ms. McCandless. Yes, CMMG understands that the
20 panel would be helped by having the written
21 submissions of CMMG, so I'd just like to file, and
22 I've sent it around to all the parties, the closing
23 submissions of the Coalition of Manitoba Motorcycle
24 Group, dated October 29th, 2021, and I believe that
25 will become CMMG Exhibit 5.

1 --- EXHIBIT NO. CMMG-5: Closing submissions of the
2 Coalition of Manitoba
3 Motorcycle Group Dated
4 October 29th, 2021.

5

6 THE PANEL CHAIRPERSON: Thank you, Ms.
7 Meek.

8 MS. CHARLOTTE MEEK (by Teams): Thank
9 you.

10 MS. KATHLEEN MCCANDLESS: And, Ms.
11 Meek, just to confirm, I understand these are just a
12 verb -- or near verbatim transcript of the remarks you
13 delivered morning. Is that right?

14 MS. CHARLOTTE MEEK (by Teams): Yes,
15 this is the document that I read off during my
16 submissions.

17 THE PANEL CHAIRPERSON: Thank you.
18 Mr. Scarfone...?

19

20 REPLY BY MPIC:

21 MR. STEVE SCARFONE: Thank you, Madam
22 Chair. So, MPIC has some comments in reply to some,
23 but not all of the issues that -- that were canvassed
24 over the past three (3) weeks. And as we heard in
25 closing arguments, so Mr. Guerra, since we've split up

1 the work, will be dealing with some reply on the
2 taxies, Project Nova, and benchmarking.

3 And I will address in reply some
4 comments on claims incurred, specifically the -- the
5 pure premium trends that the expert advanced earlier
6 this week, investments, and the Capital Management
7 Plan/DVA issue.

8 And so, I'm wondering if Mr. Guerra
9 wants to go first?

10 THE PANEL CHAIRPERSON: One moment,
11 please. Mr. Scarfone, the reply should relate to any
12 new issues that were raised in the submissions of the
13 Interveners --

14 MR. STEVE SCARFONE: Right. Yes.

15 THE PANEL CHAIRPERSON: -- and not
16 prior --

17 MR. STEVE SCARFONE: Of course.

18 THE PANEL CHAIRPERSON: -- testimony
19 in the hearing.

20 MR. STEVE SCARFONE: Yes, of course.

21 THE CHAIRPERSON: Sorry, I got
22 confused, Mr. Scarfone, because you referred to the
23 last three (3) weeks.

24 MR. STEVE SCARFONE: No, just --

25 THE CHAIRPERSON: Yeah.

1 MR. STEVE SCARFONE: -- the -- the
2 issues that were canvassed over the three (3) weeks
3 and then -- yeah, sorry. I didn't --

4 THE CHAIRPERSON: And ended up in the
5 --

6 MR. STEVE SCARFONE: -- mean to
7 confuse you.

8 THE CHAIRPERSON: -- Interveners'
9 submissions?

10 MR. STEVE SCARFONE: Yeah.

11 THE CHAIRPERSON: Okay.

12 MR. STEVE SCARFONE: Yeah. And so,
13 Mr. Guerra will begin with his three (3) issues, or
14 topics.

15 MR. ANTHONY GUERRA: Thank you, Mr.
16 Scarfone. There are -- were a number of requests, or
17 recommendations rather I guess you could say, that
18 were made by the CAC this year that we'd like to
19 address.

20 The -- the first is the first request,
21 which is that the rate indication for the 2022/2023
22 year should be filed by MPI in a revised Undertaking
23 28, reflecting the Oliver Wyman past and future
24 trends.

25 Mr. Scarfone will speak a little bit

1 more about the past and future trends aspect, but in -
2 - in regards to that specific request, what MPI
3 understands is that their request is for another
4 undertaking and for the evidentiary portion of this
5 hearing to -- to continue with further submissions to
6 follow, and things like that.

7 MPI submits that the evidentiary
8 portion of this hearing is closed and very soon we'll
9 also have the legal arguments' portion of the hearing
10 closed as well. So, to the extent that that's a
11 request that is being considered by the PUB in this
12 case, we would submit that -- that would not be proper
13 to open up the evidentiary portion of the -- the
14 hearing at this -- at this stage.

