MANITOBA PUBLIC UTILITIES BOARD

Re: MANITOBA PUBLIC INSURANCE CORPORATION (MPI)

2020/2021 GENERAL RATE APPLICATION

HEARING

Before Board Panel:

Irene Hamilton, QC	- Board Chairperson
Robert Gabor, QC	- Board Chair
Carol Hainsworth	- Board Member

HELD AT:

Public Utilities Board

400, 330 Portage Avenue

Winnipeg, Manitoba

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39	MPI to provide a short written submission on any jurisprudence that might exists on the interpretation that the Corporation is taking with respect to reserves regulation, as set out in the capital maintenance plan, which allows a five (5) year build, three (3) year release provision if not exactly at 100 percent MCT	2703

--- Upon commencing at 9:00 a.m.

THE CHAIRPERSON: Good morning, everyone. Today we are starting into that portion of the hearing that deals with closing remarks. I would ask Ms. McCandless to proceed.

MS. KATHLEEN MCCANDLESS: Thank you. Good morning, Madam Chair, and members of the panel.

I note that MPI did answer some undertakings last night and this morning. So perhaps before I begin, if they could just enter those exhibits on the record.

MR. STEVEN SCARFONE: Yes. I don't know if we have them available quite yet to -- to speak to. We were going to mark them at the outset of our presentation.

MS. KATHLEEN MCCANDLESS: That's fine, yeah.

CLOSING REMARKS BY BOARD COUNSEL:

MS. KATHLEEN MCCANDLESS: We have now completed the evidentiary part of this public hearing with respect to the 2020 General Rate Application, or GRA, filed by Manitoba Public Insurance. The Board will soon deliberate upon the application for base rates and premiums charged for compulsory vehicle and driver insurance rates to take effect on March 1, 2020.

As counsel for the Board. I do not take a position on the merits of any part of the application or the positions taken by any of the parties. My role is to summarize the matters that are before the Board and outline issues that it may wish to consider in making its decision.

Now some context for the application this year. Rate indications are interest sensitive, and market interest rates are always changing. These realities give rise to a significant risk of estimation error in deriving Basic rate indications.

Adoption of a naive interest rate forecast reduces the complexity of making that forecast, and using rate indications derived in accordance with actual -- accepted actuarial practice in Canada rather than Basic net income projections shorten the length of the forecast, but significant uncertainty still remains.

To further mitigate this uncertainty, in recent prior GRAs, the PUB has routinely rec -- requested the Corporation to provide an update to its rate indications to reflect market interest rates at approximately the time the GRA hearing commences. When providing these updates in the past, the Corporation did not amend its application, but rather provided the update for evidentiary purposes. The PUB typically relied on this update in its Order on the application.

For the 2020 GRA, the Corporation proposed a new approach, which the Board accepted. The approach called for the initial application and public notice to reflect a provisional rate request, derived in the usual manner, but with a declared intention of amending the application or updating the application to reflect an updated rate request based on market interest rates at the end of September, 2019.

The provisional rate request for an overall .1 percent rate level increase was based on market interest rates as at February 28, 2019. This also included continuation of the 2.0 percent net capital maintenance provision approved by the Board in Order 159/'18 for the 2018/'19 rating year only, which the Corporation felt was necessary in transition to its new proposed Capital Management Plan.

The Corporation provided an update to its provisional rate request on October 4th to reflect market interest rates as at -- at Sep -- September 30, 2019, and requested an amendment to its application as a result of this update. Over the period from March to September, 2019. The ten (10) year Government of Canada bond yield fell fifty-eight (58) basis points, from 1.94 percent to 1.36 percent, pushing the Basic rate indication upwards to an overall 1.5 percent rate level increase.

But because Basic's financial performance over the same time period significantly exceeded expectations, improving Basic's financial condi -- pos -- position, the Corporation amended its application and removed the request for continuation of the net capital maintenance provision. Combined, these changes led to the amended rate request for an overall .6 percent rate level decrease.

The average rate adjustment proposed by MPI for each major vehicle class is as follows.

For private passenger, an overall decrease of .9 percent.

For the commercial class, an overall increase of .8 percent.

For the public class, an overall increase of 10.9 percent.

For motorcycles, an overall increase of

5.1 percent.

For trailers, an overall decrease of 5.1 percent.

And for off-road vehicles, an overall decrease of 11 percent.

After consideration of insurance use and territory, and capping and balancing for experience rate adjustments, the results were modelled by the Corporation to assess the impact of various rate and classification changes.

In total, the vehicle population for the year of the application is one million one hundred and sixty-one thousand one hundred and fifty-nine (1,161,159) vehicles, to which the proposed rate would be applied as follows.

Four hundred and forty (440) -- forty-four (44) -- pardon me, four hundred and thirty-four thousand one hundred and sixteen (434,116) vehicles, or 37.4 percent of the overall fleet, would see a rate increase, the majority of which would be ninety-nine dollars ($99) or less.

Six hundred and ten thousand four hundred and thirty (610,430) vehicles, or 52.6 percent of the overall fleet, would receive a rate decrease.

And one hundred and sixteen thousand

(116,000) -- sixteen (16) -- six hundred and thirteen (613) vehicles, or 10 percent, would receive no changes in rates.

With respect to rate making in accordance with accepted actuarial practice, as always, the Corporation's estimate of its overall rate requirement is sensitive to the methods and assumption -- assumptions used in its derivation. For the 2020 GRA, particular attention was given to two (2) assumption areas, rate indications by major use class, and treatment of the expected return on investment assets supporting Basic total equity.

With respect to rate indications by major use class, the Corporation ack -- acknowledged potential weaknesses in its use of a common set of loss development assumptions in the analysis of serious versus other losses for accident benefits other indexed and weekly indemnity in deriving rate indications for the private passenger, commercial, and public major use classes.

The potential weakness related to observed differences in loss development patterns between serious and other losses, with serious losses typically being slower to emerge, and that the Corporation's analysis approach does not fully recognize those differences. The Corporation agreed to take this issue under consideration for the 2021 GRA.

With respect to the treatment of expected return on investment assets supporting Basic total equity, consistent with pri -- recent prior GRAs, the Corporation derives its estimate of the Basic breakeven rate requirement to exclude recognition of the expected return on investment assets supporting Basic total equity, which it acknowledges is a cash flow to Basic insurance operations.

The Corporation considers this cash flow to be a capital adjustment, which it prefers to address exclusively within its new proposed Capital Management Plan. Furthermore, the Corporation believes the appropriate definition of breakeven in this context is that it should encompass only the expected cashflows relating to the policies to be issued in the coming rating year, thereby excluding the expected return on investment assets supporting Basic total equity, which relates to the results of prior rating years.

The Corporation has acknowledged that rate making in accordance with accepted actuarial practice in Canada permits the est -- estimation of rate indications either with or without recognition of the expected return on investment assets supporting Basic total equity.

With respect to financial results, the Corporation has provided to the Board its actual financial results with respect to the 2018/'19 year, as well as for the first six (6) months of the current year, 2019/'20. For the 2018/'19 fiscal year, Basic incurred net income of $78.8 million compared with forecasted net income of $135.6 million at last year's GRA, a reduction of $56.7 million.

This negative variance was attributed by the Corporation to an increase of $75.1 million in total claims incurred cost, primarily due to an actuarial adjustment of $54.9 million, increased comprehensive claims of $16.2 million, higher writedown DPAT (sic), premium deficiency than forecasted of $15.5 million, and lower than forecasted interest rates of $49.1 million.

These increases in costs were offset by lower than forecast collision claims of $40.9 million, reinsurance recoveries of $13.5 million, and lower property damage claims of $5.3 million. Overall, there was a negative variance of $74.8 million and --

in underwriting results -- results from that presented last year. Investment income was $208.5 million, $16.7 million higher than the $191.8 million forecast last year.

With respect to the current year, 2019/'20, the subject of last year's GRA, MPI last year forecast for Basic a net income of $17.9 million for rating purposes, resi -- rev -- revised to a net income of $29.7 million in this GRA.

This forecast was further updated on -- on October 4th to a net income of $108.4 million, based on a September 30th interest rate update, which included actual experience based on the second quarter update, and an updated forecast for the remainder of the year. Some of this variance was attributable to an increase in the forecast of total claims incurred of $9.8 million, a favourable interest rate impact of $80.6 million, and forecasted investment income, being $85.7 million higher due to interest rate changes.

The change in investment income offset the increase in total claims incurred, reflecting the immunization of MPI's net income to changes in interest rates by its asset liability management strategy.

With respect to the second quarter

update, MPI filed its second quarter report and the course of these proceedings. The Corporation reported that for the first six (6) months of 2019/'20, it had net income of $164.2 million, an improvements of $91.4 million from last year for the same period. MPI reported net income of $119.5 million related to Basic, compared to a net income of $39.4 million for the same period last year, an improvement and $80.1 million over the six (6) month period.

MPI reported an increase in earned revenues of $35.7 million, which was attributed to an increase in mode of -- motor vehicle premiums of 4.2 percent. This increase was primarily attributed to a growth in the number of vehicles and the value of vehicles, as well as increases associated with demerit drivers on the driver safety rating scale.

MPI also recor -- reported an increase in investment income of $99 million, mainly due to higher unrealized gains on bonds to related to a decline in interest rates.

Total claims costs increased by $41 million, or 7.5 percent, due to an increase of $50 million in bodily injury claims incurred, offset by a decrease of $10.8 million reduction in physical damage claims incurred.

MPI indicated that it was currently ahead of its planned forecast for the 2019/'20 year based on the results for the first six (6) months due to higher than forecast investment income and favourable claims experience. The Corporation has now forecasted Basic net income of $108 million for 2019/'20, a net loss of $10.1 million for 2020/'21, and a net loss of $17.5 million, based on the .6 percent applied-for rate decrease.

MPI has acknowledged that although it does expect a deterioration in the claims experienced during the last six (6) months of the current year, Basic's performance in the first two (2) quarters have exceeded expectations, and are not forecasted to materially diminish during the remainder of the year.

With respect to the rate stabilization reserve and dynamic capital adequacy testing, this Board in previous Orders has stated that the purpose of the RSR, the rate stabilization reserve, is to protect motorists that would otherwise -- from rate increases that would otherwise have been necessary due to unexpected variances from forecasted results and due to events and losses arising from nonrecurring events or factors.

Although not required by statute, as in

the competitive insurance market, the Corporation has undertaken an annual bas -- Basic dynamic capital adequacy testing investigation as a matter of good governance. The DCAT investigation entails development of a Basic financial forecast and stressing of that forecast under a number of plausible adverse scenarios covering a variety of risk categories. The report on the DCAT investigation includes an opinion from the signing actuary on the financial condist -- condition of Basic. This report has been included with the annual Basic GRA for many years.

Over the course of several years, the Corporation worked with the Board and Interveners towards the development of a consensus approach to adapting the Basic DCAT investigation to estimate an appropriate Basic target capital range reflecting Basic experience and risk characteristics.

With the passing of the reserves regulation in April, 2019, the role of the DCAT investigation in the GRA has been diminished. As this Board is aware, the validity of that regulation is subject to a challenge brought before this Board by the Consumers' Association of Canada (Manitoba) branch, referred to as CAC.

While the DCAT investigation continues to provide insight into the resiliency of Basic's capital position, the single Basic target capital level, based on a 100 percent minimum capital test ratio set out in the reserves regulation, effectively severs the link between the DCAT investigation and the setting of Basic target capital levels.

The recommendation of the expert witnesses Dr. Simpson and Ms. Sherry, who were called as experts by CAC, was that the Basic target capital range should continue to be set as an adaptation of the DCAT investigation, in line with the latest efforts of the collaborative review process.

With respect to the proposed Capital Management Plan, as directed by the Board in Order 159/'18, the 2020 GRA sets out the Corporation's proposed Capital Management Plan for approval by the Board. Features of the Corporation's proposed Capital Management Plan, or CMP, include: a

A single Basic target capital level based on a 100 percent minimum capital test ratio as set by the reserves regulation;

A commitment to transfer excess retained earnings from the Extension line to Basic, where excess is determined relative to the single

Extension target capital level, or minimum level of 200 percent for minimum capital test ratio, as set by the reserves regulation;

A phase-in approach to move towards the Basic target capital level over a number of years through capital build or capital release provisions;

Determination of the need for any capital build or capital release provisions in each GRA, after consideration of the Basic rate level change indication, and the expected capital transfers from Extension;

Use of judgmentally selected five (5) year and three (3) year phase-in periods for capital build and release provisions, respectively;

Imposition of a judgmentally selected 5 percent cap on the combination of the overall Basic rate indication and any capital build provision;

And imposition of a judgmentally selected 5 percent cap on any capital release provision.

The reserves regulation states as follows with respect to the Basic RSR. For the purpose of Section 18 of the Act, the minimum amount the Corporation must maintain in its rate stabilize -- rate stabilization reserve is the amount determined using a MCT ratio of 100 percent. The Corporation's proposed CMP reflects the Corporation's interpretation of the reserves regulation that compliance is satisfied if the Corporation establishes a plan to bring the Basic MCT ratio to at least 100 percent within a period of five (5) years or less.

Because the forecasted capital transfers from Extension to Basic have now an impact on the Basic rate request, this necessarily draws elements of the Extension forecast within the oversight of the Public Utilities Board. These and other aspects of the Capital Management Plan present new issues under the regulatory process, including:

The enforcement of the reserves regulation;

The compliance of the CMP with the reserves regulation, and whether the CMP supports the purpose of the regulation;

The appropriateness of the caps and phase-in periods;

The degree to which the Board reviews Extension operations;

How and when changes to the minimum capital test should be recognized in testing compliance with the reserves regulation and in applying the Capital Management Plan.

MPI's board of directors directed that $60 million be transferred from the Extension line of business to the Basic RSR as at February 28, 2019, to raise the RSR to $309.8 million, and total equity of 249.7 million to support rate stabilization. This transfer resulted in Basic having an MCT ratio of 51.5 percent.

This is the fifth consecutive year in which the board of directors has directed a transfer to Basic RSR. Between 2013 and four (4) -- 2013 and '14, and 2018/'19, the Basic line of business has received transfers from competitive lines totaling $273.3 million. The Corporation has, as of year-end 2018/'19, fifty-one (51) -- $511.8 million in retained earnings, including $309.8 million in Basic, $99.2 million in Extension, and $103.9 million in Special Risk Extension.

Overall corporate total equity, as at February 28, 2019, including accumulated other comprehensive income was $442.1 million of which $249.7 million relates to Basic operations, $94.7 million to Extension, and $97.7 million to Special Risk Extension.

Based on the results at the end of the

second quarter and based on the October 4th update, MPI is forecasting that it will transfer $75.1 million from Extension retained earnings to Basic in 2019/'20.

On this basis, it is forecasting total Basic retained earnings of $439.3 million and after accumulated other comprehensive income total Basic equity of $390.1 million and the calculated MCT ratio of 96.4 percent.

Now on to investments. In the 2019 GRA, the Board heard that MPI would be separating its co-mingled investment portfolio into five (5) unique portfolios that back the Corporation's liabilities and surplus.

The five (5) unique portfolios include Basic claims, Basic rate stabilization reserve, employee future benefit or pension, Extension, and Special Risk Extension or SRE.

In this application, MPI provided an update on the progress to date in the transition to the new portfolios which was substantially completed at the end of the second quarter of 2019/'20. MPI expects the process to be fully completed in the fourth quarter of 2019/'20 and first quarter of the 2020/2021 year.

The funds available for investment are

primarily unearned premium reserves and unpaid claims reserves. The investment portfolio supports the payment of accident claims and the pension obligations of the Corporation.

The Corporation's investment assets are currently over $2.9 billion. The size of the Basic line of business investment portfolio including the Basic claims portfolio and RSR portfolio is projected to $2.4 billion for 2019/'20 and grow to twenty-three (23) billion for '23/'24.

Historically, the Corporation's investment income has been a major component of its income and have offset its annual underwriting losses. Basic net income was $208.5 million in 2019 -- 2018/'19 primarily as the result of realization of gains on the transition from the consolidated investment portfolio into the five (5) unique portfolios.

In the original application forecast using a naive interest rate forecast at February 28, 2019 of 1.94 percent, the Basic investment income was projected to be $72.8 million for 2019/'20 and $74.2 million for 2020/'21.

Based on the September 20th naive interest rate forecast update of 1.36 percent, the

Corporation is now projecting investment income of $158.6 million for Basic to offset a revised underwriting loss now forecast at $50.2 million.

Net income is now forecast to be $108.4 million for 2019/'20.

