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MANITOBA PUBLIC UTILITIES BOARD

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

Before Board Panel:

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

HELD AT:

Public Utilities Board
400, 330 Portage Avenue
Winnipeg, Manitoba
October 18th, 2006
Pages 2064 to 2131

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EXHIBITS

No.	Description	Page No.
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1 --- Upon commencing at 1:05 p.m.

2

3 THE CHAIRPERSON: Good afternoon,
4 everyone. We now on the closing statements from MPI, by
5 Mr. McCulloch, I believe.

6 Mr. McCulloch, before you begin we just
7 have one (1) follow-up question that we don't believe is
8 covered off to date. When Mr. Oakes was providing his
9 final argument he referred to page 1953 -- 52 and 53 of
10 the transcripts. He's referring to the vintaging of older
11 vehicles and he was suggesting that large trucks were
12 still being vintaged.

13 Our understanding was that vintaging
14 stopped, so, we're wondering if you could clarify the
15 situation for us and perhaps remind us when the change
16 occurred too.

17 MR. KEVIN MCCULLOCH: Yes, Mr. Chairman.
18 I believe Mr. Palmer should be in a position to provide
19 you with that response. And I want you to know for the
20 record that I've advised him that even though he's no
21 longer sworn, he still has to tell the truth.

22 THE CHAIRPERSON: And he need not start
23 right now if he wants to wait until -- are you ready now,
24 Mr. Palmer? Please.

25 MR. DON PALMER: Yes, vintaging happens

1 for heavy truck, just with the passage of time. Also the
2 heavy trucks, because the year -- the model year is --
3 determines the rate group, then as it gets older they move
4 down and that's -- that's automatic.

5 With private passenger vehicles and light
6 trucks, it's a little trickier because we base our rate
7 groups on the CLEAR indicators. Now, the issue is that
8 CLEAR only gives us indicators for up to fifteen (15)
9 years old, so for this year I think the CLEAR indicators
10 would be given to us for model year '91 but not prior.

11 Obviously, we have prior years that are
12 included in our -- in our rate -- rate group so we have to
13 somehow assign, and what we do is base them on the 1991 as
14 an anchor indicator and -- and let me give you an example.

15 For instance, if there is a -- in our
16 current rate groups and 1991 might be a rate group 6 and
17 the 1990 probably would be a rate group 5, and the 1989
18 would be a 4 and -- and so on down the line. And then we
19 get the new CLEAR indicators and say the 1991 stays at a
20 6, then we probably or we will maintain the 1990/'89, and
21 prior at their previous rate groups.

22 So -- so again, it's not just the passage
23 of time, it's the relationship to the 1991 that we really
24 look at. So again, if in 2006 our rate groups were 6, 5,
25 4, 3 and so on, and the 1991 came back for this year as 6,

1 we would probably -- we would keep it at 6, 5, 4, 3.

2 THE CHAIRPERSON: The 2000 model would
3 stay at what it was the year before?

4 MR. DON PALMER: The 2000 model depends on
5 the CLEAR indicator, completely. CLEAR does modify their
6 indicators. Again, as vehicles get older and lose value,
7 there are vehicles that will -- and as experience emerges
8 there are indicators that go down; most do with that
9 passage of time, but, sometimes they go up. And an
10 example of that would be the Dodge Caravans, which are so
11 theft prone that their CLEAR rating has not gone down
12 because as experience has emerged, they're not a lower
13 risk with the passage of time.

14 So, vintaging from -- for anything newer
15 than a 1991 isn't automatic, it gets fed through the CLEAR
16 system based on emerging experience so -- and of emerging
17 experience of the loss costs, and in some -- in most
18 cases, I would say that those would go down over the
19 passage of time.

20 Some stay the same, again, depending on the
21 damage ability, or some go up.

22 THE CHAIRPERSON: So when we talked
23 earlier about -- I could read it, but, just to make it
24 straightforward, at some point in the Hearing there was
25 talk about an offset to CLEAR, what was that all about?

1 MR. DON PALMER: What the offset is, is
2 that we are making these -- these CLEAR rate groups is
3 essentially regarding the relative ranking of each group
4 to another.

5 But, it's not necessarily that that -- what
6 we get from CLEAR will be revenue neutral. So what we
7 have to do is just with the imposition of this new rate --
8 set of rate tables, we are not looking for that in itself
9 to change the rate, so we do -- so if there is a slight
10 change on our experience to say, maybe by the imposition
11 of these new rate groups, we might lose half a point.

12 THE CHAIRPERSON: I follow you, bring it
13 back up to zero.

14 MR. DON PALMER: Then we have to bring it
15 back up to zero.

16 THE CHAIRPERSON: Okay.

17 MS. MARILYN MCLAREN: And that's in Tab 2
18 of the first small binder, where it talks about the fact
19 that it's -- they're really small amounts; 1.09 percent.
20 The offsets are small amounts to bring it back to zero.

21 THE CHAIRPERSON: I'm starting to gather
22 it. Now, that's --

23 MR. DON PALMER: Just --

24 THE CHAIRPERSON: -- why when you talk
25 about an upgrade factor, it's because of the offset,

1 that's why the upgrade factor stands on its own, so to
2 speak.

3 MR. DON PALMER: The upgrade factor speaks
4 to new vehicles coming in, in the rate years that we're
5 talking -- that this application applies to.

6 THE CHAIRPERSON: Right, and because of
7 the offset it stands on -- again on its own.

8 MR. DON PALMER: That's correct.

9 THE CHAIRPERSON: Now, when you talked
10 about the heavy trucks, you don't get CLEAR ratings on
11 heavy trucks, that's what the issue is.

12 MR. DON PALMER: That's the issue and no
13 we do not.

14 THE CHAIRPERSON: Thank you. Mr.
15 Evans...?

16 MR. LEN EVANS: Mr. --

17 MR. WALTER SARANCHUK: Just on this point,
18 on a point of order, Mr. Chairman, I don't know whether
19 this exchange is going to go on much longer, but we are
20 talking about a situation where MPI was to provide its
21 closing remarks.

22 This is unsworn testimony, this is not
23 evidence and this is strictly for the record to make it
24 clear that that is the case. And this is information that
25 is being gleaned from MPI, as I guess, within the realm of

1 closing remarks, in terms of an explanation of some of the
2 issues that were raised by one (1) of the Intervenors.

3 So, I don't know that we want to continue
4 on too much longer without having somebody sworn in and
5 having the whole process opened up again. So, if we can
6 qualify these remarks as being within the sphere of
7 closing comments or remarks within MPI, which I think we -
8 - by stretching it a little bit, probably can do to this
9 juncture.

10 I would just caution that we ought perhaps
11 not to continue too much longer.

12 THE CHAIRPERSON: We're satisfied with Mr.
13 McCulloch's comments and the beginning and your caution is
14 fine. We just find it helpful to understand it a bit
15 better.

16 Mr. Evans, do you have something?

17 MR. LEN EVANS: Well, it's a very minor
18 footnote question. You made reference to Dodge Caravans
19 as very prone to theft but is it not true that all recent
20 vehicles automatically have immobilizers put in them by
21 the manufacturer?

22 MR. DON PALMER: Not -- not necessarily,
23 but the -- but the CLEAR system does have a variable --
24 whether it's got a factory installed -- an approved
25 factory installed immobilizer or not.

1 MR. LEN EVANS: So they take that into
2 account?

3 MR. DON PALMER: Absolutely.

4 MR. LEN EVANS: Thanks.

5 THE CHAIRPERSON: Thank you. We're done
6 on this. Okay, Mr. McCulloch.

7 MR. KEVIN MCCULLOCH: And just to muddy
8 the waters a little more, Mr. Chairman, I have four (4)
9 undertakings to respond to. These are the last four (4)
10 outstanding, and I was going to be guided by Mr. Saranchuk
11 as to, procedurally, how we get these on the record when,
12 in fact, the -- the evidentiary portion has been closed.

13 THE CHAIRPERSON: We'll take them on the
14 record please.

15 MR. KEVIN MCCULLOCH: Thank you. The
16 first one then is Undertaking Number 28, which I believe
17 should be MPI Exhibit 33 -- 34.

18
19 --- EXHIBIT NO. MPI-34: Response to Undertaking 28.

20
21 MR. KEVIN MCCULLOCH: Undertaking 31 which
22 will be MPI Exhibit 35.

23
24 --- EXHIBIT NO. MPI-35: Response to Undertaking 31.

25

1 MR. KEVIN MCCULLOCH: Undertaking 32 which
2 will be MPI Exhibit 36.

3

4 --- EXHIBIT NO. MPI-36: Response to Undertaking 32.

5

6 MR. KEVIN MCCULLOCH: And Undertaking
7 Number 34 which will be MPI Exhibit Number 37.

8

9 --- EXHIBIT NO. MPI-37: Response to Undertaking 34.

