

1 MANITOBA PUBLIC UTILITIES BOARD
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67 Re: MANITOBA PUBLIC INSURANCE
8 LOSS TRANSFER HEARING
910
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12
13 Before Board Panel:14 Graham Lane - Board Chairman
15 Denyse Cote - Board Member
16 Eric Jorgensen - Board Member
17 Len Evans - Board Member
18

19 HELD AT:

20 Public Utilities Board
21 400, 330 Portage Avenue
22 Winnipeg, Manitoba
23 May 12th, 2005
24

25 Pages 539 to 881

APPEARANCES

1
2 Walter Saranchuk) Board Counsel
3 Candace Everard)
4
5 Kevin McCulloch) Manitoba Public Insurance
6
7 Darlene Hall) Automobile Ins. Services
8 Branch - Financial Services
9 Commission of Ontario
10 Raymond Oakes) CMMG
11 Byron Williams) CAC/MSOS
12 Nick Roberts) Manitoba Used Car Dealers
13 Association
14 Michael Mager (np)) CAA
15 Margaret Scurfield (np)) IBAM
16 Don Miller) Manitoba Car & Truck
17 Carlene Olafson) Rental Association Inc.
18
19 Robert Dawson) CBA/MBA
20
21 Claudio Sousa (np)) Scootering Manitoba
22
23 Arthur Tabachneck) Insurance Bureau of
24 Canada
25 Robert Ramsey) MMIC

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	LIST OF EXHIBITS	
2	No. Description	Page No.
3	MPI-32 E-mail of Monday, May 9th, 2005 at	
4	4:34 p.m, from DONALD Palmer to Marilyn	
5	McLaren and Kevin McCulloch, which	
6	is the information from SGI	629
7	MPI-33 Document consisting of three (3) pages,	
8	entitled the Manitoba Public Insurance	
9	Corporation Major Classification	
10	Required Rate Changes.	630
11	MPI-34 Copy of a statement of principles	
12	regarding property and casualty	
13	insurance rate making, adopted by the	
14	Board of Directors of the Casualty	
15	Actuarial Society of May 1988.	631
16	PUB-35 CV of Mr. Brian Pelly.	690
17	MPI-36 Printout from CANSIM.	767
18	MPI-37 CAA Demographic Overview.	779
19	MPI-38 Excerpt from Statistical	
20	Techniques for Business and Economics,	
21	also known as Mason and Lynd.	785
22	MPI-39 Copy of the transcript of last year	
23	with the discussion of fault charts.	792
24	MPI-40 CAC/MSOS Book of References.	809
25		

1	LIST OF EXHIBITS (cont'd)		
2	Exhibit No.	Description	Page No.
3	MPI-41	Copies of various undertakings MPI.	
4		The lead sheet is Information Request	
5		with the listing of different	
6		undertakings in a response from MPI.	
7		And then from date of November 1,	
8		2004. Then attached to it is Table	
9		T-120, photocopy of serious losses	
10		related to dealers as of February 29,	
11		2004. And the last sheet is taken	
12		from the 2005 rate application,	
13		Exhibit 14.5.	848
14	MPI-42	Treatment of dealers in other	
15		Provinces.	853
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	LIST OF UNDERTAKINGS		
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3	1	File SGI correspondence.	601
4	2	File Document Mr. Palmer quoted	
5		from, relevant to the current	
6		pronouncement on the principles	
7		of the Actuarial Society.	601
8	3	File copy of the paper showing	
9		Mr. Palmer's reworking of the	
10		calculations as presented in	
11		MMIC's paper.	601
12	4	Ms McLaren to provide the ratio	
13		between the average passenger car	
14		premium and the average motorcycle	
15		premium.	661
16	5	File fault charts used by the	
17		Corporation with reference to how	
18		low it's been in place and source.	791
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1 --- Upon commencing at 9:10 a.m.

2

3 THE CHAIRPERSON: Good morning everyone.

4 Last night we had the pleasure of receiving presenters,
5 eight (8) registered and seven (7) appeared. They
6 provided a variety of views, pros and cons, regarding
7 some of the issues before us and I recommend a review of
8 the transcript to inform yourselves.

9 Before we begin today Mr. Saranchuk has
10 something to say.

11 MR. WALTER SARANCHUK: Yes, with the
12 consent of the other participants, we've called Mr.
13 Ramsay from MMIC to the mic just to have one (1) matter
14 clarified in respect of the study commissioned by his
15 organization. The study to be performed by the U of M
16 and as we will note from Exhibit 27 which is the
17 Statement of Work, essentially, setting forth the term of
18 engagement relative to the work actively to be performed.

19 The request is for the U of M to review
20 the study which was filed as attachment AI-16 of MPI's
21 General Rate Application last year.

22 On review of the report entitled "The
23 Motor Risk Study" filed as part of last year's
24 application by MPI on July 2, 2004 as AI-16, the study
25 begins by indicating that it was prepared pursuant to the

1 request of the PUB in its order 17/30/3 which stated as
2 follows, quote:

3 "MPI gather data and study the causes
4 of motorcycle risk to assist in the
5 categorization of motorcycle accidents
6 and investigate whether a form of
7 graduated licensing and/or mandated
8 training for motorcyclists be
9 appropriate and report back to the
10 Board at the next General Rate
11 Application."

12 So now the question arises whether,
13 indeed, the study coming forth from the U of M addresses
14 the particular issues for, namely, "loss transfer." I'm
15 going to ask Mr. Ramsay to clarify and give his opinion
16 relative to that particular point, with your indulgence,
17 sir.

18 THE CHAIRPERSON: Please do so.

19

20 ROBERT RAMSAY, Resumed:

21

22 RE-CROSS-EXAMINATION BY MR. WALTER SARANCHUK:

23 MR. WALTER SARANCHUK: Mr. Ramsay, you
24 obviously heard what I said and my question, of course,
25 is whether, indeed, the study you commissioned by the

1 University of Manitoba will deal with the loss transfer
2 issue specifically.

3 MR. ROBERT RAMSAY: The study was
4 commissioned not to deal directly with loss transfer,
5 but, directly in the sense that we felt that the study
6 that was prepared by MPI was seriously flawed and if any
7 organization used that for an indication whether that
8 would affect risk or inherent risk or any indication of
9 rate setting was inappropriate.

10 And so from that point, not designed to
11 deal with the issue of loss transfer but, more
12 specifically, designed to deal with deficiencies in the
13 study produced by MPI and I would add, very briefly, that
14 in relative context other insurance organizations have
15 taken the study that was produced by MPI and have
16 indicated that it does affect and I'll read a precise
17 statement.

18 "The study [referring to the Risk
19 study] --

20 MR. WALTER SARANCHUK: What are you
21 referring to, sir?

22 MR. ROBERT RAMSAY: I'm referring to...

23 MR. WALTER SARANCHUK: The document you
24 were reading from.

25 MR. ROBERT RAMSAY: Oh, the document I am

1 reading from is Insurance Canada.ca Auto Safety
2 Motorcycle Crash Study Shatters Myths and the rest is cut
3 off due to photocopying, I apologize.

4 MR. WALTER SARANCHUK: Is that filed in
5 the evidence?

6 MR. ROBERT RAMSAY: No, it is not. I can
7 file it, if you please.

8 MR. WALTER SARANCHUK: Please

9 THE CHAIRPERSON: Yes, Mr. Ramsay, please
10 do that, but continue.

11 MR. ROBERT RAMSAY: This is dated October
12 8, 2004.

13 "The study also demonstrated that the
14 loss transfer system proposed by
15 motorcyclists would still require a 30
16 percent increase in rates because of
17 the high incidents of vehicle crashes
18 and severe injuries. The loss transfer
19 rating scheme..."

20 The rest cut off in photocopying.

21

22

23 CONTINUED BY MR. WALTER SARANCHUK:

24 MR. WALTER SARANCHUK: What is the web
25 site?

1 MR. ROBERT RAMSAY: The web site is
2 Insurance Canada.ca. This is actually a direct
3 photocopy. I will provide it to the Board counsel.

4 MR. WALTER SARANCHUK: Yes, mark in the
5 evidence just to conclude.

6 MR. ROBERT RAMSAY: Yes, to confirm, I
7 would agree with you, absolutely. It wasn't intended
8 directly for loss transfer but to address...

9 MR. WALTER SARANCHUK: The statistics.

10 MR. ROBERT RAMSAY: Statistics that were
11 provided and how they were assumed by other
12 organizations, at least according to this media release.

13 THE CHAIRPERSON: Mr. Ramsay, you
14 indicated earlier that you'd already received a draft
15 report from the researcher.

16 MR. ROBERT RAMSAY: Yes, sir.

17 THE CHAIRPERSON: Is the draft report
18 relative to any areas before us?

19 MR. ROBERT RAMSAY: To be quite frank, I
20 reviewed them very quickly and can't remember whether if
21 it does or not. The draft report had not been vetted
22 and, therefore, could change and not be indicative of the
23 final report.

24
25 (BRIEF PAUSE)

1 THE CHAIRPERSON: Okay, apparently we're
2 back in action again. Mr. Sarachuk, before we give this
3 an Exhibit number, we're going to mull it over when we
4 have our break. Because we're reluctant when we look at
5 this because we're missing half of it.

6 And Mr. Barron had a look at the website
7 and apparently it's not on the website anymore.

8 MR. WALTER SARANCHUK: Well, there is
9 some information -- there is some information, sir, that
10 just came forth during the break which might assist the
11 Board in addressing this particular issue.

12 THE CHAIRPERSON: Okay. Well, let's
13 not --

14 MR. WALTER SARANCHUK: So, in dealing
15 with the printout from the website, Mr. Ramsay, on
16 further review the reference that you made to the study
17 referring to a 30 percent increase in rates, is not the
18 study that is the subject of the review by the University
19 of Manitoba, as it turns out.

20 Because the reference to the 30 percent
21 increase is not in the motorcycle risk study filed as AI-
22 16 last year, but, rather coincidentally in AI-16, filed
23 the previous year.

24 And so to that -- for that reason there
25 really is no measure of content in the motorcycle risk

1 study being the subject of the review by the University
2 of Manitoba that addresses loss transfer, according to my
3 information. And do you agree?

4 MR. ROBERT RAMSAY: Based on the
5 information very recently brought forward by MPI, I would
6 agree with that, yes.

7 THE CHAIRPERSON: Okay. Thank you Mr.
8 Saranchuk. Thank you, Mr. Ramsay. We'll ponder all of
9 this and at the end of this proceeding there will be
10 opportunity for closing statements, so on further
11 reflection, if you have any other thoughts you can
12 provide them at that time.

13 MR. ROBERT RAMSAY: Thank you very much.

14

15 (WITNESS STANDS DOWN)

16

17 THE CHAIRPERSON: Mr. Saranchuk, I
18 believe now that we're moving on to the MPI's
19 presentation?

20 MR. WALTER SARANCHUK: Yes, sir.

21 THE CHAIRPERSON: Mr. McCulloch...?

22 MR. KEVIN MCCULLOCH: Yes, Mr. Chairman,
23 what I thought I would do is just briefly outline to the
24 Board, the procedure that I propose to adopt in
25 presenting the evidence on behalf of MPI.

1 I would ask that both witnesses, Ms.
2 McLaren and Mr. Palmer, be sworn at the same time. I
3 would then move to a qualification of Mr. Palmer since
4 this is the first time that he has given evidence before
5 the Board and he will be giving, or I'm asking that he be
6 accepted as an actuarial expert and able to give evidence
7 in that regard.

8 So, we'll go through his qualifications.
9 On completion of that, it's my intention to move back to
10 Ms. McLaren, have her give her evidence, then move to Mr.
11 Palmer, have him give evidence. And that way both
12 witnesses will be available at the same time, for cross
13 examination so that parties won't have to wait in turn
14 until one witnesses or the other is available.

15 This is the procedure that's followed in
16 the general rate application and with the concurrence of
17 the Board, I propose to follow it this morning.

18 THE CHAIRPERSON: That's quite acceptable
19 to the Board.

20 MR. KEVIN MCCULLOCH: Thank you, sir. If
21 the witnesses could be sworn?

22 THE CHAIRPERSON: Mr. Barron...?
23

24 DONALD PALMER, Sworn:

25 MARILYN MCLAREN, Sworn:

1 (VOIR DIRE COMMENCED)

2
3 EXAMINATION-IN-CHIEF BY MR. KEVIN MCCULLOCH:

4 MR. KEVIN MCCULLOCH: Now, Mr. Palmer,
5 could you provide the Board with some details and
6 background of your educational experience and history?

7 MR. DONALD PALMER: I have a Bachelor of
8 Science Degree from the University of Alberta with a
9 major in mathematics. I am a Fellow of the Casualty
10 Actuarial Society and a Fellow of the Canadian Institute
11 of Actuaries.

12 MR. KEVIN MCCULLOCH: And when did you
13 receive certification as an actuary, if, indeed, that's
14 the correct term to use?

15 MR. DONALD PALMER: I completed my last
16 Casualty Actuarial Society exam in November of 1993, was
17 awarded my Fellowship coincident with that -- that date
18 and received the Fellowship in the Canadian Institute of
19 Actuaries in June of 1994.

20 MR. KEVIN MCCULLOCH: I understand that
21 you've been employed with Manitoba Public Insurance for
22 some period of time, can you tell us how long you've been
23 employed there and what your current position is with the
24 organization?

25 MR. DONALD PALMER: I started with

1 Manitoba Public Insurance in December of 1989 and I'm
2 currently the Chief Actuary and Director of Pricing and
3 Economics.

4 MR. KEVIN MCCULLOCH: And how long have
5 you held that position?

6 MR. DONALD PALMER: For approximately two
7 and a half (2 1/2) years.

8 MR. KEVIN MCCULLOCH: As a professional
9 actuary working with MPI, can you tell the Board how long
10 you have been personally involved with the preparation of
11 rate applications submitted to this Board?

12 MR. DONALD PALMER: Essentially that was
13 certainly one of the reasons that I was hired. So right
14 from day 1 my first participation as part of the back
15 row, so to speak, was at the 1991 Rate Application.

16 MR. KEVIN MCCULLOCH: And can you also
17 tell us, Mr. Palmer, do you have any other connections or
18 involvement with the Actuarial Society or involving
19 Actuarial Science outside of your employment?

20 MR. DONALD PALMER: I have been involved
21 in both the Casualty Actuarial Society and the Canadian
22 Institute of Actuaries in -- in a number of different
23 volunteer capacities. I've been on the examination
24 committee of the Casualty Actuarial Society for about ten
25 (10) years, including five (5) years as a part-chairman

1 in charge of one of the particular Casualty Actuarial
2 examinations.

3 I'm also currently a member of the
4 Canadian Institute of Actuaries Eligibility and Education
5 Council. I've been involved in a couple of the Canadian
6 Institute of Actuaries task forces including the task
7 force on automobile insurance issues; that final report
8 was issued by the Canadian Institute in March of '05.

9 MR. KEVIN MCCULLOCH: Mr. Chairman,
10 subject to question, that is the information that I would
11 suggest is sufficient to have Mr. Palmer accepted as an
12 expert witness in these proceedings?

13 THE CHAIRPERSON: Thank you, Mr.
14 McCulloch.

15 Do any of the other parties present have
16 any comments?

17 MR. RAYMOND OAKES: On behalf of the
18 CMMG, we acknowledge that Mr. Palmer is an actuary and,
19 therefore, an expert in these proceedings.

20 MR. BYRON WILLIAMS: I have no comment.

21 THE CHAIRPERSON: The Board accepts Mr.
22 Palmer.

23

24

(VOIR DIRE CONCLUDED)

25

1 MR. KEVIN MCCULLOCH: Thank you, Mr.
2 Chairman.

3
4 EXAMINATION-IN-CHIEF BY MR. KEVIN MCCULLOCH:

5 MR. KEVIN MCCULLOCH: Moving then back to
6 Ms. McLaren, Ms. McLaren, I understand that you have been
7 employed with MPI for in excess of twenty (20) years and
8 that you're currently the President and CEO of the
9 organization?

10 MS. MARILYN MCLAREN: Yes.

11 MR. KEVIN MCCULLOCH: And you're aware,
12 Ms. McLaren that in preparation for this special hearing
13 on loss transfer, the Corporation filed a loss transfer
14 position paper dated March 18th, 2005; is that correct?

15 MS. MARILYN MCLAREN: Yes, it did.

16 MR. KEVIN MCCULLOCH: And was that
17 position paper prepared under your direction and advice?

18 MS. MARILYN MCLAREN: Yes.

19 MR. KEVIN MCCULLOCH: And you obviously
20 had an -- or did you have an opportunity to review it
21 prior to its filing with the Board?

22 MS. MARILYN MCLAREN: Yes.

23 MR. KEVIN MCCULLOCH: And is it fair to
24 say that the paper, including appendixes, represents the
25 Corporation's position on the issue of loss transfer?

1 MS. MARILYN MCLAREN: Yes.

2 MR. KEVIN MCCULLOCH: Ms. McLaren, I'd
3 like you to go through the report, if you would,
4 highlighting for the Board, items or issues that you wish
5 the Board to consider in looking at the issue of loss
6 transfer.

7 MS. MARILYN MCLAREN: Yes. I think I'll
8 start by referring back to the first witness at these
9 Proceedings, Mr. Tabachneck from the Insurance Bureau of
10 Canada.

11 And I think it's fair to say that there
12 are more than a few issues on which Manitoba Public
13 Insurance tends not to necessarily agree with the
14 Insurance Board of Canada -- Insurance Bureau of Canada.
15 CLEAR, Canadian Loss Experience Automobile Rating, is
16 absolutely not one (1) of them.

17 We think the CLEAR system is an incredibly
18 well designed, robust and reliable system, to evaluate
19 the differing risk that different vehicles bring into the
20 insurance system.

21 I think Mr. Tabachneck was a little --
22 probably a little more humble than he needed to be on --
23 on Monday when he talked about CLEAR, and the extent to
24 which other jurisdictions are looking at it and
25 considering whether or not to adopt it.

1 And I think it's fair to say that really I
2 think one (1) of the biggest challenges for those other
3 jurisdictions in making a decision to move towards use of
4 CLEAR is not so much whether it's a good system and
5 whether it provides reliable differentiation of risk,
6 there's no doubt about that, it does that exceedingly
7 well; implementing CLEAR is an exceedingly difficult
8 thing to do.

9 It creates significant dislocation in any
10 jurisdiction that starts to use CLEAR, because it is so
11 fundamentally so different than the traditional method,
12 which really boils down to not much more than, so what
13 was the manufacturers suggested list price on this
14 vehicle. And that's how rate groups or rate
15 categorization has been done through the years.

16 Many of the members around the room today
17 will remember how long and how difficult the transition
18 to CLEAR was for Manitoba Public Insurance, but we -- but
19 we got there. And -- and we are very, very satisfied
20 with what it has done for us, and -- and the ability that
21 it gives us to talk to individual Manitobans about why
22 they pay what they do for auto insurance.

23 It's very easy to talk about public policy
24 issues, and talk about them at that thirty thousand
25 (30,000) foot level in a very conceptual way. Policy

1 often comes at that level; conceptually what is it that
2 we're trying to do. But we all better be sure of the
3 specific outcomes of our decisions at that operational
4 level, what does this mean to a Manitoban, what does this
5 mean to the people making decisions about what vehicles
6 to choose, and making decisions about their auto
7 insurance.

8 So, I think the specificity of the
9 Manitoba Insurance model is very, very significant,
10 largely because of CLEAR, but because of the rest of the
11 other components of the rate making methodology. But
12 CLEAR is a really big component of that.

13 And we put in our material the fact that
14 full loss transfer simply isn't possible, mechanically,
15 because you can't get to that rate group level. There's
16 no inclusion of third-party damage in the CLEAR rate
17 group model.

18 And Mr. Tabachneck talked about the fact
19 that every year or two (2) they try to see if they can
20 come up with something that did that. And if they came
21 up with rate groups, they incorporated that expected
22 outcome with respect to damage to other vehicles, and
23 they had a credible rate group model, that included that
24 third-party consideration, would Manitoba Public
25 Insurance be prepared to use such a system? I can't

1 think of a reason why we wouldn't, you know. I think
2 that that would be an added advantage, it would be an
3 enhancement to what we have. But it's simply not there.

4 And I think I would -- I would like to
5 refer people to the material that we filed in support of
6 the '04 Application, back in 2003. And it's on page 9 of
7 the submission this year.

8 You know, the fact that you cannot do this
9 on make/model/model year, we said at that time, is the
10 single greatest practical barrier to introducing a loss
11 transfer model.

12 And we continue to believe that every bit
13 as strongly as we did two (2) years ago. It truly would
14 create an unacceptably incongruous situation. You are
15 forced to do something that an insurance use territory
16 level with a great big broad brush that is contrary to
17 everything else that the Manitoba Public Insurance rate
18 making methodology is founded on.

19 It doesn't make sense because it reduces
20 an individual's ability to make knowledgeable decisions
21 about the vehicle that they're going to buy and the cost
22 of insurance for that vehicle. It hampers their ability
23 to do that and in our view, that makes it wrong.

24 In 2003, this Board agreed with that
25 statement. It recognized and wrote in its Order that it

1 agreed that the single greatest practical barrier was
2 this one. And nothing has changed since that time.

3

4

(BRIEF PAUSE)

5

6

MS. MARILYN MCLAREN: I think continuing
7 on from the discussion of CLEAR to the other components
8 of Manitoba Public Insurance rate making methodology, it
9 really is -- it's very complex, and I think it is really
10 quite elegant the way it hangs together. There are many
11 threads that are all very much intertwined.

12 And when you pull a thread over here, you
13 know there's going to be a whole lot of movement in a
14 number of other places over here. That's as it should
15 be. It's by design. And we need to be very, very
16 careful -- it does not lend itself well to tweaking. It
17 doesn't.

18

And I think we need to be very careful
19 about the impact of any decision that we would make
20 because of that. It hangs together by design and is not
21 well suited to just an occasional or selective
22 manipulation in one (1) or two (2) places. There are
23 impacts across the methodology by doing things like that.

24

I think when we talk about why it's
25 fundamentally wrong to consider loss transfer at anything

1 other than a full implementation, at anything other than
2 a rate group level, we go back and talk about how
3 important it is for those Manitobans to be able to make
4 those informed choices, about what vehicle to buy, how
5 much to pay for insurance, how much risk that they want
6 to assume.

7 It's so important for Manitobans to truly
8 understand what they pay and why they pay it. And I
9 think again, that comes back to this very -- what
10 sometimes is characterized, I guess, as -- maybe along
11 the lines of that occasionally repeated phrase; close
12 enough for government work.

13 There is somehow an assumption that
14 because this is a government system that the broad brush
15 is good enough; that you don't have to be very specific.
16 Mr. Ramsay talking about things like, Well, major use
17 level is okay, you don't have to drive it down to the
18 insurance territory use level.

19 Well, we do, because that's what we do.
20 We don't have an indication of a rate increase that we
21 need or a rate decrease that we need at a major use
22 level. We report at a major use level the impacts of
23 hundreds of other rate changes at the insurance use
24 territory level. That's where we do that work. It's
25 that specific.

1 If I say to the person with a farm car in
2 Territory 2, that person says to me, Why did my rate go
3 up this year? I know some very, very clear questions, I
4 can say to them, Because you had an accident and you need
5 to pay more, because you had an accident.

6 If that's not the case, I'm going to say
7 because the decision that you made about the vehicle that
8 you've purchased has proven itself to be more costly to
9 insure than the other vehicles that are in the pool with
10 you.

11 Or the only other answer is, Because as a
12 group all the people who are most like you, people who
13 have the same kinds of vehicles, used the same way in the
14 same part of the Province, had more and more expensive
15 accidents.

16 That's what I would be saying to them.
17 And it's very clear and it's very specific and it's
18 strictly in relation to the decisions that they've made.

19 If you go and implement loss transfer not
20 at a rate group level, but just on that broad brush
21 insurance use territory level, I would be saying to
22 people in that category, when they ask me, Why did my
23 rate go up, I'll be telling them, Well, because when
24 people in your category have accidents often they're
25 having accidents with more expensive vehicles and with

1 people who earn more money, because generally most people
2 in Manitoba have more expensive vehicles and earn more
3 money than you do. So that's why your insurance is going
4 up.

5 I don't think that's a good answer. I
6 don't think that's an acceptable answer.

7 I think the answer needs to be very much
8 driven back to the decisions that they made. Manitobans
9 don't get to make very many decisions about automobile
10 insurance. They don't get to decide who to buy it from
11 and they don't get to decide much about their coverage.

12 It's absolutely essential, especially
13 today, especially today, when people expect to have a
14 certain amount of control over the outcomes in their
15 life, they need to have control and they need to have the
16 ability to influence those outcomes.

17 And the decisions that they make have a
18 direct immediate response with respect to the insurance
19 that they pay. And it's simply not true when you work to
20 implement loss transfer at an insurance use territorial
21 level with no reflection of the vehicles themselves.

22 You'd be giving rate increases across the
23 board to Fireflys and Suburbans and everything else
24 that's in that category based on factors that have
25 nothing to do with the people in that category; that

1 wouldn't be right, in our view.

2 I think -- Mr. Palmer, I think, is going
3 to talk more specifically about the problems with doing
4 such a change at a major class level but I think it's
5 really important to note that, as I said earlier, you
6 know, we go -- we don't stop at a major use level because
7 that's not what we do.

8 We don't stop at a major use level. And I
9 think there was some discussion about well, you can just
10 add the costs in and let the rest of your system decide
11 where those costs should flow. But, we are much more
12 specific than that.

13 We work very, very hard to make sure that
14 each and every category has a reasonably reflective rate
15 based on their experience and their decisions and that's
16 what really has to come through, I think, through the
17 rest of this discussion.

18 I think one (1) of the things that you'll
19 hear more about after the middle of June when we file the
20 full application for the '06 rates is that the
21 Corporation has done some work to -- one (1) thing that
22 we've done is we've modified our corporate mission
23 statement.

24 I think we simply all need to reflect on
25 the fact that road safety, roadway risk is something that

1 needs to be dealt with in Manitoba. And to deal with
2 that, we all have to be part of the solution.

3 The mission statement that we had until
4 very recently is that Manitoba Public Insurance, you
5 know, basically is in existence to protect Manitobans
6 from the human and economic cost.

7 The mission statement was changed because
8 we recognize we can't do that. That's way -- we cannot
9 do that. We need Manitobans to work with us. We need
10 Manitobans to engage with us and we need to find ways
11 that truly enable them to do that.

12 The rate making methodology, the risk
13 classification system we have does that. If there is a
14 belief in Manitoba that the current system does not do as
15 big a job as it needs to do on the bonus malice
16 component, we are certainly considering ways that we can
17 continue to modify the bonus malice component; that's not
18 the same discussion as whether or not you need to have a
19 loss transfer system.

20 Loss transfer systems may make some sense
21 in some jurisdictions. We provided comment on the
22 Ontario solution that said we did not believe it to be
23 non-preferential. We do not believe it to be non-
24 discriminatory.

25 But, in that particular context, for their

1 own particular reasons, maybe it's reasonable. Those
2 reasons don't apply here for any number of obvious
3 reasons, given our guaranteed access to automobile
4 insurance. Not only guaranteed access to automobile
5 insurance, but broad comprehensive coverage that is
6 really just not available on -- on a guaranteed access
7 basis anywhere else in the Country.

8 MR. KEVIN MCCULLOCH: Ms. McLaren, I have
9 a number of specific questions to put to you with respect
10 to items that have come up in the last couple of days.

11 The first one deals with liability
12 assessment and when and how liability assessments are
13 performed at MPI; what can you tell the Board about that?

14 MS. MARILYN MCLAREN: Well, this number
15 of 30 percent was tossed around to a certain extent and
16 without having gone back to check the numbers, there --
17 there's some possibility that when you look at the total
18 number of claims presented to Manitoba Public Insurance
19 in a year, we may need to assess liability in about 30
20 percent of the cases, because the single most common,
21 most frequent claim we have are glass claims;
22 comprehensive coverage, we don't assess liability. That
23 we have hail claims, we certainly know we have theft
24 claims, and there's a number of other kinds of claims
25 like that, where liability is simply not an issue.

1 Liability is an issue particularly when
2 there are two (2) vehicle or multi-vehicle collisions.
3 And when it comes down to assessing liability in
4 collision situations, involving more than one (1)
5 vehicle, to me that's another classic example where --
6 where others from outside Manitoba, not familiar with the
7 context of Manitobans themselves, and their relationship
8 with Manitoba Public Insurance, to suggest that, well you
9 know, it doesn't really matter to the Government insurer
10 when they decide liability, because really it's all one
11 (1) big system, reflects absolutely no knowledge of
12 Manitobans whatsoever.

13 People are very, very unwilling to accept
14 responsibility for a collision on our say so, if they
15 don't think they're responsible for it. Assessing
16 liability, assessing responsibility for collisions, is a
17 very, very important piece of work for our physical
18 damage adjusters. They work very hard at it, they use
19 the industry standard tables for determining liability,
20 and there are review processes within the claims
21 organization to make sure that it's done right and it's
22 done well.

23 And having said all that, some Manitobans
24 every year disagree with our assessment of liability.
25 They have options. They have an internal review process

1 through the Customer Relations Officer through the Claims
2 Manager.

3 We also provide a very low cost appeal
4 process, which is handled by a retired Judge of the Court
5 of Queen's Bench of Manitoba. The retired Judge reviews
6 the circumstances and will rule on our assessment of
7 responsibility. And if people are not satisfied with
8 that, or if they choose not to use that route, they have
9 access to Small Claims Court.

10 To suggest somehow that we don't really
11 pay much attention to assessing responsibility because
12 we're a Government insurer is simply not based in any
13 kind of fact in the Manitoba context.

14 Manitobans take our decisions to heart,
15 and they challenge each and every one (1), as well they
16 should, that they don't think is a good decision. And
17 sometimes we make mistakes and those decisions are
18 changed through the processes that I talked about. It's
19 a very, very labour intensive process, because we know it
20 matters to Manitobans.

21 And again, that comes back to this
22 situation where we talk about, you don't make a decision
23 at that high public policy level, without understanding
24 the full impact at that very specific level, involving
25 individual Manitobans.

1 MR. KEVIN MCCULLOCH: Ms. McLaren,
2 there's been discussion in evidence before this Board as
3 to how both the Saskatchewan Government Insurance and the
4 SAAQ in Quebec, handle assessment of fault in assessing
5 claims costs.

6 What can you tell the Board about your
7 knowledge as to how those two (2) organizations deal with
8 fault assessments?

9 MS. MARILYN MCLAREN: The Societe, the
10 SAAQ in Quebec, is an organization established solely to
11 compensate people who are injured in automobile
12 accidents. They have no responsibility or no function at
13 all in the organization, related to providing any other
14 kinds of vehicle damage, physical damage coverage.

15 They provide compensation for people
16 injured in automobile accidents on a no-fault basis. It
17 was the first pure no-fault system in Canada.

18 Fault isn't an issue for them with respect
19 to assessing compensation that's available, it's not an
20 issue at all. It's not an issue for them, because they
21 don't have to decide who's going to pay the deductible;
22 they don't have to worry about it for any of those
23 aspects.

24 They are also the licensing authority in
25 Quebec, and they may very well have some responsibility

1 to decide if there are drivers who need to be sanctioned
2 for their behaviour on the road, but that's not part of
3 the claims process at all in Quebec.

4 In terms of assessing rates, what they do,
5 what they've done for many years in terms of allocating
6 claims costs for rate making purposes, if there's two (2)
7 vehicles involved, they total up the value and split it
8 50/50 and put 50 percent in each -- in each rate making
9 cell.

10 It doesn't matter if it's a car and a
11 truck, a car and a motorcycle, they just add it up and
12 divide by two (2) and just toss them out, because in
13 their mind it's a no-fault system and that's the extent
14 to which they worry about it.

15 I think that may very well be under review
16 at this point, but, that's the way they've done it for
17 many years.

18 Saskatchewan, I think SGI has been on the
19 record in these proceedings through correspondence that
20 they believe and use the same approach that we do to
21 assigning accident benefits costs for rate making
22 purposes.

23 The other thing with respect to
24 Saskatchewan, I think I really need to point out from the
25 Corporation's perspective, again some of the comments

1 that were made from both representatives from the MMIC,
2 seems to be -- seems to be predicated on two (2)
3 assumptions.

4 When they say, Well, motorcyclist should
5 choose Tort and I guess if they haven't chose Tort, they
6 just don't understand. I think really the first
7 assumption they must be making is that Tort would be
8 cheaper. And the other assumption that they must be
9 making in our view, is that when faced with a decision to
10 trade off price versus coverage, people will make the
11 decision in favour of price.

12 Now, that may very well be true in other
13 parts of the Country where affordability and
14 accessibility are very, very serious issues; they're not
15 in Saskatchewan; we know they're not in Manitoba.

16 We know Manitobans virtually never trade
17 off coverage in favour of price. We know that. We work
18 very hard to know a lot about Manitobans and understand
19 how they feel about issues like that. And we're always
20 trying to make sure we have an appropriate balance
21 between the coverage that they believe they need and the
22 price that they're willing to pay for that coverage.

23 Over 80 percent of private passenger
24 vehicle owners in Manitoba carry a two hundred dollar
25 (\$200) deductible on their All Perils coverage. Talk to

1 your colleagues and your family members in the rest of
2 the Country about a two hundred dollar (\$200) deductible
3 on All Perils coverage on their automobile; it's unheard
4 of.

5 Manitobans do that because they think they
6 can do it at a price that's reasonable to them, but they
7 want the coverage. There's no question about trading off
8 the benefits of guaranteed access to no -- very, very,
9 high quality no-fault benefits coverage, particularly
10 when you are on a vehicle that generally makes you a
11 little more vulnerable to injury.

12 I would not suggest, in any fashion, that
13 motorcyclists in Saskatchewan don't know what they're
14 doing when they choose to stay with no-fault.

15

16 (BRIEF PAUSE)

17

18 MR. KEVIN MCCULLOCH: Witnesses have
19 commented, one in particular, with respect to statistics
20 that MPI produced on the number of single vehicle
21 motorcycle accidents.

22 What, if anything, can you say about those
23 statistics?

24 MS. MARILYN MCLAREN: Well, again I
25 think that comes right back to the heart of affordability

1 and accessibility. Particularly, as we've learned
2 through these proceedings, something I didn't know
3 before, that in some jurisdictions in the US,
4 motorcyclist are not allowed to purchase no-fault
5 accident benefits.

6 Begs the question, why would they report
7 the claim? Why would they report something for which
8 there is no claim? Why wouldn't they report those
9 accidents?

10 Even in Ontario where there is a pretty
11 decent level of no-fault accident benefits coverage,
12 motorcyclists are subject to the equation in their mind,
13 Is it really worth it to me, to file this claim?

14 Will I be able to buy the coverage from
15 this company again, at any price next year? Not only
16 will it be affordable if I file claims, will it be
17 accessible in any fashion?

18 Those are not considerations for Manitoba
19 motorcyclist, other than the fact that there is a bonus
20 malice component to the class that they will have to pay
21 if they're at fault for an accident.

22 And as we heard yesterday through some
23 other cross-examination, it, you know, they may lose
24 their 25 percent discount. They may pay a two hundred
25 dollar (\$200) surcharge if they're at fault for an

1 accident.

2 Hardly substantive reason not to seek
3 compensation that you're entitled to if you're injured.

4 MR. KEVIN MCCULLOCH: There was also a
5 comment given in evidence yesterday about a change in
6 MPI's claims approach that appeared or that occurred in
7 1999.

8 Can you give the Board any information
9 with respect to that?

10 MS. MARILYN MCLAREN: The Corporation
11 didn't change its claims approach in 1999.

12 MR. KEVIN MCCULLOCH: What did the
13 Corporation change in 1999.

14 MS. MARILYN MCLAREN: We implemented a
15 new claims processing system, the CARS system, but that
16 certainly had nothing to do with our claims approach.

17 MR. KEVIN MCCULLOCH: There's also been
18 some discussion in evidence about the coverages and the
19 premiums paid by interprovincial trucking companies in
20 Manitoba; what can you tell the Board about that?

21 MS. MARILYN MCLAREN: Manitoba has a very
22 large interprovincial and international trucking
23 business. And that business itself is an international
24 business. Manitoba trucking firms have vehicles that are
25 plated elsewhere and they have vehicles that are plated

1 here in Manitoba.

2 They have Manitobans who are drivers and
3 they have non-Manitobans who are drivers. And because
4 the personal injury protection plan premium was
5 associated with a Manitoba plate and absolutely by inter-
6 jurisdictional law no ability for Manitoba Public
7 Insurance to attract a premium from any of these vehicles
8 owned by Manitobans that are plated elsewhere, we had a
9 very incongruous situation where people who happened to
10 have Manitobans operating their vehicles could be in a
11 situation where if that operator was injured they could
12 claim to Manitoba Public Insurance.

13 And others who had plated vehicles -- and
14 they were paying no premium. Others who had a Manitoba
15 plated vehicle, driven by non-Manitobans outside Manitoba
16 had absolutely no opportunity to claim for the coverage
17 that they were forced to buy.

18 So, the circumstances created a real
19 inequity in that. The other factor in this is that
20 Manitoba, to our knowledge, Manitoba is the only
21 jurisdiction in the world where injured workers have a
22 choice as to whether they go to workers' compensation for
23 compensation or they go to Manitoba Public Insurance;
24 that was another factor that led into this.

25 So, the decision was made, after an

1 analysis and information provided by Manitoba Public
2 Insurance, Cabinet made the decision, a regulation was
3 passed of the Manitoba Public Insurance Corporation Act
4 that these Manitoba plated vehicles, to eliminate the
5 inequity with other trucks not plated in Manitoba could
6 easily have been operated by Manitobans would be exempt
7 from paying that PIPP premium.

8 It's a very small amount of money on an
9 annual basis that's shared equally amongst the eight
10 hundred thousand (800,000) vehicles in Manitoba.

11 MR. KEVIN MCCULLOCH: And would you say
12 that that was a public policy decision that was made by
13 the Government at the time?

14 MS. MARILYN MCLAREN: Exactly.

15 MR. KEVIN MCCULLOCH: The final specific
16 question that I had for you, Ms. McLaren, related to some
17 evidence given by Mr. Ramsay near the end of yesterday
18 afternoon's Hearing and unfortunately I don't have the
19 transcript so I'll have to paraphrase what I understood
20 Mr. Ramsay to be saying.

21 And as I understood it, Mr. Ramsay was
22 talking about a loss transfer, and if you had a
23 motorcycle claim that was worth five hundred thousand
24 dollars (\$500,000) and it was -- it occurred in an
25 accident that was caused by a private passenger vehicle,

1 you would take that five hundred thousand dollars
2 (\$500,000), add it to the existing \$9 million of claims
3 already in the private passenger vehicle category and
4 then just allow the rate requirement to flow from that
5 additional expense.

6 Is that what you understood him to say?

7 MS. MARILYN MCLAREN: Yes, I believe so.
8 And if it was one (1) claim for five hundred thousand
9 dollars (\$500,000) or the total value of more -- a number
10 of claims, five hundred thousand dollars (\$500,000) the
11 mechanism would be the same.

12 The effect of that would be that if half
13 of the rating cells -- half of the insurance use
14 territory combinations in that private vehicle class had
15 no involvement with motorcycles that year, they'd still
16 get a share of the costs.

17 That might be what other jurisdictions do,
18 that might be what other insurers do; that's not what we
19 do. That's not close enough for government work.

20 MR. KEVIN MCCULLOCH: Thank you, Ms.

21 McLaren. I'm going to move now to Mr. Palmer.

22 Mr. Palmer, you're familiar are you, with
23 the loss transfer position paper that Manitoba Public
24 Insurance filed, dated March 18th, 2005, as its position
25 in these Hearings, are you familiar with that?

1 MR. DONALD PALMER: Yes, I am.

2 MR. KEVIN MCCULLOCH: And were you
3 personally involved with the work of preparing that paper
4 and the attachments to it?

5 MR. DONALD PALMER: Yes, I was.

6 MR. KEVIN MCCULLOCH: I'm going to give
7 you the opportunity from an actuarial point of view, to
8 comment and address comments to the Board, as to the
9 position that's being taken by MPI on the issue of loss
10 transfer?

11 MR. DONALD PALMER: Sure, most of this
12 document is written in the context of public policy,
13 which Ms. McLaren so eloquently described, but there is -
14 - Mr. McFarlane talked about whether a loss transfer
15 approach or not a loss transfer approach could be
16 actuarially sound, and he agreed that it was.

17 And I also would agree that if we went to
18 a full loss transfer that, you know, that wouldn't impact
19 the actuarial soundness of it.

20 But, if you go into different levels of
21 applying loss transfer, I think there starts to emerge
22 some actuarial issues.

23 We've talked many times at these
24 proceedings about the statement of principles regarding
25 property and casualty insurance rate making, by the

1 Casualty Actuarial Society. And the last principle,
2 principle number 4 states that:

3 "A rate is reasonable and not
4 excessive, inadequate or unfairly
5 discriminatory, if it is an actuarially
6 sound estimate of the expected value of
7 all future costs associated with an
8 individual loss transfer."

9 And if I can just take the example of
10 applying at a major class level only, I think it fails
11 that test. And we've included some examples of -- of
12 inequities, if we just put in the loss transfer at the
13 major class level, and then worked it through, using non-
14 loss transfer differentials to calculate the individual
15 insurance use territory rates and there are some real
16 differences there.

17 For instance, in page 4, bottom of page 4
18 of our paper, we talk about commercial vehicles requiring
19 a 5.5 percent increase based only on a change to loss
20 transfer. If we applied that to existing differentials,
21 essentially all the -- all the commercial vehicles would
22 be changed, impacted by 5.5 percent.

23 But, if we bubbled that down to the major
24 use terr -- or insurance use territory level, we can see
25 that there are some changes. For instance, territory

1 dealers, we see a decrease of 16 point -- 16 percent, if
2 loss transfer was indicated; dealer -- or Territory 2
3 dealers would go down. But, if we only applied it at the
4 major class level, territory dealers would go up by 5.5
5 percent.

6 We think there's an -- an inequity there,
7 certainly a problem with applying only at the major class
8 level. So, I think if you're going to only look at the
9 actuarial soundness, I think going to -- having not loss
10 transfer is actuarially sound. I think if you go
11 completely to loss transfer at the finest level, you're
12 actuarially sound. But if you stop somewhere in the
13 middle, I think you have a problem.

14 MR. KEVIN MCCULLOCH: Speaking from an
15 actuarial point of view, you heard Ms. McLaren's evidence
16 that the existing CLEAR system does not provide the
17 necessary information to allow for full loss transfer.

18 Do you agree with that position?

19 MR. DONALD PALMER: I do agree with --
20 with that position. I have -- I'm currently on the CLEAR
21 Technical Committee that I think Mr. Tabachneck alluded
22 to in his testimony.

23 And we don't have the credible data --
24 it's not just drilled down to the rate group level --
25 drilled down to the individual make/model/model year

1 data. The amount of damage that a vehicle causes, as
2 opposed to what's incurred by that vehicle, there just
3 isn't credible data to -- to build that kind of model.

4 MR. KEVIN MCCULLOCH: We heard some
5 discussion in evidence yesterday, with respect to the
6 Tort no-fault option, that was introduced in January
7 2003, by the Saskatchewan Government Insurance.

8 I understand that you made some inquiries
9 of SGI, as to the uptake by motorcyclists on that option;
10 is that correct?

11 MR. DONALD PALMER: That's correct.

12 MR. KEVIN MCCULLOCH: And can you tell
13 the Board what information you received from Saskatchewan
14 Government Insurance with respect to that issue?

15 MR. DONALD PALMER: Sure, I talked to
16 Andrea Malion (phonetic), who is the Assistant Vice --
17 Vice President and Corporate Actuary for Saskatchewan
18 Government Insurance.

19 And I will directly read the -- the e-mail
20 that I received from her:

21 "Hi, Don. Here's the info I think you
22 wanted. We have eight hundred and
23 seventy thousand two hundred and three
24 (870,203) registered vehicles in the
25 Province, of which five thousand two

1 hundred and forty-nine (5,249) or .6
2 percent, have chosen Tort.
3 For motorcycles we have nine thousand
4 and eighty-three (9,083) registered
5 motorcycles, of those one hundred and
6 two (102) are Tort, or 1.1 percent.
7 Hope this helps. Andrea."