15 In regards to the -- request number 8
16 from CAC, that the PUB should order that MPI's special
17 rebate include the total amount transferred and
18 forecast to be transferred from Extension to DVA by
19 March 30th, 2022, totalling \$113 million, 60 million
20 in 2021, and 53 million in '21/'22, we would just note
21 that doing so would -- in addition to the comments
22 that we've made in terms of the jurisdictional aspects
23 of that, also render those rates and those particular
24 years no long breakeven. And so, it would be about
25 (AUDIO ISSUES) own directive to make sure it's

1 approving rates (AUDIO ISSUES).

2 In regards to Project Nova and IT, the
3 recommendations of CAC, there is one (1) in terms of
4 the production of a witness in next year's rate
5 application. In particular, the witness from
6 PricewaterhouseCooper. We would just note that there
7 -- there's a -- a particular danger, for lack of a
8 better word, in directing MPI to do something that
9 requires another person to -- to act. We can -- we
10 can make requests.

11 We -- we can certainly have discussions
12 with witnesses, but directing MPI to ensure that
13 somebody is here who may not want to be here or may
14 not be available, or whatever the case may be, may
15 pose some practical problems. So we just would like
16 to highlight that for consideration of the Board.
17 And that would be something similar in terms of any
18 witnesses that might be requested for -- for example,
19 KPMG.

20 In terms of benchmarking, there is a --
21 there's a request at number 28 that given the
22 persistent underbudgeting of FTAs, which have not
23 resulted in deterioration of business operations, MPI
24 should be directed to conduct an analysis of
25 productivity gains in areas which have -- have been

1 operating under staffing budget in order to return
2 whether it should be reducing its budget FTAs in those
3 areas, in addition and related, MPI should target FTE
4 metrics that are comparable with Crown peers.

5 The -- the evidence that you've heard
6 obviously, is that Crown benchmarking is in its
7 infancy and -- and will be refined over time. And --
8 and we certainly want to iron out the differences
9 between the Crowns on FTE accounts and things like
10 that.

11 There is a danger, however, in saying
12 that MPI is -- is able to appropriately handle its
13 business operations and what it really needs is fewer
14 FTEs. And -- and what we should do is is we should
15 assign more work to be done in the meantime.

16 More direction obviously are not always
17 helpful for the parties. Some -- some work, obviously
18 would be a good thing to -- to know and to do, but
19 work for work sake is not always something that is
20 beneficial for all the parties.

21 So, we would just caution the PUB that
22 in deciding which, if any, of these directions to --
23 to issue to MPI for work to be done, that there is
24 only a certain finite amount of resources and -- and
25 priority should be given to those resources that are

1 going to produce positive gains for the parties.

2 We would submit this this is probably
3 not one (1) of them at this point in time, given that
4 the Crown benching -- excuse me, Crown benchmark
5 exercise has not fully matured at this point.

6

7 (BRIEF PAUSE)

8

9 MR. ANTHONY GUERRA: In terms of the
10 positions -- or sorry, some of the comments made by
11 the Taxi Coalition, there were a couple of points that
12 we'd like to address. The first was the first
13 recommendation about quarterly reporting on compliance
14 with PUB directives.

15 We all know that we have a very robust
16 regulatory process in Manitoba. And when you compare
17 the process in Manitoba to, say, the process in
18 Saskatchewan, it's -- it's night and day. And
19 although, we -- we push and pull in terms of how --
20 how robust that should be and -- and how many rounds
21 of undertakings or rounds of Information Requests we'd
22 have, and how many days of hearings and things like
23 that, we -- we all agree that we -- we do have a lot
24 of oversight in this case.

25 Again, I would strongly caution the

1 Board that orderly reporting may not necessarily be
2 the answer to the issues, because we -- for example,
3 in -- in a case of our actuaries, they -- they're
4 already looking towards the next GRA.

5 And -- and when it comes to January,
6 they -- they already have four (4) months before they
7 have to start to -- to get all of the proformas and
8 things together that need to be filed with our rate
9 application. We already, essentially, have a year
10 long application process.

11 We have teams that are gearing up for
12 the next rate application already. And myself and Mr.
13 Scarfone, we start looking at these early as February
14 in some years, depending on the situation.