With respect to operating expenses, the total corporate expenses were $288.2 million in 2018/'19 and are forecast to grow to $303.6 million in the current year.

MPI forecast total corporate expenditures to be $306 million in 2020/'21 and $309 million in 2021/'22.

MPI's global corporate costs are to be allocated among the insurance and non-insurance categories of business and by automobile lines of -- lines of business in a way that does not give rise to cross subsidization.

Costs are allocated to Basic through an integrated cost allocation methodology which was approved by the Board in Board order 157/12 There have been no material changes to the integrated cost allocation methodology in this application.

Upon the completion of the allocation process, expenses attributable to the Basic program are established for normal operations and improvement initiatives.

Total Basic expenses were $218.8 million in 2018/'19 or 75.9 percent of corporate expenses and were forecast to be $229.5 million in 2019/'20. Thereafter, Basic expenses are forecast to increase to $231.7 million in 2020/'21 and $233 million in 2021/'22.

Salaries and benefits are a major component of the operating expenses of Basic representing over 58 percent of the total operating expenses in the year of the application.

Since 2015/'16, the Corporation has experienced a compound annual growth of salaries and benefits of 1.8 percent with compensation that has grown from $116 million in 2015/'16 to $124.2 million in 2018/'19.

Salaries and benefits are forecast to be $133.7 million in the current year, $137.2 million in 2020/'21, and $139.6 million in 2021/'22. Forecast annual growth is 4 percent.

MPI is now forecasting an increase in compensation expenses net a vacancy allowance of 9.95 percent in 2019/'20 and an increase of 2.96 percent in 2020/'21. MPI attributed the large growth in compensation in the current year to filling a large number of vacancies.

At the end of July 2019, actual full-time equivalents year to date was one thousand eight hundred and eight (1,808) full-time equivalents compared to a budget of one thousand nine hundred and eleven point one (1,911.1) for normal and specialty program staffing representing one hundred and two point three (102.3) vacant positions.

With respect to capital expenditures, MPI projected Basic capital expenditures at $31.9 million for 2019/'20, $45.7 million for 2020/'21, and $40.9 million for 2021/'22.

MPI is forecasting in the next five (5) years $130.7 million in capital expenditures in ongoing and future information technology projects.

MPI also provided an update to its Legacy System Modernization Project, now referred to as Project NOVA. This relates to the replacement of dated legacy systems at a budgeted cost of $106.8 million which includes an estimate of $85.4 million plus a 25 percent contingency of $21.4 million. This represents the current MPI Board-approved budget as MPI has not received final projecting from product vendors.

With respect to the information

technology strategy, MPI presented its strategy for 2019/'20. In indicated that it continues to leverage enterprise architecture concepts to link business strategy to IT project investments through the use of business and technical capabilities.

This year's strategy focuses extensively on Project NOVA and its transformational impact on MPI's business. This annual strategy is aligned to keep priorities, mission, vision, and values identified in the 2019/'20 annual business plan and builds upon the 2018/'19 strategy.

As with prior GRAs, MPI indicated that significant changes and practices have been adopted moving forward. In particular, six (5) main streams were being followed: the move toward proven technologies; identification of all risks of a project prior to project initiation; the use of a project sponsor; alignment, when possible, to industry best practices and vendor-provided software; the value management process being ingrained in MPI culture and project lifestyle; and IT capabilities being created to support business capabilities to solve a business objective.

Five (5) major influences have been identified for this year. These are legacy modernization or Project NOVA which is a corporate initiative aimed to modernize the MPI core legacy systems to deliver MPI products and services to core personal and commercial customers with greater business agility and improved customer experience while reducing MPI's technology risk.

Information security and IT risk management processes. MPI has formed the information security office which managed three (3) key governance functions, information security, IT risk and compliance management, and information security architecture.

Technology risk management program. The technology risk management program provides regular investment and technology systems and processes.

Enterprise architecture process. Enterprise architecture is the discipline of proactively and holistically understanding business and IT capabilities by identifying and analyzing the execution of change towards the desired business vision and outcomes.

Agile delivery. MPI recognized that in replacing the core legacy systems the way these systems need to be configured and delivered also needed to change. MPI has determined that adopting agile design and delivery practices are key to providing business value and to effectively work with any modern platform provider.

With respect to benchmarking and information technology. Overall, the Gartner consulting benchmarking results indicate that MPI has maintained the same IT score three point one (3.1) from 2016/'17 to 2017/'18.

IT spending relative to operating expenses has continued to decrease annually. MPI's IT spend as a percentage of overall operating expenses has stabilized to 5.4 percent. Compared to its peer group at 5.42 percent, MPI spend is slightly lower at 5.37 percent.

MPI has formed a single consolidated unit overseeing the management of its major IT vendor contracts for the purpose of standardization and identification of opportunities for improvements and cost efficiencies.

The IT full-time equivalent as a percentage of company employees is 17.2 percent compared to the peer average of 13.6 percent. MPI in-house versus contractor proportion has decreased from the previous year to 27.5 percent. The peer average is 30.4 percent.

MPI reported that it will be refreshing its IT benchmarking services with a request for proposals having been issued to source a new benchmarking service provider.

On the issue of road safety. In order 130/17 following the 2018 GRA, the Board directed that a technical conference take place in early 2019 on the issue of road safety. In this GRA, the Board heard from Ward Keith who contracted with the Board to facilitate the technical conference and prepare a report.

Mr. Keith's report on the technical conference which took place in April of 2019 was filed in this application, and it provided a summary of the issues reviewed by the participants in the conference along with specific action items undertaken by MPI arising from that conference.

With respect to the road safety budget, MPI is forecasting to spend $13.9 million in Basic road safety and loss prevention programs in 2019/'20. The largest component is spent on driver education including the high school driver education program which is approximately $4 million or 29 percent of the overall budget.

Impaired driving prevention strategies are the second largest expenditure at $2.8 million or 20 percent of the overall budget.

Speed management expenditures are forecast at $0.9 million or nine hundred thousand (900,000) or 6 percent of the overall budget.

The balance of the road safety programs are advertising and sponsorships, road safety programming and road watch, which is increased enforcement.

MPI has discontinued the immobilizer program in 2019/'20 as a result of all new vehicles now having built-in electronic immobilizer technology. MPI attributed a reduction in auto crime strategy spending of $900,000 to the discontinuation of this program.

One last item, Madam Chair, I believe I misspoke when referring to the Basic claims portfolio. It is projected to be $2.4 billion for 2019/'20 to grow to $3 billion in 2023/'24.

Madam Chair and members of the panel, I have attempted to comment on the main issues that arose this year. I would like to thank MPI and the Interveners for their cooperation extended throughout the hearing.

THE CHAIRPERSON: Thank you, Ms. McCandless.

Mr. Scarfone, do you have exhibits to file, or do you want to proceed with your closing remarks at this point?

MR. STEVEN SCARFONE: I think we'll file these exhibits now. I apologize we didn't have a list before -- before Ms. McCandless began, so let's just get these on the record.

Exhibit number 95 -- MPI Exhibit number 95 is a response to undertaking number 14.

--- EXHIBIT NO. MPI-95: Response to Undertaking 14

MR. STEVEN SCARFONE: Exhibit number 96 is a response to undertaking number 21 and Appendix 1.

--- EXHIBIT NO. MPI-96: Response to Undertaking 21 and Appendix 1

MR. STEVEN SCARFONE: MPI Exhibit number 97 is a response to undertaking number 15 and Appendix 1.

--- EXHIBIT NO. MPI-97: Response to Undertaking 15 and Appendix 1

MR. STEVEN SCARFONE: MPI Exhibit number 98 is a response to undertaking number 19.

--- EXHIBIT NO. MPI-98: Response to Undertaking 19

MR. STEVEN SCARFONE: MPI Exhibit number 99 is a response to undertaking number 32.

--- EXHIBIT NO. MPI-99: Response to Undertaking 32

MR. STEVEN SCARFONE: MPI Exhibit number 100 is a response to undertaking number 34.

--- EXHIBIT NO. MPI-100: Response to Undertaking 34

MR. STEVEN SCARFONE: MPI Exhibit 101 is a response to an undertaking in the commercially sensitive information module number 1.

--- EXHIBIT NO. MPI-101: MPI response to an undertaking in the commercially sensitive

information module
number 1

MR. STEVEN SCARFONE: And the last three (3) would be 102 which is the closing submission that was circulated this morning.

--- EXHIBIT NO. MPI-102: MPI's closing submissions

MR. STEVEN SCARFONE: Exhibit number 103 will be MPIC's closing presentation in the form of a PowerPoint presentation.

--- EXHIBIT NO. MPI-103: MPI's closing PowerPoint
presentation

MR. STEVEN SCARFONE: And lastly, Exhibit number 104 is Madam Chair's submission on the regulatory process. You'll recall my comments from the opening -- my opening statement. So that 104 is our last exhibit that addresses that issue.

--- EXHIBIT NO. MPI-104: Chairperson's submissions
on the regulatory process

THE CHAIRPERSON: Thank you, Mr. Scarfone. Please proceed.

MR. STEVEN SCARFONE: And before I begin with our presentation proper, Mr. Triggs has a couple things that he'd like to say, if that pleases the -- the panel?

THE CHAIRPERSON: Certainly. Mr. Triggs...?

MR. MICHAEL TRIGGS: Thank you, Madam Chair. I'll keep this very brief for a minute or two (2).

MPI has spoken a lot about transparency and enhanced transparency. But as I look around the room, I realize that -- now this being my eleventh GRA that I'm somewhat long in the tooth here, and there's a lot of people who haven't had the seen -- seen how things have changed over the years.

And with that, I just wanted to make importance to remind the people how things have in fact changed. If the -- Mr. Gabor who was here three (3) years ago, and we saw the difficulties and challenge of getting information related to the BI3 project which had been implemented in 2010, challenges getting IT business cases.

And you contrast that to what is today.

I think it is a very open and robust disclosure of everything that MPI has to show.

So that is the change is -- we've spoken to, but it's not -- the importance is not the fact things have changed. The importance is the transparency is out there.

And Manitobans have the right to know. They -- they need to know where their money is going. They know -- they need to know how MPI operates its business. They need to know what MPI does with it -- the money it is taken in.

And the only real way to do that is for the Corporation to be transparent and open as a possible on that, and we think that that is our goal that we want to -- well, I don't think -- that is our goal that we want to accomplish, and we'll continue to try and improve year over year to be more transparent on that.

But with transparency is also -- comes when you're disclosing. You're not hiding anything. As Mr. Graham says, you know, pulling back the covers. I guess that's an Australian terminology.

But at least the point that you're showing what's out there, and there's -- mistakes have been made and mistakes will be made in the future as well.

But our point in showing this isn't to point fingers at people, to criticize people. It is to learn from those mistakes and improve for the future, so that next year and the year after, there's improvements for how MPI delivers its service to Manitobans, and that is the spirit of intent in which we bring forth the transparency.

And with that, I'll just leave that for Mr. Scarfone and Mr. Guerra to conclude our presentation.

THE CHAIRPERSON: Thank you, Mr. Triggs.

Mr. Scarfone...?

FINAL ARGUMENT BY MANITOBA PUBLIC INSURANCE:

MR. STEVEN SCARFONE: Thank you, Madam Chair. So these are the Corporation's closing remarks for the 2020 general rate application. We have a presentation to make this morning, but of course, I encourage the Board, should there be any questions concerning the slides that you're about to see, certainly interrupt me, ask those questions.

But the foundation of this particular slide presentation is found in the closing submission -- the written argument that is more comprehensive, more robust, and will have all of the -- should have all of the information that the panel needs in response to any questions you might have this morning.

So the agenda for the closing is before you. I tend to address the first four (4) items on the agenda, and Mr. Guerra will then take over and address numbers 5 through 8.

So the summary of our request is set out by Ms. McCandless is the adjusted rate indication of 0.6 percent -- a negative 0.6 percent which stems from having removed the capital maintenance provision and updating the interest rate forecast as of the end of September.

The rates, as you know, are in effect for thirteen (13) months with the proposed changes to the fiscal year. We are seeking approval of the capital management plan, and the last three (3) bullets set out there the discontinuance of the anti-theft discount, and no changes to driver premiums and vehicle discounts through the driver safety rating, and no changes to fleet rebates and surcharges. So that is the relief that the Corporation is seeking in this year's general rate application.

So these are the areas that I want to discuss concerning the overall rate indication. You can see them there before you, and we'll proceed now with the drivers of the rate change.

The required rate was 3.3 percent. That's the AAP rate. It's then adjusted, as Mr. Johnston indicated, for two (2) reasons: One (1), for vehicle upgrade. That traditionally serves to lower the rate indication, as does vehicle volume.

This year, it did not. The forecast was off, and so you see there where that number is normally a negative, it's a positive. And then by removing the capital maintenance provision, you arrive at an AAP breakeven required rate change of negative point six (.6).

And this is how the negative point six (.6) rate decrease affects the major classes. For the purposes of most Manitobans, you look to that top line, of course, the private passenger vehicle, and you'll see that the indicated rate change for most of us is negative .9 percent.

Of the Interveners that were in attendance for this hearing, the motorcycles -- and I'll get -- I'll touch on that more -- show an increase of 5.1 percent. And there before you is the

-- the remainder of the major classes and the various indications based on the negative point six (.6) rate decrease, the overall rate decrease.

This particular slide shows the forecasted revenues from the Basic premiums, and it's important there to note that there is forecasted some increases in total earned revenues over the next five (5) years. And you'll -- you'll note that from that that -- that the business is growing. And so that, you'll hear from me later, is important in terms of the capital requirements of the Corporation, because as we heard last year, as the business grows, as the Corporation grows, so does its capital needs based on the MCT percentage.

Prudent fiscal management is a -- is a continuing goal of the Corporation, and reducing expenses is -- is something that the Corporation prides itself on. You'll see there that total Basic expenses are down by 2 percent, and there's a number of itemized lists there that show how that number is arrived at, the -- the most important of which, we say, is the claims expense, which again, is down 2 percent. Operating expenses, 4.5 percent. And total Basic allocated corporate expenses are down 2.3 percent, Madam Chair.

This, Madam Chair, is a depiction of operating expenses as a -- oh, thanks, Anthony. Thank you. This particular slide is operating expenses that shows net premiums earned -- compared against net premiums earned.

And this particular slide, as Ms. Campbell explained, you want the percentage to be lower, while recognizing the need to deliver good customer service. And so there's a balance there that has to be struck, but lower percentages essentially mean that MPI uses the money collected from the ratepayers more efficiently, more prudently, as that number decreases.

Ms. McCandless touched upon the employees, which, of course, are MPI's largest expense. And the budget would say that the Basic salaries are expected to grow at an annual average of only 2.3 percent over the next few years, and that's from 2019/20 to 2021/22.

The budget full-time equivalent numbers -- MPIC is not forecasting increases to the FTE numbers; that is, they don't expect it to grow. But those numbers, as you may recall, Madam Chair, the -- the full-time equivalent occupancy -- or, vacancy allowance is for those positions that are being held in anticipation of those positions being filled one day. And so that number is constantly moving and being adjusted as -- as people retire.

On the vacancy allowance number, it was an unusual year for MPIC for retirements, and turnover led to an understatement of that particular allowance in this year's rate application. But the Corporation has confidence that as the accuracy of that number improves, with the implementation of NOVA, it will be adjusted to a number that more accurately affrects -- aff -- reflects the needs of the Corporation in terms of its employees.

On the PIPP side, the weekly indemnity claims -- as we heard from Mr. Johnston, there's a long-standing problem in increasing the claims persistency. That is the number of claims that are open for longer than 24 months.

To address this concern, you heard last year that MPIC has now hired thirteen (13) additional claims management staff to address this, and through active case management, the Corporation is hoping to reduce the long-tail PIPP claims and return people to work. And so that, too, is a work in progress.

On centralized reserving, MPIC is continuing with its efforts to improve the consistency and adequacy of its case reserves. And the centralized reserving system, which we heard evidence about last year and again this year, seeks to improve this forecasting.

The change in the fiscal year is something that the Corporation is doing primarily as a result of the government asking MPIC to do so to align with their fiscal year. The Corporation notes that it has a very low impact on very few ratepayers.

You'll recall the evidence that it really only affects those customers that are renewing in March of -- of -- on the calendar year. And the March customers used to be at the front of the queue, and as the graph shows, they will then be moved to -- to the back of the queue in terms of their renewal.