8 MR. KEVIN MCCULLOCH: Thank you. Have
9 you had an opportunity to review the report from the
10 actuarial firm of Dion and Durrell that was filed as part
11 of the presentation put forward by MMIC?

12 MR. DONALD PALMER: I have.

13 MR. KEVIN MCCULLOCH: And do you have any
14 comments for the Board on that report?

15 MR. DONALD PALMER: I have a few. And --
16 and first, I will -- I will say that I don't disagree
17 with everything that Mr. McFarlane says in that report.
18 He starts on page 3, and this is a quote that's been put
19 -- read out before, but I'm going to read it out again:

20 "The nature of motorcycling is such
21 that in a collision between a
22 motorcycle and a car, the motorcyclists
23 will, due to the much lower level of
24 protection, generally be injured more
25 severely than the driver of the car,

1 regardless of who was at fault. Under
2 a no-fault program, the motorcycle
3 insurer, will therefore incur greater
4 costs."

5 Now, we've talked about the term inherent
6 risk, inherent vulnerability, maybe other terms for that,
7 but an insurance mechanism by nature, is a transfer of
8 risk. And whether you talk about risk in a -- an
9 insurance context as -- as Mr. McFarlane did as a vari -
10 - or a measure of variability, I think in the context of
11 -- of transfer of risk, it is quantified by the expected
12 claim costs of any particular group.

13 And very much those expected claims costs
14 are not -- not only impacted by the frequency of claims,
15 but also the cost of those claims. And if I can use
16 another example, in risk management; on a construction
17 site, for instance, risk management processes can look at
18 both frequency, caught an incident happening, but also
19 try to mitigate any injury from an incident happening.

20 So for instance, an incident could be a
21 hammer falling off a scaffolding, hitting an employee;
22 that would be an incident, that would be frequency. But
23 certainly, the risk, the cost of that injury, is
24 certainly impacted whether that employee who is hit by
25 the hammer is wearing a hard hat or not.

1 So, any risk management for a construction
2 site would not only look at the incident happening, the
3 frequency, but also the severity or what happens after an
4 accident occurred.

5 So, I certainly think that in calculation
6 of the transfer of risk, both the frequency and severity
7 certainly have to be accounted for.

8 MR. KEVIN MCCULLOCH: From the Dion
9 Durrell Report you heard discussion yesterday with
10 respect to Exhibit 5(e) in which, in calculating Ontario
11 loss costs, Mr. McFarlane had included the cost of the BI
12 Tort threshold claims.

13 Do you have any comment on that?

14 MR. DONALD PALMER: There are many costs
15 in the BI Tort threshold claims that are not included in
16 PIPP no-fault accident compensation. And we talked about
17 pain and suffering. We talked about excess earnings from
18 PIPP maximums, gross ups for taxes.

19 All of those would be included within the
20 BI and cannot be taken off of the -- in the -- or added
21 to the effect of loss transfer. I think the correct
22 answer, and we don't really know what that is because
23 there may be some costs that are covered by PIPP in
24 Manitoba that are not covered by PIPP -- or by no-fault
25 accident benefits in Ontario, so there may be some

1 overlap.

2 Certainly it's not a complete overlap.
3 And he said that if you applied that full -- the full no-
4 fault BI offset it would be a decrease in pure premiums
5 of 42 percent.

6 I did the calculation based on eliminating
7 those BI costs completely. And it's a savings to pure
8 premium of 22.7 percent; not 42 percent. The right
9 answer is probably somewhere in between those two (2). I
10 really can't comment where it falls in there.

11 I think there's another part of that
12 costing that certainly has to be highlighted and that was
13 in his text on page 10. I'm just going to flip to that.

14

15 (BRIEF PAUSE)

16

17 MR. DONALD PALMER: Where the statement
18 is:

19 "Exhibit 6 illustrates the impact on
20 total -- total loss costs in Manitoba
21 assuming similar savings by coverage as
22 experienced in Ontario. The result is
23 a 42 percent reduction in motorcycle
24 premiums and an increase in private
25 passenger automobile premiums of 1.2

1 percent."

2 There's a word missing in that statement
3 and that's when he talks about reduction in motorcycle
4 premiums.

5 Exhibit 6 clearly says, "motorcycle pure
6 premiums".

7 So, that makes the assumption that a
8 change in pure premiums is the same as a change in
9 premiums. That assumes that we have rate adequacy with
10 our current motorcycle rates; that's just not true.

11 Again, I did a little -- little work in
12 terms of plugging in Mr. McFarlane's numbers into our
13 2005 TI-2 Exhibit and certainly didn't get decreases of
14 42 percent in premiums.

15

16 (BRIEF PAUSE)

17

18 MR. DONALD PALMER: If you recall from
19 what we filed last year after the -- after the Board --
20 Board ruling, we did file an amended TI-2 which showed
21 the required increase for motorcycles was 35.8 percent.

22 If I apply Mr. McFarlane's savings of 42
23 percent to the pure premium, which again I want to say
24 that I don't agree with that number, but if I just
25 blindly apply that into TI-2, I get a required decrease

1 in motorcycle premium of 4.2 percent.

2 It's not forty-two (42), it's four point
3 two (4.2). If I go one (1) step further and I say, Okay,
4 I don't -- I don't think that BI Tort costs should be
5 included as the effect on -- or included in the effect of
6 loss transfer and use the 22.7 percent that I mentioned
7 before, if I decrease pure premiums by 22.7 percent, I
8 get a required motorcycle indication of plus fourteen
9 point three (14.3).

10 So again we'd be looking at required
11 rates, very close to the plus fifteen (15) that we were
12 awarded last year.

13 MR. KEVIN MCCULLOCH: I want to direct
14 you, as well, to a comment that appears on page 5 of the
15 MMIC submission, where there is referenced an agreement
16 that took place or was entered into between Manitoba
17 Health and Manitoba Public Insurance, back at the time
18 the no-fault program was introduced.

19 And as I read the statement at page 5,
20 MMIC is putting this forward as an example of loss
21 transfer that was entered into back at the time, no-
22 fault, was introduced; basically a loss transfer between
23 MPI and Manitoba Health.

24 Are you familiar with the agreement that
25 was concluded with Manitoba Health at that time?

1 MR. DONALD PALMER: I am.

2 MR. KEVIN MCCULLOCH: And can you explain
3 to the Board what the purpose of that agreement was and
4 what the effect and impact was?

5 MR. DONALD PALMER: Sure. I was part of
6 the negotiating team on behalf of MPI to negotiate with
7 the amount of transfer to Manitoba Health.

8 And the background of it was that prior to
9 the onset of PIPP, MHSC did have subrogation rights
10 against MPI to recover costs at -- for individuals who
11 were at fault. So, they were collecting basically on
12 behalf of the not-at-fault.

13 So, there was a revenue transfer from MPI
14 to MHSC. At the time of the advent of PIPP it was clear
15 that that revenue would stop and there was a -- there was
16 a -- something put in the Act, to make sure that we could
17 negotiate with other agencies that PIPP -- implementation
18 of PIPP would be revenue neutral.

19 So, really the basis of the conversations
20 and the negotiations that we had MHSC, they weren't
21 looking for loss transfer, they weren't looking for
22 really subrogations rights. They were looking to make
23 sure that the revenue was not impacted and not decreased.

24 So, it was purely a case of revenue flow;
25 it didn't have anything to do with loss transfer or

1 subrogation. So, on that basis we've calculation what
2 the approximate transfer had been in previous years and
3 we replaced it with a transfer in subsequent years.

4 MR. KEVIN MCCULLOCH: Would I -- would I
5 be correct in saying, Mr. Palmer, that from your point --
6 or from your understanding and your participation in the
7 agreement, what you were doing was putting into effect a
8 policy decision of the Government that PIPP would be
9 introduced without adversely impacting the revenues of
10 Manitoba Health.

11 It was to be a revenue neutral
12 implementation as far as Manitoba Health was concerned?

13 MR. DONALD PALMER: That is correct.

14 MR. KEVIN MCCULLOCH: You heard me, Mr.
15 Palmer, ask Ms. McLaren questions about the proposed
16 implementation or example of a loss transfer
17 implementation that Mr. Ramsay gave in evidence fairly
18 late yesterday afternoon, where the five hundred thousand
19 dollars (\$500,000) was transferred into the existing
20 expense pool of nine million (9,000,000).

21 And you, of course, had the opportunity to
22 hear her answer. Can you tell me, what your view is on
23 that proposal?

24 MR. DONALD PALMER: Again, I certainly
25 agree with Ms. McLaren. I think transferring costs into

1 classification buckets that weren't responsible, again
2 transfers risk to someone who doesn't bear it. So, I
3 don't think that's an actuarially sound approach.

4 MR. KEVIN MCCULLOCH: Is it fair to say,
5 Mr. Palmer, that the proposal put forward by Mr. Ramsay
6 was -- is nowhere near as simple as he appeared to
7 suggest to the Board?

8 MR. DONALD PALMER: I'm not sure that the
9 proposal was so simple. In terms of allocating and
10 dividing into all different buckets, I suppose that we
11 could just pro rate and apply and I think that's, in
12 effect, pretty close to applying at the major class
13 level, which I've described as not actuarially sound.

14 MR. KEVIN MCCULLOCH: From your point of
15 view, would the proposal as described by Mr. Ramsay, fit
16 with MPI's rate making methodology?

17 MR. DONALD PALMER: No.

18 MR. KEVIN MCCULLOCH: Those are all the
19 questions that I have in direct examination, Mr.
20 Chairman.

21 THE CHAIRPERSON: Thank you Mr.
22 McCulloch, we're going to take a fifteen (15) minute
23 break now. Thanks.

24
25 --- Upon recessing at 10:25 a.m.

1 --- Upon resuming at 10:55 a.m.

2

3 THE CHAIRPERSON: Mr. Saranchuk has been
4 busy making arrangements with everyone to find out what
5 we're all satisfied with.

6 Do you want to report on your progress,
7 sir?

8 MR. WALTER SARANCHUK: Yes, Mr. Chairman.
9 Thank you.

10 At the outset, I would like to thank, on
11 behalf of the Board, all of my colleagues and all of the
12 representatives here and all of the participants for
13 their cooperation.

14 There is total agreement in some cases,
15 perhaps a little more reluctantly than other, but there
16 is total agreement, everyone is at ad idem on the
17 following proposal based on the request of the Board to
18 try to have the evidentiary portion of this Hearing
19 concluded today.

20 So, therefore, the agreement is as
21 follows: We will continue with the cross-examination of
22 MPI witnesses and we will then, with the Chair's
23 agreement, break at noon, regardless of how far we've
24 gone in the respect.

25 Break at noon and then reconvene at 1:15,

1 then cross-examination of MPI's witnesses will continue.
2 There will be an afternoon break for coffee or whatever
3 for fifteen (15) minutes or so, and then we'll continue
4 on with cross- examination in the order as listed, as
5 we've done in the past, through until 5:00.

6 And we'll then have a break at 5:00 for
7 the supper hour and to the extent necessary, we'll
8 continue at 7:00; reconvening at 7:00. The idea being
9 that if we are through this afternoon with the MPI
10 evidence, that's fine.

11 We'll then immediately proceed with Mr.
12 Pelly, as the next witness. If not, then we'll conclude
13 with MPI at 7:00 this evening and then we'll have Mr.
14 Pelly as the next witness this evening.

15 And the idea is, again, to proceed as
16 expeditiously as possible, to conclude the evidentiary
17 portion of this -- of -- of the Hearing this evening.

18 THE CHAIRPERSON: Thank you, Mr.
19 Saranchuk. It's the Board's view to ensure that our
20 personal comfort for the arrangements and things doesn't
21 take precedent over the importance of the Hearing and its
22 process. So, we'll try and make this work, and hopefully
23 it will all fit in.

24 But in the end of the day, we want to
25 ensure that the process works effectively.

1 We're now going to call on Board Counsel,
2 Mr. Saranchuk, to begin the cross-examination of MPI's
3 witnesses.

4 I may say, however, that we're a little
5 bit troubled by the fact that when Mr. Ramsay and Mr.
6 McFarlane were being cross-examined, that some of the
7 perspectives that have come out from Mr. Palmer, were not
8 posed of Mr. McFarlane, and we're still pondering and
9 sort of reflecting on that and how we can cover off our
10 misgivings on that front.

11 Mr. Saranchuk, do you want to commence?

12 MR. WALTER SARANCHUK: Yes, sir.

13

14 CROSS-EXAMINATION BY MR. WALTER SARANCHUK:

15 MR. WALTER SARANCHUK: My first few
16 questions are of Ms. McLaren.

17 Ms. McLaren, you referred to page 9 of the
18 Appendix A to the submission by MPI. And with reference,
19 not so much to the contents of that particular page, but
20 more so your commentary when reviewing the contents of
21 that particular page, can you please explain why the
22 outcome at a major use level is totally unacceptable,
23 relative to what MPI does now nd why loss transfer at the
24 major use level is quote, "fundamentally wrong", end of
25 quote.

1 MS. MARILYN MCLAREN: The reason it's
2 fundamentally wrong is because we know more, have more
3 information available to us that proves there are
4 different -- there ought to be different impacts below
5 the major use level.

6 Let's take the commercial vehicle example,
7 and say the impact on the major use class of commercial
8 vehicles is an overall plus 5.5 percent. That's a
9 cumulative impact. It's not the calculated impact that
10 all the vehicles within the major class should pay.

11 We know that to get to the five point five
12 (5.5) overall increase, there are some minuses and some
13 pluses of varying magnitudes that all considered -- when
14 all considered, rolls up to the five point five (5.5).

15 If you apply five point five (5.5) without
16 regard to what we know to be the true costs, at the
17 insurance use territory level, that would simply not be
18 right. It would be wrong to do that.

19 MR. WALTER SARANCHUK: So, the reason why
20 you would not stop or agree to stopping at the major
21 class level, is because of the system that you have in
22 place and have adopted from day 1, and that is to extend
23 it beyond that; is that the reasoning?

24 MS. MARILYN MCLAREN: Yes, exactly. The
25 rate making methodology is -- is predicated on

1 calculating expected costs for individual insurance use
2 territory combinations; we roll those up to major uses
3 for demonstrative purposes, and because we put like
4 groups together within each major use.

5 But the work that we do, the rate -- rate
6 making methodology itself, does not operate at a major
7 use level, it operates at the insurance use territory
8 level.

9 MR. WALTER SARANCHUK: So, are you saying
10 that it just cannot be done, or are you saying it's
11 something that you can't live with because of your past
12 practice?

13 MS. MARILYN MCLAREN: No, I'm saying it
14 ought not to be done because, as we submitted in our
15 material, it fails a key test of actuarially sound rate
16 making when we have that information at the insurance use
17 territory level and it is simply bad public policy, in
18 our view, when you charge a rate to a group that's not
19 reflective of what you know to be their costs in what
20 would be a loss transfer model.

21 MR. WALTER SARANCHUK: We'll deal with
22 this in depth a little more, but it is suggested, for
23 example, that that is happening in the case of some
24 motorcyclists already where, in an instance there's a
25 motorcyclist who has driven off the road and is injured

1 and all of the costs associated with that individual's
2 injury are attributed to the motorcycle class in
3 circumstances where we hear fairness suggests that it
4 should be something different.

5 MS. MARILYN MCLAREN: In the example that
6 you gave the motorcyclist who runs off the road and is
7 injured, their costs are not just lumped into the major
8 use motorcycle class. They are allocated to the
9 motorcycle rate in a specific territory.

10 They don't get shared into the moped rate.
11 They don't get shared into different territories.
12 They're allocated at the insurance use territory level.

13 MR. WALTER SARANCHUK: What about the
14 monies that you pay to Manitoba Health; is it not correct
15 that you stopped well before the breakouts, so to speak?

16 In other words, the transfers to Manitoba
17 Health are allocated across the Board, so to speak, to
18 the various major classes; it doesn't go beyond that,
19 does it?

20 MS. MARILYN MCLAREN: I'm sorry, can you
21 repeat that question?

22 MR. WALTER SARANCHUK: Let me ask you,
23 how are the Manitoba Health payments dealt with in terms
24 of cost allocation?

25 MS. MARILYN MCLAREN: At the corporate

1 level.

2 MR. WALTER SARANCHUK: So, how do you get
3 down to the setting of rates for the particular rate
4 group then?

5 MS. MARILYN MCLAREN: The expected
6 transfer to Manitoba Health is fed through the -- as part
7 of the claims costs and then they are allocated to all
8 the various categories based on their share of claims
9 costs. So, no, that wouldn't stop at the major use level
10 either.

11 MR. WALTER SARANCHUK: But it could?

12 MS. MARILYN MCLAREN: That comes back to
13 your earlier question; is it that you can't or that you
14 ought not to.

15 THE CHAIRPERSON: Is not the question
16 that when you pay to Manitoba Health -- just correct us
17 if our assumptions are wrong.

18 Mr. Black is injured and costs accrue out
19 of Manitoba's Health and WRJ (phonetic) or whatever
20 treatment of Mr. Black. Those costs you're not paying
21 directly you're paying a lump sum to Manitoba Health so
22 you're not taking some attribution of those specific
23 costs with Mr. Black and putting it against a Honda
24 Odyssey or something of that nature?

25 MS. MARILYN MCLAREN: Exactly. That's

1 right, we're not.

2

3 CONTINUED BY MR. WALTER SARANCHUK:

4 MR. WALTER SARANCHUK: Can you explain,
5 Ms. McLaren how a loss transfer system would have a
6 negative effect on quote, "customer choices", end of
7 quote?

8 MS. MARILYN MCLAREN: It will deteriorate
9 the extent to which individual Manitobans can make direct
10 link between the choices they make and the rates they
11 pay.

12

13 (BRIEF PAUSE)

14

15 MR. WALTER SARANCHUK: I'd like to review
16 with you, Ms. McLaren, some of the reasons one can
17 conclude that MPI opposes loss transfer.

18 And I'd ask you to elaborate on them.
19 First of all, if you agree and then secondly, if you do
20 and I think you will, you wouldn't mind elaborating then
21 on why it is a reason for MPI's opposition.

22 The first is that all rates are determined
23 based on a major use vehicle type and territory use
24 level, that's your main reason for the opposition of loss
25 transfer; is that correct?

1 Or is it just one of the reasons and can
2 be relegated to something less than the main reason?

3
4 (BRIEF PAUSE)

5
6 MS. MARILYN MCLAREN: The Corporation has
7 a four (4) component risk classification system. And
8 it's clear and proven, I believe, over the last many
9 years that the first-party cost allocation methodology
10 that the Corporation uses provides a clear and direct
11 link to the premiums on each of those four (4) factors.

12 Loss transfer deteriorates that
13 relationship and that is what we believe is the
14 fundamental problem with loss transfer.

15 MR. WALTER SARANCHUK: So, that leads me
16 to what I conclude and correct me if I'm wrong, is
17 another reason for your opposition to loss transfer, and
18 that is that the loss transfer data is not available at
19 all levels?

20 MS. MARILYN MCLAREN: Yes, yes. I mean I
21 think we were on the record earlier and again this
22 morning that, you know, if -- if there was a mechanism to
23 establish rate groups for vehicles by make/model/model
24 year, that included consideration for third-party damage,
25 I see no reason why we would not make sure of that.

1 MR. WALTER SARANCHUK: So, at the present
2 time, implementation -- full implementation of loss
3 transfer is simply not possible according to the
4 Corporation; is that correct?

5 MS. MARILYN MCLAREN: Yes.

6
7 (BRIEF PAUSE)

8
9 MR. WALTER SARANCHUK: I think you
10 indicated in your evidence and this takes me to the
11 fourth reason, in your evidence that loss transfer at a
12 major use level only, would be and it might have been Mr.
13 Palmer, I'm sorry, that referred to this terminology,
14 would be quote, "somewhere in the middle", end of quote
15 and there would be a serious deficiency or step back from
16 what MPI does now.

17 Is that another reason for opposition?

18 MS. MARILYN MCLAREN: Yes, that's
19 certainly the core of the opposition to that particular
20 option with respect to implementing loss transfer.

21 MR. WALTER SARANCHUK: Are there any
22 other objections that the Board should be aware of in
23 terms of MPI's consideration of loss transfer
24 implementation?

25 MS. MARILYN MCLAREN: What we tried to do

1 in the material that we put forward was identify the --
2 which in our best estimate would be the readily obvious
3 options, I guess, with respect to implementing loss
4 transfer. And we have found what we believe to be fatal
5 flaws in the most readily obvious options that we have
6 identified.

7 So those we have identified are concerns
8 and what we believe to be significant barriers to
9 implementing the options that we've talked about.

10 So, what you've done, I think is sort of
11 tried to summarize or characterize our opposition with
12 what we've put forward. Who knows how many other
13 potential scenarios anybody could come up with.

14 I want to be very clear that in principle,
15 as public policy, we are opposed to loss transfer
16 mechanisms in the broadest sense, because we believe the
17 first-party approach is the most fair and reasonable,
18 non-discriminatory, non-preferential, in our context, in
19 our environment, with our program, for Manitobans.

20 So we strongly believe in th first-party
21 cost allocation system that we have. And I don't want to
22 limit the opposition to loss transfer, the way you have I
23 think portrayed our concerns with some of the options
24 that we've addressed. It's beyond that, it is a
25 fundamental belief in a first-party approach being the

1 best approach for Manitobans.

2 MR. WALTER SARANCHUK: So, you disagree
3 with the concept in principle, and then work from there?

4 MS. MARILYN MCLAREN: Yes, you know, we
5 had to take a very long and hard look to really, truly
6 understand and document the underpinnings of the system
7 that we have to do. We have a first-party approach,
8 because we think it's the right thing to do.

9 MR. WALTER SARANCHUK: And vis-a-vis
10 motorcycles, it's not a disagreement on principle, as
11 such, but it's because it fails to recognize MPI's
12 criterium that motorcycles are inherently risky; is that
13 correct?

14 MS. MARILYN MCLAREN: No, no, I don't
15 think we set out -- we didn't start by deciding that
16 motorcycles were inherently risky, and then figuring out
17 how best to -- to portray that; we didn't do that.

18 MR. WALTER SARANCHUK: Please explain
19 what you did do then?

20 MS. MARILYN MCLAREN: We were given the
21 responsibility by the Legislature of Manitoba to
22 administer an auto insurance program. Decisions about
23 the fact that the All Perils coverage, the no-fault
24 benefit package that was part of the program right from
25 1971, and the third-party liability coverage that was in

1 part in place at that time, are all first-party
2 coverages.

3 The design of the program stems back to
4 that time. The Legislature and the very first
5 administrators of Manitoba Public Insurance didn't know
6 that twenty (20) some odd years later we'd end up in a
7 pure no-fault system.

8 But the program at its core has always
9 been a first-party insurance system, where people have
10 guaranteed access to a broad base of coverages for
11 themselves. It's personal insurance that you buy when
12 you buy Autopac; for the most part has -- that's always
13 been true.

14 So, the underpinnings of that have always
15 been based on that. It's a consistency that has happened
16 right from the earliest days and has stood the test of
17 time as the program has evolved.

18 And what we've learned right from the
19 beginnings of time, and certainly have learned more and
20 more as we had more specific information available about
21 private passenger vehicles, that different vehicles bring
22 different levels of vulnerability to the system.

23 So, that's evidenced itself in any number
24 of different ways. And we talked about the fact that
25 prior to the move to no-fault in 1993, motorcycle rates

1 were exceedingly deficient. That was true in 1993 in a
2 part no-fault, part Tort system that we had since '71.

3 MR. WALTER SARANCHUK: Thank you, Ms.
4 McLaren.

5 Mr. Palmer, I wonder if the SGI
6 correspondence that you referred to could be filed in the
7 evidence?

8 MR. DONALD PALMER: Yes, it could.

9 MR. WALTER SARANCHUK: And how about your
10 reference or the document that you quoted from relevant
11 to the current pronouncement on the principles of the
12 Actuarial Society; is that something that you had, other
13 than what you had in your present -- your MPI
14 presentation?

15 MR. DONALD PALMER: I don't have those
16 principles with me. I could get them and file them at
17 the break.

18 MR. WALTER SARANCHUK: Thank you. And
19 what about a copy of the paper showing your reworking of
20 the calculations as presented in MMIC's paper. Would you
21 be good enough to file those too please?

22 Not necessarily right now, but say in the
23 next few hours?

24 MR. DONALD PALMER: Absolutely.

25 MR. WALTER SARANCHUK: Thank you very

1 much.

2 So, we have those three (3) undertakings,
3 Mr. Chairman.

4 THE CHAIRPERSON: So noted.

5

6 --- UNDERTAKING NO. 1: File SGI correspondence.

7

8 --- UNDERTAKING NO. 2: File Document Mr. Palmer
9 quoted from, relevant to the
10 current pronouncement on the
11 principles of the Actuarial
12 Society.

13

14 --- UNDERTAKING NO. 3: File copy of the paper
15 showing Mr. Palmer's
16 reworking of the calculations
17 as presented in MMIC's paper.

18

19 CONTINUED BY MR. WALTER SARANCHUK:

20

21 MR. WALTER SARANCHUK: Mr. Palmer, is it
22 possible for MPI to set aside in its methodology a group
23 that would include just vehicles that are responsible for
24 accidents and approach rate making on that basis?

25

MR. DONALD PALMER: We do have the
percent responsibility of all vehicles and all claims.

1 So from that standpoint and we do use that to assign for
2 driver surcharges for -- for instance, so it's in our
3 database. It could be -- it could be -- it could be
4 included, sure.

5 MR. WALTER SARANCHUK: Relative to the --

6 MR. DONALD PALMER: Mr. Saranchuk, sorry,
7 I could just clarify that.

8 For collision claims not for things like
9 hail and theft and glass claims.

10 MR. WALTER SARANCHUK: Yes. All right,
11 then. When under the Tort system there was subrogation
12 by MHSC, for its costs against MPI for the negligence of
13 an at-fault motorists, that was behind the scenes, so to
14 speak, and really unknown to the motorist, the MPI
15 insured responsible for the mishap; is that correct?

16 MR. DONALD PALMER: I don't have specific
17 knowledge of that, but, I would assume that the claimant
18 wouldn't have known about it.

19 MR. WALTER SARANCHUK: And that
20 transaction as such, didn't have any effect on insurance
21 rates or the motorists themselves, did it?

22 MR. DONALD PALMER: No, it would have.
23 Those -- that subrogation was done on an individual
24 basis, so the individual claim file would have been
25 credited with the amount of subrogation.

1 MR. WALTER SARANCHUK: I see. So, I
2 guess one could loosely describe that as a form of a cost
3 transfer under that previous Tort system?

4 MR. DONALD PALMER: I don't know if I'd
5 characterize it as a cost transfer. I would say that
6 it's one of the available remedies under the Tort system
7 as it existed.

8 MR. WALTER SARANCHUK: And now under the
9 PIPP system how are the payments to Manitoba Health
10 spread against the vehicle groups and allocated to them?

11 MR. DONALD PALMER: They're allocated on
12 the basis of total claim or claims cost, specifically,
13 accident benefits claim costs at the major class level
14 and then bubbles down through the various other levels.

15 MR. WALTER SARANCHUK: So, the system is
16 obviously different than what was the Tort approach?

17 MR. DONALD PALMER: Absolutely.

18
19 (BRIEF PAUSE)

20
21 MR. WALTER SARANCHUK: Your aware, Ms.
22 McLaren -- you're aware of the, Ms. McLaren, of the
23 public policy considerations facing the Board, in having
24 to arrive at this decision that they are dealing with,
25 namely the loss transfer implementation.

1 Would you agree that public policy was and
2 public acceptability was the cornerstone for the initial
3 decision to set up MPI?

4 MS. MARILYN MCLAREN: Did the legislature
5 decide to set up MPI as a public policy decision?
6 Absolutely.

7 MR. WALTER SARANCHUK: Can the same be
8 said for the basis for the introduction of PIPP?

9 MS. MARILYN MCLAREN: The legislature
10 made that decision, as well, yes.

11 MR. WALTER SARANCHUK: And would you
12 agree that public acceptability would be an intrinsic
13 factor in public policy consideration?

14 MS. MARILYN MCLAREN: Absolutely it's a
15 consideration. In my view, that doesn't necessarily
16 drive through to make it a primary consideration, or does
17 not in any way, shape, or form, mean that public policy
18 needs to respond to a particular current view of what is
19 publicly acceptable. Part of public policy -- policy
20 making is explaining and building support for a
21 particular public policy; it goes both ways.

22 MR. WALTER SARANCHUK: When PIPP was
23 implemented, and first-party claims costs attributed --
24 attributions were first set up, was the rate impact
25 consequence for motorcyclists known or anticipated, from

1 the Corporation's standpoint?

2 MS. MARILYN MCLAREN: It -- it was -- we
3 did our best to anticipate the impact. We had no ability
4 to know what the impact would be, at that point.

5 MR. WALTER SARANCHUK: And what was the
6 anticipation?

7 MR. DONALD PALMER: We had some estimates
8 of -- of what the change to no-fault would -- would do on
9 a per coverage basis. Knowing what the split of coverage
10 was at the various classification levels, we applied
11 those same percentages and -- and at that point in time
12 it was determined it would -- there would be a rate
13 increase for motorcycles, relative to the old plan.

14 And at that time we were very clear that,
15 at this Board, that those were estimates and as actual
16 experience came to light, then we would use that actual
17 experience, rather than the estimates that we had come up
18 with through the onset of debt.

19 MR. WALTER SARANCHUK: And in general
20 terms, what has been the experience compared to what you
21 had estimated?

22 MR. DONALD PALMER: I'm going from some
23 memory here, but I think that the experience on
24 motorcycles specifically has been probably worse than we
25 had anticipated.

1 And but I think overall, from a corporate
2 level, I think the -- the original estimates were pretty
3 close.

4 MR. WALTER SARANCHUK: Can you quantify
5 what you said vis-a-vis motorcycles, are we talking in
6 general terms, and I know you're speaking from memory,
7 but are we talking a 100 percent, 50 percent?

8 MR. DONALD PALMER: I wouldn't want to
9 speculate on that.

10 MR. WALTER SARANCHUK: Would you agree,
11 sir, that it's fair to assume that in Ontario when the
12 loss transfer system was put in place, it was because, in
13 part at least, of a forecast of potential impact for
14 motorcyclists?

15 MR. DONALD PALMER: I would say that that
16 may have been part of their decision making process, yes.

17 MR. WALTER SARANCHUK: And if -- if we
18 harken back to your considerations of the impact on the
19 various -- well on the overall fleet, and on the various
20 major classes at the time you were considering a PIPP,
21 was there consideration at all given to loss transfer?

22 MR. DONALD PALMER: At that time I don't
23 believe there was. I -- I think the -- at the 1994 GRA,
24 that may have been brought up, but it wasn't really
25 explored at that point, because we didn't really know

1 what the impact would be.

2 MR. WALTER SARANCHUK: You'll recall the
3 evidence that loss transfer was implemented in Ontario in
4 1990, four (4) years prior to the implementation of PIPP.

5 Did MPI give any consideration to the
6 Ontario experience at the time, or the reports prepared?

7 MS. MARILYN MCLAREN: Back at that time I
8 was not directly involved in the rate development process
9 at Manitoba Public Insurance, but I was directly involved
10 in the development of PIPP itself.

11 And there were some internal discussions
12 about the circumstances of the OMPP as we were developing
13 PIPP. What we were asked to do by the government of
14 Manitoba was to make recommendations on a no-fault
15 insurance scheme modelled on that of Quebec.

16 But there was some discussion around that.
17 And the Corporation's view, with respect to Ontario, vis-
18 a-vis Manitoba, has always been that the regulators in
19 Ontario were dealing with a situation with respect to
20 access and affordability that does not exist here in
21 Manitoba.

22 MR. WALTER SARANCHUK: Well,
23 affordability would certainly -- would -- affordability
24 would have been a consideration; would you not agree?

25 MS. MARILYN MCLAREN: Sure. Absolutely.

1 But I think it's -- you know, it's issues like that are
2 always very context specific and the context in Manitoba
3 is sufficiently different that the Corporation believed
4 it -- it appropriate to continue with its first-party
5 process.

6 MR. WALTER SARANCHUK: So, just to
7 determine whether we have your evidence correctly
8 interpreted, the Corporation did give some passing
9 consideration to the impact of the implementation of a
10 first-party system on the motorcycle class, in
11 particular, in the context overall of affordability.

12 And being aware of the fact that there
13 would be a negative impact in terms of increased
14 premiums, the Corporation proceeded with the PIPP plan?

15 MS. MARILYN MCLAREN: Yes, I wouldn't
16 disagree with anything that you said. But, again, the
17 context is very important. The larger context with
18 respect to things like, at that time, motorcycle rates
19 were already needing an 80 percent rate increase in 1993.

20 You know, the -- the context overall that
21 the Manitoba system was already a first-party system, to
22 great extent. The no-fault benefits that were in place
23 in Manitoba, in the Tort environment, were higher than
24 most no-fault benefits in Tort environments across the
25 country at that time.

1 We believed they needed work. We believed
2 that the move to PIPP certainly addressed that particular
3 issue. But, it is context specific. It's not just a
4 move into a first-party system the first time out.

5 It was not inconsistent in its structure
6 with what was already in place at Manitoba -- in
7 Manitoba. And I think as we continue to look at this
8 through years, I think you remember the 2003 material
9 that the Corporation put forward discussed the fact that
10 that was the third time since '94 where the Corporation
11 was asked to come up with an estimate of the effect of
12 loss transfer on motorcycles.

13 And each time, the estimate that came
14 forward, I don't remember when the first one was, there
15 was one in '98 and then again in 2003, reduced the impact
16 on motorcyclists and that really was because the
17 expansion of the coverage through PIPP, and the use of
18 that coverage through PIPP, not because losses had --
19 used to be transferred to other places.

20 They were first-party accidents, always
21 first-party accidents, and that's why the effect of loss
22 transfer had been mitigated, that was something that we
23 learned through time; that the fundamental reason that we
24 did what we did with respect to not proposing a loss
25 transfer mechanism when PIPP first came was all of the

1 context that I've just shared with you.

2 MR. DONALD PALMER: I'd like to add
3 something to that with regard to the costings that -- and
4 rate application in 1994. When we came up with those
5 estimates that I had talked about, and there was an
6 indication that there would be an increase to the
7 motorcycle rates.

8 The Corporation, at that point in time,
9 decided that the move to PIPP really was -- we had
10 estimates, but, the ultimate would be unknown.

11 And we had applied to the Public Utilities
12 Board to ensure that no rate would go up, including
13 motorcycles. That particular application was, in fact,
14 overturned by the Board of the day, and there was a rate
15 increase in 1994 for motorcycles.

16 So we had originally adopted a wait and
17 see approach and we were overturned in that.

18 MR. WALTER SARANCHUK: And with reference
19 to your comment, Ms. McLaren, that at that time the
20 motorcyclists were facing an 80 percent -- or should be
21 facing an 80 percent increase, did the implementation of
22 a first-party system compound that, or did it detract or
23 reduce it?

24 MS. MARILYN MCLAREN: No, it would not
25 have detracted from it. And as -- you know we -- we were

1 prepared to wait and see what the impact would be; so it
2 certainly wouldn't detract from it, no. It may compound
3 it, it may have been directionally similar, I'm not --
4 I'm not sure.

5

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(BRIEF PAUSE)

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MR. WALTER SARANCHUK: Mr. Palmer, you
9 indicated that the experience has been more serious than
10 you first had prognosticated, if you will. What drove
11 that experience in terms of the excess?

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MR. DONALD PALMER: I think, on an
overall basis, one of the impacts of having a no-fault
system, is that compared to a Tort system, is I think
it's generally recognized that the no-fault system, or
the Tort system had a tendency to overcompensate or --
overcompensate non-serious losses, minor losses, and
maybe undercompensate serious losses.

And one of the considerations in the
design of the program was -- was basically to rectify
that. I think we're certainly recognized that we're in
the business of -- of compensating losses and certainly
the very serious ones are of prime consideration. I
don't think we realized at the time how well that was
going to work.

1 And I think, not only from a motorcycle
2 perspective, but also on a corporate wide perspective, I
3 think our number of serious losses, large losses, has
4 probably been higher than we had originally anticipated
5 because motorcycles are more prone to that serious injury
6 I think it's even accentuated that process.

7 MR. WALTER SARANCHUK: Does any
8 particular vehicle have an inherently or actual higher or
9 lower risk of being involved in an accident?

10 MR. DONALD PALMER: As far as
11 involvement, I think there are different vehicles that
12 may be more manoeuvrable, can avoid accidents better.

13 Certainly, it's -- it's very hard to have
14 an eighteen (18) wheeler that can turn on a dime; so I
15 would agree with that, yes.

16 MR. WALTER SARANCHUK: Or is it the risk
17 of being -- or sorry -- or is the risk of being involved
18 in an accident more the result of the driving ability, or
19 driving choice, made by a driver?

20 MR. DONALD PALMER: I think it's both.
21 You know, I don't think that the best driver in the world
22 can turn an eighteen (18) wheeler on a dime. But, you
23 know, I think there is some driver experience in any
24 vehicle that comes into play, whether that particular
25 vehicle is in an accident or not.

1 MS. MARILYN MCLAREN: The vast majority
2 of accidents are caused by driver error.

3 MR. WALTER SARANCHUK: So while a smaller
4 vehicle may experience greater claims costs in an
5 accident, does this alter a risk of those vehicles being
6 involved in an accident?

7 MS. MARILYN MCLAREN: No.

8 MR. WALTER SARANCHUK: I Thank you.

9

10 (BRIEF PAUSE)

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12 MR. WALTER SARANCHUK: Now at page 5 of
13 your report, Ms. McLaren, this is at Tab 4 in the book of
14 documents, reference is made to the MPI rationale for
15 first-party cost allocation for rate making.

16 In terms of your current system of
17 assigning claims losses, could you please describe that
18 in general terms?

19 MS. MARILYN MCLAREN: With the first-
20 party system claims costs are assigned to the -- the
21 vehicle, the use, the territory of the vehicle owner that
22 was involved in the crash.

23 If there were two (2) vehicles involved
24 from different vehicles -- sorry and -- and the actual
25 vehicle itself, make, model, model year, as defined

1 through the Corporation's rate group system. So if there
2 are two (2) different vehicles, two (2) different
3 territories, two (2) different insurance uses, all of
4 those factors would have a -- a determining factor in
5 where the claims costs were allocated.

6 MR. WALTER SARANCHUK: And there's really
7 no consideration for transferring losses?

8 MS. MARILYN MCLAREN: Yes, that's right.

9 MR. WALTER SARANCHUK: And at the bottom
10 of page 5, you give your reasons for that, and the first
11 being that the system, quote:

12 "Treats all motorists and vehicles
13 similarly and equitably. It is fair
14 and non-preferential."

15 End of quote. Can you elaborate on that
16 please?

17 MS. MARILYN MCLAREN: When it treats all
18 motorists and all vehicles similarly and equitably,
19 motorists who cause an accident are effected through the
20 bonus malice component of the classification system, in a
21 way that is consistent across the Province, across the
22 vehicle types; so it is -- it is applied consistently.

23 The cost allocation, as well, is applied
24 consistently; that makes it predictable, that makes it
25 equitable in the Corporation's view. It's certainly non-

1 preferential.

2 MR. WALTER SARANCHUK: Is it fair to
3 motorcyclists?

4 MS. MARILYN MCLAREN: I believe it is,
5 yes.

6 MR. WALTER SARANCHUK: And your reasons?

7 MS. MARILYN MCLAREN: Their rates, with
8 consideration for -- for capping and -- and techniques
9 such as that, are reflective of their costs.

10 MR. WALTER SARANCHUK: Could you please
11 explain what you mean when you talk about the use of
12 capping, and why --

13 MS. MARILYN MCLAREN: Well, as -- as
14 we've said earlier today, and at other times, I guess
15 that motorcycle rates themselves are not sufficient
16 today. They are -- and I -- I hope my memory is -- is
17 reasonably accurate when I say that last year, or the
18 year before, we had information in this -- in this forum
19 that talked about the fact that the claims costs incurred
20 by the motorcycle group over a number of years were
21 approximately twice the rates that they had paid.

22 So -- so rates are significantly --
23 continue to be significantly deficient. That has, you
24 know, periodically dipped and grown through the years,
25 and I think that will continue to be true. I think the

1 Corporation would likely expect that given no changes to
2 the system, that there would probably become a time that
3 motorcycle rates would actually be sufficient, but at
4 this point in time they are not sufficient.

5 So, with that qualifier, the system itself
6 is fair to motorcyclists because it creates a reasonable
7 prediction of their costs, and rates are calculated based
8 on that prediction of their costs.

9 MR. WALTER SARANCHUK: But, correct me if
10 I'm wrong, but didn't you refer to the fact that
11 motorcycle rates are being capped and, therefore, their -
12 - that your system is fair?

13 MS. MARILYN MCLAREN: The rate making
14 methodology has rules within it. The capping rule is
15 intended to provide a reasonable measure of rate
16 stability for individual ratepayers from year to year.

17 The 15 percent cap that has applied to
18 motorcyclists, applies to others as well. It's not
19 something specific to motorcycles.

20 MR. WALTER SARANCHUK: Would you consider
21 the current approach by MPI as being non-preferential
22 vis-a-vis motorcyclists?

23 MS. MARILYN MCLAREN: Yes, absolutely.
24 It's a system that applies to all vehicles, all
25 motorists, all -- all categories of insurance.

1 MR. WALTER SARANCHUK: The second bullet
2 there under the rationale for the current system is
3 quote:

4 "Makes appropriate use of generally
5 accepted means of assessing the
6 likelihood of claims cost frequency and
7 severity. It is reasonable." End of
8 quote.

9 Can you elaborate on that please?

10 MS. MARILYN MCLAREN: Yeah. I think
11 because the way the system is integrated right down to
12 that rate group level, it does make appropriate use of
13 generally accepted means of assessing the likelihood of
14 claims costs frequency and severity.

15 The -- every single aspect of the four (4)
16 components of risk classification are inherently part of
17 that rate making methodology. And, therefore, in its
18 entirety, and in its specificity, it makes appropriate
19 use of the information that's available to us, and the
20 generally accepted tools and techniques that are in use
21 today.

22 MR. WALTER SARANCHUK: So, essentially
23 what you're saying is, it's fair and reasonable in
24 respect of the entire fleet?

25 MS. MARILYN MCLAREN: Yes.

1 (BRIEF PAUSE)

2
3 MR. WALTER SARANCHUK: Mr. Palmer, you've
4 suggested that if one were to drive a larger vehicle that
5 is less manoeuvrable, I think you referred to an eighteen
6 (18) wheeler, one might be more likely to be involved in
7 an accident as compared to one that is, say, more
8 manoeuvrable; is that correct?

9 I'm leading into my question, I'm just
10 asking you whether that's what you said?

11 MR. DONALD PALMER: That's what I said.
12 Yes.

13 MR. WALTER SARANCHUK: My question being,
14 yet the vehicle being operated by that individual may not
15 suffer serious damage, so the rates reflect that, and are
16 lower as a result?

17
18 MR. DONALD PALMER: They would reflect
19 both the frequency and the severity.

20
21 (BRIEF PAUSE)

22
23 MR. WALTER SARANCHUK: But in the context
24 of an injury, where there may not be damage to the
25 individual, the -- the rates reflect that as well?

1 MR. DONALD PALMER: Sure.

2 MR. WALTER SARANCHUK: Is that fair?

3

4

(BRIEF PAUSE)

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MS. MARILYN MCLAREN: We believe it's
7 fair. The point that you haven't talked about in that
8 particular circumstance is the likelihood of injuries in
9 the big eighteen (18) wheeler and or in the smaller
10 vehicle that collided with it, are likely regardless of
11 who caused the accident.

12 One (1) of the things that we haven't
13 talked about this morning is, I guess what until now has
14 been sort of an implicit view of the Corporation, but
15 needs to be stated is that this loss transfer concept in
16 the Corporation's view seriously overestimates the impact
17 of fault.