15 And so just -- I -- I appreciate the --
16 the concern and maybe the creativity that's being put
17 into requests such as this, but we also have to
18 appreciate that this type of analysis ongoing would --
19 would make it more difficult for MPI to be able to
20 complete other projects which we say would -- would be
21 of more benefit for -- for the parties.

22 The Taxi Coalition also raised an issue
23 about data collection. And I would just remind the --
24 the PUB that Ms. Jatana was asked specifically about
25 non-compliance with the directives, and she did

1 discuss that. It's not in every case that MPI sought
2 to not comply with directives.

3 But again, just like the issue about
4 PricewaterhouseCoopers, you can ask somebody to -- to
5 play nice with you or to -- to provide information or
6 to help you get to the bottom of a particular problem.
7 If they're not prepared to engage with you, or they --
8 they see their engagement or the -- the level of
9 information they can provide you as being different
10 than what you think is helpful to -- to get to the
11 bottom of the problem, then we have a -- we have an
12 issue here.

13 You know, when she was asked this
14 particular question on October 22, she says:

15 "MPI needs the cooperation and
16 collaboration of these stakeholder
17 groups, and now being very close to
18 the side and being in -- in those
19 conversations, there's challenges to
20 get cooperation and collaboration
21 from that type of group.

22 For example, you know one group, we
23 -- we know, we have a group that has
24 a -- high collision and high risk
25 and we need to better understand

1 driver behaviour behind the wheel as
2 to what is unique about that group
3 and causes them to be who they are.
4 And the -- MPI does not have that
5 data. Some of that data could be
6 requested from the City of Winnipeg,
7 and while those questions are being
8 posed, that this data -- this is the
9 data that MPI will use, you know,
10 the stakeholders just -- there just
11 isn't alignment.

12 We believe that data will serve as
13 well, whereas the stakeholders would
14 view, well, there's no flaws in the
15 data."

16 So, what she's highlighting here is
17 that it's -- it's -- there -- there's -- there can be
18 a -- a two (2) person solution on this, but if one
19 party doesn't want to -- or one person doesn't want to
20 participate in that solution, in a meaningful way or
21 at all, you can't come to the Board with -- with a
22 fulsome response on that.

23 So, in terms of if the Board is -- is
24 prepared to consider issuing further directions again,
25 we -- I think we have to be mindful of how that's

1 going to be worded.

2 MPI can makes its best efforts, but it
3 can't force people to participate if they don't want
4 to, or they don't want to participate in a meaningful
5 way. So that would be my position or MPI's position
6 on -- on that particular thing.

7 The last issue that we'd like to speak
8 to or at least I'd like to speak to is in regards to -
9 - I think I've -- I think I've addressed all of the
10 concerns that I wanted to -- to address, so I will
11 turn it over to Mr. Scarfone.

12 MR. STEVE SCARFONE: Thanks, Anthony.
13 Anthony did address somewhat what I wanted to say
14 concerning the -- the pure premium trends and the
15 request by the CAC that we immediately file an
16 alternative rate indication.

17 So, just some background, in case the
18 Board isn't aware, the -- the expert that was retained
19 by the CAC had a different model.

20 You'll recall that we worked with --
21 and then he was here, and said, well, wait a minute,
22 you only used the -- the future pure premium trend and
23 I wanted you to -- to do both. Right? You didn't do
24 both.

25 And so that was what gave rise to the

1 order from the CAC that MPI should do both, get that
2 new rate indication to the Board immediately.

3 And -- and our response to that, just a
4 reminder for the Board, also the comments that Mr.
5 Guerra said, that the evidentiary portion of the
6 hearing is over, but you'll recall that the expert
7 said, with -- with regard to that Undertaking,
8 you know, I apologize, I should have been a little
9 more clear. It didn't expressly indicate that we
10 wanted both the past and the future pure premium
11 trends used.

12 And, so he acknowledged that MPIC is
13 certainly prepared to provide that alternate rate
14 indication in its next filing. But we don't think,
15 given how that undertaking unfolded, and the fact that
16 the hearing is closed, that we would be doing that,
17 you know, next week, for the Board's consideration in
18 this Application.