So the rate stabilization reserve is what I want to touch upon next, and it'll move into the capital side of this submission. As Ms. McCandless indicated, the RSR is to prect -- protect motorist from rate increases that would otherwise have been necessary due to unexpected variances from forecasted results. So that's one (1) aspect of it. Or it could be used for events and losses arising from non-recurring events or factors.

So this year, there was a transfer of

$60 million that occurred in February of 2019, and that served to increase the minimum capital test from 37 percent to 52 percent. And you heard Mr. Johnston indicate that the two (2) biggest drivers of increasing that MCT percentage are the transfers that occur from the Extension line of business over the past four (4) or five (5) years along with the retention of the RSR income -- investment income.

And as Mr. Bunston indicated, and Mr. Johnston, there was also an increase to the Basic MCT that resulted from the new investment strategy ma -- being implemented, so that -- that investment strategy, under the ALM study, served to lower the capital needs of the Corporation.

So you'll see that after the transfer, the Corporation was at 52 percent. By the end of Q1, as the strategy -- the investment strategy became implemented, that MCT number rose to 87 percent. And then end of Q2, which was September 1st, the Corporation was essentially at 100 percent MCT, as we've heard.

Mr. Johnston testified that the investment income on the RSR was not used in the calculation of the AAP breakeven rate, and there -- I'll touch upon that later. Mr. Johnston's of the view that that particular investment income, that money, should be -- should remain on the capital side of the business and not be included in AAP rate making.

And the last line there is important because it says:

"The retention of that investment income has no material impact on the overall rate indication."

And there is something that the -- the Board can look to to confirm what I'm about to say. It's Undertaking number 15. MPI fil -- filed it as Exhibit number 42. And if you look at pro forma line -- Pro Forma 3, line 7, you'll see that, essentially, what happens is if the RSR investment income was used in the calculation of the AAP breakeven rate -- so different than what Mr. Johnston does, and as advocated by Mr. Pelly, I believe. If it was used on that side, on the AAP rate side, it would trigger a capital build provision on the capital side.

And so by triggering a capital build provision, you're essentially moving money from one (1) side to the next, and the overall rate indication would be -- would have been the same this year. So we have a negative 6 percent rate indication, with a retention of the RSR investment income.

Had that particular income been applied to rate making, the triggering of the build provision under the capital management plan would have brought the overall rate indication to a negative point six (.6). So there's no mat -- that's why the slide said there's no maperial -- no material impact, regardless of which way the -- the investment income is handled.

The reserves regulation, as Ms. McCandless said, was enacted back in April of 2019, and it requires MPIC to be at 100 percent on a go-forward basis. Section 3, we say, is the important part of that particular regulation, the germane portion of that regulation, which speaks to what use the Corporation should make of the surplus monies in the rate stabilization reserve. And if you look at Section 3, it makes it pretty clear that once that target is met, any excess money in the RSR, the Basic RSR, should be applied for the purpose of lowering the rate indication.

It's important to -- to remember when hearing submissions later on about the reserves regulation, Madam Chair, that Mr. Graham maintains that while that we're moving the needle on having more reserves than we have in the past, we are still at what he calls the minimum of the minimum. It's a minimum capital test: not a dollar more, not a dollar less. And through management action, as we've heard, and the financial success of the Corporation in the past number of months, we have achieved -- we have essentially achieved that target as of now.

On the investment side, there ar -- are a couple of things I want to discuss with you. One (1) is the status of the asset liability management study, its implementation, MPI's risk appetite, reducing the interest rate risk for the Basic portfolio, and lastly, the ongoing benefit of the shadow portfolios that were looked at in this year's rate application.

So when I mention questioning MPI's risk appetite, it really is a matter of looking at how the Corporation decided to hedge its interest rate risk. You'll recall from the ALM study that it was based on a nominal lial -- liability benchmark; that is, the MPI portfolios are founded on a nominal liability benchmark.

The shadow portfolios, on the other hand, were founded on a real liability benchmark. And so my understanding of that is the Corporation has assumed a 2 percent inflation risk by adopting the nominal liability benchmark, and they haven't hedged real interest rate risk. And that's the -- that's the difference.

And it's important to remember, and this was canvassed last year at length, that the Corporation made that decision based on its forecast of inflation. And there was no evidence last year nor this year that would suggest that that inflation forecast is going to rise for an extended period of time above 2 percent.

And so we say the nominal liability benchmark is still the best benchmark, and -- and tho -- those were the reasons the Corporation and its board of directors selected that. And that was an investment decision that wa -- that they made at the outset of the study.

Now, the CAC -- and you heard some evidence from Mr. Makarchuk on this -- when examining the shadow portfolios, it was important to note that Mr. Williams was having him look at one (1) of the shadow portfolios and move it around and -- and try and move it in the real liability benchmark. So what we have, Madam Chair, is we have portfolios that are designed on the nominal liability benchmark, a different platform, and they're injected onto a --

another platform. And Mr. Williams there is asking Mr. Makarchuk, how do we deal with this and -- and move them over with the real return bonds?

And Mr. Makarchuk quite candidly said, well, you would have to shorten your provincials or -- or do something weird because it doesn't work. And -- and the comparison that they were trying to make isn't a fair one. And -- and that's why I brought to the Board's attention that all of the slides that were put forward by the Mercer group indicated that this was based on a real liability benchmark, because that is not what the MPIC portfolio is founded upon.

Other benefits of the -- of the ALM study are the mitigation of interest rate risk. We know that by doing that, the Corporation hopes to avoid further large-magnitude net income losses. The de-risking of the Basic claims portfolio, as I've indicated, decreases the capital that's required in the calculation of the MCT.

And lastly, the segregated portfolios are now what I've -- I've referred to as a fit for the purpose. They're more closely aligned to the objectives of each of the portfolios.

So for example, the RSR portfolio, which doesn't have any liabilities to back, has more growth assets in it than the Basic claims portfolio, which is comprised entirely of fixed-income, lower-risk investments, because the primary purpose of those investments, those bonds, are to back the liabilities of the Basic program.

You don't have that same objective for the RSR, and again, there's different objectives for the pension portfolio. So again, they're more closely aligned to the objective and the segregated portfolio strategy MPI says is -- is a better way of doing things than the old commingled version of the -- of the investment fund.

So on the ongoing benefit of those shadow portfolios, Madam Chair, a couple things to remember -- that the securities in those portfolios are contrary to MPIC's inves -- investment objectives and the risk tolerance. So we heard evidence about growth assets that were in the Basic claims portfolio. The Corporation decided against purchasing growth assets for the Basic claims portfolio.

The Corporation also decided against leveraging. Leveraging is -- is a strategy, Madam Chair, that would have an investor borrow money to purchase securities. And we heard from Mr. Makarchuk that it's a risky proposition.

But that is what the shadow portfolios have done. They've -- they've made use of a leveraged investment strategy, taken on more risk. Risk is something that the Corporation and its board of directors wanted to avoid. So remember that when we're looking at the comparisons that we saw on how each of the shadow portfolios was performing against the actual portfolios.

The second thing is the -- the time frame. So the comparison was made for a six (6) month period. You heard Mr. Makarchuk say that's highly unusual. Normally, it's about five (5) years. So bear that in mind when looking at the comparisons.

And lastly, the preliminary comparison does, we say, show the reasonableness of the portfolios selected by the Corporation. And here are those comparisons. So the returns are largely similar for the Basic claims portfolio, with MPI having outperformed the shadow portfolios over the first six (6) months. In our -- in our view, that means nothing, because as we heard Mr. Makarchuk say, it's not a six (6) month race, it's a five (5) year race. And so that number can move around, and nothing should really be taken from that.

On the pension side, the MPIC Basic

portfolio -- or sorry, the MPIC pension portfolio, that should read, has underperformed, particularly the unconstrained shadow portfolio for pension. That unconstrained shadow portfolio has outperformed the actual pension portfolio by twice the amount. But again, that particular shadow portfolio contains investments that the Corporation was not prepared to purchase, strategies that the Corporation was not prepared to employ, like leveraging.

And so those numbers, we say, should be -- should be looked at with caution, and -- and remembering those two (2) important points, the comparison time frame and the objectives of the Corporation and its risk tolerance.

The last thing I might mention, Madam Chair, is -- is concerning the utility of the shadow portfolio on an ongoing basis. Bear in mind that you are looking at this through the lens of hindsight. So it's easy for people to look back and say, well, we should have done this. If you had have purchased these securities, or if you had have employed the real liability benchmark, you would have been doing better, and you would have been bringing in more investment return for the customers, lowering claims costs.

And the benefit of hindsight,

particularly where it concerns investments, is -- is something to be avoided, in our view. That -- I guess the analogy might be none of us would be here today, Madam Chair, if in 1984, we had bought Apple stock, but we didn't, and we're all still working.

So remember that, and -- and we think that at this stage, the asset liability management study, which is almost fully implemented, should be left alone. Let the investments run their course, and -- and see how the fund performs over the next couple of years.

(BRIEF PAUSE)

MR. STEVEN SCARFONE: The Motorcycle Group intervened this -- this year, Madam Chair, and raised a couple of concerns. One is -- is the concern that they normally have, and -- and that is that their rate increase, notwithstanding what's happening to the private passenger vehicles, their particular premiums are going up.

We do note on this slide, that notwithstanding that, Manitoba motorcyclists pay the lowest rates in Canada, and that's important, because that's an inherently risky mode of transportation, as we know. And we heard evidence for Mr. Johnston that the large majority of their claims costs are on the injury side. PIPP benefits being paid to motorcyclists, and most of them are long-term injury claims, which means they are particularly sensitive to interest rate changes. The -- the claims generally are longer than twenty-four (24) months, and some of them, as you might expect, are lifetime claims.

So you'll see there that the rate change disproportionately affected by changes in the new money yield used for rate making, a significant proportion of the loss costs, as I've said, are for the long PIPP benefits. And the other drivers of the rate increase -- or the increase in the forecasted overall claims costs and a low upgrade factor, which results in the required rate change of 5.1 percent.

(BRIEF PAUSE)

MR. STEVEN SCARFONE: And there you see the 5.1 percent. So their bill goes up by forty-one dollars ($41) this year, as opposed to some of the other indicated rate changes.

On the Extension side, which is before this tribunal because of the Capital Management Plan, I would suggest, Mr. Graham indicated there that. He inherited an organization that was in some respects secretive, and he made reference to a black hole of money that sat with Extension. It was difficult for MPIC, in his view, to defend itself because of our reluctance to be transparent on the Extension side.

So this year, the Public Utilities Board had look-see into Extension. So as a result of having proposed a Capital Management Plan, it became necessary for the -- the Board to understand how much money the Corporation makes on the Extension side, what its forecast was for its capital targets, because as you'll hear later, transfers only occur once Extension line of business reaches 200 percent MCT, and that the extra money will be backing Basic, essentially. So prior to the $60 million transfer that occurred earlier this year, the Extension MCT, as the application says, was at 527 percent.

And so I've -- as I've indicated, that makes Extension revenues important to discuss before this Board, but we do have to be careful about the depth that the PUB examines revenues and expenses, because it is a competitive line of business. And so we would disagree with Ms. McCandless when she mentioned oversight. We would characterize it better as insight into Extension, not oversight.

(BRIEF PAUSE)

MR. STEVEN SCARFONE: So that leads me into the proposed Capital Management Plan, why we need one, largely as a result of the reserves regulation, which serves as the anchor point to the Capital Management Plan. Secondly, you'll recall from application in the overview section, there's an attachment there that has the mandate letter -- the mandate letter sent to MPIC from the government that asks for MPIC to engage this Board to implement a Capital Management Plan with MCT targets. And so that's another reason that we say we need one.

And lastly, it's the method by which this Board will ensure compliance with the regulation, should this Board find that the regulation is valid. And when we say compliance -- and I'll get into this in a bit -- the Capital Management Plan sets out the mechanism to achieve and -- and be at that 100 percent MCT target under the regulation.

We say that the Capital Management Plan makes good sense, and -- and should be approved by this Board. And -- and I don't want to simplify things, but more capital equals more stability and less volatility. That the Corporation's view.

We understand that there's opposing views, particularly from Ms. Sherry, who would say 100 percent MCT means the Corporation is holding too much ratepayer money. We disagree.

The transfers have moved from being discretionary to nondiscretionary. And they're automatic, so to the extent that the threshold in the Extension line of business exceeds 200 percent, there will be an automatic transfer every year, and I'll show you a slide to that effect later. But there is a pace to the rebuilds. Should a -- a build provision be required, it will be spread over five (5) years to help mitigate any build associated volatility.

On the -- the point that I raised about more capital, it's important to -- to remember -- and -- and Mr. Todd took issue with this -- the upper range of the -- of the target last year was $315 million, as ordered by the PUB. You heard Mr. Johnston indicate that the current dollar amount for 100 percent MCT is about 375 million.

So we are now holding $60 million more in capital than the upper target from last year. So when you hear Dr. Simpson say that the range is more volatile than -- than a point source, and -- and I think Mr. Todd said the same thing, that, in our view, doesn't make sense, because how can there be more volatility at three seventy-five (375) than there is three fifty (350)?

And so we disagree with that, but they would say, well, yes, but there are other factors, including that -- that represents too much capital. Well, that's an academic debate, but the -- the -- there's no doubt that holding more capital has to mean less volatility, more money to drawn from the RSR in the event those unforeseen events happen to occur.

And -- and lastly, we would note that the Corporation has achieved its 100 percent MCT -- MCT target without any build provision, without any ask of ratepayers in this year's rate application.

(BRIEF PAUSE)

MR. STEVEN SCARFONE: So Mr. Todd provided some expert evidence. He -- he did what I would call an objective evaluation of the Capital Management Plan. And we say that MPIC's Capital Management Plan addresses two (2) common regulator concerns. He said, Regulators are commonly concerned with avoiding cross subsidization and limiting anti-competitive activity.

The benefits derived by Extension, and -- and there's no question that Extension does derive benefits from the Basic program, need to be offset with capital transfers from Extension to Basic, and that's exactly what the Capital Management Plan does. It contemplates transfers to offset any anti-competitive activity, and certainly, there's no cross subsidization of Extension by Basic. Mr. Todd indicated it's the exact opposite. The subsidization is flowing the other way, the money is going from Extension to Basic.

And lastly, he said, Transferred -- transfers should be used to ensure the capital target is met. And -- and there was the exchange with Mr. Todd. During his testimony, he's talking about the 210 percent there. So he's talking about the Extension. He said, That 10 percent would be available for transfer, and then it's used to lower the rate indication. Well, he said, It could be used in a number of ways. It could be used to reduce rates. It could be used to provide a rebate.

And I asked him, It might also be used to achieve the capital target of Basic?

And he said, Yes, if the monopoly is lower than 100 percent, yes. Mr. Todd said, That would be the first recourse.

So if you're prioritizing use, in Mr. Todd's view, again consistent with what's in the Capital Management Plan, you first top up 200 percent. That's what the money's for, top up the capital. Once you're topped up in Basic, then you can think about reducing rates, or perhaps even a rebate, but it's not before you've met your 100 percent MCT target.

So this is the slide that we -- we've produced that shows the anticipated transfers from the Extension line of business. You'll see there the $60 million that was already transferred in February. You heard Mr. Johnston say that this coming year, another 75 million will be transferred. The reason for that being higher than the following years is because the 60 million that was transferred in February did not represent the full amount to bring it down to 200 percent MCT. So there's still extra money in there. That extra money is going to be coming over this year and in the form of $75 million.

Thereafter, it's fairly consistent. The projections are about 40 to $45 million every year transferred into Basic under the Capital Management

Plan. And there you see how it will affect the Basic MCT, and the projections that are made on how that number will -- will rise, I would suggest, with one (1) exception in 2023. And the projections right now are that in 2024, there would be excess capital in Basic, resulting in a triggering of the capital release provisions under the Capital Management Plan.

So this is -- this -- these next few slides depict, in our view, to assist the Board in understanding how the Capital Management Plan works. And it -- and it will show you both the rate-making side and the capital side, and how the two (2) work together in coming up with the overall rate indication.

So on this first slide, you see the claims forecast less the Basic claims investment income. And so when you remove the investment income, you get what's called the actual -- the actuarial claims cost, so that's the AAP rate that the Corporation needs. And we'll label that box A.

On the capital side, Madam Chair, is the 100 percent MCT target under the reserves regulation. And so every year under the Capital Management Plan, the Corporation will look to see where it's at as compared against its target. So the actual Basic MC -- MCT, whatever that number might be. In this case, as depicted here, it's lower than the target, which would of course mean we need to find a way to get up to 100 percent MCT.