18 If we wanted to have a fault based system,
19 we could have a fault based system. And based on your
20 earlier question, Mr. Saranchuk, we could figure out all
21 the costs of all the at-fault vehicles last year and
22 figure out how much they ought to pay retrospectively,
23 and the rest of us wouldn't have had to pay anything.

24 So, fault in a loss transfer mechanism is
25 highly overrated in the Corporation's view. You need to

1 look at a -- it would not be appropriate to have a risk
2 classification system that had no bonus malice component.

3 The Corporation has had a bonus malice
4 component since 1971; that's where you deal with fault.
5 The fact that, no matter, who is at fault when a big
6 vehicle and a little vehicle collide, is the issue.

7 And the Corporation's rating system with
8 significant bonus malice component appropriately balances
9 the need to reflect fault with the need to reflect the
10 other factors.

11 MR. WALTER SARANCHUK: Thank you Ms.
12 McLaren.

13
14 (BRIEF PAUSE)

15
16 MR. WALTER SARANCHUK: Looking at the
17 principles that you've referred to at the bottom of page
18 5 and on page 6 of your paper, I'd like to ask you about
19 the one (1) on page 6, the bullet indicating, quote:

20 "Individuals have an obligation to
21 control and can control to a
22 significant degree their individual
23 risk related to operating vehicles and
24 using the roadway." End of quote.

25 Then there a series of comments underneath

1 that.

2 I wonder if you would elaborate on that,
3 for starters, and then I'll have a few supplementary
4 questions.

5 MS. MARILYN MCLAREN: I think it comes
6 back to the conversation that we had -- that I had
7 earlier maybe with Mr. McCulloch and in particular, the
8 response to I think it was the fourth question that the
9 PUB posed through the information request process.

10 It comes down to the need for Manitobans
11 to have the ability to make informed choices. Informed
12 decision making is key. When we talk about -- they have
13 an obligation to control and make decisions about, really
14 is what this bullet doesn't necessarily say.

15 But, it's generally accepted, proven
16 through time that it costs more to insure vehicles that
17 are regularly driven to and from work, compared to
18 vehicles that are not. That's why those rates are higher
19 for exactly the same make/ model/model year vehicle.

20 So, people need to understand that and
21 they need to make a decision about the use of their
22 vehicle, based in part, on that knowledge.

23 So, when I say they -- people can pay
24 significant amounts, not only for insurance, but also
25 into the justice system, I guess, for lack of a better

1 terminology, if they choose to drive without regard to
2 the law and get a number of speeding tickets and other
3 Highway Traffic Act related offences, they -- those are
4 decisions, how much are you prepared to pay into the
5 system in order to drive your car.

6 That is an informed decision. There needs
7 to be direct links between the choices that people make
8 and the amount they pay. And when we talk about
9 individuals have an obligation to be road wise, we have
10 an obligation to make sure they have a financial impact
11 when they make bad decisions about the way they behave on
12 the road.

13 And the other component are -- are very,
14 very consistent with that.

15 The last bullet under that one (1) talks
16 about the CLEAR component, the rate group component.
17 People make decisions about whether to buy vehicles that
18 are highly likely to protect them in the event of a
19 crash. They make decisions about vehicles that will --
20 cannot be stolen because they have electronic
21 immobilizers.

22 All of those are individual decisions that
23 people have to make. And we believe it's our obligation
24 to enable them to make those decisions in an informed
25 way.

1 MR. WALTER SARANCHUK: If there were no
2 motorcycles or mopeds on the road, would the frequency or
3 severity or both of accidents, necessarily fall?

4 MR. DONALD PALMER: I'm not sure that I
5 can comment on the frequency, I believe, because of the
6 lack of protection for motorcycles and -- or the
7 motorcycle and moped rider. I think that the severity
8 overall may increase -- or sorry, decrease.

9 As far as you know, the -- the -- we've
10 heard Mr. Ramsay talk about the increased
11 manoeuverability of motorcycles. If -- if all motorcycle
12 operators were as skilled as Mr. Ramsay is, I think that
13 we can -- we can say there would be a decrease in -- in
14 frequency. But I don't know that we can make that
15 assertion.

16 MR. WALTER SARANCHUK: And, Ms. McLaren,
17 we -- we talked about public policy considerations, what
18 the legislature might well have taken into account, in
19 that regard, when implementing -- well, when creating
20 Autopac and then implementing the PIPP system.

21 Would you agree that there were indeed
22 some non-insurance factors that were implemented through
23 regulation, established by the Government to implement
24 its decisions; for example, public acceptability; what
25 the Government thought would be -- was in the best

1 interests of motorists?

2 MS. MARILYN MCLAREN: No, I -- I don't
3 think we can -- I mean the -- the context is that they
4 were -- they made a decision in the case of Manitoba
5 Public Insurance and Autopac itself, they made a decision
6 to introduce an auto insurance system. I think that was
7 highly related to insurance considerations.

8 There were significant issues in the
9 1960's in Manitoba with respect to automobile insurance,
10 that the Government was trying to address, directly
11 related to insurance.

12 The Government in my memory, has -- has
13 done nothing with that Autopac program that is not
14 directly to -- related to insurance concerns. The same
15 with the personal injury protection plan; they were
16 totally insurance related concerns and in that situation,
17 driven by concerns about the cost of auto insurance.

18 And the solution was in part intended to
19 address the spiralling insurance costs that Manitobans
20 were faced with in the early 1990's, but again, tied back
21 to insurance. And they've always treated the program as
22 an insurance program, and they have not made other policy
23 decisions that, you know, they have not asked us to do
24 things not related to insurance and insurance costs
25 through insurance premiums.

1 that rates and rate design do not take into account
2 congestion issues so far as the traffic is concerned?

3 MS. MARILYN MCLAREN: We do that, both
4 through the territory rating, and through insurance use
5 rating. Winnipeg is the most congested part of Manitoba.
6 Rates are higher in Winnipeg than -- than elsewhere in
7 Manitoba.

8 People who have a vehicle and use it for
9 pleasure purposes only, and take public transportation or
10 walk to work don't have to pay all purpose rates. So it
11 does reflect those not -- it is not based on objectives
12 related to reducing congestion, but the rating system
13 certainly reflects the fact that congested areas have
14 higher claims costs.

15 MR. WALTER SARANCHUK: Do you rates and
16 rate design take into account highway infrastructure
17 costs?

18 MS. MARILYN MCLAREN: Does Manitoba
19 Public Insurance fund highway infrastructure? Is that
20 what you're asking?

21 MR. WALTER SARANCHUK: No. But does your
22 -- do your rates take them into account in any way?
23 Whether there are traffic lights, and stop signs, that
24 type of thing, as opposed to open roads; in a particular
25 territory?

1 MS. MARILYN MCLAREN: I think that's
2 true. I think there's probably some effect on insurance
3 costs of the fact that, you know, the main highway
4 through this province, Number 1 Highway, has very few
5 interchanges and lots of uncontrolled intersections.

6 MR. WALTER SARANCHUK: And do your rates,
7 and your rate design have any regard whatsoever to the --
8 an individual's ability to pay in terms of personal
9 income, or ability to purchase larger vehicles?

10 MS. MARILYN MCLAREN: No, there -- there
11 is no explicit objective of making sure individual rates
12 are suitable to a specific individual's ability to pay,
13 but there certainly is -- the design of the system
14 provides for that.

15 There are rates in the -- the rate file,
16 that we provide every year in this forum, that are as low
17 as two hundred and fifty dollars (\$250) a year based on
18 an -- and in terms of your example, probably bigger 1980
19 type vehicles that we would sometimes talk about as big
20 boats.

21 They're pretty big, and they're pretty low
22 cost to insure, particularly if you're insuring them as a
23 farm car or a pleasure car, rural Southern Manitoba.

24 So certainly there is huge scope for
25 people to make decisions about affordability within the

1 design of the system. The system is not designed to
2 provide specific dollar outcomes.

3 THE CHAIRPERSON: Mr. Saranchuk, when you
4 find a good spot to adjourn for lunch?

5 MR. WALTER SARANCHUK: That's it, sir.

6 THE CHAIRPERSON: See you back at 1:15.
7 Have a good lunch.

8

9 --- Upon recessing at 12:00 p.m.

10 --- Upon resuming at 1:20 p.m.

11

12 THE CHAIRPERSON: Mr. Saranchuk, we have
13 some Exhibits to enter?

14 MR. WALTER SARANCHUK: Yes, sir. As the
15 next Exhibit which I'm advised is number -- number 32,
16 I'd ask that we have marked in the evidence the e-mail of
17 Monday, May 9th, 2005 at 4:34 p.m, from Don Palmer to
18 Marilyn McLaren and Kevin McCulloch, which is the
19 information from SGI.

20

21 --- EXHIBIT NO. MPI-32: E-mail of Monday, May 9th,
22 2005 at 4:34 p.m, from Donald
23 Palmer to Marilyn McLaren and
24 Kevin McCulloch, which is the
25 information from SGI.

1 THE CHAIRPERSON: Thank you.

2 MR. WALTER SARANCHUK: As the next
3 Exhibit, number 33, a document consisting of three (3)
4 pages, entitled the Manitoba Public Insurance Corporation
5 Major Classification Required Rate Changes.

6 And these three (3) pages contain the
7 calculations that Mr. Palmer referred to in his evidence
8 relative to the re-statement or re-calculation of what
9 was calculated by the MMIC actuary.

10

11 --- EXHIBIT NO. MPI-33: Document consisting of three
12 (3) pages, entitled the
13 Manitoba Public Insurance
14 Corporation Major
15 Classification Required Rate
16 Changes.

17

18 MR. WALTER SARANCHUK: As Exhibit number
19 33, I have a copy --

20

THE CHAIRPERSON: That will be 34.

21

22 MR. WALTER SARANCHUK: -- sorry 34, I
23 have a copy of a statement of principles regarding
24 property and casualty insurance rate making, adopted by
25 the Board of Directors of the Canadian Actuarial Society
of May 1988.

1 THE CHAIRPERSON: Is this one --
2 MR. WALTER SARANCHUK: Sorry, Casualty
3 Actuary Society.

4 THE CHAIRPERSON: Is this one still in
5 force? Mr. --

6 MR. WALTER SARANCHUK: I'm advised that
7 it is. I'm advised that it is, sir.

8
9 --- EXHIBIT NO. MPI-34: Copy of a statement of
10 principles regarding property
11 and casualty insurance rate
12 making, adopted by the Board
13 of Directors of the Casualty
14 Actuarial Society of May
15 1988.

16
17 THE CHAIRPERSON: So, Mr. Saranchuk,
18 where are we next?

19 MR. WALTER SARANCHUK: I'm continuing
20 with cross examination of MPI's witnesses, sir.

21
22 CONTINUED BY MR. WALTER SARANCHUK:

23 MR. WALTER SARANCHUK: And I'll start by
24 asking Ms. McLaren the question: Is it important to
25 identify the responsible party for an accident, and

1 thereby assign costs to them on the basis of
2 responsibility, that is for -- in order to be fair?

3 MS. MARILYN MCLAREN: No, that's not
4 required to be fair. You have to identify the
5 responsible party, you have to hold them accountable
6 through the bonus malice component. And that that
7 doesn't translate to cost assignment specifically.

8 MR. WALTER SARANCHUK: But it -- are you
9 saying then that it doesn't -- it doesn't involve
10 assignment of costs based on responsibility?

11 MS. MARILYN MCLAREN: That's right. If
12 someone causes an accident that results in a cost of six
13 hundred dollars (\$600) to the insurance fund, or six
14 hundred thousand dollars (\$600,000) to the insurance
15 fund, the impact on that person through the bonus malice
16 system is the same.

17 The -- their actions, the specific
18 actions, the fact that they have been held responsible,
19 has a financial impact on them.

20 MR. WALTER SARANCHUK: And given your
21 entire basic insurance program as currently structured,
22 based on first-party system, why would the adoption of
23 loss transfer entail a departure from the principle that
24 each major use must pay its own costs?

25 MS. MARILYN MCLAREN: Because the concept

1 of loss transfer is to transfer costs away from a
2 particular use. Therefore each use would no longer be
3 paying its costs.

4 MR. WALTER SARANCHUK: And would you
5 agree that rates are currently set with predictive value?

6 MS. MARILYN MCLAREN: Yes.

7 MR. WALTER SARANCHUK: Does a loss
8 transfer system not allow for some predictability for
9 future claims?

10 MS. MARILYN MCLAREN: It -- it could be
11 predictive, we're not challenging it on that basis.

12 MR. WALTER SARANCHUK: Would a loss
13 transfer not provide some additional incentive to
14 customers to drive more carefully?

15 MS. MARILYN MCLAREN: No, I don't think
16 it would provide any incentive whatsoever. You can't get
17 a tighter link between a particular person acting in a
18 particular way and having a direct, specific financial
19 impact on that person, as we have through the bonus
20 malice system; you can't get that through loss transfer.
21 I think Mr. Williams' examples yesterday probably showed
22 that as -- as clearly as anything we've put on the
23 record.

24 MR. WALTER SARANCHUK: At page 8 of your
25 submission, there's a reference to the vast majority of

1 motorcycle, serious losses occurring in single vehicle
2 accidents.

3 Is this indicative of the experience,
4 particular to Manitoba, as compared with other insurance
5 jurisdictions, to your knowledge?

6 MS. MARILYN MCLAREN: I'm sorry, I don't
7 see that on my page 8, but I can speak to it anyway.

8 I understand that -- that others have put
9 information on the record, that the ratio of single
10 vehicle accidents to multi-vehicle accidents is higher in
11 Manitoba. I don't have anything that proves or disproves
12 those statements by other people.

13 But I think as we discussed earlier this
14 morning, the fact that there is significant coverage
15 available, and few significant deterrents to accessing
16 that coverage, certainly makes it likely that single
17 vehicle accidents would be more likely to be reported
18 here than in other jurisdictions that have no coverage or
19 significant penalties related to filing claims.

20 MR. WALTER SARANCHUK: Yes, Ms. McLaren,
21 I was looking at the very bottom of page 8, in Appendix
22 A, where the -- the sentence appears, quote:

23 "Of further note is the fact that the
24 vast majority of motorcycle serious
25 losses occur in single vehicle

1 accidents, et cetera." End of quote.

2 MS. MARILYN MCLAREN: Yes, I have that,
3 I'm sorry, I was looking at our other page 8.

4 MR. WALTER SARANCHUK: Yes. And so
5 you're saying that this is not a unique phenomenon,
6 insofar as Manitoba is concerned, or are you saying it
7 is?

8 MS. MARILYN MCLAREN: I'm saying I can't
9 testify to that one (1) way or another. I acknowledge
10 that others have said single vehicle accidents are more
11 common in Manitoba. I have what I believe to be a
12 reasonable explanation for that, if it were to be true,
13 but I can't prove or disprove it.

14 MR. WALTER SARANCHUK: And if it were to
15 be true, what is your explanation?

16 MS. MARILYN MCLAREN: I'm sorry, can you
17 repeat that?

18 MR. WALTER SARANCHUK: If it were to be
19 true, what is your explanation?

20 MS. MARILYN MCLAREN: Unlike some of the
21 jurisdictions that were referenced earlier this week,
22 where motorcyclists are disqualified from purchasing no-
23 fault accident benefits, that's not true in Manitoba
24 though. So, there's more coverage here than there is in
25 other jurisdictions.

1 In some jurisdictions where the cost of
2 filing a claim has significant ramifications in increased
3 rates in subsequent years, doubling or more the insurance
4 rate by filing a claim, could also cause people not to be
5 willing to file a claim for what they may consider more -
6 - more minor injury or minor damage.

7 So, the fact that there is coverage here
8 and there are no significant financial penalties
9 associated with filing claims, makes it more likely that
10 people would be more willing to claim here.

11 MR. WALTER SARANCHUK: Thank you, Ms.
12 McLaren.

13 MR. DONALD PALMER: Mr. Saranchuk, I'd
14 just like to clarify the -- on the top of page 9 of the
15 Appendix to our -- it says in fact:

16 "25.9 million in motorcycle serious
17 loss, is slightly less than 1.6 million
18 were generated in multi-vehicle
19 collisions where the other vehicle was
20 at fault."

21 I think the assumption has been made that
22 all those other are seri -- single vehicle accidents, and
23 I think it's the vast majority are either single vehicle
24 accidents, or accidents where the motorcycle was at
25 fault. Those are not necessarily single vehicle.

1 MR. WALTER SARANCHUK: Thank you for that
2 clarification.

3 On page 2 of your submission is the
4 section entitled 2.2, Implementation of Full Loss
5 Transfer.

6 Could you describe, Ms. McLaren, what is
7 meant by full loss transfer?

8 MS. MARILYN MCLAREN: Full loss transfer
9 would mean a mechanism that incorporated all components
10 of the risk classification system, right down to the
11 vehicle make/model/model year, as classified by our rate
12 group system.

13 MR. WALTER SARANCHUK: So, are you
14 talking about all coverages?

15 MS. MARILYN MCLAREN: All vehicles, all
16 coverages; both, yes. Yeah. We -- this -- when we talk
17 about full loss transfer we're not talking about just
18 motorcycles, we're not talking about just accident
19 benefits; first-party coverages for all insured vehicles.

20

21 (BRIEF PAUSE)

22

23 MR. WALTER SARANCHUK: So, with reference
24 to the chart at the -- or the table at the bottom of page
25 8 in the Appendix, indicating rate indications by major

1 class with and without loss transfer.

2 There, we are to assume, I take it from
3 your evidence, that you are talking about full loss
4 transfer in respect of all vehicles and all coverages?

5 MS. MARILYN MCLAREN: All vehicles, all
6 coverages, both ways. It's not full loss transfer, in
7 that it drives it down to a rate group level, not that
8 aspect, we have no mechanism to do that.

9 But, in terms of does it cover all the
10 vehicles, all the first, all the coverages, including
11 first-party coverages, and both directions in and out to
12 all the different classes, yes, it's full on that basis.
13 It's a different context of full that we were talking
14 about in our material, being right down to the rate group
15 level.

16 MR. WALTER SARANCHUK: So, in terms of
17 the reasons why MPI cannot implement a full loss transfer
18 scheme, we get back to the point that you raised earlier
19 about the CLEAR rating system?

20 MS. MARILYN MCLAREN: Yes, that's right.

21 MR. WALTER SARANCHUK: If MPI were to
22 implement loss transfer, how would that impact the use of
23 the CLEAR rating system?

24 MS. MARILYN MCLAREN: If we were to
25 implement loss transfer in the context that we talked

1 about a minute ago, all the vehicles, all the classes,
2 all the first-party coverages both in and out, and then
3 be reporting that information to IBC, for their purposes,
4 that would likely create a very big problem for them.

5 Because they set those rate groups on a
6 first-party basis and we would be giving them information
7 that was not consistent with that.

8 The counter veiling side of that, what
9 would that mean then to MPI's ability to continue to use
10 CLEAR; that would tend, in part, to depend on the
11 position taken by IBC. I guess, what we might end up
12 doing, is having a set of rate groups used in Manitoba
13 for that first-party allocation that -- first part
14 allocation of make/model/model year risk, that didn't
15 reflect Manitoba data, because the Manitoba data couldn't
16 be used in the national context.

17 We certainly couldn't ask IBC to prepare
18 rate groups just based on the Manitoba data because
19 there's not nearly enough Manitoba data, that couldn't be
20 done.

21 So I'm not sure what position that would
22 put us in in terms of being able to use information back
23 from IBC, it would compromise their ability to use our
24 data.

25 MR. WALTER SARANCHUK: Now, moving to

1 your reference to partial implementation of loss transfer
2 shown on page 1 at the bottom under paragraph 2.1.

3 Could you please define what you mean by
4 partial loss transfer, or partial implementation of loss
5 transfer?

6 MS. MARILYN MCLAREN: In that context, we
7 were using the Ontario example, loss transfer that only
8 applied to certain vehicles was only a one-way transfer.

9 MR. WALTER SARANCHUK: But, still all
10 coverages in all major classes?

11 MS. MARILYN MCLAREN: Not all major --

12 MR. WALTER SARANCHUK: Classifications --
13 All major -- Oh, sorry -- all coverages in all major
14 classifications?

15 MS. MARILYN MCLAREN: I'm not sure what
16 you mean by classifications, but it would be the
17 coverages, yes. Well, I guess, no, in the Ontario
18 situation that's accident benefits.

19 MR. WALTER SARANCHUK: So essentially,
20 partial means the Ontario model?

21 MS. MARILYN MCLAREN: Yes.

22

23 (BRIEF PAUSE)

24

25 MR. WALTER SARANCHUK: So with reference

1 to the table on page 3 of your submission, does that
2 reflect full loss transfer or partial loss transfer? Or
3 is that -- sorry, excuse me -- that actually deals with
4 insurance use and territory?

5 MS. MARILYN MCLAREN: Yes, that's right.

6 MR. WALTER SARANCHUK: Now, in terms of
7 your understanding as to why loss transfer was
8 implemented in Ontario; first of all, I am assuming you
9 would agree there was a public policy decision?

10 MS. MARILYN MCLAREN: Yes, I think Ms.
11 Hall was clear on that, it's actually in statute or
12 regulations to the statute in Ontario.

13 MR. WALTER SARANCHUK: With the main
14 concerns being affordability and availability; is that
15 correct?

16 MS. MARILYN MCLAREN: Yes, that's what I
17 heard her to say, yes.

18 MR. WALTER SARANCHUK: And availability,
19 as you pointed out, would not be a factor in Manitoba's
20 consideration of its implementation?

21 MS. MARILYN MCLAREN: Yes.

22 MR. WALTER SARANCHUK: Now, there was
23 reference made by you, Mr. Palmer, to your recalculations
24 of some of the data that was submitted in Mr. McFarlane's
25 report, and indeed you were good enough to provide us

1 with the written form in Exhibit 33.

2 Just with reference to Exhibit 33, namely
3 your calculations, could you, again, just explain what
4 you did, so that when we review this at some future time,
5 we will be able to do so with the document in front of
6 us.

7 MR. DONALD PALMER: Sure, I'd be happy to
8 do that.

9 On page 1, and I apologize for the -- for
10 the handwritten notes on there, being that these were my
11 own notes for the cross-examination.

12 Page 1 is what we had filed as our TI-2,
13 the major -- major class indications, after we had
14 received PUB Order 14804, indicating an overall required
15 decrease in rates of .85 percent.

16 And then that going through to the various
17 major classes, specifically showing that the required
18 increase for motorcycles was 35.8 percent.

19 On the two (2) subsequent pages, the first
20 page 2, with the notation at the top that says "with 42
21 percent reduction in motorcycle claims", essentially all
22 I did was I took the calculated loss cost of motorcycles
23 on page 1 of twelve eighty-four thirty-eight (1284.38),
24 multiplied that by point five eight (.58), and then just
25 let the rest of the -- the expenses that are annotated

1 sort of just bubble through to the bottom.

2 I did not attempt to transfer those losses
3 into any specific major class, I just let the balance
4 back take care of that. Until we get to the bottom,
5 including the same credibility weighting, basically
6 everything else is the same, showing a -- the overall
7 indication, of course, does not change, because you're
8 just changing from one (1) pocket to another, but a
9 decrease for motorcycle rates of 4.2 percent.

10 And again, I stress that this is the
11 assumption used in Mr. McFarlane's calculation of a 42
12 percent decrease in loss costs, which I do not endorse,
13 and I do not -- not agree with.

14 On page 3 we have done the same
15 calculation, except instead of using a 42 percent
16 reduction in loss costs, I've used a 22.7 percent
17 reduction in loss costs. I arrived at that by basically
18 taking the amount of the loss transfer in the Ontario
19 experience, not the -- and not including the Tort
20 threshold claims costs.

21 So essentially using Mr. McFarlane's data,
22 this is the best it could be, or worst it could be,
23 depending on your perspective.

24 Again, letting the balance back factors
25 run through the calculation, comes up with a bottom line

1 required increase of 14.3 percent.

2 MR. WALTER SARANCHUK: So in considering
3 this document, it's important that only the information
4 provided with respect to the motorcycle class be
5 considered?

6 MR. DONALD PALMER: That's correct.

7

8 (BRIEF PAUSE)

9

10 MR. WALTER SARANCHUK: Ms. McLaren, I
11 wonder if I could refer you to the Interrogatory served
12 upon MPI, by the Public Utilities Board as number 4.
13 This appears at Tab 6-A in the book of documents, some
14 seven (7) pages in from the front.

15

16 (BRIEF PAUSE)

17

18 MR. WALTER SARANCHUK: And I would ask
19 you please, given the fact that the questions are what
20 they are, frankly, and the Corporation was asked to
21 address its status as a monopoly provider in terms of
22 what the -- what that would have, in terms of
23 implications, with respect to efficiency or effectiveness
24 of any loss transfer mechanism that might be implemented.

25

And, again, while the answers are there

1 for everyone to read, I just wanted to draw your
2 attention to the second last paragraph on page 2 and the
3 second last paragraph on page 3, both of which have
4 included the words quote "only legitimate option" -- I'm
5 sorry. The first instance being "only legitimate
6 option", the second being "only legitimate application"
7 of a loss transfer mechanism.

8 Now, with references to those two (2)
9 paragraphs, could you elaborate on them; so we'll start
10 with the second last paragraph on page 2, and ask you to
11 explain why the constraints that are referred to limit
12 this first-party approach as the only legitimate option?

13 MS. MARILYN MCLAREN: I think in our
14 response to question 4 is kind of the culmination and
15 summary of all of our arguments and position on this
16 issue.

17 I think we thought it worthwhile to, sort
18 of, position the discussion the way that we did because
19 often people think that auto insurance is compulsory in
20 Manitoba but it might not be in a private sector
21 jurisdiction and so on.

22 So there really is a number of ways to,
23 kind of, think about automobile insurance. Each of those
24 are fundamental policy decisions that the government, in
25 every province and territory of this country, have made

1 decisions on, and they're discreet decisions.

2 And there are different combinations of
3 decisions have been made in almost every province. So I
4 think it was important that we establish that it's really
5 our -- our status as a monopoly provider, people do not
6 get to choose who they buy their automobile insurance
7 from.

8 The no-fault injury program itself, being
9 a first-party coverage with very, very broad
10 comprehensive coverage as part of that. And the fact
11 that the program as a whole, compulsory all perils
12 coverage, is -- are the key features that make it so
13 important that we live up to our responsibility to put
14 Manitobans in a position where they can make informed
15 choices; that's really what it comes down to.

16 MR. WALTER SARANCHUK: All right. Then I
17 wonder if you would take a -- a look at the next page and
18 the paragraph that I referred to, second from the bottom,
19 referring to the position that the only legitimate
20 application of a loss transfer mechanism would be --
21 would be where the lack of such a mechanism would likely
22 result in significant market availability issues,
23 etcetera?

24 MS. MARILYN MCLAREN: Yes. And -- and
25 what -- what we were trying to get out -- get at in that

1 paragraph is that as -- as we understand the situation in
2 Ontario, and as I believe Ms. Hall put on the record
3 here, the government made a decision that it wanted to do
4 something for motorcycle insurance costs, for the -- for
5 those reasons, access and affordability.

6 And then, you know, it came to the
7 discussion of the application of such a mechanism. All
8 of the other issues around the cost of automobile
9 insurance, Manitobans have a significant advantage
10 through our position as a monopoly supplier, through our
11 position as a not-for-profit, break-even operation.

12 All of those other issues that help drive
13 down the cost of automobile insurance, in Manitoba, help
14 to mitigate the need for affordability concerns as -- as
15 much as they do the accessibility concerns.

16 So the application of the loss transfer in
17 Ontario I think is worth considering. So much of what
18 we've been talking about, and learning about, over the
19 last few days is context specific.

20 Why in heaven's name would it ever have
21 been a one-way loss transfer? And I think Ms. Hall tried
22 to speak to that when she talked about, I think she used
23 the phrase "friction costs" and why do they have a two
24 thousand dollar (\$2,000) deductible.

25 Look at the circumstances with Manitoba

1 Public Insurance having an overall operating expense
2 ratio that's half of private sector insurance companies
3 in the rest of the country. And an operating expense
4 ratio is a percent of operating costs in relation to your
5 premiums.

6 So, if you consider that our premiums are
7 already lower and our operating expense ratio is half of
8 theirs, we have a significantly more efficient operation.

9 So, you have a bunch of private sector
10 insurers who are now concerned about their cost of doing
11 business and were probably very willing to give up the
12 opportunity to collect back any claims that motorcycles
13 would cause to their insurance because it would cost them
14 pretty much as much to collect it, as they would gain
15 through the exercise.

16 So, the one-way maybe is reasonable in
17 that context. That's some of the -- some of the
18 situation as we see it that we were trying to get at in
19 that -- in that comment with respect to the decision that
20 the Government made in Ontario and in the specific
21 application with respect to the loss transfer mechanism
22 itself.

23 MR. WALTER SARANCHUK: Thank you very
24 much. On page 3 of your submission, there's reference to
25 implementation of loss transfer at the insurance use and

1 territory level and there's use of the terminology,
2 winners and losers, due to loss transfer.

3 And, in particular, there is a table or a
4 graph that's referred to. I wonder if at a high level
5 you can just explain to us, in summary form, what are the
6 points to be noted from MPI's perspective in regards to
7 that section?

8 Page 3; this is at paragraph 2.3 of your
9 submission.

10

11

(BRIEF PAUSE)

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MS. MARILYN MCLAREN: The table that's on
page 3 shows the change in premium, the change in revenue
requirements, premiums that would be charged by territory
if we moved to a loss transfer mechanism.

And what that shows is that Territory 1
would have a decrease in revenue, whereas Territory 2,
Territory 4, would need an increase in revenue. That's
all this particular table is about, is a reflection of
territory changes.

MR. WALTER SARANCHUK: Are the examples
based on implementation of loss transfer across all
coverages or only accident benefits?

MS. MARILYN MCLAREN: All coverages.

1 MR. WALTER SARANCHUK: And earlier you
2 spoke of the dislocation challenges attendant to
3 introducing CLEAR, creating winners and losers, as you do
4 on that page.

5 Why does the fact that dislocation arising
6 from change to introduce loss transfer, necessarily argue
7 against the change?

8 MS. MARILYN MCLAREN: No it doesn't, it
9 doesn't at all. And what we tried to show in that same
10 section is that there are factors other than fault
11 driving those differences in revenue; that's what creates
12 the unfairness; that's what causes us to argue against
13 the change.

14 Simply the fact that money moves between
15 groups or between territories doesn't -- doesn't imply
16 unfairness. If you look at the basis of it as an -- what
17 we tried to show here, is through the comparison of a
18 typical rate group and pleasure use versus all purpose
19 use, differences through territory two (2) and territory
20 one (1), income differences in those; there are other
21 economic factors that create the difference. That
22 doesn't seem to be a fair approach or a reasonable
23 approach to us.

24 And that's why we're arguing against it.
25 Is what's behind the economic -- what's behind the

1 revenue changes. And on that basis, we believe that it
2 is not appropriate to proceed on that basis.

3 MR. WALTER SARANCHUK: We learned from
4 IBC's witness evidence that Ontario's form of loss
5 transfer really had not bearing on CLEAR. Given that,
6 what are the practical barriers to implementing loss
7 transfer at the insurance use territory level only on
8 accident benefits?

9

10 (BRIEF PAUSE)

11

12 MS. MARILYN MCLAREN: We could do our
13 work two (2) ways. We could do our work based on the
14 first-party allocation of accident benefits and provide
15 that information to CLEAR. And then for rate making
16 purposes, we would have to do the first-party -- the loss
17 transfer allocation of accident benefits, across classes,
18 across territories and do that work on that basis.

19 The -- the impact of that would be what we
20 believe to be, you know, dislocation of rates at the
21 insurance use territory level for factors other than
22 fault or other than the vehicle choices by the people in
23 those groups, or the insurance use or the territory
24 choices. The financial impact would be not related to
25 any of the choices they made about what to drive, where

1 to use it, how -- under what circumstance they use it;
2 any of those things.

3 So, if we did our work two (2) ways, we
4 would have a real concern about the rates that were
5 generated on the rate making side of it, but we could
6 provide CLEAR with information that they could use if we
7 did our work two (2) ways.

8 MR. WALTER SARANCHUK: Does that speak to
9 public policy considerations?

10 MS. MARILYN MCLAREN: Sure.

11 MR. WALTER SARANCHUK: I mean, what --
12 what would you -- would you suggest that some of those
13 considerations that you referred to also carry with them
14 factors that should be considered from a public policy
15 standpoint?

16 MS. MARILYN MCLAREN: No. I mean, if
17 you're saying that it would be reasonable public policy
18 to have people's rates affected by factors other than
19 those that they have control over, public -- you know, I
20 mean, there's no real limits to what kind of, or the
21 quality of public policy decisions that can be -- can be
22 made, I wouldn't argue with that.

23 But, in terms of can someone make a policy
24 decision that maybe people in Territory 2 should
25 contribute more and have higher rates, they can find a

1 way to drive that public policy decision into our rate
2 making methodology somewhere. It shouldn't -- certainly
3 wouldn't be what we are recommending or would be in
4 support of.

5 MR. WALTER SARANCHUK: So, what you're
6 saying is essentially that public policy considerations
7 should only involve factors that are controllable by
8 motorists?

9 MS. MARILYN MCLAREN: No, what I'm saying
10 is in this particular example that we're talking about at
11 loss transfer at an insurance use territory level, the
12 statements that we made two (2) years ago are -- are the
13 ones that we think are -- are the best way to articulate
14 that particular issue; insurance use and territory. It -
15 - it is incongruous, it's unacceptably incongruous, it
16 makes no sense to have rate groups assigned on a first-
17 party basis, and then fed through something that
18 dislocates the impact of that decision.

19 It -- right now the system that we have is
20 in response to first-party coverages, it is in response
21 to the realities of the Autopac program. And by loss
22 transfer at an insurance use territory level, whether
23 it's just accident benefits or other coverages, doesn't
24 make any sense within that context to us.

25 MR. WALTER SARANCHUK: And on page 4

1 there's reference to dislocation. And in particular in
2 the second major paragraph, beginning with the words,
3 "One (1) further impact", there is reference to the
4 impact of loss transfer, as a one (1) time dislocation of
5 rates.

6 Could you please elaborate on that?

7 MR. DONALD PALMER: And we were trying to
8 have some sort of a measure on the amount of dislocation
9 by moving to loss transfer, which you know, I've learned
10 a long time ago that probably the most important variable
11 in rate setting is not, sort of, a required rate, but
12 what is the customer paying today, because that's always
13 their benchmark.

14 I don't -- I don't think we were
15 necessarily making a value judgment on this that it was
16 good or bad. I mean, I -- I think as we talked about our
17 movement to CLEAR showed great dislocation.

18 We -- we thought it was worth doing that
19 and enduring the pain of doing that and, believe me,
20 there was pain in doing that.

21 We were pointing this out as -- as a
22 measure that there will be some dissatisfaction because
23 of the movement to loss transfer. I don't think the --
24 the comparison was meant to be anything more than that.

25 MR. WALTER SARANCHUK: On page 5, Mr.

1 Palmer, under the quote from Principle 4 of the Casualty
2 Actuarial Society, there's a statement made:

3 "Rates calculated using loss transfer
4 at the major class level do not provide
5 for the expected future costs of any
6 individual classification category."

7 What does that mean?

8 MR. DONALD PALMER: Essentially what I'm
9 saying there is that there are costs transferred on an
10 aggregate basis that really have nothing to do with an
11 individual classification cell.

12 So, if a -- if a dump truck was at fault
13 for an accident and we didn't drill down to -- and assign
14 it, specifically, to the dump truck but assigned it to
15 the major class 2, the commercial class, the effect of
16 that would be that not only would the dump trucks bear
17 the cost of that particular claim but the dealers, the
18 tow-trucks, the delivery trucks, heavy farm trucks would
19 also bear the cost.

20 And we don't think that that's a
21 measurement of the loss transfer -- or, sorry, a
22 measurement of the risk transfer.

23 MR. WALTER SARANCHUK: And the next
24 sentence in that section is quote:

25 "Also an approach that applies rate

1 increases and decreases without regard
2 to the specific claims experience of
3 the rating category is not good public
4 policy." End of quote.

5 What are the reasons for that particular
6 statement? What -- could you elaborate on that?

7 MR. DONALD PALMER: I'll defer to my
8 public policy spokesmen.

9 MR. WALTER SARANCHUK: Mr. McCulloch
10 can't give evidence.

11 MS. MARILYN MCLAREN: No, that -- that
12 one's mine and I guess it comes back to some of our
13 earlier discussion. The rate making methodology is much
14 more specific than that. We have that information. We
15 have reported on that information here and it would not -
16 - not be reasonable not to use it.

17 If you look at the information, there are,
18 in the commercial class, for example, there are some
19 categories using the vernacular again, some -- there are
20 some winners and some losers. A major class level
21 assignment of loss transfer would mean that the major
22 class as a whole lost to the tune of 5.5 percent. We
23 know better. We need to do better.

24 MR. WALTER SARANCHUK: Just moving on to
25 another area for the time being, prior to the

1 introduction of PIPP, what was the ratio between the
2 average passenger car premium and the average motorcycle
3 premium?

4

5

(BRIEF PAUSE)

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MS. MARILYN MCLAREN: We would have to
8 take that as an undertaking.

9

10 MR. WALTER SARANCHUK: All right. If you
wouldn't mind.

11

12

--- UNDERTAKING NO. 4: Ms McLaren to provide the
13 ratio between the average
14 passenger car premium and the
15 average motorcycle premium.

16

17

CONTINUED BY MR. WALTER SARANCHUK:

18

MR. WALTER SARANCHUK: And were the
19 benefits the same in terms of the PIPP coverage for both
20 categories?

21

22

MS. MARILYN MCLAREN: Yes. As were the
22 first-party no-fault accident benefits before the move to
23 PIPP.

24

25

MR. WALTER SARANCHUK: Could it be said
that the effect on the motorcycle group was an unintended

1 -- unintended consequence of the introduction of PIPP?

2 MS. MARILYN MCLAREN: No. It may have
3 been unexpected that they would have so many more serious
4 losses than the norm, but the expectation that PIPP meant
5 a fundamental increase in the benefits available to very
6 seriously injured people was the absolutely clearly
7 expected outcome of PIPP.

8 MR. WALTER SARANCHUK: Do you agree with
9 the contention of Mr. Ramsay that in Canada with the
10 exception of Manitoba, some mechanism whether it be Tort
11 or loss transfer or internal adjustment, some mechanism
12 is in place, providing in the end, some premium relief
13 for motorcycles related to accidents that they do not
14 cause?

15 MS. MARILYN MCLAREN: No, there's no
16 mechanism in Saskatchewan. I guess if what you're -- you
17 know loss transfer, I guess, strictly speaking refers to
18 no-fault jurisdictions, but, I guess there's the effect
19 in Tort jurisdictions.

20 But, you know, we've pointed out in the
21 evidence and I think we need to reiterate the fact that
22 even, you know, Tort settlements are paid net of first-
23 party at-fault accident -- first-party accident benefits.

24 And I don't know, I mean, we talked about
25 the situation in Quebec wherein multi-vehicle accidents

1 costs are totalled up and divided by two (2), or three
2 (3) or four (4), I'm not sure that that provides specific
3 relief to motorcycles, at all. I don't know.

4 MR. WALTER SARANCHUK: Do you have any
5 information as to what the registrations were for
6 motorcycles in 1993 and 2004?

7 MR. DONALD PALMER: We don't have the
8 number of registrations per se, what we have done is
9 calculated the number of insurance units, car years or
10 motorcycle years, I guess, adjusted to the fact that we
11 are now on a seasonal rating basis and in 1993 we were
12 not.

13 So, we took the unit count from 1993 and
14 multiplied it by twelve-fifths (12/5). The results is
15 there were ten thousand seven hundred and eighty-eight
16 (10,788) motorcycles insured for one (1) year in '93.

17 MR. WALTER SARANCHUK: And in 2004?

18 MR. DONALD PALMER: In 2004 that
19 corresponding figure is eight thousand five hundred and
20 eighty-one (8,581).

21 MR. WALTER SARANCHUK: Thank you.

22

23

(BRIEF PAUSE)

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MR. WALTER SARANCHUK: Does MPI have any

1 views as to the reason for the reduction?

2 MR. DONALD PALMER: There are many, many
3 views as to what can cause that reductions. I've heard
4 it argued that insurance rates and the rising cost is one
5 (1) reason, changing demographics may be another reason.
6 There could be other reasons, as well.

7 I think those are the most -- probably the
8 two (2) major ones.

9 MS. MARILYN MCLAREN: Registered
10 motorcycles have decreased across the country over the
11 last many years. And in more recent years, have been
12 increasing again across the country.

13 Manitoba is the same as that. I think it
14 might have been information that we put forward in '98,
15 that compared the decreases and then the newer increases
16 across the country.

17 I think Manitoba decreased somewhat more
18 than the rest of the country, but it wasn't startling.

19 MR. WALTER SARANCHUK: At the time prior,
20 just prior to implementation of PIPP, was there any
21 consideration given to such a factor, in terms of
22 possible impact, such as a decline in motorcycle sales,
23 registrations and the like?

24 MS. MARILYN MCLAREN: No, because that
25 was already during a period where they were declining.

1 They've been declining since the 70's across the country.

2

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(BRIEF PAUSE)

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MR. WALTER SARANCHUK: So, in terms of considerations of impact of the introduction of the first-party scheme upon motorcycles, the real sole factor was the premium impact escalating?

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MS. MARILYN MCLAREN: As we talked about earlier, is that the context you're asking in, yes.

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(BRIEF PAUSE)

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MR. WALTER SARANCHUK: Do you consider it fair that in the introduction of PIPP, the attention was to the improvement of benefits for many, with the reduction in overall premium pressure?

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MS. MARILYN MCLAREN: Personally, my view is that Manitobans were well served by -- by the decisions that were made by the Government at that time. There -- you know, there were three (3) commitments made to Manitobans by the Government of the day.

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One (1) was that Autopac rates would be stabilized.

23

24

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One (1) is -- was that very seriously

1 injured people would have more compensation available to
2 them.

3 And the other was that people with very
4 minor -- very minor short term injuries would not
5 continue to be overcompensated.

6 The -- all three (3) of those have been
7 delivered.

8 Would a two-way loss transfer system with
9 a threshold be administratively problematic for MPI?

10 MS. MARILYN MCLAREN: I'm not sure what
11 you mean by a threshold?

12 MR. WALTER SARANCHUK: Well, let's just
13 talk in terms of a two-way loss transfer system, with or
14 without a threshold, let's say without any consideration
15 of a threshold; would that be administratively
16 problematic?

17 MS. MARILYN MCLAREN: No, I think we've
18 put on the record a number of times that there's no real
19 administrative barriers to Manitoba Public Insurance
20 moving to virtually any form of a loss transfer
21 mechanism.

22 MR. WALTER SARANCHUK: And so now putting
23 back in the threshold factor, if one were to indicate
24 that it should be only for claims or costs in excess of
25 five thousand dollars (\$5,000), would that present a

1 problem administratively?

2 MR. DONALD PALMER: I think it's a little
3 tougher to restate our -- all our databases on that -- on
4 that basis, but we could probably do it.

5 MR. WALTER SARANCHUK: Well, given the
6 Ontario system, would that be quote, "onside", end of
7 quote, with CLEAR?

8 MR. DONALD PALMER: Again it depends on
9 the -- the implementation at what level. Remember that
10 the Ontario system really doesn't impact private
11 passenger vehicles. We're talking about a one-way from
12 motorcycles, and a one-way to commercial vehicles.

13 So, I think saying that we could or could
14 not implement based on CLEAR, kind of depends on what --
15 what mechanism was -- was selected, if any at all.

16 MS. MARILYN MCLAREN: Yeah, I think it's
17 important to -- to state again, that the Ontario concept
18 is that one (1) specific insurer makes a payment to
19 another specific insurer for a specific incident. You
20 know, what -- what they do with that is entirely up to
21 them.

22 It's not a fundamental insurance system
23 process or -- or assignment of costs. It's cash payments
24 based on an incident.

25 MR. WALTER SARANCHUK: So, within a final

1 analysis, and I can tell you this is very much up in the
2 air, but if someone were to decide, namely this Board
3 were to decide that loss transfer should be implemented
4 on the basis of public policy, how would MPI implement
5 it?