19 So that's all I wanted to mention on
20 the -- on the -- the ratemaking pure premium trends
21 part of it.

22 On investments, Madam Chair, there's a
23 point that was made about the surplus volatility that
24 I think needs to be corrected.

25 I think you've heard from both the CAC

1 and the CMMG that those surplus volatility numbers
2 point heavily in favour of the shadow portfolios.

3 That's not entirely accurate, in fact,
4 if -- if you look at the response to Undertaking
5 Number 40, that was prepared by Mr. Bunston, you'll
6 see there that the -- the -- the actual return on the
7 Basic claims portfolio, from March 19 to March 20,
8 was, in fact, lower, but the risk was higher.

9 And -- and so, when Ms. Meek said that
10 the risks are the same, that's not entirely true. The
11 surplus volatility for the actual Basic portfolio, was
12 lower, and as a result of that the adjusted returns,
13 for the shadow portfolios, are, in fact, lower than
14 the actual Basic portfolio.

15 I say all that with these words, a
16 couple, three (3) years ago, this Board said that the
17 investment strategy that MPIC had selected was
18 selected was reasonable. All of these criticisms we
19 say, are with the benefit of hindsight, of course, and
20 so, we still think we have a reasonable strategy,
21 nothing has changed since the Board made that finding.
22 We're still implementing the strategy. We're happy
23 with the strategy.

24 On the ALM study that's upcoming, I
25 would suggest, in the same way that Anthony has, the

1 Board has to be aware that if one (1) of the
2 recommendations is adopted and that the Board, you
3 know, orders us to escalate this thing, some of these
4 things are outside of MPI's control.

5 You know, the Board is aware we'll have
6 to issue a -- a Request For Proposal. We don't know
7 what's happening on the other end of that, perhaps we
8 don't get a response or no -- nobody bids initially,
9 we don't know. So we have to be mindful, like an
10 undertaking, you can only give an Undertaking that you
11 have control over.

12 And you heard Mr. Bunston say that the
13 two (2) previous studies by AON, those took six (6)
14 months. His evidence was that he prefers that, he
15 doesn't want to rush this thing through, it's a very
16 important study. The four (4) month period that Ms.
17 Meek spoke of, that was an exception in 2017. Six (6)
18 months is the normal time frame for these things to
19 occur.

20 And, we're hopeful that it aligns with
21 the GRA next year, but she's right. We can't
22 guarantee that for the reasons I just indicated. So
23 be mindful of that.

24 On the Capital Management Plan and the
25 DVA transfer, you know, Mr. Hacault mentioned this

1 morning, that, you know, on that agency issue, that
2 MPIC is not in control of the DVA operations; in -- in
3 reality, it's government.

4 Our response to that would be, you
5 know, the implementation of Nova, would suggest
6 otherwise and the costs that are being incurred by the
7 Corporation. And so, if the government was ultimately
8 responsible for that, I don't think we'd be here
9 discussing where's the money. Right?

10 MPIC is in control of DVA and we're
11 putting Nova and a lot of money into the DVA and so I
12 think that's a good example that the Board can look to
13 -- to sort that issue out.

14 We were surprised to hear the CAC say
15 that MPIC is hiding behind the words of the fiscal
16 year-end test and that we're offending the spirited
17 intent of the agreement.

18 We're not hiding behind the words.
19 We're pointing to the words. I would suggest the CAC
20 can't hide behind those words because they're
21 pretending they don't exist.

22 And -- and a remarkable thing is
23 happening here. There's a bunch of lawyers pretending
24 that words don't exist, and you have to look at what
25 the CMP has to say.

1 MPIC does not make decision concerning
2 tens of millions of dollars on spirit and intent. We
3 look to the document and that's what we did.

4 And it -- and don't forget one (1)
5 important point, that year-end test and Mr. Giesbrecht
6 calls it a year-end test, well why does he do that?
7 It's not like a bank account, where you just open it
8 up and what's the balance.

9 At the end of the year, you got to
10 prepare calculations to determine what the MCT
11 percentage is. That's why he calls it a test.

12 And so, if you put what the CAC is
13 suggesting into -- into practice, what would happen?
14 Every time it exceeds 200 percent MCT, if it's at 201,
15 you do an automatic transfer? And then the next week
16 you do another transfer?