10

11 THE CHAIRPERSON: Thank you, Mr.
12 McCulloch.

13

14 (BRIEF PAUSE)

15

16 THE CHAIRPERSON: While we're waiting,
17 Mr. Saranchuk, I imagine this can go on the record since
18 it arose during the Hearing? These are undertaking that
19 the --

20 MR. WALTER SARANCHUK: Well, it wouldn't
21 be a precedent but -- in that it has been done in the
22 past, but because there was an undertaking, the proceeding
23 has effectively been closed but, again, to satisfy the
24 undertakings and it's on the record now as an exhibit
25 unless somebody's going to complain, I guess we'll just

1 proceed that way.

2 THE CHAIRPERSON: Very good.

3 Okay, Mr. McCulloch.

4 MR. KEVIN MCCULLOCH: And one final item,
5 Mr. Chairman, I have to inform you that Ms. McLaren has to
6 leave for a three o'clock meeting and I wanted the Board
7 to know that it wasn't a reaction to what I was saying up
8 to that point. Mr. Chairman --

9 THE CHAIRPERSON: At least we won't have
10 to speculate now.

11

12 FINAL SUBMISSIONS BY MPI:

13 MR. KEVIN MCCULLOCH: Mr. Chairman,
14 members of the Panel, like some of my colleagues I want to
15 start these proceedings by expressing my appreciation to
16 the Board in scheduling my closing presentation on the day
17 following presentations by Board Counsel and Intervenors.
18 This has allowed additional time for the applicant to
19 respond to new issues raised by the Intervenors in closing
20 argument. And this year, I guess, it may actually have
21 been a moot point because I doubt that the Board was
22 prepared to hear me yesterday afternoon at five o'clock,
23 even if I was prepared to proceed at that time, but in any
24 event, the additional time is appreciated. Thank you.

25 As in previous years, I begin my

1 presentation addressing the issue which really brought us
2 all here in the first place: Basic compulsory insurance
3 rates for 2007/2008. The bulk of the material filed in
4 support of this year's General Rate Application deals
5 directly with rates. And when I say "the bulk of the
6 material," I'm referring to the five (5) volumes filed
7 with the application back in June.

8 And as in previous hearings the position of
9 the Corporation is that having followed its standard rate-
10 making methodology in calculating this year's rates the
11 applied for rates are, therefore, actuarially sound and
12 statistically driven and there's been evidence to that
13 effect.

14 With some minor exceptions which I will
15 address in due course, there's really been no challenge
16 raised to the rates themselves and this is not an unusual
17 situation. Therefore I would argue that, or submit to the
18 Board that, the evidence before the Board fully supports
19 the application; no question that the Corporation has met
20 the burden of proof, that it acknowledged through Ms.
21 McLaren's response to Mr. Saranchuk's questions at
22 transcript pages 85 and 86 and that the evidence has
23 confirmed that the rates are just and reasonable.

24 But as has been the case in previous years
25 there are other significant issues to be addressed by this

1 Board and that's what we will move onto now in
2 presentation.

3 First and foremost, there are issues
4 relating to the RSR, Rate Stabilization Reserve, the
5 appropriate range for that reserve, and the test to be
6 applied at arriving at the appropriate range; should it be
7 MCT or should it be the Operational Risk Analysis which
8 includes the Value at Risk Analysis.

9 There are issues as well relating to
10 transfer of excess earnings from SRE and Extension lines
11 of business to Basic. There have been issues raised in
12 relation to the 1988 Kopstein Report, issues in relation
13 to equity risk premium, and one that seems to have taken
14 on a life of its own at this Hearing; issues relating to
15 the use of professional and managerial judgment in
16 determining appropriate rates and in the operation of the
17 Corporation's business.

18 And because it sort of permeated the -- the
19 entire Hearing, I was going to start with that last point;
20 issues of managerial judgment; professional judgment. And
21 it became quite obvious in -- in a number of the cross-
22 examinations conducted by Counsel or representatives of
23 the Intervenors that this somehow was an issue or should
24 be an issue.

25 The Corporation wants to make it clear on

1 the record that judgment plays and has always played an
2 essential role in all aspects of the Corporation's
3 business. When establishing a rate-making methodology
4 decisions must be made based on the judgment of the
5 professionals who have been hired to build and apply that
6 rate methodology.

7 When we go back to Judge Kopstein's 1998
8 report, one (1) of his recommendations was that the
9 Corporation hire an internal actuary. And I'm quite
10 certain that when he made that recommendation he expected
11 the individual would be asked to apply his professional
12 judgment within the confines of the actuarial standards of
13 practice to all of the work that that internal actuary was
14 performing on behalf of the Corporation.

15 The same applies to senior management of
16 the Corporation. They are trained, both by education and
17 experience, to apply their best judgment in the day-to-day
18 operations of the organization. It couldn't possibly be
19 any other way.

20 Throughout my presentation I'll come back
21 to this point highlighting where appropriate judgment is
22 required and has been applied, but I thought it was
23 worthwhile identifying it as an issues upfront since, as I
24 say, it seemed to pervuey much of the questioning of the
25 MPI Panel and the MPI's expert.

1 Another preliminary issue that I want to
2 address deals with the transfer of excess retained
3 earnings from SRE and Extension to the Basic RSR.

4 Ms. McLaren gave evidence in response to
5 questions posed by Board Counsel and -- and I don't have
6 that transcript reference but it was in that -- in the
7 initial questions put by Mr. Saranchuk. She gave evidence
8 that this transfer of funds was always intended to be the
9 main source of building the Rate Stabilization Reserve.

10 In the past the Corporation had relied on
11 special surcharges to build and re-build the RSR. Some
12 years ago, the Board of MPI made the decision that the
13 excess earnings of the Extension lines of business, the
14 non-regulated lines of business, should be used as the
15 main source of rebuilding the RSR.

16 It wasn't intended to be the sole source,
17 but it was identified and Board minutes were filed at the
18 appropriate hearing to confirm that this was the intention
19 of the Corporation.

20 If this Board fixes the RSR at a range
21 where, due to the current financial status of MPI the RSR
22 is fully funded, then the whole purpose for the transfer
23 from Extension and SRE no longer exists.

24 I would suggest that at no time in the
25 decisions that have been disclosed to this Board, did the

1 Corporation or the MPI -- MPI Board of Directors, commit
2 to achieving earnings in the competitive lines of business
3 in excess of their retained earnings requirement, merely
4 to have those funds transferred to Basic and rebated to
5 Basic Premium Payers.

6 It appeared from some of the questions
7 raised by Counsel for one (1) of the Intervenors that that
8 was his understanding. Absent the need to rebuild the
9 RSR, up the top of its target range, or if it falls below
10 its target range to rebuild it into its target range, the
11 Corporation will have to make other business decisions as
12 to how the two (2) competitive lines of business should be
13 managed.

14 I want to speak, as well, upfront, about an
15 issue raised dealing with equity risk premiums. The
16 Corporation has taken the position on the record that in
17 its particular circumstances, it's inappropriate to budget
18 for receipt of an equity risk premium in the twelve (12)
19 month timeframe for which the Board is being ask to set
20 rates.

21 Mr. Galenzoski in his evidence contained in
22 the transcripts pages 607 to 615, when he was responding
23 to the Ibbotson article that had been filed in evidence as
24 PUB Exhibit 13, set out the rationale for the
25 Corporation's position. And in particular, I would refer

1 the Board to pages 614 and 615 of that evidence.

2 Clearly, over the long term the Corporation
3 expects to earn a premium on its equity investments. But,
4 since we are dealing strictly from a rate-setting purpose
5 for a twelve (12) month period, the Corporation has made
6 the decision that it is not the appropriate thing to
7 assess an equity risk premium in those circumstances.

8 MCT and RSR clearly, this is the big issue.
9 It's the issue that's attracted the most attention at this
10 year's Hearing and that comes obviously as no surprise to
11 the applicant.

12 I first want to address issues raised with
13 respect to the definition of the RSR. The Corporation
14 doesn't agree that there has been a change in the
15 definition or that there's been a change in the purpose
16 for the RSR.

17 And in that regard, I would refer the Panel
18 to the transcript at pages 435 and 436. This was the
19 portion of the Hearings when Ms. McLaren was being cross-
20 examined by Board Counsel and was talking about what was
21 the purpose and the definition of the RSR.

22 And at page 435 Ms. McLaren states:

23 "Further to that point, Mr. Saranchuk,
24 the Corporation's position is that we
25 have not been tweaking the purpose of

1 the RSR. Perhaps we should have been
2 tweaking the drafted definition of that
3 purpose. If we were writing this today,
4 we might write this to say that it's
5 intended to protect motorists, you know,
6 from large special surcharges to rebuild
7 the RSR made necessary by unexpected
8 events and losses."