6 MS. MARILYN MCLAREN: Can you speculate
7 as to whether this Board might decide loss transfer
8 should be implemented for all the vehicles or motorcycles
9 only or some combination.

10 MR. WALTER SARANCHUK: Let's -- let's
11 talk both please. In other words, all major classes or
12 just motorcycles? But just bodily injury, in other words
13 just accident benefits?

14 MS. MARILYN MCLAREN: Well, in terms of
15 the administration, I think that's pretty much a moot
16 point for us whether it's all coverages or just bodily
17 injury. In terms of if the Board decided that it needed
18 to provide some sort of relief to the motorcycle class
19 then I guess they would need to tell us how much relief,
20 and we would find -- you know, we would propose some sort
21 of an appropriate mechanism to work that through the rest
22 of the process.

23 In terms of something that would affect
24 all the vehicles, I suppose the answer would be the same.

25 MR. WALTER SARANCHUK: In your response

1 to PUB Interrogatory Number 4, again shown in Tab 6(a) of
2 the book of documents, on page 4 of that response, the
3 last sentence to your response to the question at part D
4 appears on page 4 in the following form quote:

5 "From an administrative perspective,
6 there are no major hurdles or
7 obstacles."

8 End of quote. Your view hasn't -- your
9 answer hasn't changed?

10 MS. MARILYN MCLAREN: No, our answer
11 hasn't changed on that.

12 MR. WALTER SARANCHUK: Would there be a
13 cost associated with the implementation?

14 MS. MARILYN MCLAREN: Potentially. You
15 know, I mean, there -- this could look like almost
16 anything, that would be hard to say. I think, for the
17 most part, it would be staff resources. I don't know
18 that it would -- you know external costs, I can't imagine
19 what those might be in any, sort of, substantive way.

20 MR. WALTER SARANCHUK: And in general
21 terms, in a loss transfer system, would the cost
22 allocation happen behind the scenes and basically be
23 invisible to the motoring public?

24 MS. MARILYN MCLAREN: Depends. You know,
25 you -- you look at Exhibit 2, where did we show the

1 insurance use territory combinations? There are
2 significant changes there. Very few of those are likely
3 to be invisible to the ratepayers.

4 MR. WALTER SARANCHUK: If you would just
5 refer us to the exhibit you had in mind?

6 MS. MARILYN MCLAREN: Exhibit 1, rate
7 indications for the 2004 insurance year with and without
8 loss transfer.

9 MR. WALTER SARANCHUK: That's at page
10 where?

11 MS. MARILYN MCLAREN: Beginning on page 9
12 through to 14.

13 MR. WALTER SARANCHUK: This is right
14 after paragraph 4, the conclusion part at the very bottom
15 of page 8 of your submission?

16 MS. MARILYN MCLAREN: Yes, that's right;
17 following our first page 8.

18 MR. WALTER SARANCHUK: Of course, you're
19 talking in terms of the -- the premium itself being
20 something that the motoring public would become aware of,
21 what about the actual backroom, if you will, transfer of
22 the costs; that really wouldn't be something that the
23 public would be aware of, would it? In terms of what is
24 involved in the transfer, the processing of it, etcetera?
25

1 MR. DONALD PALMER: No, that -- that
2 transfer is not a transfer of hard dollars. Essentially
3 it's a paper transfer for rate making purposes only. MPI
4 still has to pay the claim, regardless of where it's
5 assigned for rate making purposes.

6 MR. WALTER SARANCHUK: And I think you
7 alluded to this, Ms. McLaren, the Corporation does assess
8 fault in a number of instances, not the least of which is
9 the allocation or the assessment of the -- of the
10 deductible as to where that should go; is that correct?

11 MS. MARILYN MCLAREN: Yes, that's right.

12 MR. WALTER SARANCHUK: And I think you
13 referred to the standard industry tables in assessing
14 liability, that's what the Corporation adjusters use?

15 MS. MARILYN MCLAREN: Yes, that's right.

16 MR. WALTER SARANCHUK: Are those the same
17 as or similar to those used in Ontario, to your
18 knowledge?

19 MS. MARILYN MCLAREN: To my knowledge,
20 they are, yes.

21

22 (BRIEF PAUSE)

23

24 MR. WALTER SARANCHUK: With reference to
25 the Interrogatory number three (3) served upon the

1 Corporation by -- on behalf of the Board, the question
2 with reference to loss transfer, Section 2.3, loss
3 transfer at the "insurance use territory level" section
4 of your paper; the question in 3C was:

5 "An illustration is provided of how
6 territorial premium levels might change
7 under a loss transfer system with
8 different territories described as
9 winners and losers. How does the fact
10 there is a change in premium arising
11 from loss transfer, in this case due to
12 what is described as economic factors,
13 necessarily mean the results are
14 unfair?"

15 Could you please read in the answer?

16 MS. MARILYN MCLAREN: "The fact that
17 there's a change in premium due to loss
18 transfer, does not in itself imply
19 unfairness. The unfairness arises
20 because the amount of loss transfer is
21 determined, not only on fault, but also
22 on economic circumstances.
23 In the examples, even if the groups
24 were at fault exactly half the time,
25 the loss transfers going each way would

1 not be equal. The difference would lie
2 based on the choices made by the not at
3 fault parties. The Corporation
4 believes this is unfair."

5 MR. WALTER SARANCHUK: And part (b), the
6 one just above that, posed the following question:

7 "Please explain how amounts subject to
8 loss transfer were determined and
9 assigned, this is with reference to the
10 table, and please describe what, if
11 any, methodological or assumption
12 limitations were encountered in
13 recasting claims experience to reflect
14 fault for this analysis, compared to
15 what would likely be done going forward
16 if loss transfer were implemented at
17 this level, and data collected
18 accordingly? In particular, without
19 otherwise limiting your response,
20 please comment on the at fault
21 percentage information currently
22 captured in the historical records."

23 And would you please read in your answer
24 to that?

25 MS. MARILYN MCLAREN: "For each multi-

1 vehicle incident, all costs in the
2 incident were allocated on the basis of
3 percent responsibility. The
4 Corporation did not attempt fully clean
5 the data to ensure that the total
6 responsibilities for each incident
7 added to 100 percent. If loss transfer
8 were implemented, this data cleaning
9 would have to be completed."

10 MR. WALTER SARANCHUK: What does "data
11 cleaning" mean?

12 MS. MARILYN MCLAREN: It means simply
13 going through the data at a very discreet level, and
14 making sure, as it says, for example, there may have been
15 a two (2) vehicle incident where, based on the
16 circumstances the case managers had held one person 45
17 percent responsible and the other person had also been
18 held 45 percent responsible, that would add to ninety
19 (90).

20 If were going to rely on this for loss
21 transfer rate making purposes, we would need to make sure
22 that each incident added back to a hundred (100).

23 MR. WALTER SARANCHUK: And in terms of a
24 time factor, and a cost factor, can you give us any
25 indication of that?

1 MS. MARILYN MCLAREN: It's very tedious
2 work that would take a long time. I wouldn't expect that
3 they would find many situations where the data needed to
4 be cleaned, so to speak, but you still have to go through
5 the process.

6 And I wouldn't really be able to estimate
7 person years, or anything like that, at this point.

8 MR. WALTER SARANCHUK: If MPI currently
9 assigns fault to every accident, based on the application
10 of standard fault rules in the industry, could that be
11 used as a basis for loss transfer; for utilization?

12 MS. MARILYN MCLAREN: Well that's pretty
13 much we do. and we're already said we can rely on the
14 vast majority of our data for those purposes.

15 MR. WALTER SARANCHUK: And do the current
16 rules assign fault between 1 and 50 percent?

17 MR. DONALD PALMER: There is a discreet
18 assignment for essentially any value. I don't -- zero to
19 a hundred (100), I don't know that I've ever seen someone
20 assign 13.8 percent responsibility for an accident, but
21 theoretically we could do that.

22

23 (BRIEF PAUSE)

24

25 MR. WALTER SARANCHUK: Would the -- in

1 order to implement loss transfer, would a scale have to
2 be refined, in terms of those rules?

3 MR. DONALD PALMER: No, the -- the value
4 of responsibility is not assigned in groups, it's a
5 specific percent responsibility. We find that most
6 values would be either zero or fifty (50) or a hundred
7 (100), those are kind of the break points. But, no, I --
8 that wouldn't necessarily need refinement.

9 MR. WALTER SARANCHUK: Is there a
10 recovery for reinsurance insofar as the PIPP benefits go,
11 and if so, how is it applied; does it apply to the major
12 class, for example, at that level?

13 MR. DONALD PALMER: The data that we have
14 for -- for rate making purposes is done at a gross basis,
15 and then he -- a risk premium essentially is added, and
16 the proxy that we use for that risk premium is the
17 reinsurance premium.

18 So they -- the losses that we use for rate
19 making purposes are not net of reinsurance.

20 THE CHAIRPERSON: Excuse me, just so we
21 understand, you're saying that the losses that you spread
22 across the normal system is not net of reinsurance, so --

23 MR. DONALD PALMER: That's correct.

24 THE CHAIRPERSON: -- so reinsurance
25 recoveries are sort of at a corporate level, if you like,

1 outside of the model?
2 MR. DONALD PALMER: Yes.
3 THE CHAIRPERSON: But just to pursue it.
4 You also have reinsurance costs of course?
5 MR. DONALD PALMER: That's correct.
6 THE CHAIRPERSON: So they're spread if
7 you like, the same way, corporate level reinsurance
8 costs?
9 MR. DONALD PALMER: That's correct.
10 THE CHAIRPERSON: Thank you.
11 MR. WALTER SARANCHUK: On the last --
12 THE CHAIRPERSON: Excuse me, Mr.
13 Saranchuk --
14 MR. WALTER SARANCHUK: Sorry.
15 THE CHAIRPERSON: -- just to complete
16 this thing. So then, when for rate-making purposes, when
17 you exclude losses over a certain level, that's on the
18 same basis as you approach the reinsurance, it's outside
19 of the model too?
20 MR. DONALD PALMER: Are you talking about
21 the capping of losses at the five hundred thousand
22 (500,000) --
23 THE CHAIRPERSON: Yes.
24 MR. DONALD PALMER: -- level?
25 THE CHAIRPERSON: Yes.

1 us a timeframe; days, months, hours?

2 MR. DONALD PALMER: Given that we
3 currently have another GRA that we are currently
4 preparing for, I might say months.

5 MR. WALTER SARANCHUK: Can MPI give any
6 indication as to what the impact of loss transfer -- full
7 loss transfer would be on the motorcycle class?

8

9

(BRIEF PAUSE)

10

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13

14

MR. DONALD PALMER: When we did our
costing in 2003, it showed approximately a 6 percent
difference in required costs between the -- without loss
transfer and with loss transfer.

15

16

17

18

And both of those numbers were something
over 20 percent. One was twenty-one (21) and one was
twenty-eight (28) and I -- and I can get the specific
reference if -- if we need that.

19

20

21

22

23

So, from a premium standpoint, whether --
in 2003, whether we had implemented loss transfer or not,
we'd be subject to the 15 percent capping rules, and
either way, in that year, motorcyclists would have seen a
15 percent rate increase.

24

25

So from that standpoint, up until now,
where we have not been inadequate, whether we're talking

1 loss transfer or not, it probably would have made minimal
2 difference.

3 When we look at the premium increases that
4 Mr. McFarlane, for instance, had in his report over the
5 last fifteen (15) years, and then I apply, again, apply
6 his costings to the requirement and I -- and I see that
7 the required change is still somewhere between minus 4
8 percent, minus four point two (-4.2), and plus fourteen
9 (14) based on my costings that we just filed as an
10 exhibit, we're still, in some cases, either not adequate
11 or only slightly above adequate.

12 So the rate increases that we have seen
13 really would have been there had there been loss transfer
14 or not. So, you know, from -- from that standpoint the
15 effect on motorcycles and loss transfer is something on a
16 going forward basis, but it really doesn't affect them
17 that much today.

18 MR. WALTER SARANCHUK: And the table that
19 you're referring to is at page 8, I would suggest, of the
20 Appendix to your submission, if you'd just check that to
21 make sure that I am correct?

22 Page 8 of the Appendix?

23 MR. DONALD PALMER: That's correct.

24 MR. WALTER SARANCHUK: And that is for
25 loss transfer considerations, all coverages, all classes?

1 MR. DONALD PALMER: With respect, as at
2 2004. We have not duplicated that -- that work in terms
3 of all the assignment of loss transfer since that point
4 in time, but we wouldn't anticipate that it would be
5 much different than that.

6 MR. WALTER SARANCHUK: And you'd noted a
7 few practical -- I'm sorry, you've noted that some
8 practical changes to your methodology would have to be
9 made to implement loss transfer. What are those -- what
10 are those changes?

11 MR. DONALD PALMER: Could I have the
12 reference please?

13 MR. WALTER SARANCHUK: I'm advised that
14 somewhere in the evidence that was given, that there
15 would have to be some practical changes to the
16 methodology if loss transfer were to be implemented; if
17 that's not correct then please so advise me.

18 MR. DONALD PALMER: I don't know
19 specifically changes in methodology. Certainly there's
20 differences in the way that we complies the data, and
21 especially if it was done at different levels for
22 different coverages.

23 From that standpoint, in terms of the way
24 that we calculate the required the rates, the way that we
25 calculate the differentials, the way we bubble it all

1 through with all the capping rules, there probably would
2 not be a significant difference from that standpoint.

3 MS. MARILYN MCLAREN: It -- it depends on
4 what was ordered. Again, in that there is something that
5 -- what we've told you to this point in time, is that
6 really the indications at the major class level are a
7 reflection of all the detail below that.

8 If we were told to do something at a major
9 class level, without regard to the reflection below, that
10 would be a very significant, in our view, change to the
11 methodology.

12 MR. WALTER SARANCHUK: If loss transfer
13 were ordered to be implemented, what would be a
14 reasonable time-frame for its introduction? Would we be
15 talking about a one (1) year, a two (2) year, or a phrase
16 in program? Trying to get some grasp because there are
17 obviously options available and not the least of which,
18 the Board has to decide whether to say, yeah or nay to
19 loss transfer.

20 But, in terms of a reasonable time-frame,
21 can you give us any heads up on that?

22 MS. MARILYN MCLAREN: Again, it depends
23 on what would be ordered. If the Board ordered us to
24 just, you know, take \$5 million out of the motorcycle
25 claims experience and put it into other classes, we could

1 probably do that in the '07 application.

2 If it was something that created the kind
3 of dislocation that we have depicted here, based on the
4 work that was done two (2) years ago, we might need to
5 suggest some sort of phased approach.

6 MR. WALTER SARANCHUK: Thank you Ms.
7 McLaren and Mr. Palmer.

8 Those are all my questions, Mr. Chairman.

9 THE CHAIRPERSON: Thank you, Mr.
10 Saranchuk.

11 Mr. Evans...?

12 MR. LEN EVANS: Thank you. Just a brief
13 question. This, I believe, was alluded to or brought up
14 earlier, I think by our counsel, but I'd like to ask it
15 again to get your answer, or my version of it anyway.

16 Is it possible or practical to build into
17 your rate making formulas an environmental factor?

18 Is it possible to build in, say a bonus,
19 let's say for mileage achieved by -- per litre, for
20 various vehicle classes.

21 Or another example, to build in some bonus
22 for a motor that has a low emission factor, you know,
23 that where you're minimizing the degree of pollution in -
24 - in the atmosphere.

25 In other words, reflected in the rates

1 would be an environmental purpose, an environmental
2 objective. And I know there's other ways of dealing with
3 environmental problems, by all means, besides insurance,
4 but is it practical, or is it feasible to do it in an
5 insurance system?

6 MS. MARILYN MCLAREN: I would argue, from
7 a public policy perspective, that it would not be the way
8 to approach it. Is it possible? Yeah. Would we end up
9 with actuarially sound and statistically driven rates?
10 No.

11 Because the rates would -- would
12 potentially significantly or at least marginally --
13 marginally no longer reflect the expected value of the
14 future claims costs.

15 So most things can be done, but does it
16 break the historic expectation that the government's had
17 through public policy of making the insurance system
18 stand on its own and reflect the costs of providing
19 insurance to Manitobans.

20 MR. LEN EVANS: Thank you.

21 THE CHAIRPERSON: And not to suggest that
22 the approach that -- either would take any approach to
23 Mr. Evan's suggestion, but, just a sort of a commentary
24 on the side.

25 When MPI was set up, one (1) of the

1 objectives, or at least it's been stated as an objective
2 since then, was to use the investments reserves it built
3 up over time to help fund municipal hospitals and things
4 of this particular nature.

5 I suppose one (1) could argue that that is
6 a mix of public policy and insurance principles?

7 MS. MARILYN MCLAREN: I think if there
8 was a measurable downside to Manitoba Public Insurance
9 ratepayers of placing those investments in those
10 instruments that that conversation would almost certainly
11 follow. But, I think --

12 THE CHAIRPERSON: It's a complete aside.
13 All I'm saying is, for example, like I understand that
14 the Corporation's position has been that you've gained
15 the same yield as you would with another type of
16 investment.

17 In all fairness, of course those
18 investments don't have the same liquidity in some other
19 provisions, like they're not rated in rating agencies and
20 things of that type of nature. But --

21 MS. MARILYN MCLAREN: Yeah, definitely.

22 THE CHAIRPERSON: -- set aside, all I'm
23 saying is that public policy and investment principles or
24 operations have had some degree of mixing, even to this
25 point.

1 MS. MARILYN MCLAREN: Yeah, that was one
2 (1) of the founding principles, and something that we
3 continue to do for sure.

4 THE CHAIRPERSON: Mr. Evans, did you have
5 anything else?

6 I'm trying to sort out the timing, since
7 we were going to go to 5:00 before we break for dinner, I
8 rely on Mr. Williams. Do you want to start right now,
9 and get into this for a period of time and then have the
10 break, or what's your preference?

11 MR. BYRON WILLIAMS: I really have no
12 preference, except for of course to make the Board as
13 happy as possible so, I will not be done by 3:00. So a
14 five (5) minute break or a ten (10) minute break for
15 water is fine by me. I'm fine either way, Mr. Chair.

16 THE CHAIRPERSON: Okay, we'll have the
17 ten (10) minute break, thank you.

18

19 --- Upon recessing at 2:40 p.m.

20 --- Upon resuming at 2:55 p.m.

21

22 THE CHAIRPERSON: Welcome back everybody.
23 Mr. Saranchuk perhaps you could introduce us all to the
24 latest change in the order?

25 MR. WALTER SARANCHUK: Yes, with the

1 consent of My Learned Friends and also other
2 representatives of the participants and the Intervenors,
3 it's been agreed that the witnesses for MPI will be stood
4 down for the time being.

5 And that we'll proceed with the testimony
6 of the witness, Mr. Brian Pelly, both direct and cross-
7 examination, with the concurrence of the Board, of
8 course.

9 THE CHAIRPERSON: There's no problem with
10 us.

11

12 (DONALD PALMER RETIRES)

13 (MARILYN MCLAREN RETIRES)

14

15 THE CHAIRPERSON: Welcome again, Mr.
16 Pelly. Mr. Saranchuk, do you want to lead off?

17 MR. WALTER SARANCHUK: No, I'm deferring
18 to my colleague Ms. Everard.

19 THE CHAIRPERSON: Please proceed.

20 MS. CANDACE EVERARD: Thank you, Mr.

21 Chairman.

22 THE CHAIRPERSON: Excuse me, Mr. Barron,
23 could you do your duty please?

24

25 BRIAN PELLY, Sworn:

1 THE CHAIRPERSON: Ms. Everard...?

2 MS. CANDACE EVERARD: Thank you.

3

4 (VOIR DIRE COMMENCED)

5

6 EXAMINATION-IN-CHIEF BY MS. CANDACE EVERARD:

7 MS. CANDACE EVERARD: Mr. Pelly, you
8 should have in front of you a copy of your curriculum
9 vitae?

10 MR. BRIAN PELLY: I do.

11 MS. CANDACE EVERARD: I understand, sir,
12 that you're a fellow of the Canadian Institute of
13 Actuaries?

14 MR. BRIAN PELLY: That's correct.

15 MS. CANDACE EVERARD: As well as a fellow
16 of the Casualty Actuarial society?

17 MR. BRIAN PELLY: Yes.

18 MS. CANDACE EVERARD: And that you have
19 been practising with Ecklar Partners Ltd., since 1993?

20 MR. BRIAN PELLY: That's correct.

21 MS. CANDACE EVERARD: Sir, have you had
22 occasion to testify before a tribunal or before a Court
23 of law, in the past?

24 MR. BRIAN PELLY: Tribunals on several
25 occasions.

1 MS. CANDACE EVERARD: Mr. Chairman, with
2 that unless anyone else has specific questions about the
3 CV, I'd ask that it be entered as the next Exhibit.

4 THE CHAIRPERSON: Yes.

5
6 --- EXHIBIT NO. PUB-35: CV of Mr. Brian Pelly.

7
8 THE CHAIRPERSON: Do any of the other
9 parties to this proceedings have any questions of Mr.
10 Pelly's credentials?

11 Hearing none, you may continue. We
12 accept Mr. Pelly as an expert witness.

13
14 (VOIR DIRE CONCLUDED)

15
16 EXAMINATION-IN-CHIEF BY MS. CANDACE EVERARD:

17 MS. CANDACE EVERARD: Mr. Pelly, I
18 understand that you have been acting as actuarial advisor
19 to this Board since approximately 1997?

20 MR. BRIAN PELLY: Yes.

21 MS. CANDACE EVERARD: And that in this
22 particular proceeding you have prepared a report which is
23 at the Board of Documents at Tab 5.

24 MR. BRIAN PELLY: B-5, I think yes --

25 MS. CANDACE EVERARD: I think it's just

1 five (5), but --

2 MR. BRIAN PELLY: Five (5), sorry.

3 MS. CANDACE EVERARD: -- that's okay.

4 Sir, on page 2 of your paper, you have set out
5 historically what your role has been for this Board.

6 You say in the second paragraph on page 2
7 that your role has been to support the mandate of the
8 Board, through assisting with the gathering, review,
9 testing and interpretation of evidence, particularly
10 actuarial evidence throughout the Board's process of
11 considering MPI's annual General Rate Applications; is
12 that correct?

13 MR. BRIAN PELLY: That's correct.

14 MS. CANDACE EVERARD: I understand that
15 you also typically answer technical and actuarial
16 questions for the Board?

17 MR. BRIAN PELLY: To facilitate their --
18 their objectives, yes.

19 MS. CANDACE EVERARD: Mr. Pelly,
20 typically do you have any element of control over the
21 extent to which the Board relies on your assistance and
22 advice in making its decisions?

23 MR. BRIAN PELLY: No.

24 MS. CANDACE EVERARD: For the purposes of
25 this Hearing, I understand that your role has been

1 enhanced to include preparation of the report and to give
2 evidence orally?

3 MR. BRIAN PELLY: That's correct.

4 MS. CANDACE EVERARD: Mr. Pelly, in your
5 years of advising the Board, have you ever given a
6 recommendation or stated a preference regarding the
7 implementation of loss transfer in Manitoba?

8 MR. BRIAN PELLY: No.

9 MS. CANDACE EVERARD: Sir, is your role
10 at this Hearing an independent role?

11 MR. BRIAN PELLY: I would consider it to
12 be independent.

13 MS. CANDACE EVERARD: Do you take any
14 position for or against loss transfer?

15 MR. BRIAN PELLY: No, I don't.

16 MS. CANDACE EVERARD: Sir, if I could now
17 direct your attention to page 1 of your report, you've
18 stated in the second last paragraph that the report was
19 requested primarily to address the Board's conclusion
20 that this is -- that this, being loss transfer, is
21 fundamentally a public policy issue and not an actuarial
22 issue?

23 MR. BRIAN PELLY: I agree.

24 MS. CANDACE EVERARD: Do you agree that
25 the issue was one of public policy?

1 MR. BRIAN PELLY: I do.

2 MS. CANDACE EVERARD: Mr. Pelly, if I
3 could now refer you to page 3 of the report. You have
4 set out in the third paragraph, the statement of
5 principles regarding property and casualty insurance rate
6 making, which have been entered into evidence through Mr.
7 Palmer in Exhibit 34.

8 And you have noted towards the bottom of
9 page 3, specifically in the second last paragraph that
10 the statement of principles does not include a
11 requirement to recognize fault in rate making; is that
12 correct?

13 MR. BRIAN PELLY: That's correct.

14 MS. CANDACE EVERARD: Mr. Pelly, even
15 though fault is not required to be considered, is it an
16 appropriate consideration in rate making?

17 MR. BRIAN PELLY: Well it certainly can
18 enter into the manner in which the data is organized.

19 MS. CANDACE EVERARD: I further
20 understand from reading your report, that it's your view
21 that both the first-party approach and the loss transfer
22 approach to cost allocation may be actuarial sound, if
23 rates reflect the expected costs associated with the
24 transfer of risk; is that correct?

25 MR. BRIAN PELLY: That's correct.

1 MS. CANDACE EVERARD: And moreover, that
2 both approaches may result in a claims experience base
3 with good predictive stability for rate setting purposes?

4 MR. BRIAN PELLY: They can, yes.

5
6 (BRIEF PAUSE)

7
8 MS. CANDACE EVERARD: Mr. Pelly, the
9 Board has previously heard evidence and you've referenced
10 this in your report as well, that loss transfer is an
11 issue of risk classification. And you've stated your
12 view in the report that it is an issue of risk
13 measurement.

14 Can you expand on that?

15 MR. BRIAN PELLY: To guide me in that
16 conclusion, I looked to the American Academy of
17 Actuaries, Risk Classification Statement of Principles
18 from 1980, which among other definitions that it provides
19 descriptions of what they mean by risk classification.

20 This appears on page 4 of my report in the
21 third complete paragraph.

22 That statement of principles defines risk
23 classification as having the intention to group
24 individual risks having reasonably similar expectations
25 of loss. And it would be my view that the concept of

1 generally recognizing fault in the allocation of claims
2 costs is more one of deciding how one is going to measure
3 risk than how one is classifying policyholders or
4 vehicles given that definition.

5 MS. CANDACE EVERARD: I see also in your
6 report, Mr. Pelly, this is on page 4 in the fourth full
7 paragraph, that you say in the first sentence that:

8 "MPI's risk classification practices do
9 not ignore consideration of fault,
10 essentially given the bonus malice
11 system."

12 Is that correct?

13 MR. BRIAN PELLY: That's correct.

14 MS. CANDACE EVERARD: And is it your view
15 that the bonus malice system has incentive value to
16 encourage good driving practices?

17 MR. BRIAN PELLY: I believe that's
18 generally held to be true.

19 MS. CANDACE EVERARD: Mr. Pelly, on page
20 5 of your report in the first paragraph you've stated
21 that:

22 "To your knowledge actuarial support
23 for this portion of MPI's
24 classification structure has not been
25 produced before the Board as MPI states

1 that public policy overrides the need
2 to actuarial justification."

3 Is that correct?

4 MR. BRIAN PELLY: With respect to the
5 bonus malice scheme, I think that is my recollection.

6 MS. CANDACE EVERARD: Are you able to
7 expand on the public policy argument?

8 MR. BRIAN PELLY: I don't recall the
9 specifics. It was several years ago. But I believe they
10 felt that there were more important considerations than
11 strictly the statistically driven relative scale for the
12 bonus malice scheme that should drive the -- the setting
13 of rates across the bonus malice scheme.

14 The specifics of the public policy
15 considerations I can't recall.

16 MS. CANDACE EVERARD: Sir, you've stated
17 on page 5, again, of the report, a quote from the risk
18 classification statement of principles that you say lend
19 support to this particular viewpoint; can you expand on
20 that?

21 MR. BRIAN PELLY: It simply points out
22 that in what they referred to in the statement of
23 principles as "governmental programs", by which I think
24 they meant as well as being governmental also
25 monopolistic, that there can be situations giving rise to

1 the possibility of -- of a need to set rates not
2 necessarily directly in accordance with actuarially
3 driven relationships in order to achieve certain public
4 policy objectives.

5 MS. CANDACE EVERARD: Mr. Pelly, if a
6 decision is made to implement loss transfer, can rates
7 continue to be actuarially sound?

8 MR. BRIAN PELLY: Yes.

9 MS. CANDACE EVERARD: On what basis?

10 MR. BRIAN PELLY: Well, the objective for
11 rates to be actuarially sound would be, I think, taken
12 principally from Principle 4 of the CAS Statement of
13 Principles on insurance rate making; that being that and
14 I'll quote:

15 "A rate is reasonable and not
16 excessive, inadequate or unfairly
17 discriminatory if it is an actuarially
18 sound estimate of the expected value of
19 all future costs associated with an
20 individual risks transfer."

21 And the presence of or absence of loss
22 transfer as a concept around the manner in which claims
23 costs are allocated simply defines the manner in which
24 one needs to estimate the expected future costs
25 associated with the risk transfer.

1 MS. CANDACE EVERARD: So it's your view
2 that Principle 4 can be met in a loss transfer
3 environment?

4 MR. BRIAN PELLY: I would agree.

5 MS. CANDACE EVERARD: And that if loss
6 transfer does form part of the environment it can be
7 measured and the rates can be actuarially sound?

8 MR. BRIAN PELLY: Assuming it's -- it's
9 created in a manner that makes some practical sense, then
10 yes.

11 MS. CANDACE EVERARD: So, Mr. Pelly, from
12 an actuarial standpoint, is there a clear advantage to
13 implementing versus not implementing loss transfer?

14 MR. BRIAN PELLY: Not in my opinion.

15

16 (BRIEF PAUSE)

17

18 MS. CANDACE EVERARD: So, it's a public
19 policy issue?

20 MR. BRIAN PELLY: I would agree.

21 MS. CANDACE EVERARD: Mr. Pelly, on page
22 6 of your report you get into some transitional issues
23 that I'd like to go through with you.

24 Under the section 4.1, Defining the
25 Mechanism, you identified a number of options or

1 referenced a number of options.

2 Can you go through those for the Board,
3 please?

4 MR. BRIAN PELLY: Yeah, I'll just
5 predicate my comments by pointing out that this section
6 of my report was done at the request of the Board.

7 But, really I am stepping outside of my
8 area of specific expertise as an actuary. This is
9 strictly drawing on my familiarity with insurance
10 delivery systems in different jurisdictions across the
11 country.

12 Under the heading of 'Defining the
13 Mechanism', what I point out, is that obviously one of
14 the things that needs to be decided is how the concept of
15 loss transfer might be specifically implemented.

16 We have, in this forum, we have adopted
17 the label loss transfer without really trying to define
18 it. I think we adopted it from its use in Ontario, which
19 might imply a definition which I don't think we've
20 necessarily accepted as a -- as a basis necessarily for
21 the purposes of this Board and this deliberation.

22 So, when I'm referring to defining the
23 mechanism, it's really talking about loss transfer as a
24 concept. Some mechanism to give recognition to fault
25 directly in the allocation of costs.

1 And if one goes in that direction, there
2 would be some form of reshuffling of the claims
3 experience that MPI currently collects on a basis without
4 recognition of fault in assigning claims costs to
5 reshuffling it to give some recognition.

6 I pointed out that there are some
7 possibilities about how you can go somewhere short of
8 full recognition of that. One (1) example is the Ontario
9 deductible or threshold that's applied where only amounts
10 in excess of some dollar amount are, in fact,
11 transferred.

12 The Ontario reason originally for
13 establishing that deductible or threshold, doesn't really
14 apply in a monopoly single provider environment, given
15 that there are really no administrative costs to be saved
16 by whether or not, you do a transfer on small amounts,
17 because it's basically an accounting, or a bookkeeping
18 exercise.

19 But, there are arguments for imposing some
20 kind of a threshold in any case, particularly if one of
21 the arguments is to keep it consistent with Ontario's
22 model of keeping the claim counts assigned and associated
23 with the original category, as well, as the transferred
24 to category.

25 It's also possible to limit it to only

1 certain types of vehicles again, like you see in Ontario,
2 where there is some one-way transfers as well as,
3 limiting it to only certain coverages. And again, in
4 Ontario's case, it's limited to first-party or accident
5 benefits.

6

7

(BRIEF PAUSE)

8

9

10 MR. BRIAN PELLY: I suppose I could also
11 make reference to some of the examples that were provided
12 from some of the American jurisdictions as still forms of
13 loss transfer concepts, where there is effectively a
14 broader based pooling of certain costs which are not
15 deemed to be appropriate to be assigned to an individual
16 category and are basically gathered together and spread
17 over the entire vehicle fleet.

17

18

That's the example that was given, I
believe, in Michigan.

19

20

21

MS. CANDACE EVERARD: So, Mr. Pelly,
would it be fair to say that there could be a broad or a
narrow application?

22

23

24

25

MR. BRIAN PELLY: Certainly.

MS. CANDACE EVERARD: Mr. Pelly, in
section 4.2 of your paper, entitled, Assigning Fault,
you've said in the third -- pardon me, in the second

1 sentence that:

2 "In Ontario and elsewhere, fault
3 determination rules are defined in
4 regulation with the objective of
5 bringing uniformity to these practices
6 across a competitive insurance
7 industry.

8 While uniformity between competitors is
9 not an issue in Manitoba something
10 similar would be necessary to ensure
11 fairness and consistency in the
12 treatment of all claimants going
13 forward."

14 Do you mean by that that Manitoba would
15 require similar rules to those that are in place in
16 Ontario, or that it would otherwise be helpful to codify
17 rules?

18 MR. BRIAN PELLY: Well, as we've learned
19 from the evidence from MPI, they have such rules and all
20 I'm saying in this particular reference was that
21 something like that would be appropriate.

22 MS. CANDACE EVERARD: And why do you feel
23 that it would be appropriate?

24 MR. BRIAN PELLY: Mostly in order to
25 eliminate the possibility of -- of wide discretion being

1 applied by claims adjusters, and creating unfairness or
2 inconsistencies in the manner in which fault is assigned
3 between two (2) different, perhaps otherwise similar
4 circumstances.

5 MS. CANDACE EVERARD: Mr. Pelly, in the
6 section entitled, 4.3, Managing Dislocation, of your
7 report on page 7, you have stated that loss transfer --
8 the loss transfer issue has been raised primarily in the
9 context of motorcycles, but that if implemented in
10 Manitoba there is potential that it would impact all
11 vehicles, if not limited in scope.

12 Can you expand on what you mean by that?

13 MR. BRIAN PELLY: Well, I think we've
14 adopted the expressions one-way and two-way. So, if a
15 loss transfer mechanism is put in place which affects
16 effectively all classes of vehicles in some manner, then
17 the kinds of dislocation that we're possibly facing as
18 they bubble through all of the various insurance use and
19 territory categories, are potentially significant.

20 And undoubtedly there would be at least
21 some categories of classification, that would give rise
22 to concerns about policy holder rate shock as has
23 previously been addressed by this Board through the
24 capping of experience adjustments and some of the
25 initiatives taken in the introduction of CLEAR.

1 So, my only point was that those kinds of
2 considerations will probably be brought to bear, if you
3 have an all encompassing form of loss transfer
4 implemented, and it would probably be much more complex
5 than what we've had to previously deal with.

6 MS. CANDACE EVERARD: Mr. Pelly, is that
7 what has been referred to as full loss transfer?

8 MR. BRIAN PELLY: Well I think the
9 definition that was provided by MPI's witnesses on full
10 loss transfer, include extension to include rate groups,
11 which has been identified as not being possible. So, you
12 don't necessarily have to go as far as full, in order to
13 still have significant dislocation.

14 But certainly if all classes of vehicles
15 and insurance uses and territories were encompassed
16 within some form of reshuffling of the claims experience
17 to recognize fault, then I think you would probably see a
18 lot of categories subject to fairly significant
19 dislocation, and you'd have to address that and certainly
20 as a regulator you'd need to make sure that you were
21 satisfied that you were balancing appropriately, the pace
22 of response to that experience.

23 MS. CANDACE EVERARD: So would a partial
24 form of loss transfer result in less dislocation in your
25 view?

1 MR. BRIAN PELLY: Well again, if you're
2 using the MPI definition of partial loss transfer, which
3 is I think they defined it as being the Ontario style
4 system. That probably does limit the number of
5 occurrences where there'd be significant dislocation, but
6 there may still be significant dislocation that needs to
7 be addressed in any kind of implementation.

8 MS. CANDACE EVERARD: Mr. Pelly, if I
9 could now refer your attention to Tab 1(a) of the Book of
10 Documents; this is one (1) of the items of correspondence
11 exchanged with the Insurance Bureau of Canada.

12 MR. BRIAN PELLY: I have that.

13 MS. CANDACE EVERARD: Mr. Pelly, in your
14 view, would the introduction of a practically feasible
15 loss transfer approach damage the value of data to and
16 from the Insurance Bureau in respect of CLEAR?

17 MR. BRIAN PELLY: As I understand, based
18 on -- partially on Mr. Tabachneck's evidence, as well as
19 prior knowledge, the Insurance Bureau of Canada's use of
20 the reported claims experience with respect to accident
21 benefits coverage, does not make use of the claims
22 portion, but only the claim count or the frequency aspect
23 of the claims experience.

24 Accordingly, if a loss transfer mechanism
25 is put in place, that like Ontario's, that doesn't alter

1 the claim frequency aspect of the accident benefit's
2 claims experience, and again, if the loss transfer
3 mechanism was put in place so that it was limited to only
4 accident benefits, such as Ontario's is, it's my
5 understanding that MPI could continued to report claims
6 experience to Insurance Bureau of Canada and it would
7 still be of use to them in -- in building up a population
8 of data for purposes of promulgating CLEAR.

9 MS. CANDACE EVERARD: Mr. Pelly, if I
10 could direct your attention to Question 2, in the
11 Insurance Bureau of Canada materials. The question there
12 posed by IBC was:

13 "Is there actuarial evidence of a
14 dislocation of claims costs between
15 private passenger automobile,
16 commercial automobile and motorcycles
17 due to the first-party nature of
18 accident benefit compensation?"

19 What's your view of that?

20 MR. BRIAN PELLY: Dislocation as a word
21 implies you're going from a good place to a bad place.
22 And, as I've previously stated, I don't really have a
23 view as to whether loss transfer is a good thing or a bad
24 thing.

25 So, to the extent that you're putting a

1 judgment value on the word, "dislocation", I don't think
2 I have a response to that question. But, having said
3 that, there will be shifting in premiums arising from any
4 form of loss transfer.

5 I mean, that's the nature of the beast.
6 You are making a decision to change the manner in which
7 costs are assigned to various categories and that does
8 give rise to some form of change in premiums and,
9 therefore, some form of dislocation.

10

11

(BRIEF PAUSE)

12

13

14

MS. CANDACE EVERARD: Mr. Pelly, if I
could ask you to take a look at Question 4 in the same
document which reads:

15

16

17

18

"If a decision is made to introduce
loss transfer in Manitoba, how could it
be implemented?"

19

20

21

What's your view of that or what options
would you consider for the implementation of loss
transfer in Manitoba?

22

23

(BRIEF PAUSE)

24

25

MR. BRIAN PELLY: Well, this is clearly

1 not an actuary answering. I think there's a wide range
2 of possible solutions. I believe that it is important to
3 identify if there are injustices that need to be
4 rectified, if there are public policy issues that are not
5 adequately being addressed by the current system, in
6 other words.

7 And then devising a system that attempts
8 to address those issues. I couldn't begin to declare
9 what are the important -- whether or not there are
10 injustices of that type or whether or not they are
11 important enough to need rectification because those
12 really amount to judgment calls on the part of policy
13 makers and that's certainly not what I am.

14 MS. CANDACE EVERARD: Mr. Pelly, if I
15 could not ask you to look at Tab 6(a) of the Book of
16 Documents. These are the Information Requests exchanged
17 between the Board and MPI.

18 And in particular, Interrogatory Number
19 2(c); the request being:

20 "Please discuss the level of effort
21 that might be required to develop a
22 credible third-party model."

23 And the answer being on the next page,
24 page 2:

25 "As stated in the IBC submission

1 Appendix I, there is not enough
2 national data available to enable
3 sufficiently credible CLEAR ratings for
4 either motorcycles or third-party
5 liability. Without sufficiently
6 credible data, a credible third-party
7 model cannot be developed."

8 What is your view on that question and
9 answer?

10 MR. BRIAN PELLY: I can't say I really
11 have one. I've never attempted to do what IBC has
12 apparently attempted to do for several years. So, I
13 would expect that given their expertise, if they say it's
14 not readily done, it's not readily done.

15 (BRIEF PAUSE)

16
17
18 MS. CANDACE EVERARD: Mr. Pelly, do you
19 have a view on what pool of data would be required to
20 develop an appropriate model?

21 MR. BRIAN PELLY: Of the type described
22 here? No, I -- it'd be total speculation. Probably
23 bigger than Canada.

24 MS. CANDACE EVERARD: Thank you, Mr.
25 Pelly, I have no further questions.

1 THE CHAIRPERSON: Thank you, Mr. Pelly.
2 Thank you, Ms. Everard.

3 Mr. McCulloch. for MPI, would you like to
4 cross-examine the Witness?

5 MR. KEVIN MCCULLOCH: I have just a
6 couple of questions, Mr. Chairman.

7

8 CROSS-EXAMINATION BY MR. KEVIN MCCULLOCH:

9 MR. KEVIN MCCULLOCH: Mr. Pelly, in -- in
10 my questions I'm going to be referring you to the loss
11 transfer position paper filed by Manitoba Public
12 Insurance dated March 18th, 2005, Tab 3, I believe in the
13 Board's book of documents. Do you have that?

14 MR. BRIAN PELLY: I have it, I think it's
15 at Tab 4.

16 THE CHAIRPERSON: Mr. McCulloch, isn't it
17 Tab 4?

18 MR. KEVIN MCCULLOCH: I'm not working
19 from the Book of Documents, I was just trying to remember
20 what tab it is.

21

22 CONTINUED BY MR. KEVIN MCCULLOCH:

23 MR. KEVIN MCCULLOCH: And, Ms. McLaren has
24 just come over and -- and told me that 50 percent of my
25 questions are no longer necessary, so I'll move to the

1 one (1) question I have left; that's on page 5 of that
2 March 18th report and in particular, approximately
3 halfway down the page, the statement is made:

4 "Rates calculated using loss transfer
5 at the major class level did not
6 provide for the expected future costs
7 of any individual classification
8 category.

9 And, my question to you, Mr. Pelly, is:
10 Do you agree with that statement that the major class
11 basis does not meet the actuarial test of establishing
12 rates that provide for the expected future costs?

13 MR. BRIAN PELLY: As I understand, MPI
14 has interpreted the concept of applying loss transfer
15 only at the major class level, I would agree with that
16 statement.

17 MR. KEVIN MCCULLOCH: Thank you, sir,
18 those are all my questions.

19 THE CHAIRPERSON: Thank you, Mr.
20 McCulloch. Mr. Williams, for CAC/MSOS.

21 MR. BYRON WILLIAMS: Well, that answer
22 helped to wipe out some of my questions as well so thank
23 you, Mr. McCulloch.

24

25 CROSS-EXAMINATION BY MR. BYRON WILLIAMS:

1 MR. BYRON WILLIAMS: Mr. Pelly, I guess
2 you're a rookie appearing before the Board, so welcome --
3 welcome on behalf of my Clients.

4 MR. BRIAN PELLY: Thank you

5 MR. BYRON WILLIAMS: And I, too, have
6 just a few questions for you. In your evidence -- we
7 don't need to turn to -- you describe, but you may want
8 to have at hand the transcript from day 1 of the hearing
9 and, specifically, page 150.

10 MR. BRIAN PELLY: I have that.

11 MR. BYRON WILLIAMS: In your evidence,
12 I'm going to refer to an excerpt from this page in a
13 second, but in your evidence you've described insurance
14 as a risk transfer mechanism; is that correct?

15 MR. BRIAN PELLY: Yes.

16 MR. BYRON WILLIAMS: If I turn to page
17 150, the discussion between Mr. Oakes and Ms. Hall
18 starting at line 15 and moving down through line 1 of
19 page 151, you'll see that Mr. Oakes is putting the
20 suggestion to Ms. Hall that cross-subsidization happens
21 as an integral part of insurance and, for example, those
22 who don't have accidents subsidize those that do.