17 Or, alternatively, what do you do? You
18 just earmark all that money till the year -- end of
19 the year and no matter what happens in the rest of the
20 corporation, leave that alone. It's going to be
21 transferred at the year end.

22 So, those are the only two (2) options
23 that the CAC has. Multiple transfers, every time it
24 exceeds two hundred (200), or just don't touch it. No
25 matter what happens, don't touch it. It is for Basic.

1 Both, we say, are absurd.

2 And so, Mr. Giesbrecht was here and
3 said to Mr. Gabor, that discretion, that's never
4 changed. He was here last year and said that. We've
5 always had the discretion.

6 And what we didn't see in last year's
7 Order, was M -- was this Board saying, no, you don't
8 MPI, you have no discretion. The Board didn't say
9 that to us.

10 THE CHAIRPERSON: Mr. Scarfone, to be
11 fair, we didn't know there was a transfer the last
12 year, did we? We didn't know about DVA last year.

13 MR. STEVE SCARFONE: No, you did not.

14 THE CHAIRPERSON: But there was a
15 transfer.

16 MR. STEVE SCARFONE: But the Board
17 certainly knew that we took the position we had
18 discretion.

19 THE CHAIRPERSON: Well, that's fine
20 and -- okay, sorry to interrupt.

21

22 (BRIEF PAUSE)

23

24 MR. STEVE SCARFONE: The only other --
25 and Anthony as well touched on this. There's two (2)

1 proposals being made by the Interveners on how to deal
2 with this. The -- the CAC I think is saying, well,
3 what you should do is just order that that transfer
4 that they say was improperly made, order that to be
5 paid -- paid from Basic, right from the RSR. Don't
6 worry that it might bring the RSR below its capital
7 threshold. Don't worry about that, because you guys
8 have already said that the reserves regulation is --
9 is invalid and ultra vires.

10 So if the -- if the RSR was to fall
11 down to 50 percent, who cares? Guess who cares. MPI.

12 We would take immediately -- we would
13 immediately take steps to bring it back up to a
14 hundred percent MCT to get back into compliance with
15 the regulation.

16 So that option that's presented to you
17 by the CAC to just pay it out of the RSR is a non-
18 starter in our view.

19 Mr. Hacault, he takes a different
20 approach. He says: Don't worry about all this
21 jurisdic -- jurisdictional stuff. Just unwind the
22 whole thing and direct MPIC to reverse it and -- and
23 have this Board direct that monies in a non-Basic line
24 of business be moved back into Basic.

25 That's his solution, both of which we

1 say are untenable.

2

3

(BRIEF PAUSE)

4

5

MR. STEVE SCARFONE: And the last
6 recommendation -- I don't know if I even have to say
7 it -- by the -- by the CAC is they've asked that this
8 Board direct MPIC to approach government and finalize
9 a new funding agreement.

10

All right, we will get right on that.
11 Mr. Herbelin, I can assure you, has been doing his
12 best to try and get that agreement done. We don't
13 need a direction from the Board to have our president
14 try and negotiate something with the Government of
15 Manitoba. And so that is another one of those
16 orders/undertakings that is outside of our control.
17 We can't make the government agree to pay us.

18

And those are all my comments in reply.

19

THE PANEL CHAIRPERSON: Thank you, Mr.
20 Scarfone.

21

Mr. Gabor...?

22

THE CHAIRPERSON: Yeah. Mr. Scarfone,
23 just one (1) -- just on one (1) point you raised, and
24 again I'm going by my memory which is dangerous.

25

You made reference to the ALM, and I

1 guess it was three (3) years ago, and I -- everything
2 sort of is a blur. But I just sort of want to ask you
3 if you remember -- I thought the position of MPI at
4 the time in that year was there wasn't enough time to
5 do -- there was no ALM, there wasn't enough time.

6 It took six (6) months to do an RFP and
7 went through the whole thing. We hit the IR stage,
8 there was no ALM. Then when we hit the hearing, your
9 -- you had -- your gentleman was from Toronto, I
10 think; he was the consultant who was brought in as the
11 CFO for the year -- your ALM was done in -- somebody
12 said four (4) months.

13 I think it was two (2) months. I think
14 it started the beginning of September and it was
15 available sometime either at the end of the hearing or
16 immediately after the hearing, because I remember
17 asking him, saying: Before you said you couldn't do
18 it because it took too long. How did you get it done
19 so quickly?