And as the Capital Management Plan indicates, it does so not in year 1 or year 2. It's spread out over five (5) years. So if the Corporation's is -- is not at its target, it comes up with a number that it needs to meet, and spreads that out over five (5) years. The first two (2) years, you'll see there, move together, because that's the forecast period, and that gets you to step 3, which is your MCT ratio.

And so we don't know what's happening after years 1 and 2, because those are outside the forecast period, but we know that this is what we need to start moving up on that five (5) step depiction that you saw earlier. So that is B, and there's C, your 100 percent MCT target. So that's how the -- the build provision operates under the Plan.

And there's the future state. So we know that B is moving us closer to the target, but we're not there yet, and the future state, as indicated there, excess Extension, plus RSR investment income, plus actual Basic MCT. Those would -- those would be the factors that go into moving us toward the goal of 100 percent MCT.

So on this particular side -- slide, sorry, you have the financial source on one (1) side, which is the premium that we collect from our customers as against the AAP claims cost. That's a level scale. That's the breakeven rate-making model.

However, when you include capital and in there, there's the targeted MCT ratio that I spoke of earlier that the Corporation would need to achieve its 100 percent MCT target. You'll see, Madam Chair, that -- that targeted MCT ratio is lower than the Extension that was transferred from -- the capital that was transferred from Extension, and the RSR investment income that Mr. Johnston wants to retain.

So those two (2) factors are balanced against the ratio. And you'll see that it tips the scale. There's not enough money. There's not enough capital to keep the -- to keep the scale balanced, and so that's when the capital build comes in. And the capital build rights the scale and puts -- puts the Corporation back in balance.

That's scenario 1, that's the -- that's the build provision. And it's the capital build and the premium that makes up the overall rate indication.

And as I've said earlier, no matter what you do on that side of the scale with that RSR investment income, it's going to ultimately end up with the same overall rate indication.

You just -- you either cli -- you either give it to the ratepayers on this side, which would trigger a build provision, or you collect it from the ratepayers on the capital side, where you keep it on the capital side and you don't collect anything on the rate-making side.

And then in Scenario 2, Madam Chair, this is that the other side of the Capital Management Plan and the release provisions.

So here you'll see that the scale is tipped in favour of too much money. So when you saw that the MCT in 2024 was at a hundred and three percent, that's this scenario where you have excess capital and the financial need isn't as great as the money that the Corporation is holding.

And so that then triggers the capital release in the form of lower rates for MPIC customers and the scale gets balanced and the premium is -- or the overall rate indication would be the premiums less the capital release.

And so that particular presentation or

that depiction we hope helps the panel in understanding the capital management plan. That was put together not by -- they don't teach those skills at Robson Hall. That was put together by the regulatory team, Mr. Meira and Mr. Crozier and his -- his team. So we hope that was of some assistance to the -- to the Board.

I think we've frozen. Oh, here we go. I'll just back up. It's frozen.

(BRIEF PAUSE)

MR. STEVEN SCARFONE: Here we go. So next topic is the transparency issue that Mr. Triggs touched upon and fiscal prudence. Of course, number 1 on that list is Project NOVA representing the largest capital project undertaken by the Corporation just under a hundred million dollars.

And that's -- it's a business project that's designed to upgrade the -- the systems that MPIC has in place including the claims administration reporting system. The insurance workstation that you heard is made use of by both the brokers and MPIC. Other topics for discussion are the service agreements and the service delivery.

On Project NOVA, this particular slide was taken from the application. Why is MPIC modernizing its legacy systems? That is the result of having two (2) independent consulting firms look into MPIC systems to address those five (5) key issues, none of which are more or less important than the other.

But our mandate -- MPIC's mandate is providing customer service good rates, and so we say NOVA primarily is for the customer, and it will enhance and facilitate MPI's vision of moving online, and we can't do it without implementing the upgrade as contemplated by Project NOVA.

There you see the three (3) factors for Project NOVA: discipline meaning external consultation to assess the candidacy and guidance for the business case which is before this panel in the confidential module.

You heard evidence from Mr. Bunko and his team about the use of the new agile methodology and the advantages that that particular methodology will provide in ensuring that NOVA is implemented with success, again the business case fully transparent in the confidential module.

There was a panel that spoke about the

net present value and the benefit or the return of the investment dollars on that particular project. That, again, I won't touch upon in this public forum, but it's all in the confidential module, and the panel heard evidence on that.

And you'll also recall, Madam Chair, that there the governance structure that was out -- that was set out for the panel that shows the particular personnel that are involved in the implementation of -- of NOVA along with an independent program governance advisor.

And there is the governance model before you, Madam Chair.

(BRIEF PAUSE)

MR. STEVEN SCARFONE: So the key point there is -- and Project NOVA, again a very large capital project that is being undertaken by the Corporation. The payback period estimated to be fourteen (14) years, and the net present value using a 7.5 percent discount rate at $12.7 million in the positive.

(BRIEF PAUSE)

THE CHAIRPERSON: Mr. Scarfone --

MR. STEVEN SCARFONE: Yes.

THE CHAIRPERSON: -- is this an opportune time to take a break for a few minutes -- give you a chance to rest your voice -- or do you want to keep going?

MR. STEVEN SCARFONE: Well, I think -- I've got a couple more slides left, Madam Chair, and then Mr. Guerra's going to take over. So maybe before Mr. Guerra does that, we could take a break, and then we can return and listen to his soothing voice for a little while.

THE CHAIRPERSON: Sure. That's fine. Thank you.

MR. STEVEN SCARFONE: So service agreements -- the Corporation had a service delivery panel that presented on a number of issues, one of which was the existing agreements that are currently in place with all of MPIC's service providers.

So that would not only include the Intervener Insurance Brokers Association of Manitoba but also all the other service providers that the Corporation engages to run its business. It's the chiropractors, the repair industry -- all of that is included under the -- the large topic of service agreements.

And the -- the issue that Mr. Triggs touched upon, the Corporation wants to be as transparent as possible in providing to this Board the details of those particular service agreements so that the Board is satisfied that they're fair and reasonable and provide good value for Manitobans that the -- that they promote competition and that they don't infringe upon anti-competitive negotiation between service provider and Manitoba Public Insurance.

And -- and as recognized by the IBAM panel, MPIC and its service providers depend on one another. They're business partners. And so it's important that there be a good working relationship on a go-forward basis with all of its service providers.

The Corporation would say some of these agreements do not benefit MPI's core business interests. And so -- and some subagreements do not -- are no longer fit into MPIC's mandate.

So we heard some evidence about a funding agreement or a sponsorship agreement with the -- with the brokers. That particular agreement was put in an end by the new executive for those very reasons.

And so when we speak to -- when we speak to promoting competition, Madam Chair, it is, as I've indicated -- the goal of that is to restrict anti-competitive behaviour in arriving at the negotiated terms of those service agreements. It is in the best interests of ratepayers that agreements be negotiated fairly.

So, Madam Chair, what -- what can this Board do in terms of MPIC's agreements with the service providers?

One recommendation that we think this Board can make is that all future arrangements affecting the compensation of service provider association members comply with the terms of the Competition Act. That's number 1.

Secondly, in the spirit of transparency -- MPIC's ongoing commitment to transparency, order that MPIC file all such arrangements with this Board at the first general rate application subsequent to them having been entered into.

So once the contract is signed, once the negotiations are done, the -- the Corporation would propose that the agreements are no longer held secret but rather put before this Board for examination to ensure that they are meeting with the requirements of not only the Competition Act but that generally, they're fair and reasonable for Manitobans.

And lastly, order MPIC to file evidence demonstrating that the compensation arrangements reflect prudent costs are just and reasonable and again comply with the Competition Act.

(BRIEF PAUSE)

MR. STEVEN SCARFONE: On service delivery, management has discretion to make service delivery decisions. And MPIC, as we've heard with the evidence that was provided by the Brokers Association, views the presentation of its future online service delivery model as another example of its increased transparency with the PUB.

MPIC knows that its customers expect and deserve the right to complete transactions online by themselves if they so choose and that it supports and it's committed to a shared distribution channel with its brokers to deliver these services online.

As Mr. Triggs indicated, the Corporation has sought to be open and transparent with the PUB about this particular issue. This is not, we would say, about airing dirty laundry. This is about ensuring that MPI get online services delivery right. This will affect not only the quality of customer service but also, of course, revenues and costs.

(BRIEF PAUSE)

MR. STEVEN SCARFONE: MPIC will expect to provide updates to this Board in future GRAs but does not seek or expect direction on how to go about entering into these service delivery contracts.

And so this, Madam Chair, I would suggest is the appropriate time to break. And -- and if the -- if the panel has questions now or if they want to wait till the end of the presentation, I'm happy to oblige them in either respect.

(BRIEF PAUSE)

BOARD MEMBER GABOR: I'm just -- sorry, I'm just wondering during the break, the PowerPoint presentation and the copy of the PowerPoint presentation are now off. And I just want to make sure that we don't -- that we haven't missed a page in the written one we have.

Mr. Crozier's -- sorry -- Mr. Crozier is shaking his head. Is -- I don't know if it's a title page that was missed when it was printed, but the -- the numbering is now off.

MR. JEFF CROZIER: Yes. Slide -- slide 17 was the rate stabilization reserve title page, and I think in the PDFing process, the content of slide 18 -- the following slide which just is the definition of the rate stabilization reserve - -ended up underneath -- or on that title page.

BOARD MEMBER GABOR: Okay.

MR. JEFF CROZIER: So there's no content, but they are off, and it's -- if you go to slide 17, you'll see that's where it misaligns.

That being said, the exhibit that was filed is an exact -- an exact copy of this.

BOARD MEMBER GABOR: That's fine. I just want to make sure there is -- there wasn't an important page that we've -- that we missed.

(BRIEF PAUSE)

THE CHAIRPERSON: Okay. Thank you very much, Mr. Scarfone. At this point, I think we will proceed to break, and we may have some questions following the break, but once we're back, we will know.

MR. STEVEN SCARFONE: Thank you.

THE CHAIRPERSON: I'd like to adjourn to 10:50, please. So that's -- ten (10) to 11:00, we'll come back then. Thank you.

--- Upon recessing at 10:34 a.m.

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

THE CHAIRPERSON: Okay. Thank you very much.

Yes, Mr. Scarfone, we have a couple of questions for you. The first is, I wondered if you could point us to any case law or principle of statutory interpretation that would support MPI's interpretation of the reserves regulation as set out in the capital maintenance plan, which allows a five (5) year build, three (3) year release provision if you're not exactly at 100 percent MCT.

MR. STEVEN SCARFONE: So I -- I do believe that we may have provided a response to that particular question during the Information Request process, Madam Chair. But what the Corporation can do to specifically address your question is undertake to provide a written submission -- a short wri -- written submission on any jurisprudence that might exists on the interpretation that the Corporation is taking with respect to that.

THE CHAIRPERSON: Thank you. That would be helpful.

MR. STEVEN SCARFONE: Yes.

--- UNDERTAKING NO. 39: MPI to provide a short written submission on any jurisprudence that might exists on the interpretation that the Corporation is taking with respect to reserves regulation, as set out in the capital maintenance plan, which allows a five (5) year build, three (3) year release provision if not exactly at 100 percent MCT

THE CHAIRPERSON: Mr. Gabor...?

BOARD MEMBER GABOR: Mr. Scarfone, if

we could go to page -- now, this is where we run into the interesting... The one behind, sorry. I have it as sixty-one (61). I guess it's prob -- it may be sixty-two (62), yeah, on the screen.

I'm a little confused on what you're proposing for the Board oversight over the relationships with -- with service providers. Are you suggesting that the Board would approve contracts?

MR. STEVEN SCARFONE: No.

BOARD MEMBER GABOR: Are you suggesting that the Board -- so are you suggesting that the Board could undo the contracts?

MR. STEVEN SCARFONE: No.

BOARD MEMBER GABOR: So if the Board, in your last bullet, looked at whether there are prudent costs that are just and reasonable, and the Board finds that they aren't, what are you suggesting the Board's jurisdiction is?

MR. STEVEN SCARFONE: Well, concerning contracts entered into -- so for example, we -- you might equate some of these service delivery contracts to the collective agreement that -- that the Corporation enters into with its unionized employees. Certainly, you know, you've heard evidence that thar -- there are increases that occur to the union employees under that agreement that, we would suggest, are of really no moment for this particular Board.

MPIC's bound by them. We have to pay them. Those are expenses that we're -- we're contractually bound by.

Similarly, for these service delivery agreements, we're not asking that the -- that the -- that the Board approve them in any way, but we're recommending, as we say here, that once they're entered into, they would be examined to ensure that they're fair and reasonable and just, and that they provide benefit to Manitobans, and that they're -- they were fairly negotiated and in compliance with the provisions of the Competition Act.

If the Board was to find that they weren't, we would expect that there would be some direction by the Board on how the Corporation might go about ensuring that the next agreements are entered into in what the Board de -- thinks is a fair and reasonable manner.

BOARD MEMBER GABOR: Okay. I don't know if there's going to be any further comment in relation to the issue about online. We asked specifically that the parties address what the parties thought our jurisdiction were on that issue and further, what the parties sought in terms of either a recommendation or a directi -- sorry, a directive or a recommendation.

Unless your co-counsel is going to raise it, I think I've heard all that you were presenting on online. On those two (2) points, though, does the -- does MPI have a position on what our jurisdiction is and what you would seek in terms of a -- a directive or recommendation?

MR. STEVEN SCARFONE: So I'm told that -- oh, sure. Yeah, Mr. Triggs will answer it because he -- he touched upon this in the -- in the written submission.

BOARD MEMBER GABOR: Okay. I haven't had an opportunity to read --

MR. STEVEN SCARFONE: No, of course.

BOARD MEMBER GABOR: -- the written submission --

MR. STEVEN SCARFONE: Yes.

BOARD MEMBER GABOR: -- so.

MR. MICHAEL TRIGGS: Mr. Gabor, it is dealt with in -- in detail in the written submission. At the end of the day, this information is provided to the Board as -- for transparency purpose, for information purposes. We're on the brink of a major transformational change in the way we do business, and it's prudent upon MPI to bring this to the PUB's attention. Do we want anything on the PUB on this matter? No.

BOARD MEMBER GABOR: Okay.

MR. MICHAEL TRIGGS: And we -- we don't believe that you have jurisdiction to give orders on the nature of the service provided, how it's delivered, and -- and any sort of agreements that may come regarding the compensation associated with the delivery of that.

BOARD MEMBER GABOR: Okay. Thank you, sir.

THE CHAIRPERSON: Thank you very much.

Mr. Guerra...?

MR. STEVEN SCARFONE: Just one (1) last comment, madam Chair. So we do note Mr. Gabor is correct in that when we adjourned before closing, the Board asked for certain things be included in MPIC's closing submissions, one (1) of which was the reserves regulation, its validity, the various sub-issues under Issue 18.

And so I don't want to leave the Board thinking that MPIC is done on that front, but what we proposed to do, because the onus would be on the consumers' group, is to have them make their argument. The presumption is in the favour of the validity. So when they make their argument, MPIC will then address that argument in its reply.

THE CHAIRPERSON: Yes. Thank you, Mr. Scarfone.

Mr. Guerra...?

MR. ANTHONY GUERRA: Thank you, Madam Chair. I'm going to go to the -- the next portion of the presentation, which is the last four (4) bullet points, five (5) to eight (8): road safety, driver safety rating, improving the GRA process, and our conclusion.

One might be tempted to think that I will be speaking as long as My Learned Friend and -- and colleague, Mr. Scarfone, and I think Mr. Scarfone also thought that would be the case as well when we div -- divided up the -- the labour on -- on this presentation, but the next few slides, we'll actually -- we'll go through pretty quickly.

So in terms of the first issue of road safety, there was a lot of discussion this year in -- in the process before and after -- or, sorry, the -- before and during the hearing process about road safety. We had a two (2) day technical conference.

We had multiple days of the hearing process here devoted towards the topic of road safety. We had over thirty (3) Information Requests that -- that dealt with directly or indirectly the issue of road safety. And I -- I would note that that was among the top three (3) most canvassed issues in the discovery portion of -- of this GRA.

And -- and -- and the -- the topic you see here obviously involves, from a budgetary perspective, a -- a very modest budget compared to other budgets that MPI was discussing this year, namely, things like Project NOVA. And one would be tempted to take a look at the current graph and seeing the -- the minute changes from year to year and see that as, perhaps, an area of concern. But we would submit that the issue here is not the exponential growth of the road safety budget but more importantly the optimization of the budget.