23 Do you see that reference, sir?

24 MR. BRIAN PELLY: I do.

25 MR. BYRON WILLIAMS: And, do you see that

1 Ms. Hall answers, "yes" or "yeah" and she thinks the
2 whole insurance system is built, or some think the whole
3 insurance system is built on class subsidization.

4 Do you see that reference as well?

5 MR. BRIAN PELLY: I do.

6 MR. BYRON WILLIAMS: I wonder, from your
7 perspective, your actuarial perspective, is that a
8 correct characterization of the insurance system?

9 MR. BRIAN PELLY: Insurance is a pooling
10 concept and so, therefore, although you try and combine
11 risks which have a reasonably homogeneous expectation of
12 cost, all of the people who are grouped that way, when
13 the year for which they are ensured pans out, do not
14 exhibit identical experience, I mean, that's -- that's
15 the fortuitous nature of life, and that's the difference
16 between actual costs versus expected costs, but the
17 intent of insurance is to pool people with a -- with a
18 reasonably homogeneous expectation of cost.

19 MR. BYRON WILLIAMS: And that pooling
20 principle is that cross-subsidization?

21 MR. BRIAN PELLY: I -- I guess cross-
22 subsidization doesn't have a universal definition. It
23 sounds a little bit judgmental too, because it sounds
24 like it's a bad thing. But inherent to insurance is
25 pooling, and pooling means trying to substitute the

1 uncertainty of a -- of an event with the certainty of
2 paying a premium to protect you against the consequences
3 of that event.

4 MR. BYRON WILLIAMS: In your -- in your
5 work, do you have a definition of cross-subsidization?

6 MR. BRIAN PELLY: Not one (1) that I
7 could pull out, no.

8 MR. BYRON WILLIAMS: Okay, thank you. In
9 terms of -- I'd like to direct you now to your evidence
10 at page 3, that's -- so that's in the Board's Book of
11 Documents, that would be Tab 5. And -- actually page 4.
12 And --

13 MR. BRIAN PELLY: Got that.

14 MR. BYRON WILLIAMS: -- thank you. And
15 I'm directing you towards the bottom of the page, and you
16 had a bit of this discussion with Ms. Everard and with
17 regards to the bonus malice system.

18 And you indicated that by their very
19 nature, the bonus malice discounts and charges were
20 intended to have incentive value, in effect, influencing
21 operator behaviour, is that correct, sir?

22 MR. BRIAN PELLY: That's correct.

23 MR. BYRON WILLIAMS: And then you went on
24 to say, and I'm referring you to the second last -- third
25 and second last lines on that page:

1 "Accordingly loss transfer is not the
2 only means to encourage good driving
3 practises, within an insurance delivery
4 scheme."

5 Is that right, sir?

6 MR. BRIAN PELLY: That's what it says,
7 yes.

8 MR. BYRON WILLIAMS: Yeah. Now I wonder
9 if you could just at a very high level, give me in terms
10 of loss transfer, on an analytical basis, how it -- how
11 it kind of might be seen analytically as -- as achieving
12 the goal of encouraging good driving practises; at a very
13 high level?

14 MR. BRIAN PELLY: It's not as direct as
15 some form of bonus malice scheme, because people are
16 generally not terribly aware of it. But -- and I'm
17 speaking in the Ontario context, where it exists today,
18 but the consequence of loss transfer is to pass some of
19 the costs associated with claims to the at-fault parties,
20 and therefore the categories of risk that caused
21 accidents and injuries.

22 Therefore, if one drives carelessly, then
23 one can -- and causes accidents and injuries, one can
24 expect one's premium to be higher. And on the assumption
25 that most people wouldn't like that to happen, they might

1 to explain how loss transfer acts as a mean to encourage
2 good driving practises within an insurance delivery
3 scheme. Is that right, sir?

4 MR. BRIAN PELLY: Yes.

5 MR. BYRON WILLIAMS: And if we turn to
6 response on page 2, your first sentence you give a bit of
7 the philosophical discussion that we just had, and then
8 in your second sentence you indicate that:

9 "Arguably a uni-directional loss
10 transfer mechanism could reduce this
11 incentive value for the class of
12 vehicles that benefits from the loss
13 transfer since the adverse cost
14 consequences are, in effect, mitigated
15 by the loss transfer."

16 Is that right, sir?

17 MR. BRIAN PELLY: That's what I said,
18 yes.

19 MR. BYRON WILLIAMS: And I'm assuming by
20 "uni" -- "uni-directional" that would be a synonym for
21 one-way or, what was the other --

22 MR. BRIAN PELLY: Asymmetric.

23 MR. BYRON WILLIAMS: Asymmetric, that's
24 the other word; is that right, sir?

25 MR. BRIAN PELLY: That's correct.

1 MR. BYRON WILLIAMS: Now, you preface it
2 with the word "arguably"; I wonder if you could make the
3 argument of why a uni-directional loss transfer mechanism
4 could reduce this incentive?

5 MR. BRIAN PELLY: Well, I -- I tried to
6 explain that in my -- in my statement there, but perhaps
7 not effectively.

8 My point is that for the class or category
9 of risk which -- from which loss amounts are being
10 transferred, so their cost of claims that they're being
11 left with are being reduced by virtue of loss transfer,
12 and there is no consequence to them.

13 There is never any incoming loss transfer,
14 one can see that whatever incentive value there was in
15 loss transfer, as a concept, perhaps would not apply to
16 those individuals because there never seems to be a
17 consequence.

18 MR. BYRON WILLIAMS: So just to use a
19 concrete example from Ontario, whatever indirect
20 incentive towards good -- good behaviour between, in
21 terms of driving behaviour, would be felt by the private
22 passenger class; would that be right, in terms of the
23 effect of loss transfer?

24 MR. BRIAN PELLY: Well, the private
25 passenger class has both incoming and outgoing amounts

1 with respect to loss transfer so that's not uni-
2 directional and they stand to have that incentive value.

3 MR. BYRON WILLIAMS: Sorry, I misspoke.
4 In terms of the motorcycle class, because the costs are
5 transferred out but no corresponding costs are
6 transferred in, there would be no good driving behaviour
7 incentive through loss transfer for that group of -- that
8 class of vehicles?

9 MR. BRIAN PELLY: I think what I said was
10 it was reduced, I don't know that I said it was
11 eliminated.

12 MR. BYRON WILLIAMS: That's fair enough.
13 And I appreciate that clarification.

14 To direct you further, in the same tab to
15 CAC/MSOS, IR-7 and specifically I'll direct your
16 attention to question 7, sub B. The question posed to
17 you was:

18 "Is it the view of the witness that by
19 adopting a loss transfer policy there
20 is a possibility of increasing the
21 level of accident-benefit compensation
22 costs for MPI?"

23 And your response was, sir:

24 "If the introduction of loss transfer
25 somehow changes driver behaviour in a

1 manner to increase such costs, then
2 this possibility exists."
3 And you provided one (1) plausible example
4 which would be an increase in the -- in the number of
5 motorcycles being operated and, therefore, exposed to
6 risk; did I attribute that remark to you correctly, sir?

7 MR. BRIAN PELLY: Yes, you did.

8 MR. BYRON WILLIAMS: And you described it
9 as a "plausible example" and I wonder if you could
10 discuss a bit further why you would consider that a
11 plausible example?

12 MR. BRIAN PELLY: I suppose I
13 characterize it as plausible based on the fact that I
14 have attended these hearings for several years now and
15 have heard representations from parties at these
16 hearings, that one of the causes of a declining
17 population of motorcyclists in the province is the cost
18 of insurance.

19 And if the consequence of loss transfer
20 being introduced to the benefit of the motorcycle
21 category, you could see the logic of perhaps expecting a
22 reversal of that previous pattern.

23 MR. BYRON WILLIAMS: Thank you, Mr.
24 Pelly, I have no further questions.

25 THE CHAIRPERSON: Thank you, Mr.

1 Williams.

2 Mr. Oakes.

3 MR. RAYMOND OAKES: Thank you, Mr.

4 Chairman.

5

6 CROSS-EXAMINATION BY MR. RAYMOND OAKES:

7 MR. RAYMOND OAKES: Mr. Pelly, I

8 understand that you recently prepared a report for the
9 Government of New Brunswick relative to the now defunct
10 public insurance plan in that province; is that correct?

11 MR. BRIAN PELLY: Well, I definitely
12 prepared a report for the Province of New Brunswick. I
13 don't know that you can call it a defunct plan because it
14 never -- never came into being.

15 MR. RAYMOND OAKES: The shelved plan
16 then, if you will?

17 MR. BRIAN PELLY: Fair enough.

18 MR. RAYMOND OAKES: And that plan was
19 modelled largely after the Manitoba plan; would you agree
20 with that?

21 MR. BRIAN PELLY: The primary author of
22 the plan described it to me as being modelled after the
23 best of the Manitoba and Saskatchewan plans, the best
24 features of both plans.

25 MR. RAYMOND OAKES: And so, in your

1 involvement, would you have reviewed the rate impacts of
2 the proposed plan and other related matters?

3 MR. BRIAN PELLY: Can you be more
4 specific about what you mean by "rate impacts?" I mean,
5 are you -- are you talking about at the individual policy
6 holder level or at a broader base or...

7 MR. RAYMOND OAKES: On a broader base.

8 MR. BRIAN PELLY: There were examples
9 provided in the Task Force Report, the Select Committee
10 Report in New Brunswick that were built up by the team of
11 consultants that worked on that, that attempted to
12 demonstrated expected changes in premium levels.

13 Now there were some difficulties that I
14 had if -- I'm not sure I can recall all of the details,
15 with some of those comparisons, but we certainly examined
16 that, yes.

17 MR. RAYMOND OAKES: And there were other
18 actuaries...

19 MR. BRIAN PELLY: There were other
20 actuaries who were involved in reviewing the impacts of
21 the proposed plan. There was another firm that was also
22 involved in reviewing the plan. Although our two (2)
23 mandates were different, there were overlapping areas and
24 I think it would be fair -- your -- your comment about
25 examining the impact, that was probably part of our

1 overlapping.

2 MR. RAYMOND OAKES: And, to get at those
3 impacts, would you have made a number of assumptions and
4 judgements in trying to determine outcomes?

5 MR. BRIAN PELLY: Now, that's one (1)
6 area where we were not so much overlapping. My role
7 wasn't really to reproduce or -- or provide alternative
8 assumptions or a basis for estimating the impact, it was
9 a bit more of a high level assessment of what -- of the
10 completeness of the approach that had been taken, and
11 whether or not there were other considerations that ought
12 to be before the government in making -- in its rendering
13 of a decision on that plan.

14 MR. RAYMOND OAKES: And was one (1) of
15 those issues that the proposed plan could have an adverse
16 effect on motorcyclists?

17 MR. BRIAN PELLY: We certainly -- I -- I
18 had awareness of that. If you're asking me if that's
19 actually in my report, I'm trying to remember.

20 MR. RAYMOND OAKES: Was that issue
21 identified at all with respect to the insurance plan to
22 be introduced or to be studied?

23 MR. BRIAN PELLY: I'm doing this from
24 memory. It's a pretty bad sign that I can't remember
25 from something from just a year ago, but I write a lot of

1 reports. My recollection is that it was not identified
2 as -- as an issue that needs to be explicitly considered
3 in the original work from the select committee, but I
4 believe I did flag it as being something that needed to
5 be identified and -- and addressed by government in
6 considering the report from the select committee.

7 MR. RAYMOND OAKES: I thank you for that
8 recollection. Moving from that, would you expect loss
9 transfer to reduce the rate requirements for motorcycles
10 in Manitoba?

11 MR. BRIAN PELLY: That would, of course,
12 depend upon the specifics about how the loss transfer was
13 implemented. If an Ontario-style loss transfer mechanism
14 was implemented I -- I think one would have to expect
15 some form of reduction.

16 MR. RAYMOND OAKES: And, generally, even
17 if we didn't use a one-way type of transfer, would you
18 expect that the rate requirements would be reduced for
19 motorcycles?

20 MR. BRIAN PELLY: That -- that gets a
21 little harder to be sure because it could be created to
22 be one (1) way or the other way I suppose, conceptually.
23 You're talking about required rate levels and that's the
24 right way to think about it. I -- I don't know that you
25 can make a -- a categorical response without knowing the

1 specifics of a -- of the plan.

2 MR. RAYMOND OAKES: Would you be able to
3 comment on whether you'd expect loss transfer to have a
4 minor effect on rates for private passenger vehicles?

5 MR. BRIAN PELLY: Logically, if you are
6 expecting a -- a net transfer out of motorcycles to a
7 much bigger population base, that dilutes whatever impact
8 there is and one can expect that it would be smaller.

9 MR. RAYMOND OAKES: Mr. Pelly, do you do
10 any work with companies that provide motorcycle
11 insurance?

12 MR. BRIAN PELLY: I do.

13 MR. RAYMOND OAKES: Are you familiar with
14 a ratio of single and multi vehicle accidents for those
15 companies?

16 MR. BRIAN PELLY: No, I've never been
17 able to get to that level of detail from any company that
18 I've done work with; I've been curious about it, but I've
19 never been able to get to it.

20 MR. RAYMOND OAKES: With respect to
21 CLEAR, would you agree with me that that's simply a
22 mechanism to rank vehicles one (1) against the other?

23 MR. BRIAN PELLY: Mr. Tabachneck's
24 description of CLEAR basically said that. I -- I view
25 CLEAR as having one (1) additional component in addition

1 to trying to rank and group vehicles, they also
2 promulgate relativities to go with those rankings, and
3 the intent of those relativities is to establish
4 appropriate relative rates between those rate groups. So
5 it's a ranking and a kind of a relative rating.

6 MR. RAYMOND OAKES: Those relativities
7 that you speak of, are they used in Manitoba, to your
8 knowledge?

9 MR. BRIAN PELLY: Not directly. I
10 believe they have influenced the thinking in Manitoba,
11 but they're -- they're not directly pulled in. Primarily
12 because in recent years the rate group relativities for
13 private passenger vehicles have been influenced by
14 Manitoba experience.

15 MR. RAYMOND OAKES: And you wouldn't
16 disagree with Mr. Tabachneck when he said that CLEAR does
17 work with Ontario, even though they have a loss transfer
18 system there?

19 MR. BRIAN PELLY: CLEAR, as presently
20 promulgated by the IBC, I would agree with what he said,
21 yeah.

22 MR. RAYMOND OAKES: Is CLEAR used in
23 Alberta?

24 MR. BRIAN PELLY: Yes.

25 MR. RAYMOND OAKES: And that would be in

1 a Tort system?

2 MR. BRIAN PELLY: That's correct. Well,
3 I mean, there's modest no-fault benefits in -- in Alberta
4 too, typical of a lot of the jurisdictions across Canada,
5 in the history.

6 MR. RAYMOND OAKES: You give a very
7 qualified answer to Mr. McCulloch's question, and so that
8 begs my question: are there other ways that loss transfer
9 can be done at the major class-use level, that could be
10 actuarially sound, other than in the way that MPI views
11 introducing loss transfer at the major class use level?

12 MR. BRIAN PELLY: The methodology, as I
13 understand it, employed by MPI, is exactly as Ms. McLaren
14 described. They basically build up from the insurance
15 use and territorial level, and then for illustrative
16 purposes, present an indication at the major use level.

17 Without a change in methodology, I don't
18 think you can do it at just the major use level.

19 MR. RAYMOND OAKES: And so I'd ask you
20 then, sir, are there changes that can be done so that it
21 can be in the methodology, so that loss transfer could be
22 done at the major class use level?

23 MR. BRIAN PELLY: I -- I'd have to say
24 it's possible. When I first started facilitating the
25 work of the Board in whatever year it was, 1997, the

1 approach taken by MPI to develop rates at the major class
2 level, was unfamiliar to me, that didn't make it wrong,
3 it just made it unfamiliar, and it took me the first
4 review to become familiar with it.

5 What was unusual about it was that in
6 addition to looking at experience at the major class
7 level, they're also looking at it -- at the experience
8 for all major classes combined. That was the feature
9 that was unusual to me. In my experience we normally
10 look at things, I'll say, at the major class level,
11 without combining it with other major classes.

12 So, it took me a while to get my head
13 around that and to understand that they were
14 appropriately dealing with some of the consequences of
15 combining major classes.

16 Having said that, it's possible because
17 that's the way I do it in most jurisdictions, to deal
18 with things at the major class level and not worry about
19 combining them.

20 And if one does that, then obviously this
21 is a methodological change for the Corporation, but then
22 you don't have the problem of having to so much build
23 things up because the point that you're at, at the major
24 class level, is, kind of, a starting point.

25 You have an indication at that level which

1 you then distribute across your insurance uses and
2 territories in accordance with an analysis of
3 relativities.

4 MR. RAYMOND OAKES: Is it -- is that
5 called driving it down from the top?

6 MR. BRIAN PELLY: I don't think it's
7 radically different than what MPI does now, other than
8 I've taken the top step off, and starting at the major
9 class level and then analysing the experience beneath it
10 to build a provincial indication.

11 MR. RAYMOND OAKES: And this alternate
12 approach that you've just described, is that accepted in
13 other jurisdictions?

14 MR. BRIAN PELLY: I would say it's
15 commonly applied. Sure.

16 MR. RAYMOND OAKES: Thank you for that.
17 Those are the close of my questions.

18 THE CHAIRPERSON: Thank you, Mr. Oakes.
19 Mr. Roberts...?

20 MR. NICK ROBERTS: Thank you, Mr.
21 Chairman. I was going to say I was going to have about
22 two (2) hours of cross-examination, except thanks to Mr.
23 McCulloch and Mr. Williams, I don't have any questions.
24 Thanks.

25 THE CHAIRPERSON: Thank you, sir.

1 Okay, Mr. Dawson...?

2 MR. ROBERT DAWSON: Mr. Chairman, I was
3 going to say I had no questions, but I've decided to ask
4 two (2) hours of cross-examination.

5 In fact, I have two (2) quick questions.

6

7 CROSS-EXAMINATION BY MR. ROBERT DAWSON:

8 MR. ROBERT DAWSON: Mr. Pelly, your
9 report, which appears at Exhibit 19, which is the Book of
10 Documents, at Tab 5 at page 3 makes reference, as has
11 already been noted in questions, to the following line:

12 "There is no requirement in the
13 statement of principles to recognize
14 fault and the measurement of those
15 expected costs."

16 So if I understand that correctly, fault
17 is not required in order for a rate to satisfy the CAS
18 statement of principles; do I understand that correctly,
19 Mr. Pelly?

20 MR. BRIAN PELLY: Yes, you do.

21 MR. ROBERT DAWSON: And can I infer from
22 that that rates should be set so as to cover claims
23 costs, not so as to penalize wrongdoers?

24 MR. BRIAN PELLY: Well, the statement of
25 principles isn't limited to just considering claims

1 costs. If you look at principle number 4 it just said
2 "future costs", it doesn't say future claims costs.
3 But on your point of whether its intent is
4 to punish wrongdoers, no, I don't think that's the point.
5 You can have, as I've said in this document, with or
6 without loss transfer, you can develop rates that are
7 actuarially sound.

8 MR. RAYMOND OAKES: And on my last point,
9 looking again at that principle number 4, consider a
10 hypothetical in which there were an absence of credible
11 predictive data; would I be correct if I classified, in
12 that circumstance, future losses as being effectively
13 indeterminate or open-ended losses?

14 MR. BRIAN PELLY: It's difficult to
15 conceive of a situation like that where you have no
16 experience at all that you can rely upon. But I suppose
17 if you have no experience -- are they indeterminate?

18 I think an actuary will come up with some
19 way to make an estimate. I don't mean that -- I don't
20 mean that facetiously, I -- if the objective is to set
21 rates, and you don't have any directly relevant data,
22 which is, of course, the preferred basis for setting a
23 rate, you look for surrogate sources of data.

24 And, I mean, I've done that myself on
25 several occasions, in different situations. And I would

1 submit that in a situation where you had absolutely no
2 directly relevant data, you would still try and make the
3 estimated costs -- estimated future costs -- find a basis
4 for making that estimate.

5 MR. ROBERT DAWSON: I appreciate the
6 diligence of actuaries, but if we accepted my premise
7 that there were no credible predictive data; am I correct
8 to classify that as an indeterminate loss?

9 MR. BRIAN PELLY: I guess I'd have to say
10 no because, indeterminate to me means it can't be
11 determined and I would submit that if it's the actuary's
12 job to make an estimate of a premium requirement, then
13 they will find a way to make that determination.

14 MR. ROBERT DAWSON: And, that's the
15 answer that I would have expected. Thank you, Mr. Pelly,
16 thank you, Mr. Chairman, those are my questions.

17 THE CHAIRPERSON: Thank you, Mr. Dawson.
18 For the MCTRA, Mr. Devlin?

19 MR. SEAN DEVLIN: No questions, Mr.
20 Chairman.

21 THE CHAIRPERSON: Thank you, sir.
22 Ms. Everard, we're back to you. Do you
23 have any follow-up questions for Mr. Pelly?

24 MS. CANDACE EVERARD: I do not, Mr.
25 Chairman, thank you.

1 THE CHAIRPERSON: Thank you. So, Mr.
2 Pelly, thank you very much. Once again on behalf of the
3 Board, we're greatly appreciative of your efforts and
4 your contributions in this hearing today. Thank you.

5 MR. BRIAN PELLY: Thank you, Mr.
6 Chairman, Panel.

7

8 (WITNESS STANDS DOWN)

9

10 THE CHAIRPERSON: Perhaps if no one minds
11 we'll take maybe seven (7) or eight (8) minutes and then
12 we'll go -- we'll start back with you, Mr. Williams, is
13 that fine with you?

14 MR. BYRON WILLIAMS: The break's fine
15 with me, Mr. Chairman, I have a family obligation that I
16 cannot get out of, so I'm -- was planning to leave at
17 4:15 today. I can be back for 7:00, but I...

18 THE CHAIRPERSON: I'll tell you what.
19 Let's just take three (3) or four (4) minutes and we'll
20 come right back.

21 MR. BYRON WILLIAMS: It won't -- it won't
22 make any -- I'm going to be for a while, Mr. Chairman, so
23 -- yeah, so...

24 THE CHAIRPERSON: Maybe what we'll do,
25 then, is we'll start with you at 7:00. Thank you and

1 we'll move on. Mr. Oakes, are you able to begin?

2 MR. RAYMOND OAKES: Certainly, Mr.

3 Chairman.

4 THE CHAIRPERSON: Then we'll take our
5 eight (8) minutes and start with you. Thank you again,
6 Mr. Williams, Mr. Oakes.

7

8 --- Upon recessing at 3:55 p.m.

9 --- Upon resuming at 4:10 p.m.

10

11 THE CHAIRPERSON: Mr. Oakes, anytime
12 you'd like to begin, please.

13

14 DONALD PALMER, Resumed

15 MARILYN MCLAREN, Resumed

16

17 CROSS-EXAMINATION BY MR. RAYMOND OAKES:

18 MR. RAYMOND OAKES: Thank you, Mr.

19 Chairman. My first questions are for Mr. Palmer and I

20 appreciate that this is the first time in some dozen or

21 more years Mr. Palmer, being at these hearings that he's

22 given evidence, and as is customarily my nature, of

23 course, I'll be gentle having regard to that and I think

24 he can disregard the scurrilous comment that was hurled -

25 - heard in the back row that he has to guard his lunch

1 money at this particular cross-examination but...

2 Mr. Palmer, I want to ask you about the
3 development of the loss transfer position paper filed in
4 this Board's hearing, and your testimony was that you
5 were personally involved in the preparation of that loss
6 transfer position, is that correct?

7 MR. DONALD PALMER: With the loss
8 transfer position paper, yes.

9 MR. RAYMOND OAKES: And, that document
10 was not prepared entirely by you, is that correct?

11 MR. DONALD PALMER: There was
12 contributions by many people, yes.

13 MR. RAYMOND OAKES: And you, sir, did not
14 have the final authority over the text of that document,
15 is that correct?

16 MR. DONALD PALMER: I would agree with
17 that.

18 MR. RAYMOND OAKES: And that was
19 accordingly, not a position prepared directly under your
20 control?

21 MR. DONALD PALMER: That's correct.

22 MR. RAYMOND OAKES: And in fact, sir,
23 given your employment, you wouldn't have been permitted
24 to express a view that was in favour of loss transfer; is
25 that correct?

1 MR. DONALD PALMER: I would say that I
2 wouldn't have probably submitted one (1) that got
3 submitted to this Board. I've never been known to be shy
4 to express my opinion in not such a public forum.

5 MR. RAYMOND OAKES: In contributing to
6 the writing of the loss transfer position paper, did you
7 receive any direction as to what the position was that
8 was to be expressed or supported in that paper?

9 MR. DONALD PALMER: No.

10 MR. RAYMOND OAKES: You didn't start from
11 the premise you weren't told that it was to justify the
12 Corporation's present position with respect to loss
13 transfer?

14 MR. DONALD PALMER: Not specifically with
15 this paper, it has been the Corporation's position and
16 evidence toward -- at this Board for the last ten (10)
17 years of our opposition to loss transfer.

18 So if that's the direction, then I would
19 say that there was some previous direction for sure, but
20 I don't know what more to say about that.

21 MR. RAYMOND OAKES: Would you agree with
22 me that most of the loss transfer position paper filed by
23 MPI is written in the context of public policy?

24 MR. DONALD PALMER: Absolutely. That was
25 the -- basically the direction of the Board.

1 MR. RAYMOND OAKES: And I understand MPI
2 goes as far as to say that if it went to full loss
3 transfer, that that would not affect the actuarial
4 soundness of the insurance program?

5 MR. DONALD PALMER: I think you've heard
6 three (3) actuaries say that, so I would agree.

7 MR. RAYMOND OAKES: And the converse, is
8 it your opinion that the insurance system in Ontario
9 then, can be said by you or would be said by you to be
10 unsound?

11 MR. DONALD PALMER: No, I would not say
12 that. I think the definition of the mechanism is such
13 that you have to basically determine what the risk is,
14 before you are determining what the expected cost of that
15 risk transfer is.

16 So, no, I would not necessarily
17 characterize Ontario's position as being not actuarially
18 sound, no.

19 MR. RAYMOND OAKES: And certainly Mr.
20 Tabachneck indicated in his testimony, that there was no
21 conflict with CLEAR, with the Ontario system?

22 MR. DONALD PALMER: CLEAR rate groups are
23 promulgated for passenger vehicles and light trucks,
24 which may -- for collision, comprehensive and accident
25 benefits.

1 So given that those aren't part of the one
2 (1) way transfer from motorcycles to other vehicles, they
3 would not be effective, no.

4 MR. RAYMOND OAKES: I want to speak about
5 the rate making methodology, because there was, of
6 course, testimony relative to at what level loss transfer
7 could be implemented at.

8 And, Mr. Palmer, I ask you when the
9 expected claims are forecast, let's say for the upcoming
10 2006 Application, are the forecasts developed to the
11 Manitoba overall level?

12 MR. DONALD PALMER: Yes.

13 MR. RAYMOND OAKES: And expected -- and
14 so then claims are not forecast at the major use
15 insurance or territory level?

16 MR. DONALD PALMER: There is a forecast
17 done at the major class level, which is then balanced on
18 an overall basis to the overall. So, we don't have a
19 claims forecast committee at each major class, no.

20 MR. RAYMOND OAKES: Okay, then expected
21 claims are not forecast then at the insurance user
22 territory level?

23 MR. DONALD PALMER: Indirectly they are,
24 given that the rate is the expected cost of the loss
25 transfer, then that would be part of every rate, yes.

1 MR. RAYMOND OAKES: I understand you're
2 developing the 2006 Rate Application, but with respect to
3 the one filed last year for 2005, can you show me where
4 the expected claims forecast is for the insurance use and
5 territory level in any of the filings before this Board
6 in any year?

7 MR. DONALD PALMER: As I said, it's
8 indirect. It's done through calculation of the overall -
9 - the overall claims cost and then broken down using a
10 series of relativities.

11 So -- so those would have in turn be the
12 expected cost -- expected costs of all future costs, the
13 expected loss -- cost of the loss transfer.

14 MR. RAYMOND OAKES: Are you saying then,
15 you work at the top level and then go all the way down?

16 MR. DONALD PALMER: Sure.

17 MR. RAYMOND OAKES: Are you going to tell
18 me, as well, that they're forecast at the vehicle level
19 as well?

20 MR. DONALD PALMER: We do a forecast to
21 the vehicle level too, sure. Because, again, a rate is a
22 rate per vehicle.

23 MR. RAYMOND OAKES: Would you say it's at
24 a rate group level?

25 MR. DONALD PALMER: Not specifically, no.

1 We do calculate what the overall effect of movement
2 within rate groups will be and that the rate group has a
3 tendency to move up over time.

4 But to say that we have X number of
5 vehicles expected in Rate Group 6 for the next year, we
6 do not do that.

7 MR. RAYMOND OAKES: Are -- is what you're
8 saying that, in fact, the rate requirements below the
9 major use level are basically allocated from that level?

10 MR. DONALD PALMER: Yes. The
11 determination of -- of the rate starts with the major
12 class indication, is applied a series of differentials
13 and then balanced back to the overall indication, yes.

14 MR. RAYMOND OAKES: Okay. Just by way of
15 example, let's say a claim happens to a motorcyclist in
16 Territory 2 for a million dollars. Would the effect be
17 an increase in the overall increase in pure premiums for
18 the motorcycle class in all of Manitoba?

19 MR. DONALD PALMER: Yes. Let me -- it
20 sort of depends in terms of, you know, there are a number
21 of credibility factors and balancing factors and capping
22 factors and all those kind of things. But to come up
23 with the major class indication that we then bubble
24 through, yes, it would be included in the motorcycle
25 experience, sure.

1 MR. RAYMOND OAKES: So -- and you're
2 saying it would also result in an increase in the
3 premiums for motorcycles in Territory 2?

4 MR. DONALD PALMER: Because that would
5 affect the Territory 2 differential, yes.

6 MR. RAYMOND OAKES: And for the specific
7 motorcycle involved, would its rate group change or be
8 affected?

9 MR. DONALD PALMER: No. There could be
10 an adjustment to the rate line; that's a different issue.
11 But...

12

13 (BRIEF PAUSE)

14

15 MR. RAYMOND OAKES: With respect to rate
16 groups for cars then, does the Corporation, each year,
17 reset the rate groups for vehicles through updating of
18 the CLEAR rate groups?

19 MR. DONALD PALMER: Yes.

20 MR. RAYMOND OAKES: And do some of these
21 cars during a particular application decrease one (1),
22 two (2) or three (3) rate groups?

23 MR. DONALD PALMER: Our general algorithm
24 that we have used is that we allow vehicles to move up
25 one (1) rate group, but can move down as far as they need

1 to go.

2 MR. RAYMOND OAKES: And, would a decrease
3 in that rate group decrease the rate paid?

4 MR. DONALD PALMER: If we only looked at
5 that in isolation, yes, but a move to a lower rate group
6 is also dependent on the rate indication for that use
7 territory.

8 It's also dependent on the classification
9 offset that might be applied, so I can't say necessarily
10 that if a -- if a rate or a vehicle moves down a rate
11 group that that rate would necessarily go down.

12

13

(BRIEF PAUSE)

14

15 MR. RAYMOND OAKES: Suppose the \$1
16 million claim in Territory 2 was for a car in which the
17 rate group decreased, would the major use, insurance use
18 and territory have a higher rate?

19 MR. DONALD PALMER: I don't know that you
20 can necessarily say one (1) claim has a higher rate,
21 because you don't know what goes on in every other use
22 territory classification.

23 As far as the impact if it was there
24 compared to if it was not there, again, it depends on the
25 credibility of the individual group, it -- it depends on

1 all kinds of factors, so it's difficult for me to answer
2 that question.

3 MR. RAYMOND OAKES: How about if it was a
4 \$10 million claim?

5

6

(BRIEF PAUSE)

7

8 MR. DONALD PALMER: I've never seen a \$10
9 million claim, so -- if there was one, there would be a
10 rate impact, absolutely.

11 MR. RAYMOND OAKES: And, are there
12 circumstances in that example where the rate for that
13 particular vehicle could, in fact, go down even with a
14 loss of that magnitude, given the fact that the rate
15 group decreased?

16 MR. DONALD PALMER: Sure.

17 MR. RAYMOND OAKES: I want to ask you a
18 few questions about CLEAR. Alberta, BC and the
19 Maritimes, those are Tort provinces, would you agree with
20 that?

21 MR. DONALD PALMER: Yes, I would.

22 MR. RAYMOND OAKES: Suppose in Alberta
23 two (2) vehicles collide, both have collision damage and
24 suppose both vehicles are -- suppose one (1) vehicle's
25 100 percent at fault and the second vehicle "B" is 0

1 percent at fault.

2 When this claim is settled, do the cost
3 of the collision repairs for the not at-fault vehicle,
4 vehicle "B" get paid from the third-party coverage of the
5 at-fault vehicle, vehicle "A"?

6 MR. DONALD PALMER: Alberta, to my
7 knowledge, does not have a direct compensation plan, so
8 that would be true.

9 MR. RAYMOND OAKES: Does the IBC receive
10 data from those Tort provinces?

11 MR. DONALD PALMER: Yes, they do.

12 MR. RAYMOND OAKES: And, that data would
13 be used in determining clear rate groups?

14 MR. DONALD PALMER: They would not
15 receive that particular data; they would receive the
16 first-party data for the collision and comprehensive
17 claims, yes and as that's what the coverage is.

18 MR. RAYMOND OAKES: And, in the case of
19 Alberta, it has approximately double the population of
20 Manitoba, so the assumption being that it has a greater
21 number of vehicles, probably represents a greater
22 percentage of the total clear data than what Dr.
23 Tabachneck indicated in Manitoba, being about 5 percent
24 of CLEAR?

25 MR. DONALD PALMER: I would not

1 necessarily agree with that, because essentially they
2 only get half the data. They only get the first-party
3 coverage, so that means at-fault, and it's not a
4 compulsory coverage in Alberta, so I can't comment that
5 it would be more or less than Manitoba.

6

7

(BRIEF PAUSE)

8

9

10 MR. RAYMOND OAKES: I want to ask Ms.
11 McLaren some questions. I understand, Ms. McLaren, that
12 you were in the capacity of Vice-President in 1994, when
13 MPI went to the no-fault PIPP Plan?

13

MS. MARILYN MCLAREN: No, I wasn't.

14

15 MR. RAYMOND OAKES: What was your
16 position at that time?

16

17 MS. MARILYN MCLAREN: Manager of customer
18 service, I believe, public information maybe, one (1) of
19 the two (2).

19

20 MR. RAYMOND OAKES: And I recall Mr.
21 Zacharias having to attend the Board of Directors'
22 meetings with respect to the potential introduction of
23 no-fault insurance in Manitoba.

23

24 You weren't present at any of those
25 presentations to the Board of Directors, would that be
correct?

1 MS. MARILYN MCLAREN: You're talking
2 about the Corporation's Board of Directors?

3 MR. RAYMOND OAKES: That's correct.

4 MS. MARILYN MCLAREN: I think that's
5 correct, I don't believe I was at those meetings of the
6 Board of Directors.

7 MR. RAYMOND OAKES: What was your
8 involvement relative to the discussions prior to the
9 introduction of no-fault?

10 MS. MARILYN MCLAREN: Within Manitoba
11 Public Insurance, there was a four (4) person design team
12 that was charged with responsibility for reviewing the
13 Quebec plan and making recommendations for a Manitoba
14 Plan. I was on that four (4) person design team.

15 We effectively drafted the provisions of
16 the legislation. We identified situations where we would
17 recommend diverging from the Quebec Plan, because that
18 was the mandate that we were given to make
19 recommendations consistent with that, until -- unless
20 there were reasons to differ.

21 We had a number of meetings with the
22 executive at the Management Committee, to identify and --
23 and discuss the recommendations for both consistency with
24 and divergence from the plan in Quebec, and that that
25 four (4) person design team had a -- had a number of

1 other responsibilities, but those were the key ones with
2 respect to the development of the plan itself.

3 MR. RAYMOND OAKES: I recognize that was
4 approximately a decade ago or more.

5 Do you recall what the time lines for your
6 consultation and preparation of an opinion were, with
7 respect to no-fault?

8 MS. MARILYN MCLAREN: I believe the team
9 started its work very, very early in 1993, and I believe
10 the legislation was passed some time in June; June or
11 July of 1993.

12 MR. RAYMOND OAKES: So would you agree
13 with me that it was a very tight time line for the
14 analysis?

15 MS. MARILYN MCLAREN: The analysis of
16 options for the Government to consider was -- went on for
17 a protracted period of time before the -- the decision
18 was taken by the Government to ask MPI to make
19 recommendations for a plan, based on a Quebec model, that
20 happened in January.

21 There was a -- a great deal of work and
22 analysis done before that, to bring them to that point
23 where they wanted to make that recom -- that -- that
24 directive to us. So it wasn't so much an analysis that
25 happened between January and when the legislation was

1 passed, it was the actual development of the plan itself
2 and recommendations for the content of the plan.

3 MR. RAYMOND OAKES: So how long did your
4 team have?

5 MS. MARILYN MCLAREN: The team to make
6 the recommendations for the Manitoba no-fault injury
7 compensation plan was struck in January and finished its
8 work when the legislation was passed six (6) months
9 later.

10 MR. RAYMOND OAKES: And I understand that
11 in the course of development of the plan, there was no
12 opportunity for representation from stakeholders; is that
13 correct?

14

15 (BRIEF PAUSE)

16

17 MS. MARILYN MCLAREN: No, not quite
18 because the plan itself continued to evolve up to the
19 point where the legislation was finalized. And as part
20 of the legislative development process in Manitoba there
21 is public hearings.

22 And public hearings, and I believe some --
23 some changes arising from that, came through that
24 developmental process.

25 The four (4) person design team was not

1 expected, nor did they, consult publicly. But the
2 legislative process absolutely had public consultation as
3 part of it.

4 MR. RAYMOND OAKES: Now, during the time
5 period that you're speaking of for MPI's development of a
6 potential plan, you would have been busy during that time
7 developing the GRA for 2005, essentially, I guess, at
8 that time? I'm sorry, 1995?

9 MS. MARILYN MCLAREN: It would have been
10 1994 rate application, but none of the four (4) people on
11 that design team -- design team were directly responsible
12 for rate application development.

13 MR. RAYMOND OAKES: And I'm told that, in
14 fact, at that time the Corporation was not able to
15 determine where the -- when the new plan might be
16 implemented or, in fact, if, and for that year's rate
17 application it had to prepare one in draft based on no-
18 fault and one based on the Tort system continuing; is
19 that correct?

20 MR. DONALD PALMER: I can answer that
21 since I was there or involved in the production of those
22 rate applications and I can confirm that, yes,
23 essentially there was two (2) rate applications drafted
24 ready to go for that year.

25 MS. MARILYN MCLAREN: Mr. Oakes, what I

1 believe the Corporation did was file the application on
2 the basis that the program existed at that time which was
3 in the -- you know, partial no-fault Tort environment.

4 And then subsequent to the hearings
5 modified the application to reflect the passage of the
6 legislation. Because when the application was first
7 filed there -- the legislation had not passed.

8 But prior to the hearings it was passed
9 and we modified it on that basis.

10 MR. RAYMOND OAKES: So it was fortunate
11 that MPI had done two (2) GRA applications so it could,
12 in fact, be ready to file an amended one.

13 MR. DONALD PALMER: If I may, I don't
14 think it's so much that it was fortunate, I think that it
15 took a lot of work to come up with those two (2) rate
16 applications in preparation -- in anticipation of what we
17 thought was going to be passed as legislation.

18 MR. RAYMOND OAKES: And because of those
19 -- all of that work that was required, will you agree
20 with me that the analysis that was conducted of the
21 effect of the plan on motorcycle rates was very, very
22 limited as a result of those resources being limited?

23 MR. DONALD PALMER: I don't know that I'd
24 necessarily agree with that. I think we knew what the --
25 or we had costings what the effect was going to be on

1 different aspects of the program, the accident benefits.

2 And knowing that motorcycles had higher
3 levels of accident benefits prior to the advent of PIPP
4 we knew that there was going to be impact on motorcycles,
5 more so than others and our analysis that was presented
6 at the PUB rate hearings for 1994 showed that.

7 MR. RAYMOND OAKES: Were those rate
8 analyses and calculations brought to the Board that year?

9 MR. DONALD PALMER: Yes, they were.

10 MR. RAYMOND OAKES: And you're saying you
11 would have filed in 2004 calculations showing the effect
12 of no-fault specifically to motorcyclists?

13 MR. DONALD PALMER: In 1990 -- for the --
14 in 1993 for the '94 rate application we, at that point,
15 had motorcycle major class indications that would -- were
16 included, yes.

17 MR. RAYMOND OAKES: During any of the
18 process that both you and Ms. McLaren have spoken about,
19 did MPI consult with motorcyclists or the MMIC?

20 MR. DONALD PALMER: I did not.

21 MR. RAYMOND OAKES: Could I have an
22 answer that's binding on the Corporation, please?

23 MS. MARILYN MCLAREN: The design team
24 didn't, I don't know whether or not motorcycle groups
25 took advantage of the opportunity to appear at the

1 public hearings.

2 MR. RAYMOND OAKES: I want to ask some
3 questions about MPI's overall financial model and can you
4 tell me how much MPI's annual operating expenses would
5 be, roughly?

6 MR. DONALD PALMER: Could you define
7 "operating expense?"

8 MR. RAYMOND OAKES: Well, I think if you
9 look at TI-2, they show an indication for operating
10 expenses. I don't think that's a foreign concept to
11 these hearings. I'm just looking in a general way for
12 the amount of those expenses.

13 MS. MARILYN MCLAREN: Yeah, what -- what
14 Mr. Palmer will do is just take the operating expense
15 line of TI-2 and times it by the number of units.

16 MR. DONALD PALMER: It's \$43.9 million.

17 MR. RAYMOND OAKES: And are the
18 individual operating costs determined for each insurance
19 use and territory?

20 MR. DONALD PALMER: They're -- they're
21 applied in the rate making methodology on a per unit
22 basis. The one -- there's one (1) slight change to that.
23 A couple of years ago we had some specific programs that
24 were allocated to a specific territory, but generally
25 it's done on a per unit basis.

1 MR. RAYMOND OAKES: So, essentially what
2 happens is that the costs are taken in the aggregate and
3 then allocated to each use and territory?

4 MR. DONALD PALMER: Allocated on a per
5 unit basis, yes.

6 MR. RAYMOND OAKES: And, similarly, when
7 we talk about a transfer of costs and loss transfer, the
8 amounts of those losses could be transferred on an
9 aggregate basis and allocated?

10 MR. DONALD PALMER: Could be? I suppose.
11 I -- I don't know that -- again, that's -- when we're
12 calculating the expected cost I don't know that I think
13 that's so different in terms of the way that we allocate
14 claim costs that I think "could" and "would" are two (2)
15 very different things.

16

17 (BRIEF PAUSE)

18

19 MR. RAYMOND OAKES: Mr. Palmer, you spoke
20 about in the 1994 application, the fact that the
21 Corporation applied for motorcycle rates and, in fact,
22 all premiums with a 0 percent increase, is that correct?

23 MR. DONALD PALMER: In my recollection,
24 we had applied that no rate would go up. The effect of
25 that -- and at the same time, we were trying to implement

1 CLEAR and I think our application was for a net slight
2 decrease in rates, but the decision was made that no rate
3 would increase for the 1994/95 year.

4 MR. RAYMOND OAKES: So, the objective at
5 that time was to introduce PIPP with -- on a revenue
6 neutral basis, is that fair to say?

7 MR. DONALD PALMER: No, I don't think
8 that's -- that's fair to say. We had indications of a
9 slight decrease and that's what was applied for. So, I
10 don't think it was intended to be revenue neutral, no.

11 MR. RAYMOND OAKES: Well, with respect to
12 motorcyclists, you're indicating a -- that a 0 percent
13 rate increase was applied for by the Corporation. Was
14 the objective in selecting 0 percent not to introduce
15 PIPP at a cost revenue neutral basis?

16 MR. DONALD PALMER: I think you're
17 confusing revenue neutrality with zero increase and I
18 don't think that that's quite right.