9 Now, the position of the Corporation is
10 that even those -- those words which appear slightly
11 different from the stated purpose as it has appeared
12 previously which, by the way, is to protect motorists from
13 rate increases driven by unexpected events and losses
14 arising from non-recurring events or factors, that it's
15 really just identifying another potential large rate
16 increase that would be appropriately responded to by the
17 RSR. Any large unexpected increase is going to result in
18 either a surcharge or a drawdown of the RSR.

19 So I -- I really think that when you --
20 when you reflect on the entire answer and you look at
21 those words this doesn't constitute or demonstrate any
22 change in the purpose of the RSR.

23 Now, a few moments ago I mentioned that
24 obviously it was no surprise to the applicant, to the
25 Corporation, that MCT and RSR were a -- a big issue for

1 this Hearing. And the first question that was put to Ms.
2 McLaren in her direct evidence, back in Volume I of the
3 transcript, pages 58 to 69 was: Why are we here? Why did
4 MPI bring this issue back before the Board.

5 Again, I would refer the Board to Ms.
6 McLaren's evidence in response to this question when you
7 are in your deliberations on this rate application. It is
8 clear that this is a significant issue for the MPI board,
9 the issue of MCT. It's a significant issue for the MPI
10 board and for MPI management.

11 The Corporation did not take this step
12 lightly. In last year's Order the Board made it clear
13 that at that point it was not accepting the MCT test and
14 it went further and said, If you're going to bring the MCT
15 back before this Board we want you to do it with an
16 updated operational risk and VAR analysis.

17 Now, bringing it back the following year, I
18 would suggest, takes some courage on the part of the
19 applicant but, again, that merely drives home the
20 significance that this issue has with the Corporation.

21 And it's not without precedent. I notice
22 that Mr. Oakes was one of the individuals in closing who
23 suggested that this issue of MCT had been put to bed last
24 year and -- and why were we bringing it back.

25 I guess I could respond with, Well, there

1 was a time when the Corporation thought loss transfer was
2 put to bed or PIPP cost allocation as we now call it, but
3 it was revived and we now have a new ruling on that issue.
4 Well, not new, it's been in place now for -- for over a
5 year.

6 I think that, in addition to Ms. McLaren's
7 evidence, particularly at page 61, Mr. Palmer, in his
8 direct evidence also provided more detail as to how and
9 why, from the Corporation's point of view, MCT is an
10 appropriate test to be used to establish the RSR target.

11 Having said that, I think we have to
12 examine the evidence that's been brought forward. MPI
13 and, I think, by agreement, the other parties, has put
14 forward a definition or a description of MCT as being a
15 test that balances capital required to capital available;
16 balancing capital required to capital available on a risk
17 adjusted basis.

18 And that's an important consideration in as
19 part of the definition. It's a risk adjusted basis. And
20 again, for reference in your deliberations I would direct
21 the Panel to AI-15 the discussion of the Rate
22 Stabilization Reserve and in the first few paragraphs the
23 purpose and some history of the MCT is addressed.

24 I'm not going to read it into the record
25 here. I know that the reference will be sufficient.

1 that the risk-based MCT is better than
2 the former solvency test."

3 So I'd suggest that that strengthens the
4 Corporation's position that MCT is not a solvency test.
5 Solvency, obviously, is an issue that when setting the
6 range driven or identified by the MCT figure, when you --
7 when you set your range solvency has to be a
8 consideration, but it's not a solvency test.

9 And in that regard I would also refer the
10 Panel to CAC/MSOS Exhibit Number 7. And this is an
11 advisory issued by the Office of the Superintendent of
12 Financial Institutions, OSFI, in December 2003. And again
13 it's talking about how, the relatively new at that time,
14 MCT test ought to be applied.

15 And it talks about two (2) targets; that
16 there's a supervisory target driven of course by the
17 regulator, OSFI, and that's the 150 percent MCT, but that
18 there's also an internal target that each company has to
19 address. And that's -- that issue is addressed on page 2
20 of that exhibit in the last paragraph. And it talks about
21 how companies are to establish their internal targets
22 which will drive them higher than the 150 percent
23 requirement imposed by OSFI.

24 And it goes on to say that to establish
25 their internal target companies need to use appropriate

1 stress and scenario testing to determine for themselves
2 the level of capital necessary to mitigate the following
3 risks: residual risk, market risk, liquidity risk, legal
4 and regulatory risk, operational risk, strategic risk, and
5 insurance risks in their business.

6 It goes on to say for most companies this
7 requirement can be determined by extending the Dynamic
8 Capital Adequacy Test scenarios, extending those
9 scenarios, to include more likely adverse scenarios. We
10 already know that the DCAT addresses adverse scenarios.
11 They're suggesting you can expand the use of DCAT to help
12 you as a private company set your internal target.

13 Again, I think that those comments will
14 come back into play in -- in some other points that we're
15 making, especially when we're talking about the evidence
16 of Mr. Christie and -- and Professors Hum and Simpson.
17 But I think that that's a very helpful definition and
18 explanation as to how the new MCT is intended to operate.

19 And I think it's also interesting to note
20 that when you're reading through those list of risks that
21 are set out on page 2, market risk we concede is addressed
22 by MPI's monopoly situation. The rest of the risks, to
23 one (1) extent or another, all apply to MPI.

24 And in that regard, at transcript page
25 1431, I put a similar list to Professors Hum and Simpson

1 in cross-examination and they agreed with me that MPI
2 faces these risks, just as a private P&C insurer would.

3 So again, I think that that admission on
4 the part of Professors Hum and Simpson brings us well
5 within the discussion in the OSFI advisory of December
6 2003.

7 On the issue of MCT, the Corporation
8 produced Jim Christie to give evidence, to give expert
9 evidence, as an actuary with significant experience in
10 preparing DCAT and MCT analyses for P&C companies. His
11 direct evidence is set forth in Volume VI, pages 1044 to
12 1083 of the transcript and also in his pre-filed evidence.
13 And I'm going to highlight or direct the Panel to what I
14 consider to be highlights in Mr. Christie's evidence.

15 Particularly, at pages 1059 and 1061 of the
16 transcript, he speaks to the strengths of MCT. And at
17 pages 1062 and 1063 he gives his opinion why, in his
18 expert view, MCT is the appropriate test, coupled with the
19 DCAT analysis for establishing an RSR range at MPI.

20 And in his evidence at page 1062, he
21 indicates how MCT can adjust for MPI's status as a Crown
22 Corporation monopoly insurer. So it's not as if that
23 issue hasn't been addressed, hasn't been acknowledge.
24 It's addressed and it's dealt with.

25 Now, faced with Mr. -- or in addition

1 rather to Mr. Christie's evidence, we had Mr. Palmer's
2 evidence; again, an expert actuary, who not only this
3 year, but in previous years has given evidence to the
4 Board as an MPI witness.

5 Now, in response or -- or objection to that
6 evidence of these two (2) actuaries, who are experts in
7 the field of risk management and risk assessment, CAC/MSOS
8 produced a report from Professors Hum and Simpson.

9 These two (2) economists had been retained
10 to discuss the relative merits of the risk analysis as its
11 referred to, or the RAA; what we know as the operational
12 risk analysis plus VAR. So they were to discuss the
13 relative merits of that approach and the MCT DCAT
14 approach.

15 It has to be noted that Professor Hum and
16 Simpson are not actuaries and further that they have had
17 no experience in relation to advising or examining issues
18 for property and casualty insurers. And that's found in
19 the transcript at page 1388 and 1389, when in response to
20 a question from myself in cross-examination, they admitted
21 that they had no experience in that regard.

22 They went on to indicate that prior to July
23 of 2006, they had no knowledge of MCT or DCAT. They had
24 no familiarity with either of those two (2) elements which
25 MPI's expert witnesses gave evidence on before the Board.

1 MPI, I confess, I do not have this
2 information. So I mean that I'm not --
3 I'm not defensive about it. I just
4 never took the time to -- to find out
5 before."

6 And yet, in light of those admissions,
7 Professors Hum and Simpson are being asked to provide
8 expert evidence on assessing risk at MPI. Knowledge of
9 MPI's operations, I would suggest, would be key to that
10 analysis.

11 Christie and Palmer, in direct evidence,
12 stated that investment income -- or rather variances to
13 investment income is a key risk faced by MPI.

14 Drs. Hum and Simpson, at pages 1395 and
15 1396, admitted that, with the exception of a reference to
16 the investment time horizon, they didn't address the issue
17 of investment income at all. They didn't address the
18 issue of what risk variances in investment income were
19 faced by MPI.

20 Further on, although Professor Hum didn't
21 necessarily want to agree with me on this, I would suggest
22 that further one their report trashes, there's no other
23 description, Mr. Christie's use of the adverse scenario
24 dealing with inflation. And that's found at evidence, in
25 pages 1351 and 1352.