And so the evidence that was present by -- by MPI through the course of this proceeding were -- were based upon the efforts that were being made by MPI, in fact, to optimize its spending on road safety. And MPI recognizes that road safety is an issue that -- that should be dealt with to some extent in the -- the course of this hearing. The -- the issue really becomes to what degree and how often and -- and whether or not we engage in such a large endeavour every other year with respect to this issue.

MPI would say that the issue of road safety is very important and -- and -- and need not be forgotten; however, there -- there was -- there was a -- a lot of information covered this -- this past application, an -- and we have to put that into the context of -- of MPI's overall spend on -- on all of its projects, including road safety.

MPI does have its priorities in order with respect to its spending on road safety. We've heard evidence from the road safety panel that it now calculates its priorities on -- on costing other than just the claims costs for -- for certain collisions, but also the sl -- the social cost. And that allows it to really understand what are the -- what are the impacts of collisions on -- on Manitobans and -- and -- and what -- what are the root causes of the -- of the major accidents and how MPI can -- can use its road safety budget to effectively try to mitigate some of those risks.

So what I would submit for your consideration is that, as I mention again, although this graph is not suggesting any -- any major increases in the road safety budget, the parties are there.

We've seen a number of initiatives over the last number of days of the Hearing that MPI's undertaken to -- to meet some of these top priorities.

The next slide talks about all the progress we've achieved to date through things like the Driver's Ed high school education program, the MELT program, the Save the 100 program, the distracted driving offences notices, and then all the initiatives that are either underway or will be underway soon.

And then, as Mr. Wennberg had mentioned in his -- in his testimony, some of the future possibilities, some of which look very attractive and very enticing, and some that may not come to pass, but it will be one (1) of those situations where research and certainly gathering data and metrics will be very important, and aligning those with established parties and -- and the -- and measuring the costs of collisions to decide what is the best use of the existing road safety budget.

Mr. Wennberg also did not discount the fact or the possibility of -- of there being further spends on projects, but it has to be a case-by-case situation.

With respect to how far or how often the road safety issue should be canvassed at the -- before the Public Utilities Board, I would note that there is a provincial road safety committee.

MPI would submit that that is really the more proper forum for the collaborative discussion about road safety initiatives and the future of road safety projects in this province.

Although there certainly is that aspect of MPI's spin towards road safety, it is often one (1) component of the entire picture. The prime example, as Mr. Wennberg talked about, the -- the use of the cameras as intersections to -- to measure, to document near collisions, to -- to get some more data on that issue.

MPI can't do those types of initiatives by them -- by itself, it needs the assistance of sometimes the city or municipality in question, or even the province.

And so, when it comes to analysing MPI's spin on road safety, we should be mindful of the other avenues available for that type of discussion and -- and be mindful there are -- there -- there are more dedicated lines for communicating on -- on those issues.

That said, Mr. Wennberg did have some comments about when he felt it would be most appropriate to come to the Board with some insight into road safety.

And -- and, quite frankly and I think appropriately, he commented that it would be an ad hoc situation. We have to realize that some of these -- these programs do take some time to ferment and that we will -- we will need to be able to come back and to be able to share with the Board some real data on progress, and -- and it's not something that can easily be done on an annual basis.

Sometimes there may be more to talk about than others, and it really will come down to what's -- what's currently available and what's being worked on in terms of the -- the importance of -- of this issue.

Now to the issue of driver safety rating. This topic was canvassed briefly only because it's still a work in progress. But there are some things that MPI does know currently about the situation.

We do know that Manitobans generally like the current system, which is the registered owner model system. It is seen as a fair way to establish rates and to -- to deal with the issue of risk. It's not perfect, but none of the models that were canvassed that are -- are known were also deemed to be perfect, as well.

It's about paying the right price in a way that seems to be fair. And MPI thinks that most Manitobans appreciate that the current system achieves those objectives.

However, that's not the end of the story. It's not just about what a majority of Manitobans in a particular -- a particular survey have -- have said about the system. It needs to be costed. Alternatives needs to be considered. And, ultimately, there needs to be a recent decision about what's best for ratepayers going forward.

Therefore, MPI is continually examining the issue and will be providing a pricing examination on not only the current registered owner model, but also the primary driver model and the driver premium model which were discussed at some length in the DSR, or driver safety rating panel.

More information would be provided about the costs of each of these models in next year's rate application.

And MPI does expect at that point it

will be coming back to the Utility Board with its recommendations on -- on the -- the selection of -- of one (1) of these models, whether it be continuing with the -- the existing model or -- or moving to one (1) of the -- the two (2) alternatives that Manitobans have also indicated that they would be okay with, and also meet the definitions of -- of being fair and -- and pricing risk at the -- at a fair price.

(BRIEF PAUSE)

MR. ANTHONY GUERRA: The final topic I'd like to speak about is improving the GRA process. And it was something that we had discussed about commenting on.

I would not for the panel's consideration that we did submit a separate written response on the issue of improving the GRA process. I would invite the panel members to -- to consider that.

I'm not going to go into as much depth about the issue here because I do think it's canvassed fairly in-depth in our written submission. And that written submission is where you'll find some of the concrete suggestions that MPI has to how to improve thi -- this process.

So, we can certainly have a discussion, and -- and I can answer some questions about it, but I do suggest that -- that that -- that written document be given a read prior to because I do think it will answer a lot of the -- the questions the panel members may have.

So, what -- what do we know at -- at this point? Well, this year's rate application involved the submission of over ten thousand (10,000) pages of evidence. There were over two (2) rounds of discovery that involved MPI which resulted in over eight hundred and one (801) specific questions answered.

That's not eight hundred and one (801) individual Information Requests that were made. As we know, Information Requests can contain many sub-questions. These are all the questions that were posed individual to MPI through those two (2) rounds of -- of discovery.

Notwithstanding this robust discovery system that we -- we currently have, as we've seen, the hearing process is also an extension of the discovery process; rightly or wrongly, that's just the way it is.

in the context of that hearing, or this

hearing that we've engaged in, MPI undertook an -- to provide another ninety (90) -- or sorry, thirty-nine (39) documents through undertakings or -- or responses to questions for undertakings, filed over a hundred and four (104) exhibits.

And, as we know, we've -- now we're into the third week of -- of the oral hearing.

The question that remains for -- for MPI is -- is, what -- what information does the Board ultimately need to make its decision. We would submit that, in this case, we probably have too much information that's being provided.

And, again, part of that is MPI trying to be transparent and open with that. And -- and that comes with some acknowledgment that there will be increased production of -- of documents and information.

But that doesn't necessarily mean that it's all going to be read or -- or relevant. And so, what we need is we need to have -- we need to have someone take the reigns in this process and decide what issues are really going to be that important to canvass.

We would submit that, for example, the issue of road safety was canvassed very thoroughly and probably could have been canvassed less thoroughly with a very similar result that we would expect in this case.

That's not to say it's not an important issue, but we have to be mindful of -- of how expansive this process has become and -- and ways in which we can improve the process going forward.

So, at the end of the day, MPI is -- is really asking, what is the best way to get information that the -- that the Board deems to be important and required to the Board.

And -- and MPI is prepared to make certain -- to -- to follow along and -- and abide by certain directions from the Board on this, but we really do need to, I think, see the forest from the trees on this.

And certainly, I would invite the -- the members of the Board to consider our written submission with some helpful, practical suggestions on -- on ways we can -- we can improve the process.

Before I leave the topic though, I do want to kind of highlight what I think is a success stor -- story here, and that is the -- the piloted confidential process that we had this year.

It was proposed by MPI as a way to try

to make that the process of delivering confidential information more efficiently to the Board and to the Interveners, and also to provide a process that was more fair to Interveners because, as you know, prior to the implementation of this pilot project, and I appreciate it is a pilot project for this year at this point, and we would encourage the Board to consider its use in future years, what was happening was information would be presented to the panel without Intervener scrutiny.

And -- and this year, we've -- we've changed that. We've had confidential information being provided to the Interveners before decisions were made as to whether or not the information was confidential that allowed Interveners, as you know, to -- to comment and to -- to test the claims that were being by or on behalf of MPI.

And so, we think that that process is -- is only -- not only more fair to the Interveners, but, also it -- it alleviates the need for multiple motions, which can clog up the system, and I think what we've seen here in this case is although it's still a large undertaking, it -- it is certainly a lot more efficient than -- than we've seen in the past. And again, I would recommend that the -- the Board consider using this process again in the future.

So finally, in conclusion, I just want to highlight again the -- the topics that we raised. Again, this is a positive story as -- as we like to say at MPI, the fact that we are asking for a negative rate indication overall.

This is more money in the pockets of ratepayers and this is, in no uncertain terms, a -- a success due to the -- the new commitment from our executive and also the dedication of every employee of this company to -- to working in the best interests of its ratepayers.

We are asking for rates to be in effect for the thirteen (13) month period, and we are asking for approval of the proposed capital management plan, and as you know, we are asking for this continuance of the anti-theft discount for newly insured vehicles, no changes to the DSR for the vehicle or driver premiums, and no changes to fleet rebates or surcharges.

Before I -- I conclude, I do note that I -- I forgot in my submission with respect to road safety, to extend our appreciation to Mr. Keith, who did provide his assistance with respect to the technical conference and -- and did a fine job in presenting his findings to the -- the Board through the oral hearing.

So he is certainly missed around the office, but obviously he -- he continues to benefit the system after his -- after his leaving. So we do want to extend that thanks to him as well.

And with that, subject to any questions, those are my comments.

THE CHAIRPERSON: Thank you, Mr. Guerra. Mr. Gabor...?

BOARD MEMBER GABOR: Yeah, I'd just like to put on the record, Madam Chair, that I -- I look forward with interest to read the written submission, and quite frankly would like to reserve the right to ask questions on the written submission at the time of reply, if -- if there are any questions.

I appreciate Mr. Triggs' comment to the question I asked, I'd just like to read it in the written submission too and not just have my -- any questions relate only to the reply.

Mr. Guerra, certainly we're always looking at improving the process. I guess the question I have is: is there a suggestion that the kind of process we run or the scope of the process relates to the rate requested by MPI?

MR. ANTHONY GUERRA: Sorry, can -- can we rephrase that question. I'm not sure exactly what you're asking for.

BOARD MEMBER GABOR: The -- the number of issues and the scope of the process, is it a different process if you're asking for a -- a negative rate increase, versus a small rate increase, versus a large rate increase?

MR. ANTHONY GUERRA: It's tempting to look at the process like that, right? We are asking for less money and therefore maybe there shouldn't be as much scrutiny there.

And while I think there is some merit to considering that, I think overall what we have to do is we have to take a look at what are the issues that are most pressing for ratepayers at the current time, right?

And we will have some discussion about that through the discovery process, and we have a -- we have a very robust discovery process.

The -- the problem is that sometimes even though we have such a robust discovery process, we -- we still -- we still don't understand the issues well enough when it comes to the time of the hearing and -- and often the hearing is -- is used to get to that a-ha moment, that's really what we're all about here.

And perhaps that is a -- a -- you know, a fault of MPI in -- in not explaining the process properly or where we're at properly, but I don't think that's the case. I think we have a very robust application, we have a very robust discovery process and -- and I think it is incumbent upon the parties at some point in time prior to the hearing to really take a look at the evidence that's being put before them and -- and decide for themselves what are the -- what are the real issues in -- in dispute here, or that need to be tested here.

And if there is any way in which the issues, as they may have been originally assessed, to be of importance, if there's any maybe common ground there, that some of those issues can be decided to either be not dealt with in the hearing, or dealt with at a -- at an appropriate level.

And so that discussion is something we've proposed last year. We would suggest that be part of the solution, there's other recommendations that we would make, but we would really strongly suggest that -- that we have that -- that tough discussion prior to the hearing, but what are the real issues that -- that need, absolutely need to be addressed with by way of an oral hearing here and -- and we would really focus the parties on making sure that that discovery process is used to its fullest extent.

BOARD MEMBER GABOR: Wouldn't that be part of the scoping process before the hearing and before the application is filed?

MR. ANTHONY GUERRA: Well, I mean, yes and -- and no. I do think that we will come out of this hearing having some sense as to what is going to be important going forward, and there are only so many days of the year that we can devote to this process and -- and certain things we know are not going to be as -- as important next year.

And so with that, the decision needs to be made, and we would submit be made by all the parties involved that some issues just don't deserve as much attention in the -- in the hearing process in -- in one year versus another, and road safety might be an example of that, going forward.

BOARD MEMBER GABOR: I understand the road safety argument, certainly.

Is there evidence -- I mean, you talked about the need for transparency. Is there evidence that's just filed where there is no issue where MPI wants the Board to take a position?

And I'll -- I'll be specific.

MR. ANTHONY GUERRA: Sure.

BOARD MEMBER GABOR: You filed an application that had hundreds of pages about the relationship with the Insurance Broker Association of Manitoba, that was in the application, which I understand completely.

The position is -- which was put today, as I understand it in your written submission is, the Board has no jurisdiction over the issue.

Doesn't that contradict this idea that there is certain issues that should be before the Board and there are other issues that shouldn't be so we can reduce it? We have a major issue that was before the Board this time, we specifically asked if we have jurisdiction over it and for the parties position Mr. Triggs indicated you -- your position.

MR. ANTHONY GUERRA: Right.

BOARD MEMBER GABOR: You spent a lot of days --

MR. ANTHONY GUERRA: Absolutely, and --

BOARD MEMBER GABOR: -- and I read

every page, so I'm just trying to figure out how that relates to an argument that, you know, how an argument that we looked at this issue in a very serious manner, all the parties, with the position, and it may have been from the outset, it may have been later, that we have no jurisdiction over it.

To your position that, you know, this hearing is too long, we're looking at too many issues, isn't the first issue to take off the issues where the Board has no jurisdiction?

MR. ANTHONY GUERRA: Right. And -- and Mr. Triggs will -- will make one comment.

What I would say to that though is our position is not that -- that the Board has absolutely no jurisdiction to look at the arrangements that -- that are being made with respect to service providers. The -- the issue is with respect to the choice on a service delivery model. That's a different situation, right?

It's what customers want and it's -- it's how that is going to be provided to them.

The Board cannot tell MPI it -- it has to deliver online services a certain way, right. That's -- that's the issue that we take concern with.

What's going to happen, however, is

that that decision is going to be made by MPI in association with the brokers, and then a certain model will go forward, right?

And so there will be some over -- there will be some review of how we are currently serving our customers in future applications, and so it's important to know, from the Board's perspective, how we got to that point.

With respect to service agreements though and how we get into service agreements, there is some benefit in having the Board take a look at our current agreements and future agreements and saying how were those agreements negotiated.

If they're negotiated as a result of -- of one, you know, one monopoly-style party abusing its power with respect to MPIs monopoly, then that's a concern.

And now going forward, as -- as Mr. Graham has mentioned, the covers have been pulled away. Everyone knows what's going on.

Now -- now next year, if MPI were to negotiate an agreement in -- in the same type of way, we would expect this Board to come to us and say what are you doing? Why are you doing this? Where is the proof that you have done this in the way that is in the best interests of ratepayers? And if you don't stop doing what you're doing, you -- we're going to have some concerns here because we have to approve your just and reasonable rates. And -- and maybe these aren't rates that are just and reasonable.

So there is something for the -- for the Board to say in terms of the way in which we negotiate our agreements and that's why we are presenting that. But I -- I want us to -- to separate the issues of service agreements with service delivery and how the -- how we choose those models.

There may be some critiques going forward, but -- what we've done. But ultimately a decision with respect to how we get the service delivery is something that management has to make by itself.

So subject to any questions -- or any further comments by Mr. Triggs, that would be my response to that.

MR. MICHAEL TRIGGS: I have nothing further to add to what he said.

BOARD MEMBER GABOR: Thank you.

THE CHAIRPERSON: Thank you. We're almost at 11:30. Ms. McCandless, is the Consumer's Association expecting to proceed at one o'clock or is it something that can be done sooner than that?

MS. KATHLEEN MCCANDLESS: I see Ms. Dilay here, I assume we're waiting for Mr. Williams to come probably at one o'clock?

MS. KATRINE DILAY: Sorry about that. Yes, exactly, we're -- we're just finalizing our presentation, copies are being made, so if we could adjourn until -- or if we could start our presentation at one o'clock that would be appreciated.

THE CHAIRPERSON: Certainly, we can do that. So we will adjourn now until one o'clock this afternoon. Thank you.

--- Upon recessing at 11:28 a.m.

--- Upon resuming at 1:01 p.m.