19 I will say that it was applied that no
20 motorcycle rate would go up, I will commit to that.

21 MR. RAYMOND OAKES: Is that any
22 different, Mr. Palmer, from the statement at page 3 of
23 the Dionne Durrell Report, which is contained in Tab 3-A
24 of the materials filed by Board Counsel? And I'll wait a
25 second until you have that.

1 MS. DENYSE COTE: What page, Mr. Oakes?
2 MR. RAYMOND OAKES: Page 3, the Executive
3 Summary?
4 MR. DONALD PALMER: Where on the page
5 please?
6
7 CONTINUED BY MR. RAYMOND OAKES:
8 MR. RAYMOND OAKES: The last paragraph,
9 and I'll read it as follows, the first line says:
10 "We believe that moving from a Tort
11 environment to a no-fault environment,
12 should result in savings for everyone,
13 and not a transfer of claims costs from
14 one vehicle to another."
15 So I'd ask you, Mr. Palmer, whether that
16 isn't a very similar objective to what the Corporation
17 intended in its Application for the 1994 year?
18 MR. DONALD PALMER: No, I would look at
19 that as being very, very different.
20 Our -- when we applied for our 1994 Rates,
21 and we had some costings in terms of what was going to
22 happen to individual rates. There certainly was the
23 belief that on an overall basic rates were going to go
24 down.
25 But, until we saw some evidence of -- of

1 how would it affect individual classes, it was a wait-
2 and-see approach. I don't think the intention was ever
3 to say, on a long-term basis that this won't change
4 rates. But I think for a -- for a one (1) year in --
5 because it was such a change, it was a wait-and-see
6 approach.

7 So, no, I don't think that the statement
8 made by Mr. McFarlane and what we did are the same at
9 all.

10 MR. RAYMOND OAKES: And in the same
11 fashion, I take it then you wouldn't agree with me that
12 the agreement that you personally, or MPI, with your
13 involvement, worked out with Manitoba Health for revenue
14 -- revenue neutrality, reflected the same point that the
15 move to no-fault should have been done without causing
16 additional cost to any particular group?

17 MR. DONALD PALMER: It was very specific
18 in the legislation that other -- I think it said
19 Government entities should -- should come into agreement
20 with Manitoba Public Insurance. I don't think it said
21 any group, you know, there was not the intent to be
22 revenue neutral, no.

23 MR. RAYMOND OAKES: Was there anything
24 that MPI provided on the introduction of loss transfer --
25 I'm sorry, on the introduction -- I'm getting ahead of

1 think there's something worth noting here though with
2 respect to the other information that Mr. Palmer has put
3 on the record.

4 First of all, the fact that in '93
5 motorcycle rates were very, very deficient. Second of
6 all, if, as much as everyone wants to talk about the 300
7 percent increase on motorcycle rates since 1993, since
8 1994, we are presented with information from Dion Durrell
9 that says maybe if a one-way, asymmetrical loss transfer
10 from the motorcycle group was introduced with a massive
11 consideration for Tort compensation that's not available
12 in Manitoba, after this 300 percent rate increase since
13 1993 or 1994, motorcycles might be entitled to a 4
14 percent decrease.

15 So I don't think that you can draw those
16 conclusions that somehow these massive rate increases
17 have been driven by PIPP.

18 MR. RAYMOND OAKES: I think the
19 indication in their report was a reduction of some 42
20 percent.

21 MS. MARILYN MCLAREN: 42 percent of
22 expected loss costs, 42 percent of pure premium, which
23 has to reflect the fact that today motorcycle rates are
24 not sufficient and Mr. Palmer has put the information on
25 the record how that 42 percent direct reduction, which we

1 think is overstated, but the 42 percent would result in a
2 4 percent decrease of a rate that's over 300 percent
3 higher than it was in 1993.

4 MR. RAYMOND OAKES: And is that evidence
5 that was available for Mr. McFarlane to respond to?

6 MS. MARILYN MCLAREN: It uses his
7 numbers.

8 MR. RAYMOND OAKES: Are you saying Mr.
9 McFarlane testified as to a 6 percent reduction?

10 MS. MARILYN MCLAREN: No, he testified
11 that the 42 percent reduction was a reduction in pure
12 premium, not in rates.

13

14 (BRIEF PAUSE)

15

16 MR. RAYMOND OAKES: I understand that in
17 1993, in anticipation of the move to no-fault, that there
18 was mass mailings directed to the Manitoba motorist with
19 respect to the introduction of no-fault; is that correct?

20 MS. MARILYN MCLAREN: I think there was a
21 very brief mailing to all Manitobans in 1993, somewhat
22 around the time that the legislation was under
23 consideration in the House before the -- before the
24 legislature.

25 There was a much more detailed description

1 provided to all Manitoba households in 1994, from
2 Manitoba Public Insurance once the legislation was in
3 placed -- in place; that was our effort to have
4 Manitobans understand the compensation system that was
5 going to kick in on the 1st March, '94. There was at
6 least those two (2) mailings that went to every
7 household.

8 MR. RAYMOND OAKES: I'm advised in those
9 two (2) mailings that there was no mention with respect
10 to motorcycle insurance?

11 MS. MARILYN MCLAREN: The information,
12 particularly the second very detailed description of the
13 information, was -- was solely a description of coverage,
14 of guaranteed access. It was not related in any way to
15 vehicles.

16 I don't think probably the word vehicle
17 probably wasn't even mentioned. It was intended to
18 inform all Manitobans that all Manitobans were now
19 protected by that plan of injury compensation.

20 MR. RAYMOND OAKES: So your answer is, in
21 short, that I'm correct in that assertion?

22 MS. MARILYN MCLAREN: Yes.

23 MR. RAYMOND OAKES: Mr. Chairman, I'm
24 moving to a different area, I'm just wondering whether it
25 might behove all parties to have me use the supper hour

1 to reorganize and be ready to go at 7:00?

2 THE CHAIRPERSON: I think we'll take your
3 advice, Mr. Oakes. So we'll shut down until 7:00. I
4 think we all need to rejuvenate a bit. Thank you.

5 Mr. Oakes, I'm just wondering, do you have
6 an estimate as to how long you're going to require?

7 MR. RAYMOND OAKES: Can I give you that
8 when we reconvene, just because I would like some
9 opportunity to review. There was a lot of evidence --

10 THE CHAIRPERSON: That would be fine.
11 Maybe you'd let Mr. Saranchuk know?

12 MR. RAYMOND OAKES: Certainly.

13

14 --- Upon recessing at 4:00 p.m.

15 --- Upon resuming at 7:00 p.m.

16

17 THE CHAIRPERSON: Good evening, everyone.
18 Okay. Mr. Oakes, any time you want to
19 start.

20

21 CONTINUED BY MR. RAYMOND OAKES:

22 MR. RAYMOND OAKES: Thank you, Mr.
23 Chairman. If I could refer the Corporation's witnesses
24 to its loss transfer position paper; of course, that's
25 Tab 4 of the PUB filing.

1 And in the first page in the first
2 paragraph, MPI had indicated its understanding of the
3 Board's position and it says as follows in the second
4 sentence:

5 "The Board was influenced by what it
6 understood as consensus, that loss
7 transfer versus first-party cost
8 allocation is not an actuarial issue,
9 but a public policy issue. The
10 Manitoba Public Insurance Corporation
11 agrees."

12 Do you see that?

13 MS. MARILYN MCLAREN: Yes.

14 MR. RAYMOND OAKES: And then, if I can
15 refer to page 5 in the first full paragraph of that
16 report, it makes the statement after talking about loss
17 transfer at a territory level:

18 "This approach fails the test of
19 actuarial principles. The question is,
20 given MPI's position that loss transfer
21 is not an actuarial issue, but a public
22 policy issue, how is it that the issue
23 is to be tested on actuarial
24 principles?"

25 MS. MARILYN MCLAREN: Well, as we talked

1 bout earlier in these proceedings, there are virtually
2 unlimited approaches to loss transfer; some of them
3 absolutely would fail an actuarial test with respect to
4 how they are introduced in an existing rate making
5 methodology.

6 That's the point that we're making here.
7 To introduce it at the major class level with what the
8 Corporation has in existence with respect to its
9 understanding of and knowledge of rates below that when
10 we have the kind of inconsistency, the flip-flop between
11 increasing rates and decreasing rates between major class
12 and insurance use territory level, that does not meet the
13 test.

14 MR. RAYMOND OAKES: And so, you're saying
15 that the issue, then, is to be tested on actuarial
16 principles?

17 MS. MARILYN MCLAREN: Individual
18 applications of a loss transfer approach must be, I
19 believe. But at the conceptual level, is it possible to
20 have loss transfer that does not impinge on actuarial
21 principles? Yes, we agree with that.

22 The Corporation would certainly have some
23 comments about a particular approach if it believed that
24 approach to be either problematic from an operational
25 administrative public policy or actuarial perspective.

1 MR. RAYMOND OAKES: So, is it your
2 evidence that other than on a conceptual basis, that this
3 Board should be relying on expert actuarial opinion to
4 guide the Board in determining the issue of
5 implementation of loss transfer?

6 MS. MARILYN MCLAREN: Can you repeat that
7 question?

8 MR. RAYMOND OAKES: Is it your evidence
9 that other than the conceptual issues of loss transfer
10 that based on the actual implementation of loss transfer
11 that the Board should be guided based on the available
12 expert actuarial opinion produced to this Board?

13 MS. MARILYN MCLAREN: Yes, that's one (1)
14 of the things I believe the Board has an obligation to be
15 guided by; there are a number of others. It's
16 exceedingly important on something like this that we
17 fully understand the consequences of any direction given
18 and that there are virtually no unintended consequences.

19 MR. RAYMOND OAKES: I'm going to move to
20 page 3 of the Corporation's loss transfer position just
21 below the table shown at page 3 and this is the
22 Statistics Canada 2001 census data that's reproduced
23 there and the conclusion that the median household income
24 in Winnipeg is 7 percent higher in Winnipeg than in
25 Manitoba as a whole.

1 And it gives the amounts, fifty-four
2 thousand, seven hundred and twenty-five (54,725) for
3 Winnipeg versus fifty thousand, nine hundred and thirty-
4 four dollars (\$50,934) for Manitoba.

5 Do you see that there?

6 MS. MARILYN MCLAREN: Yes, I do.

7 MR. RAYMOND OAKES: Does the Corporation
8 have an account with Statistics Canada for CANSIM data?

9

10 (BRIEF PAUSE)

11

12 MS. MARILYN MCLAREN: I'm not sure. We'd
13 have to check that and confirm it.

14 MR. RAYMOND OAKES: The material produced
15 in the loss transfer position paper looks at, as I've
16 just read, the median household income.

17 Can you -- can you or Mr. Palmer define
18 what a median is?

19 MR. DONALD PALMER: Sure. The median is
20 a -- is a value that there's as many values above that as
21 below it.

22 MR. RAYMOND OAKES: In the Corporation's
23 rate making methodology does the Corporation use the word
24 or the -- the technique of a median?

25

1 (BRIEF PAUSE)

2
3 MR. DONALD PALMER: I'm -- I'm going
4 through in my mind the many, many, many calculations that
5 we have. I don't believe that the median is used. But I
6 could be corrected on that.

7 MR. RAYMOND OAKES: In the Corporation's
8 produced rate filings before this Board each year with
9 respect to its insurance product; is that a term that's
10 used in the GRA application material?

11
12 (BRIEF PAUSE)

13
14 MR. DONALD PALMER: Again, I'm not
15 positive if it is or it isn't.

16 MR. RAYMOND OAKES: The Interrogatories
17 and the CMMG Interrogatories are at 6(c), although I
18 don't know that you need to turn to our Interrogatories
19 12 and 13 if you accept that we asked you to provide
20 average income data for Manitoba and Winnipeg and MPI
21 declined; do you recall that?

22
23 (BRIEF PAUSE)

24
25 MR. DONALD PALMER: I recall that.

1 MR. RAYMOND OAKES: And you directed us
2 to file the material if we wished and, to that end, I've
3 delivered a printout from CANSIM and at this time I'd ask
4 if the Board Secretary would mark that sheet of
5 calculations as the next exhibit?

6 THE CHAIRPERSON: Exhibit Number 36.

7 MR. RAYMOND OAKES: Thank you for that.

8

9 --- EXHIBIT NO. MPI-36: Printout from CANSIM.

10

11 CONTINUED BY MR. RAYMOND OAKES:

12 MR. RAYMOND OAKES: Mr. Palmer, reviewing
13 that data, it indicates that the difference in income
14 between Winnipeg and the rest of Manitoba is some fifteen
15 hundred dollars (\$1500) and for 2001 some sixteen hundred
16 dollars (\$1,600).

17 Do you see that information?

18 MR. DONALD PALMER: And Winnipeg is
19 higher. Yes, I see that.

20 MR. RAYMOND OAKES: But I'm speaking to
21 the amount, do you see the sixteen hundred dollars
22 (\$1,600) difference 2002?

23 MR. DONALD PALMER: Winnipeg is bigger by
24 sixteen hundred dollars (\$1600), yes.

25 MR. RAYMOND OAKES: I wonder is that the

1 -- that -- that difference is smaller than the
2 information the Corporation's produced using a median; is
3 that correct?

4 MR. DONALD PALMER: That's correct.

5 MR. RAYMOND OAKES: And is that the
6 reason that the Corporation selected information and put
7 it forth to this Board on the median because that was
8 less than the -- the average?

9 MR. DONALD PALMER: No.

10 MR. LEN EVANS: Excuse me, I wonder if I
11 could interject with a question which is bearing on this.

12 Is it not correct that the CANSIM series
13 that you have here is referred to in constant dollars,
14 whereas I believe the data in the document here is
15 current dollars; am I correct?

16 So that accounts for differences?

17

18 (BRIEF PAUSE)

19

20 MR. RAYMOND OAKES: We're not aware that
21 that's true. In fact the information that we have --

22 MR. LEN EVANS: Excuse me, just to
23 clarify, these are constant dollars are they not?

24 That's what it says. Whereas these are
25 current dollars so there's a difference.

1 MR. RAYMOND OAKES: I'm going to elect to
2 move on to the next question having not the background
3 information with respect to that.

4 THE CHAIRPERSON: Please do so.
5

6 CONTINUED BY MR. RAYMOND OAKES:

7 MR. RAYMOND OAKES: I wonder if I could
8 direct the Corporation's attention in Tab 6(c) to CMMG
9 Interrogatory 37 -- I'm sorry, number 6 to begin with.
10

11 (BRIEF PAUSE)
12

13 MR. RAYMOND OAKES: And if the
14 Corporation has that, referring to that Interrogatory for
15 the one hundred and eighty-nine thousand, twenty-six
16 (189,026) pleasure vehicles, are these passenger vehicles
17 and light trucks or does it include other types of
18 pleasure vehicles?
19

20 (BRIEF PAUSE)
21

22 MR. DONALD PALMER: I believe it's
23 passenger vehicles and light trucks. I -- I think the
24 only other category that we would have a pleasure use for
25 would be motorhomes. There's few of them so it wouldn't

1 make any difference to the answer.

2 MR. RAYMOND OAKES: And the answer
3 indicates that seventy thousand, nine hundred and
4 nineteen (70,919) pleasure vehicles are registered to
5 persons sixty-five (65) and older.

6 And I'd ask you to confirm that that's
7 approximately one-third of all pleasure vehicles?

8 MR. DONALD PALMER: That looks close.

9 MR. RAYMOND OAKES: And, of course, many
10 persons older than age sixty-five (65) are not retirees;
11 is that correct?

12 MR. DONALD PALMER: And many under sixty-
13 five (65) are retirees, so, sure.

14 MR. RAYMOND OAKES: I accept that. If a
15 person had an all purpose passenger vehicle and a
16 pleasure passenger vehicle insured to them, could we
17 assume, more or less, that they are working?

18 MR. DONALD PALMER: Or going to school or
19 someone else who's driving the care could be working or
20 going to school.

21 MR. RAYMOND OAKES: And I wonder if I
22 could direct your attention to CMMG Interrogatory 37.

23

24

(BRIEF PAUSE)

25

1 MR. RAYMOND OAKES: And if the
2 Corporation had of agreed to answer that, would that
3 information request have given us information relative to
4 the distribution between people that have an all purpose
5 passenger vehicle and a pleasure vehicle insured in
6 answer to that previous question?

7
8 (BRIEF PAUSE)

9
10 MR. DONALD PALMER: You said pleasure use
11 and vehicles that are insured in another insurance use,
12 that doesn't necessarily mean all purpose.

13 MR. RAYMOND OAKES: If it had of said
14 that, would the Corporation have been in a position to
15 answer that request?

16
17 (BRIEF PAUSE)

18
19 MS. MARILYN MCLAREN: No, we still would
20 have taken the position that it wasn't germane to the
21 subject of this hearing.

22 MR. RAYMOND OAKES: Moving to CMMG 18
23 then, which the Corporation did answer.

24 On average does the answer indicate the
25 rates for all purpose passenger vehicles go down from

1 loss transfer as a result of loss transfer?

2

3

(BRIEF PAUSE)

4

5 MR. DONALD PALMER: They go down in
6 Territories 1, 2, 3 and 5. And go up in Territory 4.

7 MR. RAYMOND OAKES: Okay, so then on
8 average all purpose passenger vehicles go down?

9 MR. DONALD PALMER: Sure.

10 MR. RAYMOND OAKES: Because, of course,
11 the vast majority of vehicles are in Territory 1?

12 MR. DONALD PALMER: Yes.

13 MR. RAYMOND OAKES: And pleasure vehicles
14 go up?

15 MR. DONALD PALMER: That's correct.

16 MR. RAYMOND OAKES: And so if a person
17 had a pleasure vehicle registered and an all purpose
18 passenger vehicle, they may experience only a slight
19 change in rate as one offsets the other?

20 MS. MARILYN MCLAREN: All else being
21 equal, that probably would be true. I think we need to
22 remember that a significant majority of Manitobans own
23 one vehicle.

24 MR. RAYMOND OAKES: Briefly, can the
25 Corporation indicate what the difference in PIPP benefits

1 for retirees are compared to non-retirees?

2 MS. MARILYN MCLAREN: The only difference
3 is for people over the age of sixty-five (65) who are not
4 working when they were injured would not be eligible for
5 an income replacement indemnity.

6 MR. RAYMOND OAKES: And there is a PIPP
7 benefit called RIB could you just explain that?

8 MS. MARILYN MCLAREN: Yes. Unlike the
9 income replacement indemnity, people who have been
10 injured either before or after they would be at
11 retirement age would be eligible for a Retirement Income
12 Benefit.

13 Unlike the other component of income
14 replacement, the IRI, the RIB is paid secondary to other
15 retirement income. So it's offset -- the amount we would
16 pay would be offset by other -- by other retirement
17 income.

18 MR. RAYMOND OAKES: And when did RIB
19 commence?

20 MR. DONALD PALMER: In 1999.

21 MR. RAYMOND OAKES: So, for the first
22 five (5) years following the introduction of PIPP, if
23 someone was retired and they were injured severely, they
24 would have no income replacement, they would have nothing
25 akin to the protection of a RIB, no monies essentially

1 would be paid?

2

3

(BRIEF PAUSE)

4

5

MS. MARILYN MCLAREN: Yes, that's --
6 people over the age of sixty-five (65) prior to 1999 who
7 were injured in an automobile accident were not eligible
8 for an income replacement indemnity if they didn't have
9 any income to lose.

10

MR. RAYMOND OAKES: So they were paying
11 full premiums but they weren't getting the benefits of
12 the non-retired members in Manitoba?

13

MS. MARILYN MCLAREN: All the costs are
14 included in the groups, they would not likely be insured
15 in an all purpose group. Reasons like that are part of
16 the explanation as to why pleasure use insurance is lower
17 cost than all purpose use.

18

We would argue that they are still paying
19 rates that are reflective of their loss costs.

20

MR. RAYMOND OAKES: The Corporation must
21 have thought that its approach for the five (5) years
22 following the introduction of PIPP to be unfair otherwise
23 it wouldn't have introduced the RIB benefit; isn't that
24 correct?

25

MS. MARILYN MCLAREN: The Corporation

1 doesn't introduce things like that, the legislature does.
2 So there was a change -- there was -- you know, there was
3 payments to people until they were sixty-nine (69) if
4 they were working when they were injured.

5 There was a step-down procedure between
6 1994 and 1999 that was replaced with the system that we
7 have today. But it wasn't something that the Corporation
8 came up with and it was not on its say so.

9 It was a change to the legislation.

10 MR. RAYMOND OAKES: Would you agree with
11 me then that public policy dictated that the Corporation
12 was treating its seniors unfairly by not providing the
13 same type of benefits that are now provided by RIB?

14 MS. MARILYN MCLAREN: No. The
15 Corporation doesn't decide what coverage to give people.
16 The legislature made a decision to change the coverage it
17 specified in that situation.

18 Seniors who were injured for the first
19 time after the age of sixty-five (65) aren't going to be
20 eligible for IRI or RIB today either. If they haven't
21 got an income, they haven't had a loss and there's no
22 difference.

23 MR. RAYMOND OAKES: If there was no
24 difference then what was the public policy that supported
25 the change to introduce RIB?

1 MS. MARILYN MCLAREN: For the most part,
2 the concerns that were expressed, I believe largely
3 through the personal injury protection plan review
4 process -- review commission, the Uskiw Commission
5 identified -- particularly identified concerns with
6 people who were injured at a very young age and were paid
7 an IRI virtually for what otherwise would have been their
8 entire working life, who then hit age sixty-five (65) and
9 started the step-down process and the IRI would end at
10 age sixty-nine (69).

11 And this was intended to address that for
12 people who were injured for a significant period of time,
13 never had an opportunity to contribute to a pension plan
14 and get the resulting tax breaks inherent in registered
15 pension plans that provided a lifelong income stream for
16 those people; that was the primary motivation as I
17 understand it.

18 MR. RAYMOND OAKES: And was MPI lobbying
19 for the government to make that change on behalf of those
20 persons?

21 MS. MARILYN MCLAREN: No, it was
22 something that came out of the Uskiw Commission which was
23 separate from the Corporation.

24 MR. RAYMOND OAKES: And so for the five
25 (5) years after the introduction of PIP the Corporation

1 did nothing to try and obtain those benefits for seniors?

2 MS. MARILYN MCLAREN: It's not the
3 Corporation's responsibility nor mandate to -- to lobby
4 government. And I think the other thing that needs to be
5 pointed out is that through the legislation that was in
6 place in 1994 anyone who was injured, at that time,
7 received their income replacement indemnity.

8 And even if at that point they then became
9 sixty-five (65) they would start a four (4) year step-
10 down process. So even those people would still have been
11 in the system at -- in 1999 and the Corporation, through
12 public policy direction of government, has had a
13 longstanding practice is that whenever benefits are
14 changed or when -- when no-fault benefits, particularly
15 through the Corporation's entire history are enhanced,
16 existing claimants get the benefit of those enhancements.

17 So virtually there was no one in the early
18 years of PIPP who would not have had the opportunity to
19 be included in the RIB.

20 MR. RAYMOND OAKES: I'm going to move to
21 the Corporation's assertion that the present system
22 assists consumers to make wise choices to reduce
23 accidents and risk by virtue of the selection of
24 vehicles; would you like to just enunciate for the Board
25 your theory or position on that point?

1 MS. MARILYN MCLAREN: We know from our
2 contact with Manitobans that a feature of their shopping
3 process for vehicles is to consider what the insurance
4 costs will be for those vehicles.

5 What I talked about through these
6 proceedings is not only the vehicle choice but the other
7 decisions that consumers make about how they're going to
8 use that vehicle, where they're going to use it.

9 And the other factors that I believe are
10 very, very important in building reasonable confidence in
11 Manitobans that they can understand where their Autopac
12 rates are coming from and what influences their Autopac
13 rates.

14 MR. RAYMOND OAKES: Now, in CMMG
15 Interrogatory 5, we asked the Corporation:

16 "Please provide any studies the
17 Corporation has that the public
18 considers first-party assignment of
19 costs in their selection of vehicles
20 they purchase."

21 And the response was:

22 "The Corporation does not have such a
23 study."

24 Is that still the Corporation's position?

25 MS. MARILYN MCLAREN: Yes.

1 MR. RAYMOND OAKES: And ask the Board
2 Secretary if we could mark as the next exhibit the CAA
3 Demographic Overview that was handed out before?

4 THE CHAIRPERSON: This is -- the first
5 page says, "206 Car Guide February 2003", at the bottom
6 on the left, at the bottom?

7 MR. RAYMOND OAKES: That's correct, Mr.
8 Chairman.

9 THE CHAIRPERSON: So, this would be
10 Exhibit 37.

11 --- EXHIBIT NO. MPI-37: CAA Demographic Overview.
12
13

14 CONTINUED BY MR. RAYMOND OAKES:

15 MR. RAYMOND OAKES: Now, Ms. McLaren, in
16 this exhibit that's just been produced, if I can refer
17 you to the second half of that first page, where it says
18 "vehicle acquisition: vehicle-related factors affecting
19 vehicle choice", and then the text to the right of that,
20 it indicates that reliability was chosen as the most
21 dominate vehicle-related factor affecting respondent's
22 choice of vehicle.

23 Do you see that?

24 MS. MARILYN MCLAREN: Yes, I do.
25

1 (BRIEF PAUSE)

2
3 MR. RAYMOND OAKES: Reviewing that CA
4 study, can you see anywhere and all of the factors are
5 listed of -- below that bar graph at the bottom, but do
6 you see anywhere that insurance premiums enter into the
7 factors affecting consumer choices?

8 MS. MARILYN MCLAREN: Well, if you're
9 suggesting it doesn't look like the CAA gave them that as
10 one of the options, I would have to agree.

11 MR. RAYMOND OAKES: Well, it certainly
12 isn't featured as any of the answers, that's quite clear.

13
14 (BRIEF PAUSE)

15
16 MR. RAYMOND OAKES: Wouldn't you agree
17 it's not one of the fourteen (14) factors listed there?

18 MS. MARILYN MCLAREN: Agreed.

19
20 (BRIEF PAUSE)

21
22 MR. RAYMOND OAKES: Now, given that the
23 Corporation doesn't have any study or any proof of the
24 position that you've just enunciated, unless you'd like
25 to correct me, do you have some proof that you'd like to

1 file with respect to that relationship?

2

3

(BRIEF PAUSE)

4

5

MS. MARILYN MCLAREN: I do -- I -- I'm
6 not -- these are not the same questions. You're
7 questioning number 5 and the information you have here
8 are not answers to the same question.

9

10 Now, do we have statistical information
11 that says that they chose that first-party allocation of
12 costs is important in their vehicle selection? No, we
13 stand by the answer we gave you some weeks ago.

14

15

MR. RAYMOND OAKES: Okay, and do you have
16 some proof with respect to the insurance premiums
17 entering into the factors affecting consumers' choices?

18

19

20

MS. MARILYN MCLAREN: Our responsibility
21 is to make sure that Manitobans have an understanding and
22 a comfort level with how their Autopac rates are
23 determined and if that was a reflection this would look
24 fundamentally different.

25

26

27

28

29

Vehicle acquisition, when some other
30 third-party comes up with a shopping list for people to
31 choose what is important to them and whether they didn't
32 put insurance on -- the cost of insurance on the list at
33 all, or whether it was constructed in some other way, is

1 a moot point.

2 This somehow, if what you're suggesting is
3 this table at the bottom of 206 car guide February 2003,
4 somehow refutes the fact that Manitobans have significant
5 interest in how much they pay for auto insurance, and
6 consider auto insurance when they choose a vehicle in
7 Manitoba, I disagree with that.

8 MR. RAYMOND OAKES: Well, I don't think I
9 asked you to agree, disagree or give us a dissertation.
10 I asked if the Corporation has any proof?

11 MS. MARILYN MCLAREN: Of?

12 MR. RAYMOND OAKES: The fact that
13 motorists in Manitoba use the amount of insurance
14 premiums as one of the factors affecting their decisions
15 on what type of vehicle to operate.

16

17 (BRIEF PAUSE)

18

19 MS. MARILYN MCLAREN: Well, you've
20 certainly told us that there are some Manitobans that
21 don't buy motorcycles 'cause of the cost of insurance.

22

23 (BRIEF PAUSE)

24

25 MR. RAYMOND OAKES: Let's look at another

1 example, and this is not a -- certainly not a personal
2 attack, as it certainly commend people who go about on
3 two (2) wheels, but bicyclists are listed in the MPI
4 website as vulnerable road users. Are you aware of that?

5 MS. MARILYN MCLAREN: Yes, I am.

6 MR. RAYMOND OAKES: Now, Ms. McLaren,
7 that certainly didn't change your decision to buy and
8 operate a bicycle?

9 MS. MARILYN MCLAREN: No, I actually buy
10 and operate more than one (1).

11 MR. RAYMOND OAKES: Thank you for proving
12 my point on that.

13 Moving to the next issue, and I'm afraid
14 these are somewhat more technical references. And the
15 first reference is CMMG Interrogatory Number 11 at Tab 6,
16 again.

17

18 (BRIEF PAUSE)

19

20 MR. RAYMOND OAKES: Mr. Chairman, I look
21 at this page with some trepidation as I'm sure we all do,
22 especially at this hour. And I -- I wonder -- if I can
23 ask Mr. Palmer, does this -- does using the formula
24 that's expressed in the answer to CMMG/IR-11 lead to the
25 standard deviation of 14.9 percent with the status quo

1 and 18 percent with loss transfer?

2 MR. DONALD PALMER: Yes.

3 MR. RAYMOND OAKES: And then referring to
4 Exhibit 2, would roughly three hundred thousand (300,000)
5 vehicles, and this is Exhibit 2 in the MPI position
6 paper.

7

8 (BRIEF PAUSE)

9

10 MR. DONALD PALMER: I believe it is
11 Exhibit 3.

12 MR. RAYMOND OAKES: Okay, Exhibit 3, I
13 think that's at page 4 in the exhibits.

14

15 (BRIEF PAUSE)

16

17 MR. DONALD PALMER: Page 16 of our
18 position paper.

19 MR. RAYMOND OAKES: Right, thank you for
20 that.

21 And referring to that exhibit, would
22 roughly three hundred thousand (300,000) vehicles receive
23 a rate decrease or no change in rate under loss transfer?

24 MR. DONALD PALMER: I haven't added them
25 up, but I'll take your word for it.

1 CONTINUED BY MR. RAYMOND OAKES:

2 MR. RAYMOND OAKES: Is anyone at MPI
3 familiar with that book known as Mason and Lynd?

4 MR. DONALD PALMER: No, sir.

5 MR. RAYMOND OAKES: Based upon your
6 review of pages 106 and 107 that we've attached to that
7 exhibit, that shows the formula used, I'm told by MPI, is
8 incorrect and I'm referring in that respect to the --
9 page 107 by the area -- by the arrow that's indicated.

10 MR. DONALD PALMER: I don't -- I don't
11 believe that says that. I look in 106 and I say -- and I
12 see one (1) form -- one (1) formula for the sample
13 standard deviation is, and it gives it -- doesn't say
14 that's the only one.

15 MR. RAYMOND OAKES: I guess the question
16 then would -- if the Corporation used the formula that's
17 expounded by this text, would it have a different result
18 than the formula used by MPI?

19 MR. DONALD PALMER: I think the
20 important...We have not used this specific formula. I
21 think ... I'm just checking with my expert.

22

23 (BRIEF PAUSE)

24

25 THE CHAIRPERSON: Mr. Oakes, let's give

1 him a minute or so here.

2 MR. RAYMOND OAKES: I think you could
3 probably give me about two (2) weeks and I'm not sure I'd
4 come up with the answer.

5 THE CHAIRPERSON: Well, actually Mr.
6 Oakes, given that there's no mathematician sitting up
7 here, would you help the Board, explaining the --

8 MR. DONALD PALMER: Yes.

9 THE CHAIRPERSON: It would help us
10 understand where you're going.

11 MR. DONALD PALMER: I can just help you
12 out, I think. I think I can help you out.

13 The measurement of the standard deviation
14 in itself is probably not that important. What we were
15 trying to accomplish here is to talk about the dispersion
16 of rates under the -- and -- and hence the dislocation.

17 Now, this formula will not give the same
18 result as our formula. And I would have to test this
19 formula on those two (2) -- two (2) distributions, now I
20 don't know if -- if the Intervenor has done that. I
21 would like to look at it, if they have had -- if they
22 have done that. But it's a measure of dispersion, and we
23 stand by our formula.

24 THE CHAIRPERSON: Mr. Oakes, have you
25 tried out the data using this other formula?

1 MR. RAYMOND OAKES: I'm told we haven't
2 done it to the extent that we could provide it as a
3 filing.

4 Mr. Chairman, in the interests of time,
5 I'm prepared to move on. I understand that the point was
6 directed to some -- we'd call it an error in the
7 approach, which relates to then the number of vehicles
8 receiving their rate decrease. But I -- I don't know
9 that we're going to, in the absence of having some
10 mathematical expert sworn providing reports and all the
11 rest, get to the bottom of that this evening.

12 THE CHAIRPERSON: Mr. Palmer, has the
13 Corporation changed its definition of standard deviation
14 recently?

15 MR. DONALD PALMER: No.

16 THE CHAIRPERSON: And your -- the
17 definition you'd be using for standard deviation is
18 generally accepted?

19 MR. DONALD PALMER: Yes, it is.

20 THE CHAIRPERSON: And you also indicate
21 that the -- it is possible to have more than one (1)
22 formula for standard deviation?

23 MR. DONALD PALMER: You're -- you're
24 testing my statistical knowledge from about thirty (30)
25 years ago.

1 THE CHAIRPERSON: Well you're already
2 beyond mine, believe me.

3 MR. DONALD PALMER: There are different
4 formulas for group data, for ungroup data, for samples,
5 for non-samples, for complete populations; we have a
6 complete population.

7 THE CHAIRPERSON: Okay, Mr. Oakes, we'll
8 take you up on yours, and we'll ponder this as well.

9

10 CONTINUED BY MR. RAYMOND OAKES:

11 MR. RAYMOND OAKES: I'm going to move
12 from that area, Mr. Chairman.

13 And I want to look at the MPI position
14 paper, it's the Section 3.0 at page 5 in Tab 4 of course.

15 And just before I do that, we'll be going
16 there in a few short minutes, but there's just one (1)
17 matter I want to deal with.

18 Ms. McLaren, just before -- or just after
19 lunch there was cross-examination by Mr. Saranchuk,
20 relative to how the Corporation determines fault. And I
21 had a brief look at the transcript, because madam
22 reporter was good enough to pull it up just before her
23 computer froze, and it indicated that MPI uses not fault
24 charts, but fault tables, and the reference was that it
25 was similar to what is done in Ontario.

1 Was that a fair representation of the
2 evidence?

3 MS. MARILYN MCLAREN: Yes.

4 MR. RAYMOND OAKES: And are those
5 documents to the court -- these fault tables, something
6 that the Corporation can file with this Board?

7 MS. MARILYN MCLAREN: Yes, but not
8 tonight.

9 MR. RAYMOND OAKES: And when did the
10 Corporation start using these fault tables or charts?

11 MS. MARILYN MCLAREN: We've been using
12 them for years.

13 MR. RAYMOND OAKES: Just in that respect,
14 I had occasion since lunch to go back to a transcript of,
15 I believe it's last year's hearings, and there is a
16 series of questions and answers, questions posed by
17 myself, answered by Mr. Bedard, the reference that I have
18 to the transcript, and we can make that available, is the
19 question I posed:

20 "Ms. McLaren talked about training for
21 the adjusting staff, is it true there's
22 no definition as to be consistently
23 applied by a staff, as to what
24 constitutes being at fault?"

25 The answer by Mr. Wilf Bedard:

1 "If you're asking if we have definitive
2 fault charts, we do not. Some
3 jurisdictions do have such ways of
4 determining liability, we do not. We
5 look at each individual case, we do
6 look at past precedent rules of the
7 road, common sense, those type of
8 things."

9 Would you like to amend that answer or is
10 there something -- was Mr. Bedard mistaken as to the
11 present of fault charts?

12 MS. MARILYN MCLAREN: No, and I think
13 someone over the last three (3) days talked about the
14 fault charts that are embedded in legislation in Ontario.

15 To my knowledge, we do not have fault
16 charts embedded in legislation in Manitoba. But we have
17 the industry standard charts, we use them, and I stand by
18 that comment.

19 MR. RAYMOND OAKES: Are you able to
20 reconcile Mr. Bedard's answer:

21 "If you're asking if we have definitive
22 fault charts, we do not. We look at
23 each individual case, we do look at
24 past precedent, rules of the road,
25 common sense, those type of things.

1 MS. MARILYN MCLAREN: My -- my
2 understanding would be that he was talking about the fact
3 that we do not have things embedded in legislation as
4 other jurisdictions may.

5 MR. RAYMOND OAKES: If I ask you to file,
6 in due course I guess, the fault charts used by the
7 Corporation, then do I have that undertaking?

8 MS. MARILYN MCLAREN: Yes, we can do
9 that.

10
11 --- UNDERTAKING NO. 5: File fault charts used by the
12 Corporation with reference to
13 how low it's been in place
14 and source.

15
16 MR. RAYMOND OAKES: And if I could ask
17 the Board Secretary just to keep the record straight, if
18 I could provide a copy of the transcript of last year
19 with that discussion.

20 THE CHAIRPERSON: That would be fine,
21 Exhibit 39.

22
23 --- EXHIBIT NO. MPI-39: Copy of the transcript of
24 last year with the discussion
25 of fault charts.

1 THE CHAIRPERSON: Ms. McLaren, when you
2 file the -- this schedule, do you mind just putting
3 something on the end just confirming that it's been in
4 place for --

5 MS. MARILYN MCLAREN: Yeah, we'll do
6 that.

7 THE CHAIRPERSON: -- X number of years.

8 MS. MARILYN MCLAREN: And we'll reference
9 the source, too.

10 THE CHAIRPERSON: Thank you.

11

12 CONTINUED BY MR. RAYMOND OAKES:

13 MR. RAYMOND OAKES: So just moving as I
14 had indicated to that paragraph, or article 3, which is
15 contained at page 5 of the MPI loss transfer position
16 paper, do you have that, Ms. McLaren?

17 MS. MARILYN MCLAREN: Yes, I do.

18 MR. RAYMOND OAKES: And the Corporation
19 asserts that its:

20 "Present system treats all motorists
21 and vehicles similarly and equitably
22 (it is fair and not preferential)."

23 Would you agree with me that the outcry
24 from the motorcyclists for approximately fifteen (15)
25 years is that the system does not treat them fairly?

1 MS. MARILYN MCLAREN: Yes, that has been
2 the outcry.

3 MR. RAYMOND OAKES: And then the third
4 bullet reads:
5 "Ensures that motorists themselves will
6 have the greatest possible impact on
7 how much they pay for automobile
8 insurance by the choices they make and
9 can their -- therefore exercise free
10 choice and appropriate judgment as they
11 so wish."

12 Would you agree with me that that leaves
13 them free to purchase large vehicles that have greater
14 abilities to injure other, more vulnerable road users?

15 MS. MARILYN MCLAREN: They have free
16 choice.

17 MR. RAYMOND OAKES: To do what I've just
18 suggested?

19 MS. MARILYN MCLAREN: Right, and some of
20 those vehicles may better protect their occupants, and
21 any vehicle can cause injury to any other road user,
22 vulnerable or otherwise.

23 MR. RAYMOND OAKES: And the Corporation
24 would, in fact, by its current system, encourage them to
25 purchase a vehicle that would have greater abilities to

1 injure other more vulnerable users?

2 MS. MARILYN MCLAREN: No, I wouldn't say
3 that at all. I think the factors that go into assessing
4 a vehicle's ability to protect its occupants do not
5 necessarily mean that the vehicle itself has to be big
6 and by norms considered overweight, that doesn't follow.

7 MR. RAYMOND OAKES: Well, it certainly
8 follows that if any individual had a tank, and could
9 drive that on the street on a first-party basis, that
10 would have the least amount of premium, because it's not
11 going to cause damage to itself or be damaged by others.

12 MS. MARILYN MCLAREN: Okay.

13 MR. RAYMOND OAKES: The -- the next page
14 after the two (2) bullets, there's a conclusion made by
15 the Corporation.

16 "Individuals have an obligation to
17 control, and can control to a
18 significant degree, their individual
19 risk related to operating vehicles and
20 using the roadway."

21 I would suggest to you that individuals
22 also have an obligation to control the damage to other
23 vehicles; would you agree with that?

24 MS. MARILYN MCLAREN: To the extent that
25 we talk about in terms of always, everybody driving

1 safely, being road-wise, helping to mitigate risk on the
2 road in general, absolutely, we all have that
3 responsibility and we've identified that in the first
4 bullet.

5 MR. RAYMOND OAKES: Now, moving to a more
6 general discussion of loss transfer and on this hearing I
7 think that the CMMG has probably argued about loss
8 transfer since even before the introduction of PIPP but
9 certainly after.

10 But this is the first year that I've ever
11 heard the terms "full loss transfer" or "partial loss
12 transfer"; do you believe that to be correct? Are these
13 terms introduced by the Corporation for the first time
14 this year?

15 MS. MARILYN MCLAREN: Yes, I believe so,
16 with the descriptions that we've included in our
17 material. I think the work that the Corporation did
18 before in 2003 and prior to that was assessing the impact
19 of all vehicles, both directions, kind of loss transfer
20 to the extent that we had the information available.

21 And there are more variations on the table
22 this year and we've come forward with a different --
23 different categorization and definitions on that basis.

24 MR. RAYMOND OAKES: Okay. And you
25 explained in answer to Mr. Saranchuk's cross-examination

1 that full loss -- there was a full loss transfer and
2 that's something that the Corporation can't do and can
3 you just briefly again restate what full loss transfer
4 is?

5 MS. MARILYN MCLAREN: Yes, the way we
6 talked about full loss transfer in the section of the
7 Corporation's position paper, it meant driving the
8 assignment of costs on a fault basis for all vehicles in
9 both directions for all coverages down to the rate group
10 level.

11 MR. RAYMOND OAKES: Okay. And then there
12 was something called partial loss transfer and after some
13 questioning by Board counsel you indicated that that
14 meant one-way loss transfer on the Ontario system; do you
15 recall that?

16 MS. MARILYN MCLAREN: Yes.

17 MR. RAYMOND OAKES: Okay. And now it
18 would seem to my mind, and I admit that it's been a very
19 long week and the hour, of course, keeps getting later,
20 but is there not then some third new variant and that
21 would be loss transfer at the major use group level?

22 MS. MARILYN MCLAREN: And at the
23 insurance use territory level, yes. Two (2) other
24 variations.

25 MR. RAYMOND OAKES: Ms. McLaren, we've

1 been doing this for a number of years and talking about
2 loss transfer and you'll recall over the course of those
3 years that the Corporation's evidence with respect to
4 what the change in the rate would be due to the
5 implementation of loss transfer has changed accordingly.

6 Would you agree with me that when the
7 Corporation brought its first estimate forward it was a
8 reduction of some 40 percent?

9 MR. DONALD PALMER: I'll take your word
10 for it on that. It was -- it was a larger number because
11 we didn't have any data to support that.

12 MR. RAYMOND OAKES: And then the
13 Corporation changed its estimate to some 24 percent and
14 change; do you recall that?

15 MR. DONALD PALMER: When we started
16 getting data and that's what it was revealing, yes.

17 MR. RAYMOND OAKES: And now the
18 Corporation is saying that it's approximately 6 percent;
19 is that the position?

20 MR. DONALD PALMER: After credibility
21 weighting and after even more data supporting that
22 position on that. We're getting, I think, better
23 estimates because we're getting more data, more years of
24 PIPP.

25 MR. RAYMOND OAKES: And a similar change

1 on the issue of the percentage responsibility on multi-
2 vehicle accidents. For a long time it was understood and
3 accepted that in multi-vehicle accidents between a
4 motorcycle and an automobile, the automobile was at fault
5 two-thirds of the time in those accidents; do you recall
6 that?

7 MR. DONALD PALMER: Yes, sir.

8 MR. RAYMOND OAKES: And I believe that
9 the Corporation has moved somewhat from that conclusion?

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11

(BRIEF PAUSE)

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MR. DONALD PALMER: No. I think in
multi-vehicle accidents we still show that passenger
vehicles are -- are at fault about 70 percent of the
time.