1 Later in cross-examination -- that was in -
2 - in direct examination by Mr. Williams. Later in cross-
3 examination they suggested that they weren't being
4 critical of Mr. Christie but, again, it's difficult to
5 reach any other conclusion. They were critical of and
6 totally rejected an adverse scenario dealing with
7 inflation which evidence has established was a required
8 approach by the Actuarial Standards of Practice of the
9 Canadian Institute of Actuaries. Mr. Christie had no
10 choice but to apply that inflation adverse scenario in
11 accordance with the standards of practice of his
12 profession.

13 There are many other issues that can be
14 taken with the Hum/Simpson Report. For example, the
15 suggestion that the government is a co-signatory of MPI's
16 in the event of financial difficulty.

17 Again, in this regard they had no knowledge
18 of how a large loss was handled by MPI back in 1996 when,
19 instead of running to a co-signatory, which one would have
20 expected the Corporation to do if, in fact, they had one,
21 the Corporation came to this Board to seek RSR rebuilding
22 surcharges.

23 Also, at page 1363 of the transcript, Dr.
24 Hum dismisses value-at-risk as a means of assessing
25 investment risk, despite admitting previously that he

1 hadn't even considered investment income or variances in
2 investment income.

3 The bottom line -- and I say this
4 acknowledging that these are two (2) very well-qualified
5 gentlemen who, in Dr. Hum's case, proved to be quite
6 entertaining on the stand and I think he admitted that.

7 The bottom line is that they weren't the
8 appropriate persons to assess the relative merits of MCT
9 and the operational risk, value-at-risk approaches. They
10 lacked specific knowledge of MPI's operations, were not
11 familiar even with the GAAP requirements in accounting for
12 unexpected losses which, again, has a direct impact on how
13 you would have to treat an unexpected large loss.

14 They knew nothing of the P&C industry. I
15 would suggest that this issue is properly within the
16 expertise of professional actuaries. Mr. Christie in his
17 evidence said that in his prior life, prior to being a
18 consulting actuary when he was an executive in a private
19 insurance company, that he would never have called upon an
20 economist to prepare a risk analysis for his organization.

21 The Board has before it evidence from Mr.
22 Christie and Mr. Palmer and I would suggest that their
23 evidence must be preferred over that of Professors Hum and
24 Simpson.

25 And my comment on the preference of the

1 evidence of Mr. Christie and Mr. Palmer goes also to the -
2 - the dual aspect of the MCT that was brought forward
3 certainly at last year's Hearing and -- and was dealt with
4 at -- at this year's Hearing. And just to -- to remind
5 the Panel when you're going into your deliberations, the
6 Corporation has asked the Panel to draw the distinction
7 between the MCT test and the range that a corporation
8 establishes as a result of that test.

9 And we have an admission from Doctors Hum
10 and Simpson that they thought the MCT was a fine test and
11 that DCAT was fine too, but they just didn't think it
12 addressed the right issues.

13 The distinction here that the -- the
14 Applicant is making is that we have evidence, not only
15 that the MCT test is the appropriate test to be applied,
16 but that the range of 107 to 214 million is also in
17 keeping with application of the MCT and the DCAT analyses
18 that were done.

19 So the test, and in this case the target,
20 go hand in hand since the appropriate analysis on the
21 right target has been performed after the test itself was
22 done. So in this case there -- there's no need to
23 separate the two.

24 I'm going to move on to some observations
25 and comments on positions taken by the Intervenors and I

1 want to start with CAC/MSOS. And -- and I mentioned
2 earlier that the Kopstein report was an issue. It was an
3 item that raised its head again. We're talking about the
4 1988 study that Judge Robert Kopstein did on the
5 operations of MPI.

6 And Mr. Williams took the position that the
7 Corporation has repudiated the Kopstein report. And he
8 appeared to be suggesting that one (1) of the ways the
9 Corporation had repudiated Kopstein was that it was
10 budgeting for a loss. And there are four (4) issues in
11 Kopstein; budgeting for a loss is one (1) of them. I want
12 to address all four (4) of them.

13 The Kopstein recommendations basically
14 were: don't budget for a loss; build a reserve fund; don't
15 rely on private sector tests to establish the required
16 reserve fund; and plan to build up reserves or rebate --
17 sorry, plan to build up the reserve fund if it falls below
18 a target or to rebate to customers if it is above the
19 target.

20 Dealing with not budgeting for a loss, I
21 think we could look at TI-15, the Statement of Operations
22 for fiscal years ended February 28th/29th, and look at the
23 projection for the year that we're -- we're dealing with,
24 the '07/'08 year. And applying the financial approach,
25 which is the one the Corporation uses in its rate-making

1 methodology, the projection shows a net loss from
2 operations of \$6.5 million. It then shows transfer from
3 the immobilizer incentive fund of 11 million for a net
4 income for rating purposes of 4.6 million. And that's the
5 important factor that has to be taken into account.

6 If you were to stop at the third line form
7 the bottom, net income from operations, yes, it would show
8 a budgeted loss of 6.4. You might argue, however, that
9 since that's approximately 1 percent of the total premium,
10 that that's really a break even, it's not budgeting for a
11 loss, it's budgeting for breakeven. But, we don't even
12 need to go there, because the transfer from the
13 immobilizer incentive fund, brings the net income for
14 rating purposes, up to 4.6 million.

15 The other issue that has to be addressed
16 when there's suggestion that the Corporation might be
17 budgeting for a loss, is found in TI-2 and that relates to
18 the rate change that is being requested by the
19 application.

20 TI-2 clearly shows that the full credited
21 required change in rates, is minus 2.6 percent. The
22 applied for change, which is found in the next line, is
23 minus 2.6 percent. So, the applied rate and the full
24 credibility required rate are one in the same.

25 In his comments about budgeting for a loss,

1 Mr. Williams talked about one (1) incident in the early
2 '90's and one (1) incident in 2003, which was dealing with
3 the '04/'05 General Rate Application; that hearing held in
4 October of '03.

5 And in that application, he's absolutely
6 correct. The Corporation did file an application showing
7 an approximate loss of \$13 million I believe, but in that
8 application the full credibility required rate was a 4.3
9 percent increase and the Corporation had only applied for
10 a 2.5 percent increase.

11 So I would agree with Mr. Williams, that if
12 the projected \$13 million loss couldn't be seen as
13 breakeven over time, that that was a situation where the
14 Corporation was budgeting for a loss, and it was a
15 situation that could be seen as being contrary to the
16 Kopstein report.

17 But, the Board resolved that issue by,
18 number 1), not going along with the suggested 2.5 percent
19 increase. And it's certainly the only incident I would
20 suggest, in recent history that the Corporation has
21 budgeted for a loss and the comments don't apply to this
22 year's application for the reasons that I've stated.

23 The other two (2) pillars of Kopstein -- or
24 two (2) of the other four (4); build a reserve fund,
25 that's been done; have a plan in place to deal with

1 situations where the reserve is below or above the range,
2 and that's in place.

3 We have either the surcharge or transfer
4 from competitive lines to rebuild the RSR and we have a
5 policy that says we will rebate any excess once those
6 monies have been earned.

7 That leaves us with the last issue in the
8 Kopstein or the last recommendation in the Kopstein
9 report, where by Mr. William's position, Kopstein rejected
10 the private sector test for private insurers. Now, that
11 was back in 1988 when the capital requirement for private
12 insurers was approximately 30 percent of premium.

13 In the Kopstein report, and we're talking
14 Position Paper Number 7 at page 29, Judge Kopstein states
15 that he does not believe it is necessary for MPI to meet
16 the exacting standards applied to privately owned
17 insurance companies.

18 So that's his statement. He says not, I'm
19 rejecting the test, he says, MPI doesn't need to meet the
20 exacting standards.

21 In the following page, on page 30, Judge
22 Kopstein recommends that 15 percent of premiums would be
23 appropriate with remedial action to be taken if the fund
24 falls below 10 percent or exceeds 20 percent.

25 The Corporation would argue that, in fact,

1 Judge Kopstein took the private sector test and modified
2 it to fit MPI's circumstances. And that is exactly what
3 MPI has done with its proposal on the MCT. It's taken the
4 private sector test and it's modified it to suit its
5 particular circumstances.

6 I'm going to spend a little time on
7 Mr. Williams and others' recommendation that the
8 operational risk analysis and VAR is to be preferred over
9 MCT. And one (1) of the reasons that they bring forward
10 is that this is made in Manitoba solution. No one else
11 uses the operational risk analysis in combination with the
12 VAR. It was developed, initially, by MPI. It was
13 modified over a number of years of opinion and evidence
14 expressed at these General Rate Applications, but MPI is
15 still the only one that uses this particular device.