20 And it was -- it was a nice -- nice,
21 reasoned answer, in terms of, well, we got on it right
22 away and we told them to do it right away.

23 I'm just -- I -- I just sort of put it
24 to you, I guess, rather than in question. You're
25 going to face a problem if the answer next year is it

1 takes too long and it's six (6) months and that,
2 because the record is that MPI got it done in the year
3 that they said they couldn't get it done. So I just
4 want to sort of put that to you, because I don't want
5 to have something come out at you at the -- blue or,
6 you know, out of the order where you didn't -- you
7 know, or anything like that.

8 MR. STEVE SCARFONE: M-hm.

9 THE CHAIRPERSON: The ALM -- and you
10 acknowledge it -- that it's important, it's a really
11 important document for MPI and for the Board.

12 So I don't know what we're going to
13 order, but there it is.

14 MR. STEVE SCARFONE: I -- I do recall
15 that. The gentleman's name was Peter Yin (phonetic)
16 --

17 THE CHAIRPERSON: Peter Yin, that's
18 right.

19 MR. STEVE SCARFONE: -- acting CFO.
20 And if I recall correctly -- I hate to say this -- I
21 think we were in a little bit of a tug-of-war there
22 with the Board where we were reluctant to get the new
23 study done until we got our capital targets from you.
24 And -- and so it was this back and forth, as I recall,
25 and then we just ended up --

1 THE CHAIRPERSON: It got done, yeah.

2 MR. STEVE SCARFONE: -- doing it, and
3 it was done quickly.

4 THE CHAIRPERSON: Yeah.

5 MR. STEVE SCARFONE: But, yeah, I --

6 THE CHAIRPERSON: Thank you.

7 MR. STEVE SCARFONE: -- have your
8 point.

9 THE CHAIRPERSON: I appreciate it, Mr.
10 Scarfone.

11 THE PANEL CHAIRPERSON: Mr. Watson...?

12

13 (BRIEF PAUSE)

14

15 THE PANEL CHAIRPERSON: Thank you.

16 This concludes the 2022 Manitoba Public Insurance
17 Corporation General Rate Application and Special
18 Rebate Application hearing.

19 On behalf of the Board panel, I would
20 like to thank everyone for their cooperation
21 throughout this hearing. This includes the MPI
22 witnesses and their counsel, including Mr. Herbelin,
23 Mr. Giesbrecht, Ms. Jatana, Mr. Parti, Mr. Gandhi, Mr.
24 Phoa, Mr. Dunstone, Mr. Mitra, Mr. Prystupa, Mr.
25 Patton, Mr. Bunston, Mr. Ramirez, Mr. Lazarko, Ms.

1 Lang, Mr. Scarfone, Mr. Guerra, and Mr. -- Mr. Triggs,
2 and the many MPI representatives who provided back-row
3 support during these proceedings;

4 The Interveners and their respective
5 counsel; for CAC, Ms. Dilay and Mr. Klassen; for CMMG,
6 Ms. Meek; and for the Taxi Coalition, Mr. Hacault;

7 The witnesses who testified before the
8 Board: Mr. Dion, Mr. Wong, and Mr. Sahasrabuddhe;

9 The presenters who made submissions
10 this year; secretary of the Board, Mr. Christle;
11 assistant associate -- associate secretary of the
12 Board, Ms. Dubois; our judicial hearing assistant, Ms.
13 Schubert; and our administrative officer, Ms.
14 Villegas; our court reporter, Digi-Tran, including Ms.
15 -- Ms. Woodworth; our advisors, Mr. Cathcart, Mr.
16 Yang, Mr. Manktelow; and our counsel, Ms. McCandless,
17 Mr. Watchman, and Ms. Moore.

18 The Board also appreciates the members
19 of the public who took time to follow the proceedings
20 by our live streaming on the PUB website.

21 The panel will be meeting in the very
22 near future to deliberate and make our final
23 determinations of the matters before us.

24 That concludes our hearing. Good
25 afternoon.

1 --- Upon adjourning at 2:07 p.m.

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6 Certified Correct,

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10 Wendy Woodworth, Ms.

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