THE CHAIRPERSON: Good afternoon everyone. Good afternoon, Mr. Williams. Please proceed.

(BRIEF PAUSE)

DR. BYRON WILLIAMS: Good afternoon, members of the panel. I'll be appearing with Ms. Dilay, who is back by popular demand, and she will be doing the thoughtful legal submissions. I'll be covering the -- the -- generally, the issues relating to the -- to the -- the rate approval exercise. And we will switch off, and Ms. Dilay will also share the recommendations of our client with the panel.

I would note that there is some -- some CSI slides. What I would propose is let's just play it -- we've designed them so that they can just be read. If time permits, and we're okay schedule-wise, then they're -- they -- we -- we've -- I'd aim them for the back of our submissions, and we'll -- we'll be at -- we'll check the clock and see where we are.

THE CHAIRPERSON: Thank you, Mr. Williams. And good afternoon, Ms. Dilay.

DR. BYRON WILLIAMS: Ms. Dilay reminds me that there are a -- a number of exhibits to be entered on the record, including the written legal brief, which was filed on Tuesday, which we would ask be marked as CAC Exhibit 19.

--- EXHIBIT NO. CAC-19: Written legal brief

DR. BYRON WILLIAMS: The response to undertaking, which is CAC-20.

--- EXHIBIT NO. CAC-20: Response to Undertaking 36

DR. BYRON WILLIAMS: A book of authorities, which has been entered on Dropbox and physical copies will be made available to the Board tomorrow morning. We would ask that -- that be CAC-21.

--- EXHIBIT NO. CAC-21: Book of authorities

DR. BYRON WILLIAMS: And then our PowerPoint on the public record, CAC-22.

--- EXHIBIT NO. CAC-22: PowerPoint on the public record

DR. BYRON WILLIAMS: And our recommendations we would ask be CAC-23.

--- EXHIBIT NO. CAC-23: CAC recommendations

FINAL ARGUMENT BY CAC (MANITOBA):

DR. BYRON WILLIAMS: And some may wonder in the context of an average rate -- a rate reduction of, on average, of 0.6 percent, why this is a -- a hearing of considerable intensity, public interest, some media controversy.

And certainly from our clients' perspective, this is a hearing that is worthy of making a fuss about because of six (6) or seven (7) fundamentally important issues. And one (1) of those, in our clients' view, is a challenge by the provincial cabinet to the legislatively granted independent rate setting role of the Public Utilities Board, an authority which it has exercised with distinction, since 1989.

Another of the challenges in this hearing has been by Manitoba Public Insurance, to the traditional way that we have looked at how service agreements are negotiated with the industry, with the automotra -- automobile trades and others.

Another challenge is a challenge of the marketplace, and of technology and consumer demand. And that is a challenge to the traditional bricks and mortar service delivery model, whether by brokers or the MPI service centres, and how did they respond, and how do we collectively respond to deliver rates for service that are just and reasonable in the context of Manitoba Public Insurance.

And obviously there's challenges to the

legacy systems of -- of the insurance business and Manitoba Public Insurance, as well as of driver and vehicle administration, Autopac online, AOL, cars and the DVA. These challenges presage -- anticipate the largest information technology investment in Manitoba public insurance history. Some of the witnesses for Manitoba public insurance describe it as a once-in-a-lifetime opportunity.

There's also -- apart from the economics, and the finance, and the emerging service needs, there's a challenge of on -- the ongoing toll of fatalities and serious injuries suffered by all Manitobans, but disproportionately by rural Manitobans. And in this hearing, uniquely among the hearings our client has participated in, driven to significant degree by the issues related to the Capital Management Plan, there are challenges to the myth that there is true competition in the Extension market.

And this panel heard from a number of distinguished witnesses. One (1) of the most compelling and thoughtful, of course, was Mr. John Todd, who shared his experience with the appropriate regulatory treatment of nonutility services. And in this hearing, there is a fundamental challenge to the historic view of MPI that the benefits offered to Extension or nonutility services, by virtue of its relationship with the statutory monopoly, are not relevant to setting of Basic rates. In this hearing, they're central to a lot of the Board's deliberations.

Our client is a kind client, a thoughtful client, but our -- the legal team knows not to use the words average rate reduction with our client, because there is no such thing as an average rate reduction to a consumer. Each consumer experiences an individual impact. Rates may be going down. They may be going up. They may be going up significantly, or going down significantly.

So amidst the immediate headlines of a rate reduction, there are significant impacts both up and down in this hearing for many individuals. Over ninety thousand (90,000) private passenger vehicles will receive rate increases between 4 and 5 percent. An additional sixty thousand (60,000) will be facing increases of between 3 and 4 percent. Over one hundred and fifty thousand (150,000) consumers experiencing volatility on the way up. So while rate stability is a convenient myth in the corporate boardroom or the legislative briefing note, it is not -- it is never the lived experience for many Manitoba consumers.

This hearing, like all hearings, but this hearing in particular matters a great deal to our clients. There's a choice for the regulatory process to honour the legislative commitment to an independent rate approval process, or to walk down the ICBC path, the path of cabinet interference in the rate-setting process.

This hearing matters for our clients because there are significant grounds for concerns that the traditional industrywide agreements are not delivering value for customers, and risk running afoul of the Competition Act. And I'll address this in more detail when we get to issues related to brokers, but the Board has asked generally what is its jurisdiction with regard to these issues.

And our gen -- our client's general comment is your jurisdiction is what it has always been, to assess rates for service of Manitoba Public Insurance. And in assessing rates for service for Manitoba Public Insurance, part of that involves looking at the arrangements with service providers and whether Manitoba Public Insurance is giving value to ratepayers, whether it's operating prudently and reasonably.

Part -- the other part of the statutory definition is rates for service, and so in looking at the rates and whether they're just and reasonable, there are also issues of consideration of are consumers receiving that service fairly, are they receiving it equally, or in the case of, let's say the bricks and mortar service delivery model, are there vulnerable consumers who are left out of reasonable access to those services. That's part of the equation in approving just and reasonable rates.

In approving just and reasonable rates, this Board also, when you look at the broker issue, but also the agreements with other elements of the industry, always has to be alive to risk. That risk could be a hail storm, a snowstorm, interest rates, not that we've ever had any interest rate challenges in -- in this jurisdiction, but it also could be a legal risk, and so issues relating to possibly running afoul of the Competition Act are risk that the Board in its rate-setting exercise should be alive to.

Analytically what does that mean? It does not mean that it is up to the Board to supervise, conciliate, or dictate an agreement between MPI and the -- and the brokers, or MPI and the chiropractors, or any of the trades, but the Board has jurisdiction to critically analyse those agreements, to make a determination if the expenditures associated with them are just and reasonable, to make a determination in terms of whether the risks incorporated in those relationships are undue, and the Board always has its recommendation power, a general recommendation power to offer advice.

One (1) of the issues our client will struggle with, and we'll offer some suggestions, but obviously in this hearing you'll -- we -- we've heard a lot about whether the competitive market is -- is competitive or not. We'll come back to that in a little bit, but that's a place where advice might be given by this Board, but not an actual decision be made.

This hearing matters for rate fayer -- payers, because there are real live issues related to bricks and mortar services. One (1) of the most important is maintaining services for rural -- and maintaining or enhancing services for northern and remote communities, both access to important bricks and mortar services, as well as enhanced online service opportunities for all Manitobans, especially those who are currently under served.

And we've seen those maps with an --

MPI Appendix 14, where they looked at the -- the hot map of where brokers were and where they weren't, and we've certainly seen that -- that great big vacant space in northern Manitoba where there's thirty-nine (39) brokers -- thirty-nine (39) employees.

So clearly there are significant bricks and mortar gaps already, and that is why, from a consumer perspective, the opportunity for online services is seen as a -- a critical opportunity to provide value for rates for service. And that's not for just rural and remote issues. It's also important for all Manitobans who wish to access important online services.

And again, our clients are supportive of ensuring that not just urban consumers, but cost-effective bricks and mortar services, are available to all Manitobans in a manner that does not deny them the choice of being served by MPI or by brokers.

This hearing also matters for ratepayers because there are significant risks related to the modernization of legacy systems, particularly given the relationship between the insurance and driver vehicle sides of the business.

Final two (2) points and why this hearing is particularly important for our clients. In other proceedings, this Board, the Public Utilities Board, has made important statements about reconciliation, especially in the Hydro context.

Our client is concerned that, unlike Alberta, unlike British Columbia, there is no Indigenous road safety strategy, notwithstanding evidence of a disproportionate number of fatalities and serious injuries in rural Manitoba, as well as the MPI observations candidly offered of unlicensed drivers and vehicles and unmet service needs in First Nation communities. To our clients, that is a pressing reconciliation concern.

And finally, this hearing matters to our clients, our truly captive clients, because in the face of overwhelming evidence of excess profits and significant evidence of market failure in Extension, it is critical to ensure that monopoly ratepayers receive an appropriate transfer of all excess profits consistent with an evidence-based risk analysis of MPI's monopoly in non-utility lines of business.

In many hearings, it's -- it's -- it's relatively easy to characterize the monopoly, whether positively or adversely. This is a hearing with a lot of nuance. Our client sees two (2) sides to Manitoba Public Insurance in this hearing.

On the one side, there is evidence of good intentions and transparency. Part of that comes from the MPI concession of the appropriate -- appropriateness of transfers from Extension reserves to Basic. Part of it comes from what was truly good practice consumer engagement with regard to the driver safety rating review. Part -- part of it was the active efforts of Mr. Johnston and Mr. Wennberg and their team to improve reserving and case management with regard to the Personal Injury Protection Plan. Those efforts should be noted and -- and congratulated.

Our clients also see evidence of good intention and transparency in the efforts to begin to implement value management practices with regard to information technology projects, in the benchmarking exercises undertaken with regard to vehicle repair and other service industry benchmarks, of the efforts to address the failure to achieve value for money in certain industry agreements, and the risk of non-compliance with the Competition Act, and the efforts to maintain and enhance consumer choice and ensure value for money in the face of the inevitable, disruption of the bricks and mortar service delivery model.

So that's one side, but there's the other side of MPI that our client does not and cannot dorse -- endorse.

There is the sidestepping of the inherent balancing the independent rate approval process and the efforts to impose the risk tolerances of the MPI Board of Directors on captive monopoly subscribers through the reserves regulation.

There is a substantive failure to comply with the intent of the shadow investment portfolio, which was supposed to be a way to examine the foregone opportunities in terms of higher return, by taking on different risks in a prudent fashion, and did not achieve that objective.

Our client also cannot endorse the significant risk associated with the current approach to the implementation of legacy systems modernization.

And finally, our client definitely does not endorse the revi -- the revision to the collision forecast for the last six (6) months of the 2019/20 year, achieved by taking into account the unusually low collision experience over five (5) of the first six (6) months of this year.

When the Board is looking at this rate application, determining whether to grant the reduction or a different reduction, keep rates the same on average or an increase, our clients would ask this Board to make a finding that, despite the efforts of current MPI leadership, built into today's rates and into the forecast rates is the cost of imprudence that is embedded in the current rate application.

Captive monopoly customers continue to bear significant current and future costs associated, first, with the failure to reasonably manage complex personal injury protection plan, or PIPP, cases, especially between 2010 and September of 2018; the failure to properly manage the physical damage re-engineering project, resulting in a negative net present value of $50 million; an adventurous approach to information technology projects, resulting in over $20 million in writeoffs in '17/'18 and '18/'19, writeoffs that wrefec -- affect the retained earnings related to the insurance lines of business to this day.

Our clients notice well that there are higher than peer techno -- information technology full-time equivalent positions at MPI and that there is evidence of imprudent industry-wide agreements, leading in some cases to higher than Canadian average labour rates. And as just one (1) example of the ongoing cost of questionable value management projects, there's the Driver Z program, a budget revised from 5 million to 7.1 million, no initial net present value analysis, and a current negative net present value of $1.6 million.

Before we leave this slide, these are financial issues, but if we think of the PIPP, the public -- personal injury protection plan issue, they're very much human issues as well. The complex disabilities -- the failure to manage that has a financial cost, but it also brings a significant human cost to the families and indi -- individuals directly affected.

In terms of the thrust of our submission, I'm going to have a couple of overview comments, one (1) about the state of competition or lack thereof, and just a -- a very brief overview of the legal arguments. Ms. Dilay, I assure you, will be the brains behind that operation, but I just want to have a couple comments about that.

In the course of our clients' submissions, if you think of the five (5) elements of the Board's ordinary approach to -- to looking at just and reasonable rates, our clients will have a few comments about forecast reasonableness, they will have a lot of comments about the prudence and reasonableness of expenditures and investments, and they will have a lot of comments as well about the overall health of the Corporation, including prudent reserves and the capital management plan. The importance of consumer engagement will be highlighted throughout the submissions as well.

A number of the questions of the Board, Ms. Dilay will address in Part 2 of our submissions, focussing on the reserve regulation analysis, and she will also be making the recommendations. And there are about eight (8) slides of confidential submissions which will come at the end of our submissions.

The headline on slide 14 is 'We Are All Captive'. Traditionally, it is Basic cus -- customers who are described as captive, and the Extension market is competitive. But in our clients' submission, calling the Extension market 'competitive' does a fundamental, profound injustice to that word.

The evidence of this hearing suggests that Manitoba Public Insurance has held a 95 percent share of the Extension market since at least 2008; that it is earning excessive profit margins on that line of business; that Extension receives an inordinate benefit from its relationship with Basic, including through seamless renewal and reassessment transactions; that there is no structural separation between the two (2) lines of business, leaving MPI with the same access to com -- consumer information as Basic insurance, unlike its "competitors" in the private market; and that there was some evidence in written MPI statements in 2014s (sic) of efforts to innoculate the competitive lines of business from competition.

The de facto Extension monopoly raises questions of profound importance for the independent rate approval process and is the reason why Mr. Todd was brought as a generally accepted regulatory practice expert.

This Board has been blessed with a lengthy legal argument and authorities from the consumers' association in terms of the reserve regulation, it will be gifted with a very thoughtful argument by Ms. Dilay, and there'll be a lot of legislative history, a lot of cases, a lot of statutory interpretation. But in our clients' submission, at the big picture, there's a pe -- a -- a clear path to a finding that the reserve regulation is not valid and cannot be applied by the Public Utilities Board in its independent rate setting process.

And again, Ms. Dilay will go through it, but here are the simple points that our client would ask this Board to keep in mind: First, that it has been granted independent rate approval authority over the rates and services of Basic insurance by the Legislature; secondly, that since 1989, the rate stabilization reserve has been an integral element of its rate approval function. It has been so by the Board considering and determining the appropriate level of the reserve for rate setting purposes, by the Board considering and determining the appropriate methodology for determining the RSR level, RSR being rate stabilization reserve.

It has been an integral element of the Board's independent rate approval process by the Board considering and determining whether additional premiums should be charged to rebuild the RSR, as it did in the 1990s, or whether a rebate should be given to consumers due to excessive reserves in the RSR. That's evident in the Board's order, it's consistent with our clients' opinion, and it was frankly and candidly admitted properly by Mr. Johnston on the October 14th transcript.

So there's the legislative authority,

the RSR functions exercised by the Board, and then on slide se -- 16, you see a direct interference in that legislative-granted authority, using even the words 'rate stabilization reserve', and usurping or purporting to usurp the legislative granted -- legislatively granted authority of the Public Utilities Board to determine an appropriate Basic insurance rate stabilization reserve for rate setting and to approve an appropriate methodology for the determination of their rate stabilization reserve levels.

Most ironically about that regulation -- is it came in 2019, two (2) years after amendments to the Crown Corporations Governance and Accountability Act and to the MPI Act that expressly took away the authority of Cabinet to impact vehicle is -- insurance rates, an authority that had existed prior in Section 33 of the MPI Act. Again, Ms. Dilay will give more eloquent expression to those submissions, thoughtful nuance, but in two (2) slides, that is the thrust of our clients' submissions.

So our clients say the path is clear but it's hard, and our client doesn't like to be in this position, and I suspect the Board does not either. But our job is simple. It is to honour the legislative will as it comes to independent rate approval, and that legislative will cannot be overturned, sidestepped, or undermined by the Cabinet.

This Board is well familiar with the concept of just and reasonable rates. In its opening comments to this hearing, it talked about the balancing act between the interests of ratepayers and the financial health of the utility.

We will come back to that balancing act when we come back to the reserve regulation because historically, the Board has determined risk tolerances for the reserve regulation balancing corporate -- the monopoly's interest versus ratepayer's. That balancing act, in our client's submission, has been undermined, overtaken, and the -- the will of the MPI Board of Directors has been substituted for balance.