MR. RAYMOND OAKES: Okay. I accept that.
I'm going to close with some statements which come from
last year's transcript, and it was Mr. Ramsay making some
conclusions in the winding up of -- of his testimony last
year, and they are as follows:

"Sometimes when inequitable processes
or methodologies become entrenched for
long periods, they become the norm and
people accept it as the proper way of

1 doing things. In my thirty-five (35)
2 years of working with Government
3 legislation and regulations, I've
4 learned that even with changing times
5 and conditions, there is a natural
6 resistance to change by any large
7 bureaucracy. They become defensive of
8 existing policies and processes, rather
9 than pro-active in implementing reforms
10 and improvements."

11 Ms. McLaren, can you indicate whether
12 that's been your experience, that there is a natural
13 resistance to change by any large bureaucracy?

14 MS. MARILYN MCLAREN: No, it's not my
15 experience. Some, not all, maybe not even most.

16 I think if you look at the track record of
17 the Corporation, it has been very pro-active in modifying
18 its practises, modifying the products that it provides to
19 Manitobans, modifying other components of the delivery
20 system, all in an effort to continue to have a solid link
21 between Manitobans' expectations and our ability to
22 deliver.

23 There has been more change at Manitoba
24 Public Insurance since 1990 or even 1994, than anyone
25 could point to, to say, there stands an example of a big

1 bureaucracy that isn't willing to change.

2 MR. RAYMOND OAKES: Well, Ms. McLaren, I
3 leave you with the thought that I look forward to working
4 with you with the changes that come in the future.

5 And Mr. Chairman, I want to point out that
6 -- that there's a natural tendency of attorneys to not be
7 able to estimate their time accurately, and so I just
8 want to point out that I did say one hour, and since one
9 hour has elapsed, I am going to close my cross-
10 examination.

11 THE CHAIRPERSON: That's an admirable
12 degree of accuracy, Mr. Oakes. Thank you very much. And
13 we are just going to take about a, and I'm going to be
14 into this estimating game too, we assure you, no more
15 than about six (6) minutes, and then we will start again.
16 Thanks.

17
18 --- Upon recessing at 8:00 p.m.

19 --- Upon resuming at 8:05 p.m.

20

21 THE CHAIRPERSON: Well, Mr. Williams,
22 again we missed our target by a few minutes, but we're
23 set to go whenever you are, sir.

24

25 CROSS-EXAMINATION BY MR. BYRON WILLIAMS:

1 MR. BYRON WILLIAMS: The -- I thought I'd
2 start out by giving Manitoba Public Insurance a choice,
3 actually, we can either choose to talk about Mason and
4 Lynd's Statistical Techniques in Business and Economics,
5 or you can have at hand the CAC/MSOS Book of References
6 with regard to the Loss Transfer Hearing.

7 Do you have a preference, Ms. McLaren?

8 MS. MARILYN MCLAREN: I have your book
9 right here.

10 MR. BYRON WILLIAMS: Just keep it at
11 hand, we're not going to turn to it quite just yet. But
12 I just want to cover a few areas, some, there were
13 questions in terms of the Manitoba experience that I want
14 to be more comfortable with.

15 I want to, just by way of overview of
16 where my clients are asking me to go this evening, also
17 chat briefly to make sure that we understand the MPI
18 position on a number of issues, and then also later on
19 we're going to canvass alternatives to loss transfer as -
20 - as a way to resolve the issue related to motorcyclists.

21 But, memory serves me right from last
22 year's Hearing, Ms. McLaren, and I think the source was
23 CMMG First Round Interrogatory 1-39, I think the
24 statistics suggested that about 80 percent of
25 motorcyclists also owned a passenger vehicle or -- or

1 like, truck; does that sound familiar, that...?

2 MS. MARILYN MCLAREN: Yes, that sounds
3 about right I think.

4 MR. BYRON WILLIAMS: And those would be
5 motorcycle -- motorcycle drivers or motorcycle vehicle
6 owners; do you know?

7 MS. MARILYN MCLAREN: Motorcycle owners
8 who owned another type of vehicle.

9 MR. BYRON WILLIAMS: Okay. Now I want --
10 I want to talk in -- in terms of the impact of no-fault
11 upon motorcycle premiums. Perhaps by way of an
12 introduction, though, you can give me a very brief
13 reminder in terms of the pre-no-fault picture.

14 My understanding is that, in terms of
15 accident benefits, while they may have been more generous
16 in Manitoba than in other provinces, they were still pre-
17 no-fault relatively modest; is that correct?

18 MS. MARILYN MCLAREN: Yes, that's
19 correct.

20 MR. BYRON WILLIAMS: And the post-no-
21 fault world, there was a material enhancement in terms of
22 accident benefits; correct?

23 MS. MARILYN MCLAREN: Yes.

24 MR. BYRON WILLIAMS: And so of course
25 that was the tradeoff, individuals lost the right to sue,

1 but it also meant that seriously injured at-fault drivers
2 were also entitled to much more generous benefits than
3 they had previously been able to receive; is that right?

4 MS. MARILYN MCLAREN: Yes, that was part
5 of the trade-off, right.

6 MR. BYRON WILLIAMS: Okay. Now I wonder
7 if you can turn to Tab 3 of the CAC/MSOS Book of
8 References, which you chose in preference to the
9 Statistical Techniques Book, and that is, Ms. McLaren, a
10 response from last year to CMMG Interrogatory 1-75; is
11 that right?

12 MS. MARILYN MCLAREN: Yes.

13 MR. BYRON WILLIAMS: And in that
14 Interrogatory, you asked to provide motorcycle PIPP loss
15 experience split by serious and non-serious loss;
16 correct?

17 MS. MARILYN MCLAREN: Yes, that's right.

18 MR. BYRON WILLIAMS: And I just want to
19 turn your attention to the third page of that
20 Interrogatory Response, and there's a table there
21 entitled, Motorcycle Serious Loss PIPP Claims by Bodies
22 Filed; do you have that, Ma'am?

23 MS. MARILYN MCLAREN: Yes, I do.

24 MR. BYRON WILLIAMS: Before I just ask
25 you to explain the table, in terms of serious loss, how -

1 - how is that defined?

2 MS. MARILYN MCLAREN: Anything greater
3 than five hundred thousand dollars (\$500,000).

4 MR. BYRON WILLIAMS: Okay. Now, if I
5 were to, in terms of understanding this table, the first
6 column just says the year, sets out the year in which the
7 serious loss took place; is that right?

8 MS. MARILYN MCLAREN: Yes, that's right.

9 MR. BYRON WILLIAMS: And as we move along
10 to our right, we see that the second column is basically
11 the motorcycle body style; is that correct?

12 MR. MARILYN MCLAREN: Yes, that's right.

13 MR. BYRON WILLIAMS: And in terms of the
14 serious loss, the third column demonstrates the percent
15 at fault that the motorcyclist was found to be, whether
16 zero, a hundred (100), or something in-between; is that
17 right?

18 MS. MARILYN MCLAREN: Yes, that's right.

19 MR. BYRON WILLIAMS: The fourth column
20 sets out where there was a single vehicle accident?

21 MS. MARILYN MCLAREN: Yes, it does.

22 MR. BYRON WILLIAMS: And the fifth sets
23 out claims count, and the sixth sets out incurred to
24 date; is that correct?

25 MS. MARILYN MCLAREN: Yes.

1 MR. BYRON WILLIAMS: Now, if I go to the
2 percent at fault for these serious losses, would I be
3 correct in suggesting to you that of those ten (10)
4 serious losses identified, in eight (8) of those, between
5 1999 and 2003, the motorcyclist was found to be
6 100 percent at fault?

7 MS. MARILYN MCLAREN: Yes. There --
8 there's ten (10) lines of data on the table, but the
9 claim count on the second-last column is important as
10 well, so there's really more than ten (10) claims.

11 MR. BYRON WILLIAMS: Okay. In terms of
12 the incident, would it be that -- that with the kind of,
13 or perhaps you would explain, in terms of numerically.

14 MR. DONALD PALMER: These are grouped
15 into the various categories, so the -- the claim count,
16 this is not by incident, for example, the second line,
17 where there's a count of two (2), that would mean: In
18 1999, with unknown body styles, number of accidents where
19 the motorcyclist was 100 percent at fault, not a single-
20 vehicle accident, there was two (2) of those.

21 And the total incurred of those two (2)
22 accidents, or two (2) claims, rather, was one million,
23 nine hundred and seventy-four thousand and fifty-six
24 dollars (\$1,974,056).

25 MR. BYRON WILLIAMS: Thank you for that.

1 And I guess without belabouring the table to any great
2 degree, one message I would draw from this is that many
3 of the individual motorcyclists here who were at fault,
4 but were also found to be entitled to PIPP benefits, were
5 individuals who had under the no-fault system, be
6 receiving greatly enhanced benefits, to what they would
7 have been receiving previously; is that correct?

8 MR. DONALD PALMER: That's correct.

9 MR. BYRON WILLIAMS: And I take it you'd
10 agree with me, and I think, Mr. Palmer, you suggested
11 this earlier in your conversation with Mr. Saranchuk,
12 that as we try and get a sense of one of the factors
13 that's driving or putting pressure on motorcycle rates,
14 in the no-fault era, one of them is the fact that
15 motorcyclists are more likely to be seriously injured
16 when there is a -- is a crash, and so the generosity of
17 no-fault benefits is one of the factors that is putting
18 pressure on motorcycle rates.

19 Would that be fair?

20 MR. DONALD PALMER: I would agree with
21 it.

22 MR. BYRON WILLIAMS: And that would be
23 similar, really to my discussion with Mr. Ramsay
24 yesterday, when we discussed the situation in Ontario in
25 2004, when the observation that some people were making

1 was again, that even in the loss transfer regime, in a
2 situation when there are generous no-fault benefits,
3 there's going to be increased pressure on motorcycle
4 rates because of the severity of accidents that they
5 encounter; is that fair?

6 MR. DONALD PALMER: That's fair.

7 MR. BYRON WILLIAMS: Now, moving quickly
8 along, and I think you answered this as well this
9 morning, but, in yesterday's testimony, Mr. Ramsay was
10 fairly dismissive of severity as kind of a predictor of -
11 - as a tool for accurately reflecting the risk that --
12 that the insured may expect in the future.

13 I take it based upon your analogy with the
14 workplace and the hammer, and the helmet, that you think
15 severity is a fundamentally important tool in predicting
16 future risks and costs?

17 MR. DONALD PALMER: That's correct.

18 MR. BYRON WILLIAMS: Now, I wonder if you
19 can turn to Tab 5 of the -- of the CAC/MSOS Book of
20 References, I'm getting myself confused with Mr. Oakes,
21 at this late time in the evening, and that is a response
22 to CMMG Interrogatory from last year, Second Round,
23 Number 19; is that right?

24 MR. DONALD PALMER: Yes, sir.

25 MR. BYRON WILLIAMS: And you're calling

1 me sir, Mr. Palmer, so that makes just -- in return, I
2 will not call you Denton. So, that's the deal we have.

3 THE CHAIRPERSON: By the way, Mr.
4 Williams, we will entitle your Book of References Exhibit
5 Number 40.

6 MR. BYRON WILLIAMS: Thank you, Mr.
7 Chair.

8
9 --- EXHIBIT NO. MPI-40: CAC/MSOS Book of
10 References.

11
12 CONTINUED BY MR. BYRON WILLIAMS:

13 MR. BYRON WILLIAMS: And, I'm going to
14 ask you to turn to the second page, which is a table
15 marked: May to September Claims per 1000 Units; do you
16 have that, Mr. Palmer?

17 MR. DONALD PALMER: I do, yes.

18 MR. BYRON WILLIAMS: And I'm trying to
19 remember which day it was, but it was either on Tuesday
20 or Wednesday, but Mr. McFarlane, in conversation I
21 believe with Mr. Evans, was -- was talking about the
22 frequency of motorcycle claims as compared to auto --
23 private passenger claims, private passenger automobile
24 claims, in Ontario, and would this be a table that gives
25 some indication of the frequency of claims for

1 motorcycles in -- in Manitoba versus the frequency of
2 claims for passenger vehicles, Mr. Palmer?

3 MR. DONALD PALMER: Sorry, yes.

4 MR. BYRON WILLIAMS: And -- and I believe
5 in Mr. McFarlane's conversation with Mr. Evans he also
6 noted that statistics from Ontario needed to be
7 normalized for things like weather, and presumably a
8 differential driving seasons; is that right?

9 Is that your recollection as well?

10 MR. DONALD PALMER: Yes, it is.

11 MR. BYRON WILLIAMS: And what we see here
12 is the May to September claims, so that would be, to a
13 certain degree, some normalization of the -- of the
14 results. Would that be fair?

15 MR. DONALD PALMER: Yes.

16 MR. BYRON WILLIAMS: And again, what we
17 have here is the results for four (4) years, four (4)
18 insurance years, being the years 2000, 2001, 2002 and
19 2003; is that correct?

20 MR. DONALD PALMER: That's correct.

21 MR. BYRON WILLIAMS: And what we're
22 seeing is the number of claims per one thousand (1000)
23 units in the time period between May and September.

24 Is that correct as well, Mr. Palmer?

25 MR. DONALD PALMER: Yes, it is.

1 MR. BYRON WILLIAMS: And if we start at
2 the top column on the left, we see for all-purpose
3 passenger vehicles, as a group in the year 2000, the
4 claims per thousand units, in terms of frequency, was
5 about seventy-eight (78) and it ranges between seventy-
6 seven point six eight (77.68) in two-o-three (203), up to
7 83 percent two-o-two (202); is that correct?

8 MR. DONALD PALMER: That's correct.

9 MR. BYRON WILLIAMS: And if we go down
10 one -- one line, we see that for pleasure passenger
11 vehicles, they have what appears to be a somewhat lower
12 frequency, ranging from fifty-four point four seven
13 (54.47), in the year 2000, and as high as fifty-six point
14 three (56.3) claims per one thousand (1,000) units in a
15 later year; is that correct, sir?

16 MR. DONALD PALMER: That is correct.

17 MR. BYRON WILLIAMS: And at the bottom we
18 see motorcycles, the second last line, ranging in
19 frequency between 62 percent and 69 percent; is that
20 correct, sir?

21 MR. DONALD PALMER: That is also correct.

22 MR. BYRON WILLIAMS: And if we just move
23 up one (1) line, I won't go through it, but we see kind
24 of all-purpose and pleasure vehicles and trucks as a
25 group. And I take it you'd agree with me that when you

1 look at the frequency, when it's normalized from May to
2 September, motorcycles kind of fit in the middle with --
3 between all-purpose passenger vehicles and pleasure
4 passenger vehicles in terms of frequency, measured in
5 claims per one thousand (1,000) units.

6 Would that be fair?

7 MR. DONALD PALMER: That's fair.

8 MR. BYRON WILLIAMS: I wonder if you can
9 turn to the next table, which appears on the subsequent
10 page, --

11 THE CHAIRPERSON: Mr. Williams, just
12 before you do, I just want to check something, because it
13 might just be the lateness of the night, and some
14 knowledge I should have has slipped out of my head.

15 But when you're looking at frequency per
16 thousand units, and you say "claims," it's possible that
17 it's apples and oranges, isn't it, because it doesn't --
18 can't there be more than one (1) claim in one (1)
19 accident? Or, then you're referring to covers, I guess?

20 MR. DONALD PALMER: Yeah. This -- this
21 is, a claim would be open claim files, --

22 THE CHAIRPERSON: Okay. So, it would be
23 apples to apples then? Very good, thank you.

24 MR. DONALD PALMER: Yes.

25 MR. BYRON WILLIAMS: Thank you, Mr.

1 Chairman, I actually meant to ask that anyways, for
2 clarification purposes, so I appreciate that. Feel free
3 to interject.

4

5 CONTINUED BY MR. BYRON WILLIAMS:

6 MR. BYRON WILLIAMS: If we go to the
7 second -- the next page, we see a table headed, Severity
8 by Type of Claim Five Year Average; do you see that, Mr.
9 Palmer?

10 MR. DONALD PALMER: Yes, I do.

11 MR. BYRON WILLIAMS: And again, what we
12 have in the first column is the type of claim, presumably
13 whether it came from an all-purpose passenger vehicle, or
14 from a pleasure passenger vehicle, or from a motorcycle;
15 is that right, sir?

16 MR. DONALD PALMER: Yes.

17 MR. BYRON WILLIAMS: And if we go to the
18 next column, we see the five (5) year average in terms of
19 severity for personal injury; is that right, in terms of
20 the column?

21 MR. DONALD PALMER: The column marked
22 injury? Yes.

23 MR. BYRON WILLIAMS: Yes. And then the
24 third column is the five (5) year average in terms of
25 physical damage; is that right?

1 MR. DONALD PALMER: That's correct.

2 MR. BYRON WILLIAMS: And, just for, if we
3 look at all-purpose passenger vehicle, the five (5) year
4 average in terms of injury, is in the range of sixty-two
5 hundred dollars (\$6,200); is that correct, sir?

6 MR. DONALD PALMER: Yes.

7 MR. BYRON WILLIAMS: Moving down a couple
8 lines we see, pleasure passenger vehicles, this is before
9 the cap, at around seventy-six hundred dollars (\$7,600);
10 is that correct, sir?

11 MR. DONALD PALMER: Yes.

12 MR. BYRON WILLIAMS: And just moving down
13 to motorcycles, in terms of severity, again, before
14 capping at the 500K, we see severity in the five (5) year
15 average of somewhere between thirty-three (33) and
16 thirty-four thousand dollars (\$34,000); is that right?

17 MR. DONALD PALMER: That's correct, yes.

18 MR. BYRON WILLIAMS: Okay. And this -- I
19 -- reiterates the -- an observation that's been made both
20 by Mr. McFarlane and from MPI witnesses that when a
21 motorcyclist is injured in an accident, the severity is -
22 - tends to be much higher; is that correct, sir?

23 MR. DONALD PALMER: No dispute here.

24 MR. BYRON WILLIAMS: Ms. McLaren, I'm
25 getting kind of cheap in my photocopying, so I didn't

1 provide photocopies to the Board, I don't think there's a
2 real need to, but I did provide you with a -- an excerpt
3 from the 2003 Transcript; do you have that, Ms. McLaren?

4 MS. MARILYN MCLAREN: Yes, I do.

5 MR. BYRON WILLIAMS: And for the Board's
6 reference, and if the Board in its wisdom decides it
7 would like a copy, I can certainly provide one once I'm
8 done belabouring my point, but it's from page 891, 892,
9 and 893 of the 2003 Transcript, which would be relating
10 to the 2004-05 GRA.

11 And Ms. McLaren, I'm going to address your
12 attention to -- to the middle of, or near the bottom of
13 page 891, about line 21, and to a question directed to
14 you by Mr. Oakes when he basically puts the -- the
15 proposition to you, that if -- if you could eliminate or
16 ameliorate the rate impact upon motorcyclists by getting
17 one dollar (\$1) from each passenger -- private passenger,
18 one (1) additional dollar from each private passenger, or
19 perhaps four (4) or five dollars (\$5) from each private
20 passenger, you see he's advancing that proposition to
21 you?

22 MS. MARILYN MCLAREN: Yes, I see that.

23 MR. BYRON WILLIAMS: And you can
24 certainly see the attractiveness of the argument from the
25 perspective of motorcyclists, why not, through something

1 like loss transfer, impose a small premium on a large
2 group like private passenger, in order to enjoy a price
3 decrease, or a premium pressure amelioration, on a small
4 group?

5 You understand, from their perspective,
6 why that would be attractive to them?

7 MS. MARILYN MCLAREN: Yes.

8 MR. BYRON WILLIAMS: I wonder if you can
9 comment at a high policy level, what, if any concerns you
10 have with that proposition, from the perspective of
11 Manitoba Public Insurance?

12 MS. MARILYN MCLAREN: Well, I think
13 particularly when it comes to the private passenger
14 vehicle class, it is so much larger than all of the other
15 classes.

16 In the interests of expediency, it can be
17 very attractive to look to that class to help mitigate
18 costs in other classes; that you -- you can use phrases
19 like, "in edge of the wedge" and "slippery slope" and all
20 kinds of things like that, that does not make, I don't
21 think ever -- expediency tends not to be a good basis of
22 public policy.

23 And I think the Corporation needs to have
24 an approach that is explicit and integrated and laid out
25 very clearly, based on the merits of a position, not

1 based on low-dollar impact on one group, versus big
2 dollars in another group.

3 MR. BYRON WILLIAMS: So, from the -- from
4 that point of principle, you see a risk in terms of
5 slippery slope that, because its sheer size, the private
6 passenger class will almost be regarded as a cash cow,
7 for other -- other groups who are seeking rate relief for
8 themselves?

9 MS. MARILYN MCLAREN: You might say --

10 MR. BYRON WILLIAMS: You might not use
11 the words "cash cow," but...

12 MS. MARILYN MCLAREN: No, that -- that
13 certainly is a possibility if -- if decisions were made
14 in the interests of -- of expediency, like we discussed.

15 MR. BYRON WILLIAMS: In your discussion,
16 I'm going to follow up a bit more in this discussion with
17 -- that you had with Mr. Oakes, at page 892 now of the
18 2003 Transcript, and if you direct your attention to
19 line 23 at the bottom of page 892, do you see that, Ms.
20 McLaren?

21 MS. MARILYN MCLAREN: Yes, I do.

22 MR. BYRON WILLIAMS: I'm going to read
23 you a quote and see if I've read it correctly, and then
24 whether you adopt it on a going-forward basis. You argue
25 that:

1 "The heart of the matter is that fault
2 is not an appropriate basis to
3 determine all your rating."

4 You move on, on page 893:

5 "If we want to get rid of territories,
6 if we want to get rid of insurance use,
7 if we want to get of anything other
8 than merit discount type, driver-record
9 rating, and assess everything based on
10 fault, we can do that, but there's no
11 distinct relationship between the
12 actions of a particular member of any
13 particular rating class, and the costs
14 that may come forward from that
15 action."

16 Did I read, or generally paraphrase that
17 correctly, Ms. McLaren?

18 MS. MARILYN MCLAREN: Yes, you did.

19 MR. BYRON WILLIAMS: And is that still
20 your position today?

21 MS. MARILYN MCLAREN: Yes, it is.

22 MR. BYRON WILLIAMS: Now, if I understand
23 what you're saying, in terms of fault, MPI argues that if
24 you're looking at me as one specific driver, the bonus-
25 malice system is a -- and my past record might give you

1 some indication of the risks that I personally bring to
2 the system; would that be fair?

3 MS. MARILYN MCLAREN: Yes, that's true.

4 MR. BYRON WILLIAMS: But the -- the
5 experience of me as one vehicle owner, in terms of my
6 driving record, in a particular rating group, is not
7 predictive of the risks that that rate group is going to
8 bring to the system; is that fair?

9 MS. MARILYN MCLAREN: Yes, exactly. We
10 know that, for example, people who cause accidents in any
11 given year, are more likely to cause an accident in
12 subsequent years than people who haven't caused an
13 accident in that particular year; we know that to be
14 true.

15 But we also know the vast majority of
16 accidents every year are caused by people who have not
17 caused one for six (6) or more years.

18 MR. BYRON WILLIAMS: So, getting to the
19 heart of your philosophical concern with loss transfer,
20 focussing, or putting greater weight on -- on fault, in
21 terms of your rate design, might almost introduce a
22 greater degree of randomness in terms of the results.
23 Would you agree with that?

24 MS. MARILYN MCLAREN: It could. Whether
25 it does or not, we're not able to prove at this point.

1 We've only ever done one (1) year of loss transfer
2 analysis. But I think, again, the heart of the matter is
3 that fault is over rated and loss transfer mechanisms
4 rely too much on fault, and not enough on the other
5 factors.

6 MR. BYRON WILLIAMS: I was fascinated by
7 some of the questions that Mr. Saranchuk was putting to
8 you, and as well as some of the Board Members, in terms
9 of issues relating to the purpose of Manitoba Public
10 Insurance and, it seemed to me we might be getting into
11 the debate about whether it's an insurance program, or a
12 social insurance program, or a variation thereof, and do
13 you recall some of that conversation earlier today, Ms.
14 McLaren?

15 MS. MARILYN MCLAREN: Yes, I do.

16 MR. BYRON WILLIAMS: And just by way of
17 analogy, I want to talk for a couple minutes about the
18 Employment Insurance Program, or it used to be called in
19 the old days, Unemployment Insurance; are you somewhat
20 familiar with that program, Ms. McLaren?

21 MS. MARILYN MCLAREN: Very, very
22 somewhat, luckily.

23 MR. BYRON WILLIAMS: You've heard --
24 you've heard of the program, you pay premiums?

25 MS. MARILYN MCLAREN: Yes.

1 high level, and, for example, in areas of high
2 unemployment, perhaps you're aware that it takes less
3 weeks to qualify than in areas of low unemployment; are
4 you aware of that?

5 MS. MARILYN MCLAREN: Yes.

6 MR. BYRON WILLIAMS: And again, if
7 Employment Insurance was a pure employment -- or a pure
8 insurance program, you would expect it, in terms of
9 eligibility, to be more reflective of the higher
10 likelihood of being unemployed, that it would take more
11 weeks to qualify?

12 I don't -- I don't --

13 MS. MARILYN MCLAREN: I -- I think that's
14 reasonable, I -- I might have grasped it a little better
15 earlier.

16 MR. BYRON WILLIAMS: Yeah. I think the -
17 - the first point was -- was made on my first point,
18 so...

19 Now, I want to, Mr. Chairman, I want to
20 move to -- to kind of, I think the more central parts of
21 my cross-examination, and there's really, just for your
22 information, there's -- there's two (2) things that my
23 clients have specifically instructed me to do.

24 One is: There's been a lot of back and
25 forth in the last couple days, so my clients do want to

1 make sure that they understand the position that -- that
2 MPI is -- is putting forward, so we're going to confirm
3 some of that with them.

4 And then secondly: We want to put to MPI,
5 just a suggestion that, a 'what if' suggestion. What if,
6 notwithstanding the wisdom of the MPI argument, the Board
7 determines that as an unintended consequence of the move
8 to no-fault, there was an adverse effect of -- upon
9 motorcyclists, which it thinks should be remedied.

10 And we want to explore potential ways to
11 address any concern the Board might have, outside of loss
12 transfer.

13 So, that's just to give the Board some
14 indication of where we're going to be going in the next
15 few minutes, okay, Mr. Chairman?

16 MR. CHAIRPERSON: We're appreciative, Mr.
17 Williams, of you giving us some idea of where you're
18 going. Before you do that, if you don't mind, if I could
19 ask Ms. McLaren and the MPI witnesses a question.

20 In CAC/MSOS's Book of Documents, in Tab 5,
21 Mr. Williams referred to a couple of tables dealing with
22 severity and frequency, and you confirmed that we were
23 talking about apples to apples when we looked at it,
24 there wasn't some statistical anomaly that leads to
25 confusion.

1 And unless my hearing is completely gone,
2 I don't think he specifically referred to this other
3 table, which is on page 3 of that Tab, which talks about
4 single-vehicle claims.

5 And the Table indicates that, between 2001
6 and 2003, each one of those years, single-vehicle claims
7 for motorcycles ranged at an average of about 50 percent,
8 compared to the others which seemed to range somewhere
9 less than half of that percentage.

10 And I'm wondering whether, first of all,
11 this is again another apples to apples comparison,
12 there's no confusion there.

13 I had two (2) questions. Number 1: Is
14 this type of experience, are you aware, is it comparable
15 to the experience with motorcycles relative to other
16 vehicles in other provinces as well?

17 MR. DONALD PALMER: First of all, yes, it
18 is an apples to apples comparison. We have talked about
19 this earlier in this hearing, that yes, our single
20 vehicle accident-frequency rate is higher.

21 THE CHAIRPERSON: Higher than other
22 provinces, is that what you're saying?

23 MR. DONALD PALMER: It's higher than the
24 other provinces. If it's higher relative to passing --
25 private passenger vehicles, I don't know that off-hand.

1 But I think we have outlined some possible
2 reasons for that, --

3 THE CHAIRPERSON: Please remind me.

4 MR. DONALD PALMER: -- absolute no -- no
5 restriction on coverage. There are other jurisdictions
6 that have no no-fault benefits for motorcyclists; they've
7 been specifically excluded. If you have a single vehicle
8 accident and no coverage, why would you make a claim?

9 The other part of that --

10 THE CHAIRPERSON: You're talking about
11 cases when there's no serious injury involved?

12 MR. DONALD PALMER: Even if there was
13 serious injury, again, if there is no insurance, there
14 would be no claim.

15 MS. MARILYN MCLAREN: Some of the
16 information -- I think it's important to point out that
17 the Corporation has not independently validated the fact
18 that the -- the incidents of single-vehicle accidents as
19 a percentage of overall motorcycle accidents, is higher
20 in Manitoba.

21 CMMG and MMIC have put that point forward;
22 it doesn't surprise us. And as they referenced in the
23 last few days, there are jurisdictions like, I think they
24 said, Michigan and New York, where motorcycles are not
25 allowed to buy no-fault accident benefits; so that's a

1 huge difference right there.

2 And the other reason, that Mr. Palmer was
3 about to lead into, is the other issue of affordability
4 and accessibility in jurisdictions like Ontario, where
5 your -- the price of your coverage may very well double
6 or triple, if it's offered at all, if you file a claim.

7 So, certainly, that would not prevent
8 anyone from a catastrophic injury from putting a claim
9 forward, but it may some of the lower-value claims.

10 THE CHAIRPERSON: The other observation,
11 it's a big of a digression, but I keep it fresh in my
12 mind anyway, accepting these statistics as being
13 accurate, okay, and not necessarily if industry -- if
14 accident counts in other provinces were kept in a
15 comparable fashion does this speak to issues such as
16 safety and prevention, and drivers' educations for
17 motorcyclists?

18 MS. MARILYN MCLAREN: Hmm hmm, it --

19 THE CHAIRPERSON: I'm not criticizing the
20 Corporation.

21 MS. MARILYN MCLAREN: No. No. No, I
22 understand that. I -- I think it may very well, but we
23 don't really have a -- a -- a definitive answer on that.

24 The risk study that we put forward last
25 year showed that motorcyclists with less experience were

1 more likely to be involved in accidents than
2 motorcyclists with more experience so, I -- I think there
3 certainly is room for looking at that -- that regulatory
4 side of things, but I -- I don't think we have -- we have
5 not done the kind of detailed analysis in -- in any way,
6 shape, or form that would put -- allow us to put forward
7 a policy position to the government on that.

8 THE CHAIRPERSON: And again, this is not
9 a province such as British Columbia, for example. Last
10 night, when we heard from the presenters, they took --
11 took -- spoke of occasionally stretching the number of
12 months of use up to seven (7) months, and some were
13 saying they only had four (4) or five (5) months.
14 Obviously, if the roads are slippery and it's snow-
15 covered and things -- these types of things could enter
16 into this, too, I would imagine. I imaging the
17 Corporation keeps statistics by month as well as...

18 MS. MARILYN MCLAREN: Yes.

19 THE CHAIRPERSON: It would be something
20 to look at, at another day. Thank you.

21 MS. MARILYN MCLAREN: Absolutely. And, I
22 think just on that point, we'll probably have some
23 information in the General Rate Application with respect
24 to motorcycle experience last year when -- we all
25 remember what a miserable summer it was.

1 There was a direct effect on motorcycle
2 claims costs that year -- I'm sorry, there's a direct
3 link, they're -- they track very well, I am inferring an
4 impact, I don't know that for sure, but they certainly --
5 the weather tracked very well with lower claims costs
6 last year for motorcycles.

7 THE CHAIRPERSON: Correct me if I'm
8 wrong, and I'll get off this, but is the way matters
9 stands right now, although the premiums collected in this
10 advanced -- in this particular fashion that you do, an
11 insured motor -- motorcycle could be taken out on the
12 road in December if the owner chooses to?

13 MS. MARILYN MCLAREN: Yes, that's right.

14 THE CHAIRPERSON: And there -- there's no
15 impediment to that coming from the Insurer?

16 MS. MARILYN MCLAREN: No. There -- there
17 used to be significant impediments to that and -- and the
18 discussion at that time that we -- is that really,
19 through our annual rating mechanism we were artificially
20 depressing opportunities for motorcyclists to use their
21 vehicles.

22 The move to seasonal rating was supported
23 by motorcyclists in -- in this and other forms, and
24 conversation with them, because it lifted off that
25 artificial barrier. There has been some increase in

1 claims now outside of the traditional seasonal rating,
2 but with rating through that traditional riding season,
3 we believe that that will cover the costs of the risk
4 transfer without regard to that.

5 And it's not -- if -- there -- there can
6 be very, you know, I mean, remember April was a really
7 decent month, just a few short weeks ago, much better
8 than May's been so far. So, those are -- those are
9 considerations that led us to the seasonal rating that
10 motorcyclists have supported.

11 THE CHAIRPERSON: Thank you, for Another
12 Day. Mr. Williams...?

13 MS. DENYSE COTE: Actually, one (1)
14 question before starting with Mr. Williams. The second
15 table where you're talking about single vehicle claims as
16 a percentage of total claims, and would you say that
17 there are more single vehicle claims amongst the all-
18 purpose or pleasure passenger vehicle class in Manitoba
19 than in other jurisdictions?

20 Because of -- like if I understood your --
21 your -- one (1) of your theories as to why there are more
22 single vehicle claims for motorcycles in Manitoba as
23 opposed to other jurisdictions, it's because there's no
24 loss of -- of accessibility to coverage. But, couldn't
25 that also be true for vehicles, like for cars and trucks?

1 MS. MARILYN MCLAREN: Manitobans
2 generally have the highest claims frequency in -- in the
3 country. It -- it -- the other public jurisdictions like
4 BC and Saskatchewan are -- tend to be closest to us, but
5 Manitobans claim at a much higher rate than people in
6 private sector jurisdictions, exactly for those reasons.

7 There's not the same barriers, there's not
8 the same accessibility issues, and the pricing
9 considerations. Claims frequency is -- is not the same
10 as accident frequency, it's really important to note
11 that. Collisions will happen.

12 There's all kinds of data available,
13 particularly in the last few years. For example, today,
14 in Ontario, body shops are reporting that less than half
15 their work now is paid for by insurers, so those are not
16 claims, but they're still accidents.

17 MS. DENYSE COTE: That's it, Mr.
18 Williams, back to you.

19 MR. BYRON WILLIAMS: Thank you. And, as
20 long as it doesn't cut into my estimate of the time, then
21 I have no problem with it.

22 THE CHAIRPERSON: But it does, Mr.
23 Williams.

24
25 CONTINUED BY MR. BYRON WILLIAMS:

1 MR. BYRON WILLIAMS: With that in mind,
2 Ms. McLaren -- no, it's fine. I am going to -- and this
3 is to assist my Clients, to try and summarize what I
4 understand to be the major points of your case, so -- but
5 mindful that I -- I don't -- I'm -- if I've got it right
6 in terms of the points, I'd invite you not to make long
7 speeches after I put the point to you.

8 I recall some experiences I had with Mr.
9 Zacharias where -- where I invited a two (2) or three (3)
10 page answer from a simple proposition, so...

11 So, what I want to do is -- is again, to
12 assist my Clients, make sure I have the big picture, and
13 start with the big picture, and the basic starting
14 proposition of Manitoba Public Insurance in terms of loss
15 transfer is that it's unsound philosophically and makes
16 for bad public policy, would that be fair?

17 MS. MARILYN MCLAREN: Yes. In our
18 context here in Manitoba, absolutely.

19 MR. BYRON WILLIAMS: And, one (1) of the
20 key reasons for that, in your view, is that it is
21 inconsistent with your current system of rate design
22 which, in your view, most fairly reflects the costs that
23 insured can bring to the system, so the choices they make
24 in terms of where they drive, when they drive, the manner
25 in which they drive, and also the safety of the vehicle

1 in which they choose to drive, would that be fair?

2 MS. MARILYN MCLAREN: Yes.

3 MR. BYRON WILLIAMS: And, I believe you
4 made the point earlier today that from your perspective,
5 the -- the fundamental role of Manitoba Public Insurance,
6 it's publicly owned, is to provide insurance, plain old
7 insurance?

8 MS. MARILYN MCLAREN: Yes.

9 MR. BYRON WILLIAMS: And, by that I mean
10 cost effective, consumer friendly, consumer products that
11 fairly compensate the injured regardless of fault; would
12 that be fair?

13 MS. MARILYN MCLAREN: Yes.

14 MR. BYRON WILLIAMS: And, although
15 inarticulately, we also, on that same -- same point, it's
16 more a pure insurance program than a social insurance
17 program such as EI, would that be fair?

18 MS. MARILYN MCLAREN: Yes.

19 MR. BYRON WILLIAMS: And I believe, also
20 in your discussion with Mr. Saranchuk, and with Members
21 of the Panel, you suggested that if there -- that there
22 are less distorting ways to send signals about
23 environmental efficiency than through the --
24 environmental -- you know, the need for greater
25 environmental accountability than through the insurance

1 system, would that be fair?

2 MS. MARILYN MCLAREN: Yes.

3 MR. BYRON WILLIAMS: Now, moving to the -
4 - the -- the practical, in terms of some of the practical
5 observations in terms of loss transfer, you've made the
6 point, and I believe it's been endorsed by Mr. Pelly,
7 that calculating loss transfer is not possible at the
8 group level -- rate group level, due to the lack of a
9 credible third-party model; would that be fair?

10 MS. MARILYN MCLAREN: Yes.

11 MR. BYRON WILLIAMS: And again, you've
12 made the point, and I believe it was endorsed by Mr.
13 Pelly earlier today, that rates calculated using loss
14 transfer at the major class level do not provide for the
15 expected future costs of any individual classification
16 category; would that be fair?

17 MS. MARILYN MCLAREN: Yes.

18 MR. BYRON WILLIAMS: And, if we want to
19 take the issue of calculating loss transfer at the
20 territorial and usage level, I believe the point you made
21 was that there's going to be a material, in quotation
22 marks, "dislocation" in terms of premiums.

23 For example, Winnipeg versus other
24 territories or private passenger versus all-purpose
25 which, in MPI's view, cannot be justified as fair and

1 reasonable, would that be fair?

2 MS. MARILYN MCLAREN: Yes.

3 MR. BYRON WILLIAMS: So that was pretty
4 quick. Did I miss anything there?

5 MS. MARILYN MCLAREN: No, not that I can
6 think of.

7 MR. BYRON WILLIAMS: Okay. I guess the
8 question, Ms. McLaren, I'd pose to you is if -- what if
9 the Board buys all this? What if the Board, in it's
10 wisdom, says, Ms. McLaren, we don't want to change the
11 rate design system, but we also believe that one (1) of
12 the unintended consequences of the transition to no-
13 fault, was what we believe to be an excessive pressure on
14 the -- the premiums of motorcyclists.

15 Would you follow along with me as -- in --
16 in that scenario?

17 MS. MARILYN MCLAREN: I'm understanding
18 you.

19 MR. BYRON WILLIAMS: Okay. And I want to
20 make sure that what I want to explore with you, I'm doing
21 this on the instructions of my clients. This is not a
22 position that they are endorsing or -- or I would suspect
23 are even likely to endorse, but they -- to assist the
24 Board and to -- also to clarify their own thinking they
25 want to explore it with Manitoba Public Insurance.

1 So, assuming that the PUB wants to -- is a
2 -- for reasons of policy to assist Manitoba Public
3 Insurance, but doesn't want to distort the rate design
4 system through loss transfer, would one (1) way to do
5 this be for the Public Utilities Board to determine an
6 express figure which it believes should be transferred to
7 motorcyclists in recognition of the unintended
8 consequences of no-fault, whatever the figure is, let's
9 say five hundred thousand (500,000), seven hundred and
10 fifty thousand (750,000) or a million, and then recognize
11 that as an express and transparent cost, and allocate
12 that back through the rate bases in a manner similar to
13 the way we allocate claims expenses, would that be one
14 (1) way to do it? Some --

15 MS. MARILYN MCLAREN: Yes, I -- that --
16 that makes some sense to me. What you're talking about
17 is basically retaining the rate making methodology
18 concepts that -- that are sort of articulated in TI-2
19 that we're all imminently familiar with. So, once you
20 know what to do with "X" number of dollars coming out of
21 the motorcycle class, the rest of the process could
22 remain intact.

23 MR. BYRON WILLIAMS: And the advantage of
24 a process such as that, one (1) advantage would be that
25 it would be less distorting than loss transfer to what

1 you consider to be a -- a good system for rate design;
2 would that be fair?

3 MS. MARILYN MCLAREN: Yes, that would be
4 significantly less distorting than full loss transfer,
5 all vehicles, all back and forth, all categories.

6 MR. BYRON WILLIAMS: And, I guess,
7 perhaps another advantage would be, rather than getting
8 in to the -- the -- the issue of fault or no-fault, we're
9 -- we're really making an express transparent policy
10 decision to -- to recognize then what's considered to be
11 an unintended consequence of the move to no-fault, that
12 it would be, perhaps, more transparent?

13 MS. MARILYN MCLAREN: I think it would be
14 transparent. I think -- something else that just occurs
15 to me as -- as we're talking about this here is without
16 explicit direction from the Board, I can say that we
17 could all spend all kinds of time every October talking
18 about how much should the amount be this year.

19 MR. BYRON WILLIAMS: Yeah, and certainly,
20 Ms. McLaren, the downside of what I'm suggesting to you,
21 I've tried to go through what I thought would be a couple
22 of positives. If you have some downsides, please feel
23 free to share them as well. Do you have some concerns as
24 I speak to you about this?

25 MS. MARILYN MCLAREN: Well, I -- think

1 that is -- you know, if -- I think a dollar value,
2 determined one (1) time, would certainly not put an end
3 to this discussion as has -- my understanding as has been
4 the Board's objective through this process. That would -
5 - that would certainly be a concern. I don't mean -- Mr.
6 Palmer?

7 MR. DONALD PALMER: I guess since I like
8 to talk about actuarial soundness and the -- the costs of
9 the expect -- or the expected costs of the loss transfer,
10 again, that would be a deviation from that.

11 MR. BYRON WILLIAMS: Would it be any
12 different for what you do with the transfer to MHSC or
13 what you do with re-insurance? Would it -- would it be
14 materially different from what you do with those, Mr.
15 Palmer?

16 MR. DONALD PALMER: I -- I think with
17 MHSC, there is a cost that is paid on behalf of the --
18 the motorists of Manitoba. We choose a way to allocate
19 that cost, so it's an actual cost, and hence the cost of
20 the loss transfer. I don't think the same could be said
21 to a transfer to motorcyclists.

22 MR. BYRON WILLIAMS: Okay. Fair enough.
23 Feel free if there's other thoughts you have on that.

24 Now, moving -- moving along, just -- there
25 was some discussion earlier today about differential

1 treatment for commercial truckers, do you recall that
2 discussion?

3 MS. MARILYN MCLAREN: Yes.

4 MR. BYRON WILLIAMS: And, just so I
5 understand, there is differential treatment, but that is
6 expressly authorized by regulation, is that correct?

7 MS. MARILYN MCLAREN: Yes, that's
8 correct.

9 MR. BYRON WILLIAMS: And, I was listening
10 to Mr. Oakes when I was in the Intervenor Room, there
11 seemed to be some discussion about retirement income
12 benefit and the policy change in terms of that, and
13 would I be correct in suggesting to you, that that also
14 was expressly directed -- that policy change expressly
15 directed to MPI by the Lieutenant General -- or the
16 Lieutenant Governor and Council through regulation?

17 MS. MARILYN MCLAREN: No, that change is
18 actually in the Act.

19 MR. BYRON WILLIAMS: In the Act? Okay.
20 Well, I was close.

21 Now, Mr. Palmer, you -- in your direct
22 evidence earlier today, you talked about loss transfer in
23 your view at the major class level failed the actuarial
24 task -- test. Is that correct, sir?

25 MR. DONALD PALMER: Yes, sir.

1 MR. BYRON WILLIAMS: And, the point I
2 believe you were making was that it could be actual --
3 actuarial sound to have no loss transfer, as MPI
4 currently has, or it could be actuarial sound to have
5 loss transfer if -- if you could rule it out or drive it
6 out right down to the rate group level, is that correct,
7 sir?