16 It should be pointed out, we have to
17 recognize, that MPI is only one (1) small segment in the
18 Canadian insurance market. The rest of Canada, private
19 and public, applies the actuarially based MCT.

20 Now, there's been plenty of evidence that
21 SGI has a particular MCT target, that ICBC has a
22 particular MCT target, and there's been discussion as to
23 how those targets were arrived at. Mr. Williams seemed to
24 suggest that it was a political decision in BC's case;
25 that the Premier of British Columbia made the decision to

1 have MCT applied for the Insurance Corporation of British
2 Columba.

3 In fact, Ms. McLaren, at the transcript,
4 pages 1821 and 1824, gave evidence that the move to MCT in
5 British Columbia was based, first, on the advise of ICBC
6 to the Government, based on advice that ICBC had obtained
7 from external consulting actuaries, and that before acting
8 on that advise the Government sought its own external
9 actuarial advice. So clearly, there was a significant
10 role played by actuaries and -- in the decision to apply
11 MCT at ICBC and, presumably, to set the range of MCT that
12 -- or the range of retained earnings that would be
13 appropriate.

14 Looking back at the operational risk
15 analysis, and in light of the comments made by various of
16 the Intervenors on the application of managerial and
17 professional judgment, it's clear that the operational
18 risk analysis is subject to considerable judgment when
19 you're applying it to assess a reserve need.

20 Judgment on items such as the confidence
21 levels to be applied, the number of years of data to use,
22 the decision to adjust past data for inflation or
23 outliers, et cetera. And even in the Hum and Simpson
24 Report they talked about, there were three (3) different
25 ways to adjust for outliers, those big outstanding events

1 that occurred. You have to use your judgment to choose
2 one (1) of those three (3).

3 The value-at-risk, which is a part of the
4 operational risk assessment, or is done in conjunction
5 with the operational risk assessment -- I mean, we know
6 from evidence and from -- from questions that were put to
7 the MPI Panel that there's three (3) approaches to the
8 VAR. There's the historical, the variance, co-variance
9 and the Monte Carlo. You have to make a judgment as to
10 which one you're going to use in applying the VAR.

11 There was also evidence that two (2)
12 managers using the same test -- so suppose you had two (2)
13 managers using the variance/co-variance test, that it's
14 quite conceivable that they would come up with different
15 numbers because, again, there's a fair bit of judgment
16 that has to go into these.

17 I guess it would be the perfect world if we
18 had a formula written in stone that all you had to do was
19 plug in data and, boom, you got your answer at the end of
20 the road; this is the appropriate rate. But it just
21 doesn't work that way.

22 Again in -- in talking about the RSR, Mr.
23 Williams suggested that the purpose of the RSR is to
24 protect against exorbitant rate increases; that doesn't
25 differ at all from the position taken by Ms. McLaren at

1 pages 435 and 436 of the transcript.

2 The other issue that rears its head,
3 usually through Mr. Todd but -- but he wasn't here this
4 year, is that allowing the Corporation to build a big
5 reserve fund means that management will become less
6 rigorous. They're just going to become less sloppy and --
7 and they know they've got this -- this big fund backing
8 them up so they're -- they're not going to take the care
9 in managing the Corporation's assets and the Corporation's
10 business that they would otherwise take.

11 As I say that's -- that's an old song which
12 has been sung for many years but there's no evidence to
13 support it. In fact, the evidence before this Board, I
14 would suggest, is that the Corporation is extremely well
15 managed and is extremely well served by its senior
16 managers and there's nothing to suggest that the
17 establishment of an MCT retained earnings range would
18 suddenly change the attitude of those individuals.

19 Mr. Williams made the point that MCT
20 shouldn't be followed because OSFI has not rate-setting
21 role and -- and because this Board has a rate-setting role
22 it shouldn't be using a test which is used by a regulator
23 that doesn't have a rate-setting role.

24 Well, OSFI doesn't have a rate-setting
25 role, as Mr. Christie pointed out, because of the

1 operation of the BNA Act. The division of powers places
2 certain powers with the provinces, certain powers with the
3 Federal Government, so even though OSFI doesn't have a
4 rate-setting role, it has the authority to regulate and to
5 determine what reserves P&C insurers among others must
6 carry.

7 That also doesn't mean to say that those
8 regulators that do have rate-setting authority ignore the
9 MCT test. I don't think there's any evidence to support
10 the suggestion by Mr. Williams that MCT should be
11 discarded because OSFI doesn't have a rate-setting role or
12 -- or authority.

13 It was also put forward that the OSFI
14 mandate is to insure sound financial condition for
15 Federally regulated insurance -- insurers. Sound
16 financial condition; sounds like a good goal for MPI as
17 far as I'm concerned.

18 Mr. Williams, among others, questioned the
19 analytical value of DCAT and MCT and I think the response
20 to that has to be, surely, you're not here putting your
21 view ahead or in challenge of the position that has been
22 established by OSFI and by the Canadian Institute of
23 Actuaries. These are professional organizations that rely
24 on these tests. I would suggest they rely on them for a
25 reason.

1 A suggestion has also been made that MCT
2 can't respond to investment risks. And in cross-
3 examination of Mr. Galenzoski, I believe it was Mr.
4 Williams who put a number of -- of suppositions,
5 proposals, to him if -- if you didn't change your
6 investment port -- or if you did change your investment
7 portfolio, would that require a change to MCT if you --
8 they were just basically scenarios in -- in which Mr.
9 Galenzoski responded, No, those changes that you're
10 putting to me wouldn't impact the MCT.

11 There's evidence before the Panel, however,
12 that MCT does apply different risk loads for different
13 types of assets. It applies a different risk load to
14 equities than it does for bonds. So clearly, it does
15 respond to investment risks, it just happens to lump
16 certain assets together when establishing risk loads. So
17 that doesn't support a statement that it can't respond to
18 investment risk.

19 The Corporation even though, to make it
20 clear on the record, the Corporation is not putting
21 forward the operational risk analysis and VAR as an option
22 to be considered. It's urging the Board not to apply that
23 option. But, it was required by virtue of last year's
24 Order to update those two (2) analyses, if it were to
25 bring the MCT forward.

1 And in doing its update, the Corporation
2 identified corrections that it felt needed to be made to
3 the original operational risk analysis and the VAR, and
4 I'll deal with those briefly.

5 One (1) of them dealt with the -- the
6 established time horizon for investment risk. And in the
7 initial VAR and unchanged to this date, time horizon of
8 two point five (2.5) years was used. The recommendation
9 from MPI is that that ought to be corrected; that, in
10 fact, a one (1) year time horizon would be much more
11 appropriate.

12 The effect of a two point five (2.5) year
13 time horizon is that there's zero investment risk over
14 that time horizon. And I don't know that there's anyone
15 in this room who would even consider, much less concede,
16 that MPI's \$2 billion investment portfolio doesn't face
17 investment risk variance in investment income risk.

18 So, for the same reason that the
19 Corporation doesn't apply the equity premium, the
20 Corporation has put forward that the one (1) year time
21 frame, that's the time frame in which we're setting rates,
22 that's the time frame in which the applications cover,
23 that the one (1) year time frame is much more appropriate.

24 It also appears in their rather brief
25 comment that Hum and Simpson, in their report, made on

1 VAR, is that they appear to favour a one (1) year time
2 horizon where they recommend that the appropriate way of
3 dealing with investments, the one (1) small comment they
4 made on it, was to compare actual to expected on a year-
5 to-year basis; that fits entirely with the one (1) year
6 time horizon.

7 The second correction that the Corporation
8 put forward was the suggestion that you should adjust
9 historical loss costs, revenues and expenses to reflect
10 current values. And the Corporation's position on this
11 correction is that this approach just makes common sense.

12 Claims reserves are growing, any adjustment
13 driven by an unexpected event will as a percentage and
14 will have a higher impact now than it would have had ten
15 (10) years ago. There's also a situation that if, here in
16 the year 2006, you're attempting to assess the risk of a
17 future hailstorm based on experience in 1996, when we had
18 a significant hail storm, in order to do that assessment
19 in 2006, you have to adjust the 1996 costs to reflect
20 higher repair costs, more expensive vehicles, inflated
21 loss costs, otherwise you can't do a proper future
22 assessment.

23

24

(BRIEF PAUSE)

25

1 MR. KEVIN MCCULLOCH: I want to move to
2 Mr. William's recommendation that this Board order a \$70
3 million rebate. Again, for the record, the Corporation is
4 opposed to a rebate as suggested by Mr. Williams.

5 And, he didn't identify exactly -- at least
6 -- or perhaps he did at the press, I don't think he did
7 when he was speaking to us. He didn't identify where that
8 \$70 million was to come from. But if you look at TI-16
9 which is the statement of Basic Rate Stabilization Reserve
10 and if you follow the principle that's been enunciated in
11 the past, in that you only rebate on funds that have been
12 earned and are in the bank, then the potential rebate,
13 looking at the '05/'06 investment -- or financial year,
14 would only be \$36 million. The reserve balance at the end
15 of that fiscal year was \$136,071,000.