The five (5) of the just and reasonable rate analysis are set out at slide 19, and we just put them there for the Board's reference. We're going to the first one -- I think we are anyways -- ensuring forecasts are reasonably reliable.

And our client is not going to be very adversarial on forecast reasonableness. On the expenditure to side, our client generally accepts the reasonableness of the 2021 general rate application forecast of Manitoba Public Insurance.

It does wish to flag three (3) areas of uncertainty. One is interest rate direction during the test year. A second is the recent history of unfavourable experience relating to personal injury protection plan variances -- unfavourable variances. And the third is the possibility that unusually high vacancy rates will extend into the 2020/2021 test year potentially dampening or reducing test year expenditures.

I will come back to the -- the PIPP unfavourable variances as well as the vacancies in a couple moments.

So that was expenditures for the 2020/'21 year. In terms of expenditure forecasts for the 2019/'20 year, our client is uncomfortable with the revision to the collision claims forecast for the second half of the 2019/'20 year.

To take into account unusually favourable experience in, what our client has termed, the non-winter months, our client considers that atypical for Manitoba Public Insurance practices, and, in our client's view, that should not be relied upon in any determination of the projected level of the Basic rate stabilization reserve for the 2019/'20 year end. In our client's view, those revisions are atypically optimistic for Manitoba Public Insurance.

On the revenue side and going back to the test year -- the 2020/'21 year -- our client generally accepts the reasonableness of the Corporation's forecasts. There is one exception, and this is the matter of competing professional opinions by Mr. Johnston and Ms. Sherry and that relates to whether or not investment income from the rate stabilization reserve should be taken into account in the determination of the actuarially accepted rate.

And our client is not saying Mr. Johnston is doing anything improper. He and Ms. Sherry have a legitimate disagreement in terms of admittedly somewhat opaque actuarial standards.

But from our client's perspective, they do prefer the opinion of Ms. Sherry that the investment income should be taken into account from the rate stabilization reserve especially because such a determination would appear to be more generally consistent with industry practices. But they do recognize ambiguity, and this is an issue that does give them some analytic challenges as well.

I said I would come back to the unfavourable experience related to the runoff related to the personal injury protection lines of coverages.

Again, our client is generally -- is not contesting the expenditure forecasts, but they do feel it's incumbent to identify significant uncertainty, and this is one.

And the -- the panel will recall that once we take out the interest rate impacts, once we cancel the methodological changes, the external actuary in February of 2019 identified unfavourable experience related runoff of about $40 million between the three (3) personal injury protection plan coverages with most of those unfavourable developments being in the -- the '16/'17 and '17/'18 year.

And this has been an endemic challenge for Manitoba Public Insurance. This unfavourable experience is primarily attributable to claims persistency, claims extending -- complex claims extending beyond -- considerably on into the future as well as case reserving that MPI itself has described as being inadequate and inconsistent.

(BRIEF PAUSE)

DR. BYRON WILLIAMS: And in terms of the case reserving, there have been ongoing challenges with its accuracy and consistency, particularly for the 2010 to 2016 years.

To its credit, Manitoba Public Insurance has introduced new centralized case reserving methodology which is expected to lead to greater consistency and reliability. But that doesn't address the other longstanding issue which is the persistence of these complex claims.

And MPI's evidence from last year in CAC-1-36 which was confirmed in discussion with Mr. Wennberg this year is that that claims persistency -- some of the challenges have been impacted by a longstanding failure to reasonably manage complex claims.

And if you get a chance to go back to CAC-1-36, Appendix A, Attachment A, there's a very thoughtful explanation of the challenges of the Corporation, particularly at page 8. Its challenges were both staff reductions and actual technical challenges in the case management of complex claims. MPI has taken some efforts to standardize metrics and case management. They hired new staff in September of 2018.

But as we've learned with these personal injury protection plan claims, there's --

their so-called long tail claims, we won't know if the case management is having its intended effect for quite a while, not to the twenty-nine -- 2019 develops beyond the twenty forty -- twenty-four (24) to sixty (60) month period. Again, that is a source of negative uncertainty around the expenditure forecast.

On the upside, at least in terms of expenditures for the test year, is the ongoing effects of the very large vacancy rate driven by higher than normal retirements and higher than normal turnover, and we had this discussion both with Ms. Campbell and Mr. Giesbrecht on October the 8th.

And in -- in our conversation at page 480 and 481 of the transcript, Mr. Giesbrecht noted that the disconnect between budgeted full-time equivalents and unfilled positions may spill over into the 2021 year. He was asked, would the extended level of vacancies carry over into 2021? And he thought it was fair to say that it would have some effect.

So that is an element that would tend, all of other things being equal, to -- to drive -- push down claims costs. That is with regard to the 2021 year.

I do want to come back on behalf of our

clients to the 2019/'20 year. And as you know just before the hearing started, there was a significant amendment to the application, and one of the elements to that amendment was a different treatment for frequency -- collision frequency based upon the -- five (5) of the first six (6) months of 2019/'20.

So, Mr. Johnston is talking at page 1,089 of the transcript:

"They've had some low months, so we've recognized favourable collision frequency in the second half of the year. We've assumed it will continue."

Fortuitously or not, that conversation was just after the -- the storm events of October 11th and 12 and, as Mr. Johnston also candidly noted, not liking our chances so much for this month, but hopefully for the rest of the year.

And this Board will recall and can take judicial notice of our typical experience in rate hearings where the Corporation cautions about giving undue weight to experience of the first half of the test year.

And so, for our client -- sorry, not the test year, excuse me, of the current year. For our client, this approach -- and they have the highest regard for Ms. Johnston, but this left them uncomfortable.

And we canvassed this a little bit with Mr. Johnston on the -- and Mr. -- and Mr. Graham on the next slide, being slide 27, because winter is coming, and the most volatile ti -- part of the Manitoba Public Insurance year in terms of frequency of collisions is winter.

And at the bottom of this slide, being slide 27, we've put from the corporate risk scenario analysis the events of a one (1) in forty (40) adverse winter collision. We're not predicting it. We're just noting that it would be $66 million.

So, from our client's perspective, farm boy that I am, there's a saying, don't cou -- count your chickens before they're hatched. In this case, our client would advise don't count your collision frequency before it's defrosted. Let's -- that, to our clients, is a bit imprudent.

(BRIEF PAUSE)

DR. BYRON WILLIAMS: On slide 29, our client -- this is the general section, excuse me, where we're talking about the prudence and reasonableness of both expenditures and investments.

Our client wants to start with everyone's favourite topic, shadow portfolios, and just to remind the Board of its words from last year. Last year, the Board was presented with what it considered to be two (2) reasonable options.

One (1) was the MPI selected investment portfolio, a highly concentrated in fixed incomes, extremely conservative approach, at least from a nominal risk perspective, and the other was Mr. Viola's approach based on the real word and on real risk.

And the Board concluded ultimately that the MPI proposal was reasonable and prudent but did recognize that there was the potential, the risk, that Manitoba Public Insurance had foregone an opportunity, those words are emphasized, to hedge against long-term risks by rejecting real return bo -- bonds.

And the Board directed the Corporation to run shadow portfolios. And we've underlined the words to be evaluated against the portfolio selected by the Corporation.

And the Board wanted to do this as a text of whether the Corporation's asset liability strategy is reasonable. And our clients, while di -- disappointed in the Board's determinations, appreciates the -- the care with which the Board made that determination last year.

So, how would one reasonably test that hypothesis of whether the Corporation had foregone an opportunity? The Board to -- in our client's view, that would appropriately be done consistent with the Board direction by two (2) shadow portfolios, 1) to test the hypothesis that in the real world, not the nominal work, the MPI selected portfolio had foregone an opportunity to hedge against long-term risks by rejecting real return bonds.

And the very least, our client would have expected Mercers (sic) and MPI to compare an optimized shadow portfolio against the MPI selected portfolio at a comparable level of real risk.

How can one test the foregone opportunity unless it's at a comparable level of real risk? The Board also wanted to see what an unconstrained shadow portfolio would look like.

And from our client's perspective, to test that hypothesis that, in the real world, rather than the nominal world, the MPI selected portfolio had undergone an opportunity to hedge against long-term risks by unduly constraining the portfolio by not being diversified.

To achieve and to reasonably test that hypothesis, our client would have expected that Mercers (sic) and MPI would have compared an optimized, unconstrained shadow portfolio against the MPI selected portfolio at a comparable level of real risk.

Again, how can one test if an opportunity has been foregone unless it's at a comparable level of risk?

So, what are the issues with the -- the Basic shadow portfolios? Our client does not intend to focus on the pensions ones, but on the two (2) Basic shadow portfolios.

There are five (5) profound concerns. First, shadow portfolio was not investment 101 optimized while the MPI selected portfolio was.

Second, shadow portfolio 1 was established with a significantly lower level of real risk than the MPI selected portfolio rather than a comparable level of risk.

Mysteriously, shadow portfolio 2, the unconstrained portfolio, was con -- so-called unconstrained portfolio, was compared against the rejected 2017 MPI port -- portfolio rather than the MPI selected portfolio.

And, again, shadow portfolio 2 was established with a significantly lower level of real risk than the MPI selected portfolio rather than a comparable level of risk.

And finally, shadow portfolio 2 "unconstrained" was constrained by limits imposed by the MPI Board of Directors.

Egotist that I am, I like to think that I have a good sense of humour. Mr. Scarfone gets the prize for best line of the Hearing when he tried to mess -- rescue the Mercer's witness from what Mr. Scarfone described as the abyss.

The result of the Mercer's analysis thought in our client's submission, all joking aside, was an analytical abyss. And here is the Mercer witness candidly admitted -- admitting that shadow portfolio 1 was not optimized. It wasn't on an efficient frontier.

It was just another asset mix constrained to move money from one (1) bucket to another with no other buckets in play. Would that be fair? "Right," says the Mercer's witness.

(BRIEF PAUSE)

DR. BYRON WILLIAMS: Significantly, shadow portfolio 1 had significantly less real risk as measured in standard volatility than the MPI preference.

Again, the Board's instructions, or the hypothesis to be tested, is whether an opportunity was foregone. And here on slide 34, you see our -- our legal team asking the Mercer's witness that they should -- suggesting to them that they selected a shadow por -- polio -- shadow portfolio for comparison purposes that have less risk.

And that fact was conceded by the Mercer's witness, and not just a little risk. Our client suggested to the Mercer's witness that it was a significant reduction in risk as measured in real terms.

And as the Mercer's witness candidly conceded, a move from four point five (4.5), which was the MPI selected risk of that portfolio, to three point two (3.2) is significant.

The same challenge spilled over into shadow portfolio two (2). And here you see on slide thirty-five (35) our conversation with the Mercer's witness.

In neither shadow one (1) or shadow portfolio two (2), did you start from the same level of risk, real risk, as measured in the MPI selected portfolio. Correct.

So if one were wanting to conduct an apples to apples comparison, the same risk is the MPI selected portfolio, that was not done by any of the shadow portfolios on Basic use selected. That's right.

Those are the most fundamental problems with shadow portfolio one (1) and two (2) the analysis. But if you'll recall the Board's words, it was trying to test the shadow portfolios against the MPI selected portfolios.

But if you remember that no doubt stimulating investment portfolio discussion, there was a -- the purple dot of -- called "current", which was current 2017. That was the rejected MPI portfolio before asset liability management was engaged in.

So here we are talking about shadow portfolio two (2), and the question is put to the Mercer's witness. When you're using the term "same risk", you're comparing it to the rejected 2017 portfolio. Right, agreeing. Just to confirm, you're not comparing it to the same risk as the MPI selected portfolio.

Again, the witness confirms. And when one looked to the same return, again the shadow portfolio is being compared to the rejected 2017 portfolio. That was conceded. Again, not comparing it to the selected MPI portfolio, again, that was conceded.

Slide 37 is titled "unconstrained does not mean unconstrained", and this was a nimble piece of cross-examination by our learned PUB counsel asking with regard to shadow portfolio two (2), when we're talking about unconstrained really we're speaking about unconstrained within what the MPI investment committee provided, and that was again conceded by the Mercer's witness.

Our clients with regard to the shadow portfolios are in one area of agreement with both Mr. Bunston and Mercers, and that is if this exercise is to be undertaken, it is an exercise that requires some time. And Mr. -- the Mercer's witness suggests it should be over a full market cycle. Mr. Bunston gave words to similar effect at pages 499 to 500 of the transcript and our client cannot disagree with that.

I'm going to move away from the shadow

portfolios just to go back for a moment to our client's underlying concerns with the asset liability management strategy at Manitoba Public Insurance.

You often hear in this hearing the suggestion that MPI has "de-risked" the portfolio. It may have done so significantly in nominal terms, but as PUB counsel put to the MPI witnesses, or the Mercer witness, sorry, at slide 39, would it be overly simplistic of me to suggest that the nominal liability benchmark is not taken into inflation volatility, and the witnesses conceded that would not be overly-simplistic. That would be fair.

And again, that's one of our client's concerns. It's not that it's de-risk, it's just different risks and our client does not accept the submission that it's low risk over time.

On that theme of MPI selecting a portfolio of different risk not de-risked, is the reality that the Basic portfolio is highly concentrated. Provincial, Federal, and corporate bonds with relatively high correlations. And frankly, that's working out splendidly in the first six (6) months of this year.

But that's from an asset perspective, risky, because high correlations tend to impair the benefits of diversification for assets.

And this was confirmed in our client's conversation with the Mercer witness.

(BRIEF PAUSE)

DR. BYRON WILLIAMS: Just a couple of last slides on the investment portfolio. Our client is concerned not just with the interests of ratepayers today but the interests of ratepayers five (5) years from now and ten (10) years from now. And this is -- this description of the MPI investment portfolio wasn't concocted by our clients. It's a good discussion of the cost of capital of the Corporation in the value management business case of the Corporation.

And this analysis on slide 41 just talks about the conservatism of the portfolio and -- and -- and the consequences of that in terms of the expected total retu -- return over time. And our clients think that that is an important point, not just focussed on the income statement of this year or next year, but on the entire family of Manitoba Public Insurance consumers, including those consumers who will be collecting PIPP benefits, personal injury protection plan benefits, twenty (20) years from now. Next slide, please.

And again, the Board has made its determination in the short term, but our client continues to question the reasonableness of the MPI approach. They point to the superior returns over the last five (5) years -- again, that's a relatively short period -- of Saskatchewan SGI, which -- which has on its hybri -- it bucket -- its bucket approach does include for the longer-term claims an investment pool of purely growth aflet -- assets.

So our clients' recommended finding with regard to the investment portfolio is, first, that the purpose of the shadow portfolio was to assess whether MPI was foregoing opportunity for a comparable level of risk; second, that that purpose has not been achieved; and that third, MPI has not complied with the PUB directions with respect to the shadow portfolio. Our client will have additional recommendations, which will be shared by Ms. Dilay later.

(BRIEF PAUSE)

DR. BYRON WILLIAMS: Our client -- in

terms of slide 44, we're going to have a couple of short snappers but on really important issues. One (1) is on the personal injury protection plan, and again, this is pointing out that there are -- are excessive, imprudent, and unreasonable costs built into PIPP, which are impacted by a couple of factors.

One (1) is unreasonable agreements with certain service providers, which our client intends to address in this -- the commercially sensitive information portion of the submissions. We will note that MPI, in our clients' view, has shown candor in identifying these challenges and exploring alternative models to retain service providers.

There are also excessive, imprudent, unreasonable costs built into forecast PIPP expenditures by the ongoing struggles of Manitoba Public Insurance to manage complex claims, which were exacerbated by imprudent staff reductions between two-o-nine and 2017 and challenges in addressing and developing appropriate case management skills, practices, and metrics. And the financial and human cost of those challenges endures.

To the Corporation's credit, it has acknowledged the -- these cha -- challenges and is attempting to address them. The outcome remains uncertain.

The Board has heard a lot in terms of physical damage re-engineering over the years. In this hearing, we had the final assessment of the program, and our clients do recommend to the Board that it -- that it find that historic, current, and future rates of Manitoba consumers have been adversely affected by the imprudent rollout of the PDR project physical damage re-engineering.

They would note that while the project appears to be -- have been relatively favourably received from consumers, it has failed to deliver value for money resulting in a negative net present value in the range of 49 million to 50 million with the Gartners doing the calculations for MPI, including obviously a significant write-off relating to the customer claims reporting system.