8 MR. DONALD PALMER: That's correct.

9 MR. BYRON WILLIAMS: And, you said
10 something which intrigued me. You said, if -- if you
11 stop somewhere in the middle, you have a problem; do you
12 recall saying that, sir?

13 MR. DONALD PALMER: I do recall saying
14 that.

15 MR. BYRON WILLIAMS: So, I want to --
16 moving past the major class level, if you stop at the
17 usage level, or the territorial level, do you still have
18 a problem?

19 MR. DONALD PALMER: Yes, I do. We had
20 talked about rate groups and I think in our -- in our
21 evidence we had talked about two (2) vehicles that have -
22 - are in the same rate group and -- just let me get that
23 reference, just a sec.

24
25

(BRIEF PAUSE)

1 MR. DONALD PALMER: On page 4 of our
2 evidence, of our position paper, we talk about -- no,
3 that's not it. Sorry, that wasn't it.

4 Let's just say that there could be two (2)
5 vehicles of very different design that could be the same
6 rate group, for instance, a Cavalier and a Jeep Cherokee,
7 for instance. And, those two (2) vehicles would be in
8 the same rate group. If we didn't drive down right to
9 the -- the rate group level, then based on at-fault costs
10 of that rate group, the fire or the -- the small vehicle
11 and the large vehicle would get the same -- same
12 increase, but they have -- are very different risks if
13 you're talking about the damage that they cause.

14 MR. BYRON WILLIAMS: So, in -- in your
15 view, as an actuary, there are concerns if you stop at
16 the major class level and they're similarly -- well not
17 similar concerns, but there are also material concerns in
18 terms of the territory and use level?

19 MR. DONALD PALMER: That's correct.

20 MS. MARILYN MCLAREN: I can provide the
21 reference, it was in response to PUB/MPI 2(d) and it was
22 a 2000 Chevy Suburban and a 2000 Pontiac Firefly, which
23 are both in rate group 19.

24 MR. BYRON WILLIAMS: I -- I think a final
25 question to you -- oh, looks like I have a couple more

1 questions, sir, but to you, Mr. Palmer, there's been some
2 talk of unidirectional or asymmetrical or -- or one (1)
3 way loss transfer. Am I correct in -- in suggesting to
4 you that that would not accord with your actuarial
5 principles number 4? Would that be right, sir?

6 MR. DONALD PALMER: I would agree with
7 that. I -- if you're looking at the rate setting on a
8 corporate, global level, that would be true, yes.

9 MR. BYRON WILLIAMS: And, I have, I
10 guess, two (2) or three (3) very short snappers and I --
11 I think there might have been some confusion, or I was
12 confused in your discussion with Mr. Saranchuk earlier
13 today, Ms. McLaren, because there was some talk of ruling
14 out loss transfer only in terms of coverage; in terms of
15 accident benefits, do you recall that discussion?

16 MS. MARILYN MCLAREN: Yes, I do.

17 MR. BYRON WILLIAMS: And, just so I'm
18 completely confident of this, even if you restricted the
19 kind of the -- the role out of loss transfer to accident
20 benefits, it would not be able to be flowed through to
21 the rate group level either, is that right?

22 MS. MARILYN MCLAREN: I agree.

23 MR. BYRON WILLIAMS: And, that's for two
24 (2) reasons, one (1) is there is no credible CLEAR data,
25 is that correct?

1 MS. MARILYN MCLAREN: Yes, that's right.

2 MR. BYRON WILLIAMS: That's one (1)
3 reason, and secondly, there's not sufficient Manitoba
4 data to have a credible model, is that correct?

5 MS. MARILYN MCLAREN: Yes.

6 MR. BYRON WILLIAMS: And finally, and you
7 had this discussion with Mr. Saranchuk, Ms. McLaren, do
8 you recall discussing with him substantial dislocation in
9 association with the rollout of CLEAR, is that right?

10 MS. MARILYN MCLAREN: Yes.

11 MR. BYRON WILLIAMS: But from the
12 Corporation's perspective, that was acceptable,
13 presumably because it led to a system that, in your view,
14 was more equitable and more understandable, is that
15 right?

16 MS. MARILYN MCLAREN: Yes.

17 MR. BYRON WILLIAMS: In terms of the loss
18 transfer, you'll agree with me as well, that there's a
19 potential for at least as much or perhaps more
20 dislocation than in the -- in the case of CLEAR?

21 MS. MARILYN MCLAREN: Yeah, I
22 believe that was Mr. Pelly's evidence.

23 MR. BYRON WILLIAMS: Is that something
24 you disagree with?

25 MS. MARILYN MCLAREN: No.

1 MR. BYRON WILLIAMS: And, your concern
2 with loss transfer, in -- in this context at least, is
3 not specifically with the dislocation, but in terms of
4 where it leads in the sense that it would, in some cases,
5 in many cases, bear no relationship to the actual costs
6 incurred?

7 MS. MARILYN MCLAREN: That's right and I
8 think we -- we spoke of that in our response to PUB 3, I
9 believe. It's simply because there's rate changes
10 required because of loss transfer, that doesn't, of
11 itself, imply unfairness.

12 MR. BYRON WILLIAMS: Thank you to the MPI
13 Panel.

14 Mr. Chairman, I -- I did want to say
15 before -- I'm done my cross-examination, but I -- I want
16 -- on a personal note, I wanted to commend Board Counsel
17 because I -- I think they've had a very difficult task in
18 this Hearing because of the variety of -- of witness and
19 the -- and the complicating situations from different
20 jurisdictions.

21 And it's been greatly appreciated from
22 certainly my perspective and my clients, the clarity and
23 the -- the heavy lifting that you saved for us, so just
24 to Board Counsel and Advisors, I'd like to express my
25 Client's appreciation.

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

3 MR. KEVIN MCCULLOCH: Mr. Chairman,
4 before we move to the next cross-examination, Mr. Palmer
5 has response to an undertaking that was given earlier
6 dealing with comparative rates, I believe, between
7 motorcycles and private passenger vehicles.

8 THE CHAIRPERSON: Mr. Palmer...?

9 MR. DONALD PALMER: We've gone through
10 for the average rate in 1993/'94 which was...

11 THE CHAIRPERSON: I recall the
12 discussion.

13 MR. DONALD PALMER: The overall average
14 rate, annual, was four thirty-six twenty (436.20)
15 corporate-wide, for private passenger vehicles it was
16 four eighty-five ninety-seven (485.97), for motorcycles,
17 on an annual basis, is four thirty eighty-one (430.81).
18 However, that was in the days when we still -- we didn't
19 have seasonal rating, so essentially, you have to
20 multiply that rate by five twelfths (5/12).

21 So effectively, the annual rate would be
22 one seventy-nine fifty (179.50), for motorcycles.
23 Currently, over the '04/'05 average rate, and this was
24 filed last year; on an overall basis, six eighty twenty-
25 four (680.24). The private passenger rate was eight oh

1 two twelve (802.12) and the motorcycle is eight fifty-
2 five nineteen (855.19), and that's on a comparable basis.

3 THE CHAIRPERSON: And, Mr. Palmer, just
4 to state the obvious, once you drop the -- I forget the -
5 - the name you use for it, the aging of it, the -- the --
6 premiums go up, of course, as new cars enter into the
7 system with --

8 MR. DONALD PALMER: The upgrading? Yes.

9 THE CHAIRPERSON: Yes. So, there's a
10 form of inflation that -- that goes along with the new
11 manufactured costs and the features they build in --

12 MR. DONALD PALMER: That's correct.

13 THE CHAIRPERSON: -- things of that
14 nature. Do you have that on a -- on a schedule, what you
15 just read out, or we just leave it in the transcript like
16 that, it's probably sufficient.

17 MR. DONALD PALMER: Just in the
18 transcript, if that's acceptable to the Board?

19 THE CHAIRPERSON: Yes, thank you, Mr.
20 Palmer.

21

22

(BRIEF PAUSE)

23

24 THE CHAIRPERSON: I'm just trying to
25 catch up. We went back and forth several times. I think

1 we've reached Mr. Roberts.

2 Mr. Roberts, do you have any questions at
3 this time?

4 MR. NICK ROBERTS: Yes, I do, Mr.
5 Chairman.

6 THE CHAIRPERSON: How long do you think
7 your questions will proceed with?

8 MR. NICK ROBERTS: A lot shorter than the
9 lawyers, probably fifteen (15) twenty (20) minutes I
10 would think.

11 THE CHAIRPERSON: Okay. And then after
12 that we have -- I think the only one we have left at this
13 stage is Mr. Dawson. And then we'll be going back to Mr.
14 Saranchuk to see if he has any followup questions.

15 So, I know you're all going to be very
16 exasperated with me but it's been a long day too. So
17 we're going to take another six (6) or seven (7) minutes.
18 And I know the last time it stretched to eight (8) but
19 what can you do.

20

21 --- Upon recessing at 9:05 p.m.

22 --- Upon resuming at 9:12 a.m.

23

24 THE CHAIRPERSON: Now, next up is a very
25 patient individual, Mr. Roberts. And don't -- don't feel

1 rushed.

2 MR. NICK ROBERTS: I won't.

3 THE CHAIRPERSON: You take your time.

4 We're -- we're ready for the long haul now, so just --

5 MR. NICK ROBERTS: I'll -- I'll speak

6 slowly.

7

8 (BRIEF PAUSE)

9

10 MR. NICK ROBERTS: Mr. Chairman, there's
11 some material on Mr. Barron's desk that needs to be
12 distributed.

13 I don't know where Mr. Barron is but...

14

15 (BRIEF PAUSE)

16

17 THE CHAIRPERSON: Mr. Roberts, we'll
18 enter this first as an exhibit. Is that -- that's your
19 intention isn't it? So we can keep track of it?

20 MR. NICK ROBERTS: Yes.

21 THE CHAIRPERSON: This is the photocopy
22 of these various undertakings?

23 MR. NICK ROBERTS: Yes, it is.

24 THE CHAIRPERSON: Okay. So, that's

25 number 41.

1 The lead sheet is information request with
2 the listing of different undertakings in a response from
3 MPI. And then from, dated of November 1, 2004 and then
4 attached to it is Table T-120, photocopy of serious
5 losses related to dealers as of February 29, 2004. And
6 the last sheet is taken from the 2005 rate application,
7 Exhibit 14.5.

8
9 --- EXHIBIT NO. MPI-41: Copies of various
10 undertakings MPI. The lead
11 sheet is Information Request
12 with the listing of different
13 undertakings in a response
14 from MPI. And then from date
15 of November 1, 2004. Then
16 attached to it is Table T-
17 120, photocopy of serious
18 losses related to dealers as
19 of February 29, 2004. And
20 the last sheet is taken from
21 the 2005 rate application,
22 Exhibit 14.5.

23
24 CROSS-EXAMINATION BY MR. NICK ROBERTS:

25 MR. NICK ROBERTS: Thank you, Mr.

1 Chairman. Ms. McLaren, I -- I have very good news, we're
2 -- we're done talking about motorcycles.

3 However, we're not done talking about loss
4 transfer, so I'll -- I'll -- just going to start here.
5 My first reference is in MUCDA 1, 2 and 3 and -- and it
6 has to deal with the undertakings that you have there.

7 Can you briefly describe how the results
8 from Undertaking 21 through 24 from last year's Hearing
9 was created?

10 Or, I suppose, Mr. Palmer?

11 MR. DONALD PALMER: This would have been
12 created from our claims database looking specifically --
13 you were looking for serious losses. Serious loss
14 defined is any incident with more than five hundred
15 (500)-- or five hundred thousand dollars (\$500,000) or
16 more in claims costs and then these would be the serious
17 losses that would be attributed to dealer plates.

18 MR. NICK ROBERTS: And if, for -- for
19 example, one looked at 1996, would that mean there's
20 roughly \$6.7 million included in the costs for the dealer
21 plate pool that were not the fault of dealers?

22 MR. DONALD PALMER: Yes, it would be.

23 MR. NICK ROBERTS: And, in 2003 there was
24 roughly five hundred and eighty six thousand dollars
25 (\$586,000) included in the costs of the dealer pool that

1 were not the fault of dealers?

2 MR. DONALD PALMER: That's correct.

3 MR. NICK ROBERTS: And, if we compared
4 that to TI-20, Exhibit 14, from last year's Hearings,
5 that's about 33 percent of dealer serious losses; is that
6 correct? Dealer losses, right?

7 MR. DONALD PALMER: I'll take your words
8 to that.

9 MR. NICK ROBERTS: So, if losses were
10 transferred, these losses would not be attributed to
11 dealer rates?

12 MR. DONALD PALMER: That's true, but the
13 flip side is also there you're -- you're not looking at
14 any losses that would be transferred into dealer rates.
15 Again, you're looking at a -- a one-way.

16 MR. NICK ROBERTS: Okay. Thank you.

17

18 (BRIEF PAUSE)

19

20 MR. NICK ROBERTS: I just want to touch
21 on the competitive nature of -- of a car dealer's
22 business.

23 Would you agree that dealers are in
24 business of selling vehicles that the public wants?

25 MR. DONALD PALMER: I will agree with

1 that.

2 MR. NICK ROBERTS: And, a dealer would
3 not be in business very long if they tried vehicles that
4 the public did not want?

5 MR. DONALD PALMER: I'll probably agree
6 with that, too.

7 MR. NICK ROBERTS: So, really as a risk
8 control matter, dealers cannot necessarily choose low
9 risk vehicles to sell; do you agree with that?

10 MR. DONALD PALMER: I would agree with
11 that, sure.

12 MR. NICK ROBERTS: So, for dealers, the
13 statement on page 2 of the Corporation's loss transfer
14 position paper, it says:

15 "The Corporation believes that first-
16 party risk assignment encourages
17 customers to choose lower risk
18 vehicles."

19 Is not directly applicable, is it?

20 MR. DONALD PALMER: Probably not in the
21 context of a -- of a dealer. I -- I would have a
22 tendency to agree with that, although I suppose I would
23 say that an individual can choose whether he wants to be
24 a dealer or not. So, I think there's still a choice.

25 MR. NICK ROBERTS: Okay.

1 MS. MARILYN MCLAREN: I think it goes
2 beyond that, too, if I can interject here because of the
3 allowable uses of dealer plates. And many people around
4 the table are probably familiar with the number of dealer
5 plates that are permanently affixed to vehicles.

6 Dealers are able to use their plates on
7 vehicles for personal use. There's certainly significant
8 personal choice and control exercised in that piece of
9 the equation.

10 MR. NICK ROBERTS: We pay for that, too.

11 MS. MARILYN MCLAREN: Oh, no doubt about
12 it, yes.

13

14 (BRIEF PAUSE)

15

16 MR. NICK ROBERTS: Okay. The reference
17 is Exhibit 42. Oh, the one (1) we just handed out,
18 sorry. Lucky I got my coach with me here.

19 THE CHAIRPERSON: Mr. Roberts, you're
20 talking about this small sheet here?

21 MR. NICK ROBERTS: Yes, sir.

22 THE CHAIRPERSON: Okay. Exhibit 42.

23 MR. NICK ROBERTS: And, the reference is
24 treatment of dealers in other provinces.

25

1 --- EXHIBIT NO. MPI-42: Treatment of dealers in other
2 Provinces.
3

4 CONTINUED BY MR. NICK ROBERTS:

5 MR. NICK ROBERTS: Can you provide us in
6 general terms, your knowledge of how dealer -- dealer
7 vehicles are plated and insured in a province such as
8 Alberta?

9 MR. DONALD PALMER: Through -- I think
10 there was evidence previously given that generally a
11 garage or a lot policy. Generally, compulsory third-
12 party liability in Alberta for sure.

13 MS. MARILYN MCLAREN: Mr. Palmer --

14 MR. NICK ROBERTS: Do you under -- under
15 -- understand how -- how they're covered?

16 MS. MARILYN MCLAREN: -- I think there's
17 certainly a legitimate possibility that the dealers
18 employees would be covered by Worker Compensation system.

19 THE CHAIRPERSON: A garage policy is
20 something that you're talking about. You're not talking
21 about being able to move the plates around; that's not
22 what you're referring to.

23

24 CONTINUED BY MR. NICK ROBERTS:

25 MR. NICK ROBERTS: So, in Alberta if a

1 dealer vehicle is in a collision -- oh, I'm sorry.

2 MR. DONALD PALMER: I don't know what the
3 regulations are in either Alberta or Ontario with regard
4 to dealer plates and -- and how transferrable they are.

5 MS. DENYSE COTE: But, what did you mean
6 by a garage policy?

7 MR. DONALD PALMER: A garage policy would
8 be a policy available to a garage owner for all
9 different kinds of risk and liability.

10 MS. MARILYN MCLAREN: Garage keepers
11 pact, garage keepers policies, those -- those terms are
12 somewhat consistent; people who house and repair other
13 people's vehicles.

14

15 CONTINUED BY MR. NICK ROBERTS:

16 MR. NICK ROBERTS: In Alberta, if a
17 dealer vehicle is in a collision with another vehicle
18 and the dealer is not at fault, the losses are not
19 charged to the dealer; is that correct?

20 MR. DONALD PALMER: That would be
21 correct.

22 MR. NICK ROBERTS: And the situation is
23 similar in Ontario?

24 MR. DONALD PALMER: Let me clarify my
25 first answer. There are some statutory accident benefits

1 in Alberta that would probably be charged and chargeable
2 to the owner of the vehicle in the dealer plate.

3 For the third-party liability losses,
4 those would be trans -- or belong to an at-fault vehicle.

5 MR. NICK ROBERTS: I see. And the
6 situation is similar in Ontario?

7 MR. DONALD PALMER: Ontario does have
8 no-fault so -- and again, I'm not sure exactly the exact
9 regulations with dealer -- dealer plates but there is no
10 loss transfer for non -- for under-the-threshold
11 injuries. There's no transfer from dealer plates; that's
12 not one of the approved categories for loss transfer.

13 MR. NICK ROBERTS: In Ontario, are they
14 insured under the garage policy?

15 MS. MARILYN MCLAREN : Somebody put that
16 evidence on the record, we don't know.

17 MR. NICK ROBERTS: Can you tell us what a
18 binder policy is?

19 MS. MARILYN MCLAREN: In the Manitoba
20 context?

21 MR. NICK ROBERTS: Yes.

22 MS. MARILYN MCLAREN: A policy that was
23 provided to Manitobans who purchase vehicles outside of
24 Manitoba and need insurance in order to transport that
25 vehicle back to Manitoba. It's not part of the basic

1 compulsory program because there's no vehicle
2 registration -- Manitoba registration associated with
3 that transaction.

4 These people are obligated to buy transit
5 permits in the various jurisdictions that they have to
6 travel through and because they're non-residents in those
7 jurisdictions, they can't buy insurance in those
8 jurisdictions.

9 So, Manitoba Public Insurance provided
10 coverage to get them home until they could get properly
11 insured and registered here in Manitoba. I believe that
12 program is no longer in existence.

13 MR. NICK ROBERTS: So if -- if Manitobans
14 go outside of the Province to buy vehicles, how do they
15 get them back?

16 MS. MARILYN MCLAREN: We've substituted
17 that process by one (1) whereby the customer can contact
18 their insurance broker or DVL office and purchase a
19 thirty (30) day temporary permit that has registration
20 and insurance. Enables us now to get full specific
21 information about that vehicle, get it into the system
22 and track whether or not it is promptly registered upon
23 return.

24 MR. NICK ROBERTS: And, in some of those
25 provinces dealers are not penalized in terms of their

1 rates for accidents that they are not responsible for;
2 would that be correct?

3 MS. MARILYN MCLAREN: Are you talking
4 about jurisdictions that Manitobans might travel through
5 when they're coming back with a vehicle they purchased?

6 MR. NICK ROBERTS: Where they're -- when
7 they're buying vehicles?

8 MS. MARILYN MCLAREN: Oh, you're
9 suggesting dealers that are buying that vehicle and
10 bringing them back to Manitoba?

11 MR. NICK ROBERTS: No, no. Just a
12 regular person.

13 MS. MARILYN MCLAREN: Okay. But I'm --
14 I'm sorry, I'm missing the link to dealers. I -- I'm...

15
16 (BRIEF PAUSE)

17
18 MR. NICK ROBERTS: I'm going to -- I'm
19 going to drop that one (1). I'm getting too confused on
20 that one (1).

21 Next reference is MUCDA/MPI Interrogatory
22 6 through 9. Could you please read in the response to
23 MUCDA 6?

24 MS. MARILYN MCLAREN: "The Corporation
25 does not have detailed information on

1 coverage for specific classifications
2 in other jurisdictions. For cost
3 allocation practices, please refer to
4 the letter from Mr. James K. Christie
5 in Attachment A of Appendix A in the
6 Manitoba Public Insurance 2005 Loss
7 Transfer Position Paper."

8 MR. NICK ROBERTS: So, if we at MUCDA
9 said that based on our reading of Mr. Christie's report
10 that a hundred thousand dollars (\$100,000) in costs would
11 be assigned to each vehicle in Quebec, would that be
12 incorrect?

13 MR. DONALD PALMER: It's a fifty fifty
14 (50/50) split regardless of fault, yes.

15 MR. NICK ROBERTS: And, if the costs were
16 \$6.7 million, 3.35 million would be assigned to each
17 vehicle?

18 MR. DONALD PALMER: That's correct.

19 MR. NICK ROBERTS: And, could you please
20 read in the response to MUCDA 7, please?

21 MS. MARILYN MCLAREN: "The Corporation
22 does not have detailed information on
23 coverage for specific classifications
24 in other jurisdictions. For cost
25 allocation practices please refer to

1 the letter from Mr. James K. Christie
2 in Attachment A of Appendix A in
3 Manitoba Public Insurance 2005 Loss
4 Transfer Position paper."

5 MR. NICK ROBERTS: And, if the dealer was
6 in Nova Scotia, and the dealer was zero percent
7 responsible, the portion of the two hundred thousand
8 dollars (\$200,000) in costs charged to dealers would be
9 zero?

10 MR. DONALD PALMER: I -- I think the --
11 again, I'm not -- I'll step away from the accident
12 benefits portion of that. If you're talking just
13 strictly the liability, I think it's important to note
14 that the coverage that you're describing here is, it's
15 not loss transfer; it's not the dealer who's the insured
16 in this instance, it's the at fault party.

17 So, there's no loss transferred, the --
18 the loss to the dealer is zero, you're right, but it's
19 not a transfer.

20 MR. NICK ROBERTS: And, if it were \$6.7
21 million in -- in Tort costs, the costs charged to the
22 dealer class in Nova Scotia would be zero?

23 MR. DONALD PALMER: Well, first of all,
24 you'd have to find the pockets that had \$6.7 million of
25 coverage. So, you're right, zero may be the charge for

1 the liability; there would be charge for the accident
2 benefits and there may not be compensation of the \$6.7
3 million.

4 MR. NICK ROBERTS: And, would it be
5 similar for British Columbia?

6 MR. DONALD PALMER: Yes.

7 MR. NICK ROBERTS: And, for BC and Nova
8 Scotia, this is basically the same as occurred in
9 Manitoba prior to the introduction of PIPP?

10 MR. DONALD PALMER: With the exception of
11 probably somewhat more generous accident benefits in --
12 in Manitoba, that would be true.

13 MS. MARILYN MCLAREN: And, BC today has
14 significantly more generous no-fault accident benefits
15 than does Nova Scotia.

16 MR. NICK ROBERTS: The next reference is
17 MUCDA 10 and 11. How are losses for extra-provincial
18 trucks accounted for in determining rates?

19 MR. DONALD PALMER: They're part of an
20 overall balance back allocated on the basis of claims
21 cost.

22 MR. NICK ROBERTS: So -- so, dealers
23 would have a small share of these costs in their rates?

24 MR. DONALD PALMER: Yes, they would.

25 MR. NICK ROBERTS: While not transferred

1 in the strictest definition of that term, these are
2 allocated to different rate classes?

3 MR. DONALD PALMER: That's correct.

4 MR. NICK ROBERTS: And how are pedestrian
5 and cyclist claims allocated?

6 MR. DONALD PALMER: The pedestrian and
7 cyclist claims -- where we have identified the -- the
8 vehicle they are assigned directly. There are many
9 pedestrian claims and cyclist claims that we have not
10 identified them.

11 We did a study a few years back and
12 allocate them based on the fault that was caused. I
13 think, again I'm -- depending on the vehicles that was
14 involved, the costs of the pedestrians, again, I'm going
15 from memory, but I think it was 85 percent allocated to
16 private passengers and 12 percent to commercial vehicles
17 and 3 percent for -- for public vehicles.

18 MR. NICK ROBERTS: So, dealers would have
19 a share of these costs in their rates?

20 MR. DONALD PALMER: Yes, they would.

21 MR. NICK ROBERTS: Any idea how much,
22 roughly?

23 MR. DONALD PALMER: No.

24 MR. NICK ROBERTS: Do you want to take a
25 stab at it?

1 MS. MARILYN MCLAREN: No. But when we
2 did that analysis, it was based on the -- the commercial
3 vehicle category share of pedestrian and bicycle claims.

4 MR. NICK ROBERTS: The next reference is
5 MUCDA 12 and PUB Number 3B.

6
7 (BRIEF PAUSE)

8
9 MR. NICK ROBERTS: Got that, Mr. Palmer?

10 MR. DONALD PALMER: Yes, I do.

11 MR. NICK ROBERTS: Could you please
12 explain the difference in these two (2) answers?

13 MR. DONALD PALMER: Sure. I -- I'll -- I
14 think I can probably save time by going right to the
15 MUCDA/MPI-12. When you said, does MPI assign a percent
16 for each claim incident -- that claim could be a
17 comprehensive claim for instance; we don't assign fault
18 in that. If there's many many passengers, a baby in a
19 car seat, for instance, would be a claimant.

20 We would not assign responsibility to that
21 infant. There are instances where there are claimants
22 and responsibility is not attached.

23
24 (BRIEF PAUSE)

25

1 MR. NICK ROBERTS: In -- in PUB-3, are
2 there cases where that adds up to more than 100 percent?

3 MR. DONALD PALMER: There could be when
4 we talked about data cleaning and again looking at the
5 use of the data for -- mainly for surcharge purposes.
6 Surcharges are given for any responsibility of -- of 50
7 percent or greater.

8 So, from a purely surcharge perspective,
9 you may have two (2) drivers who were assigned 100
10 percent. That does happen from time to time. Those
11 certainly would have to be taken out of -- in our data
12 cleaning if we got to that point.

13 MR. NICK ROBERTS: During a typical year
14 for rate setting, how many different rate and
15 classification scenarios would the Corporation run?

16 MR. DONALD PALMER: We would run a
17 different classification -- or a different scenario for
18 every little aspect if we were adding a classification
19 they would get a separate scenario.

20 If we were adding, as we did last year for
21 merit rates for artisan trucks, that was a separate
22 scenario. We may do a couple of different rate lines.
23 I'm guessing, but we're probably twenty (20) to thirty
24 (30) scenarios in a given year.

25 MR. NICK ROBERTS: So this would be to

1 determine the effects of different rates and policy
2 directions?

3 MR. DONALD PALMER: That's -- that's
4 correct. Different -- different classification changes,
5 different rate lines, different clear adjustments, all
6 those things.

7 MR. NICK ROBERTS: Has the Corporation
8 done any work updating any analysis related to the impact
9 of loss transfer on dealer plates since the analysis
10 presented in the position paper?

11 MR. DONALD PALMER: No.

12 MR. NICK ROBERTS: How about for all
13 classes or at the major class level?

14 MR. DONALD PALMER: No. We didn't
15 restate all the data.

16 MR. NICK ROBERTS: Has the Corporation
17 considered the effect of the data error reported at last
18 year's Hearings on the result presented in the position
19 paper?

20 MR. DONALD PALMER: No, we have not.

21 MR. NICK ROBERTS: Given the significance
22 of that error, why did the Corporation choose not to
23 update that information?

24 MR. DONALD PALMER: I think significance
25 of the error is your term, probably not mine. From an

1 overall indicator perspective, it was a very specific
2 error on a very specific group of vehicles to the overall
3 impact on a -- it's not material. And I -- I can't
4 comment more than that.

5 MS. MARILYN MCLAREN: It might be worth
6 reminding the participants what the error was. There was
7 simply some claims that belonged to the dealer group that
8 we had failed to allocate to the dealer group.

9 So, there's no reason to believe there
10 would be so significantly different characteristics with
11 that small number of claims it would affect the results
12 of a loss transfer analysis. We just added more claims
13 into the group.

14 MR. NICK ROBERTS: Well, if it wasn't
15 significant why would it affect the rates? Like, what's
16 your definition of significance?

17 MR. DONALD PALMER: I guess from a --
18 from that perspective, we were looking at simply the
19 impact of loss transfer. So, if you start at a different
20 level and move from that level, you're looking at a -- at
21 a difference from a policy consideration of loss
22 transfer.

23 So, whether we were looking with or
24 without those extra claims to assign to the dealer, I
25 don't see that there would be an impact on -- on the

1 change due to the loss transfer impact.

2 MR. NICK ROBERTS: I'll let that one lie.
3 Mr. Chairman, I'm done. I thank you very much.

4 THE CHAIRPERSON: Thank you, Mr. Roberts.
5 Mr. Dawson, we have at long last reached
6 you. We thank you, sir, for your patience and you can
7 begin at any time you wish.

8 MR. ROBERT DAWSON: It's my pleasure, Mr.
9 Chairman. Because these proceedings, Mr. Chairman,
10 skipped the opening statements, I just want to outline
11 very quickly that my client, that is the Manitoba Bar
12 Association, has instructed me not to take a position
13 either in favour or against loss transfer.

14

15 CROSS-EXAMINATION BY MR. ROBERT DAWSON:

16 MR. ROBERT DAWSON: And I expect to have
17 to cover only three (3) areas largely because My Friend,
18 Mr. Byron Williams has gone through most of the points
19 that I needed to score, so to speak.

20 The three (3) areas of questions that I
21 propose to ask are first to deal with a possible argument
22 that motorcyclists would use dealing with a legal concept
23 known as undue expectation.

24 The second area of questions will be to
25 use the -- what seems to be now the term of art 'short

1 snappers' which are just cleanups based on things that
2 might have happened today.

3 And then the third area is for Ms. McLaren
4 dealing with the public policy questions.

5 So, having now disarmed everyone and made
6 them think that I'm completely unthreatening, let's begin
7 with the scurrilous attack upon the motorcyclists.

8 Am I correct, Ms. McLaren that the
9 motorcyclists have been complaining about rates since
10 about 1994 with the introduction of PIPP or does it go
11 even earlier than that?

12 MS. MARILYN MCLAREN: No. It went
13 earlier than that.

14 MR. ROBERT DAWSON: Okay. And every year
15 since they began their complaining, their premiums
16 certainly have been going up, that's right?

17 MS. MARILYN MCLAREN: Yes, they have.

18 MR. ROBERT DAWSON: And yet even though
19 their rates have been going up, being the source of their
20 complaint, you can certainly confirm that motorcycles
21 have continued to be purchased and registered with MPIC?

22 MS. MARILYN MCLAREN: Yes.

23 MR. ROBERT DAWSON: And as far as we know
24 of course, motorcycles throughout of these years have
25 continued to be used by people who are registering them

1 with MPIC?

2 MS. MARILYN MCLAREN: Yes.

3 MR. ROBERT DAWSON: And would it be fair
4 to say that the people who either were buying new
5 motorcycles or used motorcycles for that matter and
6 registering their motorcycles for use in these years,
7 knew or ought to have known what the rates were going to
8 be?

9 MS. MARILYN MCLAREN: Yes.

10 MR. ROBERT DAWSON: And part of that
11 knowledge would be that they would know that historically
12 that rates had been going up progressively each and every
13 single year?

14 MS. MARILYN MCLAREN: Yes, that's true.

15 MR. ROBERT DAWSON: In terms of some
16 quick snappers, there was reference to Exhibit 37 which
17 was Mr. Oakes' distribution relating to a CAA survey.

18 And on the first page of Exhibit 37, which
19 is actually paginated from Car Guide February 2003 as
20 page 206, he made reference to a chart and I believe what
21 he was trying to get at was that, and you can correct me
22 if I'm wrong, that because insurance is not listed here
23 as a vehicle related factor that affects choice, for some
24 reason MPIC's assertion that insurance prices is taken
25 into account by consumers was somehow wrong?

1 MS. MARILYN MCLAREN: I -- think that's
2 what he was getting at.

3 MR. ROBERT DAWSON: And of course you
4 have no direct experience or knowledge with respect to
5 this survey?

6 MS. MARILYN MCLAREN: I do not.

7 MR. ROBERT DAWSON: So you would be
8 unable to tell me whether or not the reason that -- that
9 insurance does not appear on this printout, is perhaps
10 because it simply wasn't offered as a choice to
11 respondents?

12 MS. MARILYN MCLAREN: That's right.

13 MR. ROBERT DAWSON: Or if it was offered
14 as a choice to respondents it might have been a line for
15 them to fill in on 'other'?

16 MS. MARILYN MCLAREN: That's a
17 possibility too.

18 MR. ROBERT DAWSON: At some point in the
19 context of Mr. Oakes' questioning, he made reference to
20 what he termed 'testimony' by Mr. Ramsay at last year's
21 GRA Hearings. Do you remember that?

22 MS. MARILYN MCLAREN: Yes, I do.

23 MR. ROBERT DAWSON: And I just want to
24 clarify, you of course, Ms. McLaren was present
25 throughout that -- that GRA Hearing process?

1 MS. MARILYN MCLAREN: Yes, I was.

2 MR. ROBERT DAWSON: And do you remember
3 that Mr. Ramsay, in fact, was not a sworn witness but
4 rather a presenter?

5 MS. MARILYN MCLAREN: Yes, I do remember
6 that.

7 MR. ROBERT DAWSON: So, would you agree
8 with me that in making reference to Mr. Ramsay's comments
9 as 'testimony' as opposed to a presentation may be
10 overstating the weight that ought to be given to those
11 remarks?

12 MS. MARILYN MCLAREN: Yes.

13 MR. ROBERT DAWSON: Just for
14 clarification, is there any reason to keep the present
15 cap on motorcycle rates which is I believe 15 percent if
16 some form of loss transfer were to be brought into
17 effect?

18 MS. MARILYN MCLAREN: I don't think those
19 two (2) are -- are necessarily linked. I think there are
20 issues and discussions and -- and decisions about the 15
21 percent cap. The Corporation has used that 15 percent
22 cap for many years.

23 I don't know that it's conversation at all
24 related specifically to loss transfer.

25 MR. ROBERT DAWSON: So, you would agree

1 with me that it would be possible to introduce or not to
2 introduce loss transfer and continue to revisit the
3 question relating to the cap, what the number should be,
4 and whether it should exist at all?

5 MS. MARILYN MCLAREN: Yes.

6 MR. ROBERT DAWSON: And my last area of
7 exploration relates to a public policy question. You'll
8 recall, Ms. McLaren, that on the first day of this
9 Hearing which seems very long ago --

10 THE CHAIRPERSON: It was only yesterday,
11 Mr. Dawson.

12

13 CONTINUED BY MR. ROBERT DAWSON:

14 MR. ROBERT DAWSON: Now I'm going to have
15 to insert another short snapper to correct that.

16 You'll remember that Ms. Darlene Hall from
17 the Financial Services Commission of Ontario appeared,
18 and referring to the introduction of loss transfer in
19 Ontario, she described it as a political position. Do
20 you remember that?

21 MS. MARILYN MCLAREN: Yes, she did. It's
22 in statute in Ontario I believe.

23 MR. ROBERT DAWSON: And she also made
24 reference to the introduction as in her words, "a radical
25 decision". Do you remember that?

1 MS. MARILYN MCLAREN: I think she was
2 referring to the move to the OMPP, the no-fault system in
3 its entirety. Not just to the loss transfer concept.

4 MR. ROBERT DAWSON: All right. Just
5 before we explore public policy, I just want to be clear
6 on one (1) thing.

7 Is it the Corporation's position that this
8 Board, the Manitoba Public Utilities Board, has the
9 authority to order the Corporation to implement loss
10 transfer in some form; whether that's one way symmetrical
11 or some other form such as Mr. Williams has made
12 reference to?

13 Do you agree that this Board has that
14 jurisdiction?

15 MS. MARILYN MCLAREN: Yes.

16 MR. ROBERT DAWSON: And let me also ask,
17 is it the Corporation's view that the Corporation itself
18 does not create public policy but more precisely it
19 implements public policy pursuant to legislative mandates
20 and directives?

21 MS. MARILYN MCLAREN: Yes. I would agree
22 with that.

23 MR. ROBERT DAWSON: And if I can just --
24 not at the risk of belabouring the point, but just
25 because that will become rather important to the way in

1 which the rights of the public of Manitoba as a whole,
2 play out in this dispute, let me go through three (3)
3 very quick examples of how your answer, I think
4 ultimately, will be proven certainly correct.

5 First we've spoken about the motorcycle
6 cap and again I'm making reference to the fact, and do
7 correct me if I'm wrong, that motorcycle rates are set to
8 never be able to go up by more than 15 percent in one (1)
9 year. And that's what I'm referring to as a motorcycle
10 cap.

11 Is that a fair assessment, speaking in
12 modest terms?

13 MS. MARILYN MCLAREN: Yes. And that cap
14 applies to other uses as well.

15 MR. ROBERT DAWSON: And without the cap -
16 - would it be fair to describe the result as being one in
17 which rates would lack stability to use MPIC's terms.
18 That is rates would no longer be affordable and they
19 would fluctuate significantly?

20 MS. MARILYN MCLAREN: Whether or not they
21 would truly be affordable is very difficult to say. But
22 they certainly would have significant variation and --
23 and certainly a lack of stability.

24 MR. ROBERT DAWSON: And the notion of
25 rate stability certainly, I think, the Corporation would

1 agree is part of its legislative mandate; that is to
2 offer rates that are stable to Manitobans?

3 MS. MARILYN MCLAREN: Yes, I believe we
4 would not find that language in the Act, but it certainly
5 was part of the founding principles.

6 MR. ROBERT DAWSON: Indeed when I talk
7 about the legislative mandate, I don't speak about
8 specific words, I do indeed speak about the spirit, the
9 intent behind the Act.

10 Now by you -- by implementing rate
11 stability as a policy, I'm going to suggest to you that
12 it has some other affects.

13 For example, you'll agree with me that by
14 ensuring that rates are stable, it may unintentionally
15 also promote sales of certain kinds of vehicles; is that
16 right?

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(BRIEF PAUSE)

20 MS. MARILYN MCLAREN: It -- it may.

21 MR. ROBERT DAWSON: And it's equally
22 possible but it certainly would promote the use of those
23 vehicles if in each year the rate remains relatively
24 stable as opposed to fluctuating very high in years when
25 use could not be made and very low when use would be

1 necessarily encouraged, so to speak?

2 MS. MARILYN MCLAREN: Yes, I would agree
3 with that.

4 MR. ROBERT DAWSON: But again, those I've
5 described them as unintended results of rate stability do
6 not flow from legislative intent; they are, so to speak,
7 incidental?

8 MS. MARILYN MCLAREN: Yes.

9 MR. ROBERT DAWSON: And would you agree
10 with me that if the Corporation decided for some reason
11 to structure its rates, for example, to promote sales
12 expressly or to promote the use of vehicles expressly,
13 that that would not be within the legislative mandate?

14 MS. MARILYN MCLAREN: Yes, I would agree
15 with that.

16 MR. ROBERT DAWSON: And in order to set
17 rates that have that specific purpose, that is to
18 encourage purchases or to encourage use, the Corporation
19 would expect and require effectively legislative
20 direction in the form of either regulations or
21 legislation -- a statutory legislation?

22 MS. MARILYN MCLAREN: Yes, I would agree.

23 MR. ROBERT DAWSON: The second example
24 that I want to touch on derives from Exhibit 19 which is
25 the Board Council's Book of Documents at Tab 6(a). And I

1 setting of rates, in that context, was the, for some
2 reason, desire of the Corporation, the Corporation's view
3 would be that there would have to be legislative changes,
4 either an amendment to the statute, or direction through
5 regulation?

6 MS. MARILYN MCLAREN: Yes.

7 MR. ROBERT DAWSON: And the last category
8 that I'd like to cover relates to the treatment that the
9 Corporation extends to pleasure vehicles. Pleasure
10 vehicles, of course, do not pay the same rate as all-
11 purpose vehicles; am I correct?

12 MS. MARILYN MCLAREN: Yes, that's right.

13 MR. ROBERT DAWSON: And even though it
14 has been said that a significant percentage of owners, or
15 registrants, of pleasure vehicles are retired persons,
16 the creation of the pleasure vehicle category was not
17 primarily directed at persons of a certain age; was it?

18 MS. MARILYN MCLAREN: No, it was not.

19 MR. ROBERT DAWSON: And you earlier
20 discussed, for example, one of the reasons being that
21 pleasure vehicles tend not to be driven in rush hour and
22 therefore are likely to have fewer accidents?

23 MS. MARILYN MCLAREN: Yes.

24 MR. ROBERT DAWSON: So that -- the
25 suggestion that could be made that pleasure vehicles

1 might, in fact, be an example of a discriminatory
2 practice would have no basis? Discriminatory on the
3 basis of age, that is?

4 MS. MARILYN MCLAREN: Yes, that's right.

5 MR. ROBERT DAWSON: Mr. Chairman, those
6 are my questions. Thank you.

7 THE CHAIRPERSON: Thank you, Mr. Dawson.
8 Mr. Saranchuk, do you have any further
9 comments or questions to raise?

10 MR. WALTER SARANCHUK: None, sir.

11 THE CHAIRPERSON: Thank you, Mr.
12 Saranchuk.

13 People are commenting they'd like to
14 listen to you, Mr. Dawson so should be on in your...

15

16 (DONALD PALMER STANDS DOWN)

17 (MARILYN MCLAREN STANDS DOWN)

18

19 THE CHAIRPERSON: We have reached the end
20 of one (1) aspect of this proceeding at long last, and I
21 even lost today in the process which is quite fascinating
22 to me, but perhaps it's a symptom of age. I'm not sure.

23 So what lies ahead? We're looking forward
24 to closing comments from all groups that have
25 participated. The date and time will be scheduled and

1 hopefully we can do it fairly soon and Mr. Saranchuk will
2 be in touch.

3 What will begin from this moment and has
4 been going on for the last three (3) days, and up to and
5 after closing comments will be reflection on the Board
6 upon the evidence placed before us.

7 What will follow from that, presumably,
8 will be a Board Order and quickly on the heels of that,
9 too quickly, I'm sure, for our MPI friends and
10 colleagues, a new GRA proceeding. And we're quite
11 mindful of the time that these matters take up.

12 As to the research commissioned by Mr.
13 Ramsay of the University of Manitoba, you'll recall at
14 one point in the last little while this came up. I had
15 mentioned to Mr. Ramsay when he was before us, that in
16 closing comments if he had anything more to add on its
17 potential import to our deliberations he should make it
18 clear at that stage.

19 Our current view is that we don't believe
20 it's going to add significantly to the body of
21 information before us but we'll wait for Mr. Ramsay's
22 potential additions to his earlier thoughts on that.

23 As indicated at the outset, we still do
24 intend to reach a definitive conclusion on the matter
25 before us. Of course, this only if we are comfortable

1 with that, that we determine.

2 And we are approaching this objective
3 through the employing of criteria. The criteria which
4 we'll apply to the evidence that have been adduced over
5 the last three (3) days.

6 We are appreciative of all of the
7 interests and positions presented at this Hearing, and
8 frankly, we were quite impressed with the witnesses, the
9 counsels and the other representations, and presenters.
10 The civility is much appreciated, and the positive
11 cooperation displayed by all is most appreciated.

12 A tremendous amount of work has gone into
13 the effort to inform the Board fully and properly, and
14 again we greatly appreciate that.

15 So we look forward to closing comments and
16 the receipt of your last thoughts on this particular
17 matter at this time. And as I said before, Mr. Saranchuk
18 will be in touch, and thank you. And we stand adjourned.

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20 --- Upon adjourning at 9:55 p.m.

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Certified Correct,

Carol Wilkinson, Ms.