16 Now, perhaps Mr. Williams reached his \$70
17 million figure by adding in the IIF, the Immobilizer
18 Incentive Fund. Again, the Corporation is strongly of the
19 view that it is not appropriate to treat that fund as a
20 part of RSR.

21 Now, when the Board ordered a rebate last
22 year it's worthy of note that in arriving at the \$58
23 million rebate figure the Board did not include the IIF.
24 And, again, it's the Corporation's position that that is
25 the appropriate approach to take, not losing sight of the

1 fact that the Corporation urges this Board not to consider
2 a rebate when the RSR is short of the target that MCT
3 directs as necessary. So it's short of the appropriate
4 target. This is not a time when a rebate should be
5 considered.

6 One other comment, if you will, on the
7 rebate, is that if in fact one were to be ordered the
8 Corporation would suggest that we not proceed the way it
9 was done last year, issuing cheques to individuals, but
10 rather that it be applied as a credit against the
11 2007/2000 rate -- 2007/2008 rate.

12 Another recommendation from Mr. Williams:
13 that the Board not allow the 2.6 percent rate reduction.
14 Again, I would merely point what has already been
15 indicated in -- in argument that this is the full
16 credibility required rate. It's the applied for rate and
17 there's absolutely no rationale for the Board to tinker
18 with that actuarially calculated rate.

19 Mr. Williams seems to be saying that the
20 reason for that is that we shouldn't count on the forecast
21 -- forecast theft savings because, first of all, this
22 approach is a novel approach, the immobilizer fund, and no
23 one else in Canada has done it. It doesn't seem like a
24 very strong reason.

25 Secondly, that there's no discernible trend

1 related to most at risk vehicles being immobilized and not
2 being stolen. Well, the evidence before the Board, if not
3 this year, certainly last year, was that there has been no
4 instance of a vehicle which was equipped with a
5 aftermarket, accredited immobilizer being stolen. There's
6 no experience of that whatsoever.

7 So, in that regard, the Corporation feels
8 that it is appropriate to reflect, as it has, not in a
9 huge dollar figure, but in a -- a relatively conservative
10 amount, the expected benefit from the Immobilizer Fund.

11 Mr. Williams had a number of
12 recommendations related to graduated driver's licences,
13 changes to COPPS and 55 Alive, driver's ed, and various
14 other road safety activities of the Corporation.

15 I think again the -- the record of -- of
16 the Corporation is -- is clear as to how it gets involved
17 in road safety programs; how it evaluates those programs.
18 The indication has been that we continue to -- to work on
19 finding adequate means of evaluating the -- the worth of
20 the programs.

21 And my only suggestion or -- or response to
22 -- to Mr. Williams' recommendations that -- that studies
23 and updates be ordered, is that there seems to be a
24 growing trend, and I'll be commenting on a couple of other
25 presenters, and the trend seems to be if it moves, order a

1 study and have MPI bring it back next year. There are
2 limits, considering the -- the activities that Corporation
3 already has on its plate as to how many studies the
4 Corporation can do.

5 I want to move to some comments made by the
6 representative of CMMG, Mr. Oakes, Counsel for CMMG. And
7 I -- I found his -- his approach -- and -- and I've said
8 this in previous years and I'm going to say it again, I
9 found his approach somewhat disconcerting, in that what he
10 appears to do is -- is ask some questions in cross-
11 examination, pick a -- a somewhat obscure point or maybe
12 even a -- a major point that -- that he thinks is an issue
13 and then leap to a conclusion.

14 And this is an evidence-based process; you
15 can't leap to conclusions. You can question how the
16 Corporation, for example, determined that certain vehicles
17 were sport bikes, but you can't then leap to a conclusion
18 and say, because some of them may not have been sport
19 bikes, then the whole system is -- is out of whack and --
20 and your whole presentation for applying a differential to
21 sport bikes has no basis in reality. Those are the sort
22 of -- of conclusions that just aren't supported.

23 I wonder, Mr. Chairman, if we might at this
24 point take a brief break?

25 THE CHAIRPERSON: I think that's quite

1 reasonable.

2

3 --- Upon recessing at 2:20 p.m.

4 --- Upon resuming at 2:40 p.m.

5

6 THE CHAIRPERSON: Mr. McCulloch...?

7

8 CONTINUED BY MR. KEVIN MCCULLOCH:

9 MR. KEVIN MCCULLOCH: Thank you, Mr.
10 Chairman.

11 Mr. Chairman, I was starting in to reflect
12 on some of the comments and recommendations made by Mr.
13 Oakes on behalf of CMMG, and he took a pretty firm stand
14 in challenging what I took to be Mr. Christie's
15 professional -- professionalism or expertise.

16 And in some of those points he -- at one
17 (1) point he suggested that Mr. Christie ought not to be
18 believed or his evidence ought not to be accepted, because
19 he either wasn't aware of or didn't belong to a number of
20 risk management organizations. And he listed the
21 organizations and pages from their -- from their websites.

22 The comments that I would make there, is
23 that risk management is one (1) of the key
24 responsibilities of a professional actuary. Their role is
25 to identify risks, quantify risks, and provide strategy

1 for dealing with risk. He is by profession a risk
2 manager. And that that sort of criticism is tantamount to
3 criticizing a lawyer because she doesn't belong to an
4 association of para-legals. It just doesn't make sense.

5 The same with the reference to the Basel
6 Accords. You through out -- Mr. Christie indicated that
7 he had some familiarity with them, but it's not something
8 that applies to his expertise and not something that he
9 warrants criticism over because he wasn't fully familiar
10 with the Basel Accords.

11 Again, Mr. Oakes suggests that MCT and DCAT
12 is subjective, non-duplicable, and it's a model therefore
13 that is incredible. I've already commented in my previous
14 remarks on how the operational risk analysis is subject to
15 the same sort of criticism if, in fact, applying judgment
16 should be a criticism and, of course, I don't believe
17 that.

18 Bottom line is, that it appears that Mr.
19 Oakes is another individual who feels that the Canadian
20 Institute of Actuaries and OSFI don't know how to access
21 capital requirement and MPI begs to differ.

22 Mr. Oakes had a number of comments on ICBC
23 and SGI and their use of MCT. And in both instances, he
24 seemed to be suggesting that SGI uses it for its Auto Plan
25 or its Auto Fund, it's basic plan, just because it's

1 practical. No evidence to that effect. He said, he
2 thought it was because it was practical.

3 ICBC, they have to use it for their
4 competitive lines, so again it's practical for them to
5 apply it to the basic Auto Plan; again, without any
6 evidence brought forward.

7 The fact has been brought forward, in
8 evidence, that ICBC applies different levels of MCT to its
9 basic Auto Plan and to its competitive lines of business.
10 So there's clearly a distinction that that Corporation
11 draws between the MCT analysis for its basic plan, Auto
12 Plan, and the MCT requirement for its competitive lines of
13 business.

14 Mr. Oakes raised issues in connection with
15 the increase in PFAD over the past five (5) years. And
16 the Corporation certainly acknowledges that there have
17 been changes to the provision for adverse deviation. And
18 the reason for that is, that it's based on a percentage of
19 unpaid claims, and as unpaid claims go up, the PFAD has to
20 be reviewed and adjusted. But, it's not based on judgment
21 alone.

22 And you can't look at one (1) element in
23 isolation. The actuarial standards of practice set ranges
24 that have to be met for different scenarios -- or with
25 different scenarios depending on whether there's a high

1 margin selection or a low margin selection and all of
2 these influence your PFAD number.

3 Major changes in reserving practices will
4 require review, adjustment, of PFAD. And, as a matter of
5 fact, in AI-10, the actuarial report, it demonstrates that
6 because, due to reserving changes, there were decreases in
7 case reserves, the PFAD margin had to be increased in
8 accordance with the actuarial standards of practice.

9 So, it's not a nefarious or -- or
10 underhanded attempt of the Corporation to increase hidden
11 reserves, as appeared to be the suggestion, but rather
12 changes that are driven and -- and changes that are
13 responding to actuarial requirements.

14 Mr. Oakes, and I'm not sure where he was
15 going on this one but I do want to comment on that, seemed
16 to be criticising the Corporation for failing to be -- get
17 involved in hedges, suggesting that hedges are a
18 guaranteed protection against volat -- volatility. The
19 response here would be that, number 1), hedges are
20 expensive and, number 2), can lead to spectacular losses;
21 local example, Centra Gas in 1998. So they're no magic
22 solution.

23 Mr. Oakes again seemed to question the
24 comments that Mr. Christie had made with respect to the
25 influence of structured settlements on off-balance sheet

1 issues. And Mr. Christie had identified structured
2 settlements as an off-balance sheet exposure for MPI, and
3 the suggestion appeared to be that because we're no longer
4 involved in the tort environment that there's no risk for
5 MPI in that regard.

6 Again, that's not true. Note 8 in MPI's
7 annual report discloses current exposure of \$133.5 million
8 with respect to structured settlements. And these are
9 structured settlements that were in place in the tort
10 environment and the Corporation remains on the hook, if
11 you will, should the insurance companies backing those
12 structured settlements be unable to make the payments.

13 So it's a continuing obligation of MPI.
14 Even though you've attempted to pass it off through a
15 structured settlement, you can't avoid the ongoing
16 responsibility in the event that there's an issue with the
17 insurer. And that's the reason that these structured
18 settlements are considered as an off-balance sheet
19 exposure and disclosed in the annual report.

20 Mr. Oakes made reference to an exhibit
21 showing increases and decreases in SGI's excesses -- or
22 recording, rather, of excesses and deficiencies, and
23 seemed to be suggesting that because, for the first two
24 (2) years on the sheet, increases occurred at a time when
25 Mr. Christie was the external actuary for SGI, that

1 somehow his judgment was responsible for these recorded
2 changes.

3 What those figures reflect are changes in
4 prior years ultimate costs. They flow through the income
5 statement and they result in an increase or decrease in
6 RSR. Many of the changes in prior years' ultimate costs
7 would be driven by adjusters' case reserve changes;
8 changes in claims procedures. There's no way that you can
9 lay it at the feet of -- of Mr. Christie.

10 I'm going to move -- or go back, for a
11 moment, to the comment that I should have included when
12 talking about the appropriate value-at-risk calculation;
13 the correction that was proposed to the VAR. And in that
14 regard, the point I want to make is that the shorter time
15 horizon for the VAR calculation is consistent with the
16 length of time that it would take MPI and its investment
17 managers to respond to adverse market events. The
18 appropriate VAR time horizon is not the holding period of
19 MPI's portfolio. If that were true, then the time horizon
20 for our equities would be indefinite.

21 It is clear that there's much debate
22 regarding the appropriate time horizon for a value-at-risk
23 calculation. The advice of API Asset Performance, I
24 believe that's also contained in AI-16, was to calculate
25 VAR over one (1) year. And as I said, this is the

1 timeframe that they use when conducting VAR analysis for
2 their institutional investment clients.

3 Scootering Manitoba. We had an interesting
4 exchange of views with Scootering on the -- the last
5 evening of cross-examination and then Mr. Sousa was here
6 yesterday obviously to give his closing presentation.

7 And I think it's fair to note that he takes
8 an interesting approach to the proposed moped/scooter
9 rates. He fully supports the 70 percent reduction in
10 motor scooter rates, however, opposes the 100 percent
11 increase in moped rates, approximate 100 percent increase,
12 and wants to apply the 20 percent cap on the basis that
13 there's no rare or exceptional circumstances to warrant
14 raising the caps.

15 This issue was addressed in PUB/MPI-1-52C
16 when the Corporation was asked: Has the Corporation
17 considered a phase-in of the proposed increase to mopeds
18 rather an immediate increase?

19 And in its response, and again I won't
20 bother reading it into the record, but direct the Board to
21 that when you're looking at this issue, the -- the
22 Corporation basically sets out its rationale that it
23 believes that it's better to deal with the issue now or
24 face the same sort of problem we had achieving appropriate
25 motorcycle rates which took in excess of ten (10) years to

1 bring that within line.

2 Moving to the Manitoba Used Car Dealers'
3 Association. It appears from Mr. Roberts' presentation
4 that his group is generally satisfied with the results of
5 the PIPP cost allocation. He feels that it had a positive
6 impact on -- on his organization or on -- on his members,
7 but raises the interesting point that he feels they're
8 improperly included in the commercial major class.

9 This is a new -- a new complaint for -- for
10 MUCDA. Used car dealers have been a part of that
11 commercial class for many years and in previous years they
12 benefited from being part of that major class.

13 Dealer-indicated rates reflect one (1) of
14 the highest rated risks within commercial, higher than the
15 category as a whole. Consequently -- and this is in
16 previous years, consequently this had a dampening affect
17 on their rates. However this year, due to the PIPP cost
18 allocation, the commercial major class rate is higher than
19 the dealer rate and this has the affect of increasing
20 rather than decreasing the dealer rates.

21 And my comment here, and with all respect
22 to -- to Mr. Roberts is coincidence? I think not.

23 I think that this is probably driven by the
24 observation that they are now facing a situation somewhat
25 in reverse of -- of the benefit that they held previously.

1 The Applicant is still satisfied that commercial class is
2 the appropriate rate for the dealers.

3 Manitoba Bar Association. And I must say
4 on the record that I appreciate both Mr. Kruk from CAA and
5 -- and Mr. Dawson taking the time to -- to sit through
6 this presentation. And it's always an interesting
7 challenge to respond to an intervenor who -- who keeps
8 assuring us that they're really only here to help out, you
9 know, and -- and they've got no axe to grind and -- and in
10 -- in some instances take no position on major issues but
11 do offer helpful comments.

12 Mr. Dawson appears to criticize MPI's
13 response to the benchmark study ordered by the Board in
14 the '05 -- '04/'05 General Rate Application. And he takes
15 the position that the Board order to simple benchmarking
16 study, we responded with a grandiose plan that still isn't
17 completed and he's asked the Board to order the
18 Corporation to proceed with the study as originally
19 directed.

20 Interestingly, there were no questions put
21 to the MPI Panel, as to why the Corporation has expanded
22 the study. The Corporation did, however, file the RFP as
23 a response and the contract, I believe, as a response to
24 MBA/MPI-1-1, and it clearly shows that the Corporation is
25 responding to a broader concern and is treating the

1 benchmarking issue as part of a broader concern.

2 The Corporation has identified a
3 fundamental need to better manage PIPP claims in the
4 future. Benchmarking is a part of that broader concern,
5 but in the Corporation's view must be addressed as part of
6 the overall solution to the greater issue. The
7 Corporation has taken the big picture approach and
8 suggests that the Board should do the same and allow the
9 Corporation to address the benchmarking issue in the
10 larger context.

11 Mr. Dawson also spoke about the MPI funding
12 of the Winnipeg Police Service and the Department of
13 Justice, in connection with the various auto theft
14 initiatives.

15 And again, in framing his comments and his
16 questions, he starts out by expressing significant rapport
17 for the initiatives and feels that they have merit, but
18 suggests that there's a potential conflict, particular
19 between -- in particular between MPI and the prosecutors
20 who work for the Department of Justice. And these are the
21 Department of Justice prosecutors who are dedicated to
22 fraud and auto theft cases.

23 And he raises the spectre of pros --
24 prosecutorial bias and asks the Board to order a review of
25 the Winnipeg Police Service and the Department of Justice

1 agreements to respond to this possibility of bias.

2 Again, I think that not so much this year
3 because Mr. Dawson didn't ask my questions of Mr. Bedard,
4 but in previous years the Corporation has given evidence
5 that it takes great pains to protect against prosecutorial
6 bias; doesn't mean to say that someone might raise it in,
7 as Mr. Dawson suggested, a future criminal prosecution.
8 But, again I don't think that it justifies the Board
9 ordering a study of that issue.

10 Pay-as-you-drive. Mr. Dawson has suggested
11 that the Corporation be required to identify legislative
12 barriers to introducing pay-as-you-drive. And again, I
13 think that, based on the comments that Ms. McLaren has put
14 on the record and largely her responses to Professor
15 Miller, it may be premature at this time to start worrying
16 about legislative barriers, to introducing pay-as-you-
17 drive.

18 It's clearly the Corporation's concern that
19 on this issue and on other sustainable development issues,
20 it needs clearer direction from Broadway before it would
21 get involved in implementing any of these proposals,
22 particularly pay-as-you-drive.

23 It doesn't mean that the Corporation won't
24 consider to -- won't continue rather, to investigate the
25 issues and the potential solutions, but again I think it's

1 too early in the game to have us being concerned about
2 what legislative barriers there might be.

3 Mr. Dawson spoke for some time on inter-
4 generational inequity, and it was my understanding from
5 his comments, and I haven't reviewed the transcript, but
6 it was certainly my understanding from -- from his
7 comments that he felt, Hey, this is just a normal element
8 in any insurance program and why would anyone be concerned
9 about it?

10 I think it's clear that this regulator, not
11 only in these proceedings but in other proceedings, has
12 identified inter-generational inequity as a concern, a
13 concern that has to be addressed, and the Corporation --
14 the only comment that the Corporation would make on that
15 is that, we believe that the concern by the Regulator is
16 well placed and that this is an issue that -- that we do
17 address and -- and have to continue to address.

18 And, finally, in providing guidance and
19 input on the issue of MCT, Mr. Dawson took a position that
20 I can, on behalf of the application, adopt wholeheartedly.
21 I say this seriously, Mr. -- I believe Mr. Dawson chooses
22 his words carefully when he makes recommendations to the
23 Board and when Mr. Dawson suggests that on the issue of
24 MCT you should leave it to the actuaries, I concur
25 completely with that and I believe that that comment

1 deserves weight and consideration by the Board.

2 Manitoba Chiropractors' Association. I
3 don't think I'm taking an unduly harsh position to suggest
4 that there may have been an element of the MCA struggling
5 to justify their position as an Intervenor. And I think
6 this is reflected in the recommendations that came forward
7 from the association through their counsel.

8 The first was that there should be a
9 reconciliation of the drop-in stats on chronic pain
10 complaints over the last number of years. But, in
11 evidence provided by Mr. Bedard, he was quite clear in
12 saying that there had been no relation between the
13 prolonged recovery unit and the drop-in chronic pain
14 stats. I think that perhaps a well-placed Information
15 Request would have obtained the response that -- that MCA
16 wanted on this issue but I don't know that it -- that it
17 warrants a study to be ordered.

18 The second item dealt with the seven (7)
19 day waiting period for income replacement and the
20 suggestion is that the Corporation should do a cost
21 analysis on changing the benefit to pay from day 1.

22 The Corporation has dealt in previous
23 years, and it would be some years ago, with its view as to
24 the role this seven (7) day waiting period plays. It has
25 been identified, and was identified again this year as

1 being equivalent to a deductible. It's been identified as
2 being a normal part of disability plans. It's true that
3 Workers' Comp. pays from day 1 but other disability plans
4 have a waiting period for the wage loss to kick in.

5 This provision has been in place for twelve
6 (12) years. It was the subject of review and
7 recommendation in the USKEW (phonetic) report, which I
8 believe was produced in 1997 and the Government chose not
9 to act on the USKEW recommendation which suggested that
10 the seven (7) day waiting period should be eliminated.

11 So, again, I don't think that there is any
12 evidence provided, or any rationale provided by MCA, that
13 would cause MPI to do a cost analysis of changing that
14 benefit. As you know, most of the PIPP benefits are in
15 statute and this is certainly a provision that's set forth
16 in the Manitoba Public Insurance Act. It's not a
17 regulation. It's not something that the Corporation would
18 have immediate influence over changing.

19 The next recommendation deals with the
20 suggestion that the Corporation liaison with AICAC, the
21 Automobile Injury Compensation Appeal Commission, to study
22 the cost effectiveness of AICAC and the claimant advisor's
23 office.

24 And here I feel that the issue is a real
25 lack of understanding on the part of the Manitoba

1 Chiropractic Association as to the role of the Independent
2 Appeal Commission and the Independent Advisor's Office. I
3 can just imagine the reception I would get calling Mel
4 Meyers and telling him, I'm coming over to do a cost
5 effectiveness study of your commission, Mr. Meyers.

6 It's true the Corporation funds the costs
7 of both those organizations, but that was a decision that
8 the Government made at the time, first of all, the -- the
9 Commission was established back in 1994 and when the
10 Claimant Advisor's Office was established in 2005.

11 Issues of cost effectiveness. Even though
12 they may rankle MPI, are really best addressed through the
13 minister responsible for those two (2) organizations which
14 I believe is the Minister of Consumer and Corporate
15 Affairs which may also be the Minister of Finance, Minister
16 Salinger (phonetic).

17 So I think as well that part of the
18 recommendation was -- was based on an incorrect
19 interpretation of -- of the information asked. You'll
20 recall that in MCA-1-2 the Chiropractor Association asked
21 for some statistics on number of reviews, number of
22 appeals, number of injury claims, and the percentage of
23 appeals that were successful in -- in which the applicant
24 had been successful.

25 Now, the Corporation provided that

1 information. Mr. Dawson picked up on the fact that there
2 were some gaps in there and he asked for clarification
3 which showed how many applicants or appellants had been
4 successful in decisions rendered by the Commission because
5 -- just because they show two hundred and twenty-eight
6 (228), I believe it was, or two hundred and twenty-six
7 (226) appeals filed in -- in 2005 and five (5) decisions
8 in favour of the appellant, that information didn't show
9 the number of decisions that had been made. And when you
10 look at that breakdown, it showed that the percentage of
11 successful appellants was fairly constant and -- and
12 fairly consistent rather with -- with previous years.

13 In dealing with the last two (2)
14 Interveners and -- and I believe I've taken them out of
15 order, I should deal with -- with the Canadian Automobile
16 Association, the main proposal that the Corporation saw
17 coming out of the presentation was a suggestion that the
18 Extension line of business ought to be included in the
19 regulatory authority of the Public Utilities Board. The
20 Corporation is not in agreement with that recommendation.

21 The Corporation believes that at the time
22 MPI was established there was good reason to separate the
23 Compulsory line of business from the Extension lines of
24 business and at the time the decision was made by the
25 Government to regulate the Basic/Compulsory line of

1 business, there was good reason to separate the
2 competitive lines from the Compulsory/Basic lines.

3 This, of course, is a change that would
4 require change in the legislation, change to the Crown
5 Corporation's Public Review and Accountability Act, and
6 probably changes to the MPIC act as well, so, it's clearly
7 within the purview of -- of the Legislature and all I'm
8 doing is -- is recording the Corporation's reaction to
9 that recommendation.

10 With TREE and I forget the first acronym
11 that goes with that Intervenor --

12 THE CHAIRPERSON: RCM.

13

14 CONTINUED BY MR. KEVIN MCCULLOCH:

15 MR. KEVIN MCCULLOCH: -- RCM/TREE, the
16 Corporation has difficulty with Professor Miller's
17 suggestion that the Public Utilities Board has
18 jurisdiction to clarify MPI's mandate under the
19 Sustainable Development Act.

20 Again, I think that that is properly in the
21 purview of the Government of Manitoba. It goes far beyond
22 a rating issue.

23 But on the general presentation of TREE --
24 RCM/TREE and issues of sustainable development, I again
25 want to reiterate what Ms. McLaren put on the record. She

1 did indicate that there was no direction from government
2 as to the role that was to be played by MPI but, on the
3 other hand, MPI is committed to further investigation of
4 some of the issues raised by Professor Miller,
5 particularly, the experience of Norwich Union in Great
6 Britain and with the insurer in Holland that operates a
7 pay-as-you-drive program there.

8 And she also made the commitment to
9 continue collaboration or perhaps we should say, commenced
10 collaboration with interested parties. So that commitment
11 is on the record and we'll see where that takes us by the
12 time of next year's General Rate Application.

13 That generally concludes the comments that
14 I have for the Board. In wrapping my presentation up, I
15 want to go back to a comment that I made at the beginning;
16 that being, that this proceeding is an evidentiary based
17 proceeding. And when you look at the volume of evidence
18 that has been filed, I think it presents a significant
19 task to the Panel to sort through that evidence in making
20 its deliberations.

21 But, I would urge the Panel to take note of
22 the evidentiary items, the questions, the answers in
23 cross-examination and the information requests that have
24 been referenced in my presentation.

25 And I'm confident that, as in the past, the

1 Board will be able to work through that pile of evidence
2 in arriving at its conclusion.

3 Finally, I want to add comments of thanks
4 that have been made by other counsel and presenters here.
5 There's no doubt that from the applicant's point of view,
6 these proceedings go ahead on a very cooperative,
7 conciliatory basis and that's due, in large part, to the
8 Board itself and to the Board advisors in the way they
9 conduct these proceedings and we thank you for that.

10 THE CHAIRPERSON: Thank you, Mr.
11 McCulloch. This brings to a conclusion this year's public
12 hearing of MPI's rate application.

13 We'll now retire to consider the evidence
14 carefully towards developing an Order within the
15 reasonable time requirements of MPI.

16 We express our thanks to MPI, its Panel
17 and, in particular, its President and its Counsel. Once
18 again, the experience, knowledge and commitment of the MPI
19 team is apparent to all parties that have been present.

20 Thanks also to MPI's back row for their
21 patients and for their support.

22 And our appreciation is also extended to
23 our Intervenors, the witnesses that they brought and the
24 advisors. Without you, the review that has been conducted
25 would have been pressed to have been as thorough.

1 Finally, thanks to Board Counsels, Mr.
2 Cathcart, Mr. Goudreau and other Board staff and Digi-
3 Tran.

4 We stand adjourned, looking forward to next
5 year's special hearing into the driver safety rating
6 program, the replacement for Bonus/Malus.

7 Thank you. We stand adjourned.

8

9 --- Adjourned at 3:14 p.m.

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13 Certified Correct,

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18 _____
Carol Geehan, Ms.

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