Our client does acknowledge that MPI has shown candour in admitting the challenges with program delivery and prudence in writing off those expenditures. But those write-offs from prior years are reflected in today's reduced retaining earnings.

From our client's perspective -- and some of this will be addressed in CSI -- but one of the most important aspects of this hearing relates to collision repair costs. The benchmarking exercise that Manitoba Public Insurance has undertaken and the lessons in the -- on the public record that -- that we can take from that exercise.

Our client will address some of this in commercially sensitive information, but on the public record, they recommend the following findings. First, that there appears to be excessive and unreasonable costs built into certain industry agreements that cannot be explained by the market realities of a smaller province such as Manitoba or differences in service quality, i.e., ICAR Gold. Again, we'll elaborate on those in CSI.

Secondly, that there are grounds for concern that the practice of industry wide agreements historically undertaken by MPI may raise issues under the Federal Competition Act and practical barriers to competition.

Third, giving credit to Manitoba Public Insurance, that the Corporation has shown prudence in undertaking benchmarking exercises with regard to vehicle repair and other service industry benchmarks.

Also that the Corporation has shown reasonableness in removing the five (5) repair a week minimum for the Direct Repair program -- I hope I have that right -- which flowed from an industry agreement and which posed an unfair barrier to smaller shops including those in rural Manitoba.

A key recommendation from our client's perspective which goes to whether the labour rates and in collision repair are just and reasonable and goes as well to the risks faced by the Corporation, if any in terms of compliance with the Competition Act, is that Manitoba Public Insurance should report back during the next general rate application on industry best practice in and ensuring compliance with the Competition Act, value for money, and quality service availability.

Included in that analysis should be an assessment of viable alternatives to industry wide agreements which may include, as ICBC appears to do, the Irish (Phonetic) messenger model, the rate cards, which there was some discussion in this hearing, and RFPs or requests for proposals.

From our client's perspective looking not just at next year's rates but rates over time, this is one of the most prudent and reasonable and important exercises that are -- that could be undertaken, both in terms of rates levels but also the risks faced by the Corporation.

At slide 47, I asked perhaps the weirdest question in my legal career. I asked the president of MPI -- and I've asked a few weird ones, I'll concede that -- but I asked the president of MPI to put on the consumer cap -- cloth cap, no doubt -- and discuss why consumers perhaps should be concerned about the current status quo with many service providers of the industry-wide agreements.

And at the top of this slide, here you see the risk from a consumer perspective that consumers and all -- MPI and ultimately consumers are paid too much under a negotiated contract.

And Mr. Wennberg chipped in in the same discussion and also spoke of the challenges from the -- the Corporation's perspective with one of the most notable -- and this is on the public record at slides -- or pages 1797 to 1802 -- being the commercial repair rates: 10 percent, 10 percent, 10 percent, moving from the high nineties to a commercial repair -- he says a hundred and thirty-three. It might be slightly different.

The rate that we pay on commercial vehicles is the highest rate in North America. And from our client's perspective, this is the consumer interest, the public interest, and the regulatory interest, and again, leads to our client's concern that embedded in current and future rates may be excessive labour costs, as represented in -- in this transcript excerpt.

(BRIEF PAUSE)

DR. BYRON WILLIAMS: Madam Chair, we're going well for time. I wonder -- what I'm going to suggest is we're over a third of the way through. I wonder if we could step down for five (5) -- five (5) minutes. I've got an important section here and just -- I'd like to be a little fresher, if I could, for that with your indulgence if that's appropriate.

THE CHAIRPERSON: Certainly, Mr. Williams. That's fine. It's 2:07. How about if we reconvene at 2:15.

--- Upon recessing at 2:07 p.m.

--- Upon resuming at 2:17 p.m.

THE CHAIRPERSON: Mr. Williams...?

DR. BYRON WILLIAMS: Yes, thank you, and the Public Utilities Board counsel has helpfully reminded ourselves -- we will be coming to the -- Ms. Dilay's argument in a few min -- well, in about an hour -- to the legal submissions.

Obviously the Attorney General of Manitoba is here. The Attorney General of Canada was served and indicated the they -- they were not appearing, but we have not filed that with the Public Utilities Board, which is my oversight, for which I apologize, and we will make sure that that is done forthwith, with our apologies.

THE CHAIRPERSON: Thank you.

DR. BYRON WILLIAMS: For -- the next few slides are going to address issues related to the bricks and mortar delivery model. And before we go through the slides, I think it's important again to just back up for a second and -- and share our clients' interest in this issue, which is not to pick on brokers or to pick on MPI, but to start with the reality that these are living, breathing costs that -- that will -- will -- associated with broker commissions that will affect consumers, but also because our client saw the industry-wide agreement with brokers as offering a window on the broader issue of industry-wide agreements and insight into some of the potential concerns that could flow from that, both in terms of barriers to entry, in terms of barriers to innovation, and in terms of alleged risks with the Competition Act.

Our clients' keen interest in this issue as well is because the relationship of brokers and the intertwining in their commission structure -- but in how they deal with consumers between Basic and Extension, offers important insight into that relationship, which is central to the Board's deliberations related to the Capital Management Plan.

And again going back to the Board's jurisdiction to approve rates for service, the last two (2) words in that equation, or in that terminology, are "for service," and our client saw the issues relating to bricks and mortar service delivery models as offering insight into areas of the province that are arguably under served, and that is an important consumer issue which is germane to the Board's approval to set rates -- to approve rates for service.

Can we go back to slide 48 for a minute?

Just some introductory comments on the general theme that you've heard a lot of discussion in this hearing about as exclusivity in British Columbia versus primary models.

From our clients' respectful submission, consumer choice is not achieved exclusively through broker delivery models, and they pointed out and we dealt with this with our cross-examination of the insurance broker witnesses, in many areas of insurance, Manitobans have the choice of whether to purchase their insurance directly from a broker, which is obviously their right in a free and democratic society, or from other institutions, and that could be online travel health insurance, that could be mortgage income replacement insurance where you could go to a broker or you could get it from your bank, or car loan income replacement insurance.

That choice is present in many aspects of the marketplace, and from our client's perspective, consumers come in all shapes and sizes, all degrees of sophisticated -- sophistication, and their autonomy is best served by having those different choices.

Our clients do not doubt that captive customers of Basic and Extension services have been generally well served by a mixed bricks and mortar delivery model, which relies primarily on brokers but which provides consumers with the choice of receiving services directly from Manitoba Public Insurance in locations where that is available, and in our clients' view, the model is prudent and superior to bro -- the broker exclusivity model employed by ICBC, which both denies consumer choice and leaves the Corporation inordinately vulnerable to economic and other pressures.

And by analogy, this Board could take judicial notice of our legal aid system in Manitoba, which has both a staff delivery service model and contracted private sector services as well, delivering the best of both worlds, more choice for legal aid consumers, but also tools to maintain cost control for -- for legal aid itself. And so from our clients' perspective, that is a -- a fit analogy.

So while the bricks and mortar's model has generally served many captive consumers well, there are significant bricks and mortar service gaps in rural Manitoba, in northern Manitoba, and in First Nation communities, and those gaps, in our clients' respectful view, might be ameliorated, at least in part, by online services or enhanced telephone options, which our client was interested to hear from the brokers in the conversation on -- on Tuesday.

An important issue from our clients' perspective for this Board, which is entrusted with approving rates for service to keep its eye on, is opportunities in a cost-effective way to support more vulnerable rural bricks and mortar services.

Some of the interesting concepts that came up in this hearing was potentially increased compensation for towns where there may be a single broker location and no alternatives within 50 kilometres, and conceptually, from our clients' perspective, that might be a reasonable and prudent opportunity, while keeping the level of commissions the same, to invest more where services are less and where volumes may be less, but having that bricks and mortar service is important.

There were examples of innovative efforts by Manitoba Public Insurance. The Island Lake example of -- of going into remote communities with no broker services and employing innovative payment options, the Northern Store, because of the financial inclusion challenges in those communities.

There is also examples of interest in collaboration between brokers and MPI in terms of -- I think was the Pimicikamak First Nation, but -- or maybe it was Snow Lake - it might have been Snow Lake -- I might have -- Snow Lake in terms of assisting brokers to make periodic visits to communities that have no bricks and mortar services, and also potentially opportunities to use the telephone option more creatively. And again, those are shared in particular by the broker panel at -- at page 2472.

At the bottom of this slide, being slide forty -- 49, you see an important statement by Manitoba Public Insurance. Our clients are -- are highly committed to prudence and reasonableness, but our clients do concur both with -- with Manitoba Public Insurance that it is important to support communities where there are limited options in terms of service.

In the course of this hearing, this Board has received a significant amount of evidence in terms of the comparisons with private sector broker commissions. Our client cautions that that analysis should be viewed with significant care, and there's a number of reasons for that.

First of all, there are on the record of this hearing substantial differences in the types of services delivered by brokers in Manitoba to captive Basic and Extension customers. It doesn't mean the services are not important, but those services are not easily comparable to private sector services.

First of all, these distinctions relate to the absence of the need to seek and filter competitive quotes with regard to the Basic program. They relate to the absence of the time-consuming traditional "front-line underwriting function exercise," and that's in contrast to the competitive market, or as the broker panel conceded, for products like special risk Extension.

These distinctions also relate to the ease and convenience of the Extension form itself, which leads -- assists in leading MPI to Extension market dominance and reduces the demand for competitive quotes from Extension, and these distinctions from the private marker (sic) broker commissions also relate to the simplicity and standardization of the Basic and compulsory insurance package.

In our clients' view, these fundamental differences in the complexity of Basic and Extension services make comparisons with broker commissions in the competitive market largely unreliable.

Our clients also caution on slide 51, that care should be exercising -- exercised -- I guess I should be exercising -- care should be exercised in reviewing standalone Basic commissions with any jurisdiction.

One (1) of the reasons care should be exercised is because of Manitoba's unique five (5) year insurance renewal model with annual reassessments. It is structurally distinct from any other Canadian jurisdiction. So brokers and MPI are engaged in a -- a live dispute before us in terms of the actual volume of reassessments done in broker offices. Our clients cannot offer an opinion on those numbers. What they can say with certainty is that structure is fundamentally different, admitted by the brokers, admitted by MPI, from any other Canadian jurisdiction. So that's one (1) point of caution in terms of looking at standalone Basic commissions.

It is also analytically inappropriate to review Basic commissions in isolation because historically, and to this day, Basic and Extension commissions are negotiated as part of the same agreement. There are puts and takes in those agreements. If you want to talk about the reasonableness and prudence of the agreement and the package, fair enough, but you can't cherry pick out of that agreement, because it's a holistic agreement.

And that point is made in the -- the 2008 broker agreement. This is language from it. The new service delivery model -- this is the language from it -- was designed to maximize compensation based on professionally managing the customer's overall business portfolio. So can't cherry pick the Basic commission out of there.

Just a final note in terms of -- from our clients' perspective, it is not analytically sound to compare Basic commissions to the overall corporate expenditures. If you want to add in Extension, you want to add in SRE, that is valid analytically, otherwise, that type of analysis is deserving of no weight.

In introducing this section, our client said that -- suggested I -- I suggested on their behalf that our client saw the brokering agreement is offering a window on potential issues with broader agreements.

And on slide 52, and I think 53, our client indicates that there is some evidence on this record to suggest that MPI and broker agreements, operating procedures, and practices have sometimes stifled innovation in service delivery to consumers and created barriers to entry in the broker industry.

One (1) example of that is the 2008 agreement, which included a commitment agreed to by

MPI and brokers that MPI would not endeavour to provide customers with the option of renewing vehicle registration, insurance, or driver's licence online. Our client questions whether that agreement was in the consumer best interest.

On slide 52, pulling from Appendix 11 of CAC-1-1M, is the infamous -- infamous Section 19. As of December 2013, both IBAM, representing the brokers, and the Corporation believe that the Province of Manitoba is well served by the existing size and scope of our brec -- our broker force. No new agencies need apply. I'm being sarcastic there.

As such, the Corporation will no longer be accepting applications for new licences or appointments. Of course, there is dispute about whether applications can be made, whether they will be accepted. But that is concerning to our client in terms of the marketplace.

And here on slide 53, you see Mr. Wennberg and Ms. Hora suggesting that there was a strong message sent to people that Manitoba Public Insurance, in terms of accepting new agency applications, was not open for -- for business.

The first arrow or bullet on slide 53 is an important but disturbing quote from Appendix 3 of CAC-1-1. And a central issue in this hearing has been the relationship between Basic and Extension, given the significance of the Capital Management Plan transfers, but also the live question: is the Extension marketplace truly competitive?

And our client recognizes that the authors of the statement may not be with the Corporation anymore. But here is a 2014 briefing to the MPI Board of directors.

Speaking of a relationship with brokers, and on the second line, demonstrates commitment to the broker distribution channel as well as inoculation against competitive threats by aggressive insurers that do not depend on the broker distribution channel.

Again, on the next bullet or arrow, you see reference to a suggestion in a 2016 board of directors recommendation that the relationship between brokers and MPI has been a critical factor in the Corporation's ability to retain majority market share in the competitive Extension and SRE environments.

Finally, at the bottom of page 53, on this theme that the existing MPI broker relationship may exacerbate certain market concerns, our clients raise, as others have in this hearing, the concern of whether consumers are being consistently advised of their opportunity to choose non-MPI Extension service offerings.

There were questions of one (1) of the panel members of MPI. Do you survey that? Our client asked the brokers, Is there mystery shopping to see if Manitobans are even being advised of their right to choose when it comes to the Extension service?

And there's -- apart from anecdote, and we all have our anecdotes -- that issue is unresolved. There is at least one (1) piece of survey evidence suggesting that it is not clear that consumers are being consistently advised even of their Extension offerings from MPI. And again from a consumer, a rates for service, a value of service perspective, and consumer security perspective, that is concerning. And that data related both to MPI service centres as well as to brokers.

(BRIEF PAUSE)

DR. BYRON WILLIAMS: Our client would never wish to diminish the value that many Manitobans play on their broker -- place on their brokers, and -- and -- but there has been some suggestion in this hearing by the insurance brokers that the broker model is the cornerstone of the relatively low rates of Manitoba.

Our client suggests that a more reasonable hypothesis is the no-fault plan. And certainly, British Columbia, where there is an exclusive broker model, is no bastion of financial rectitude. It is insignificant trouble right now, and the exclusive broker model has not proven to be a bulwark against its challenges.

An argument has been made in this hearing, why look at the brokers? There's other fish to fry. Our client agrees with Manitoba Public Insurance that this is important. Brokers, Basic, and Extension commissions holistically nego -- negotiated are -- it's suggested here on slide 55, amount to $85 million.

That doesn't necessarily mean the number should be lower, but it doesn't need -- mean it needs to be higher. Maybe it needs to be redistributed. Our client has no position on that in this hearing, but it does mean that magnitude of that investment is definitely worry -- worthy of scrutiny. And you see the compare -- comparison made to the cost of the entire operation team of folks at MPI.

(BRIEF PAUSE)

DR. BYRON WILLIAMS: This is one (1) of those areas of the Board asked for positions on the Board's jurisdiction. This is one (1) of the areas where the evidence in this hearing, from our client's perspective, being with regard to what is -- are the current service offerings in terms of Basic and Extension, and whether those need to be rev -- reviewed and reviewed more frequently.

Our client is very sympathetic to the brokers on that point. We do not think it's within the Board's jurisdiction, though, to order that review. That would be a review initiated by Manitoba Public Insurance or perhaps by its -- its board or perhaps by the -- the Province. But from our clients' perspective, that would be a valuable recommendation that this Board, apart from its rate-approval authority, could do.

Are Manitobans appropriately insured in the Basic and Extension package for today's risk, tomorrow's risk, five (5) years from now risk? That, from our clients' perspective -- it's not the Board's jurisdiction, we would submit, but it would be a useful recommendation.

BOARD MEMBER GABOR: I -- I'm sorry, Mr. Williams. Can you go through this again, the recommendation? What I got is it's not the jurisdiction --

DR. BYRON WILLIAMS: Sorry --

BOARD MEMBER GABOR: -- which I understood to review the relationship. Then I heard that --

DR. BYRON WILLIAMS: Sorry, sorry --

BOARD MEMBER GABOR: -- for --

DR. BYRON WILLIAMS: Yeah.

BOARD MEMBER GABOR: -- for MPI, so to suggest --

DR. BYRON WILLIAMS: So just -- so I'm -- I'm speaking to the simple issue here, sir --

BOARD MEMBER GABOR: Yes.

DR. BYRON WILLIAMS: -- of whether the Basic service offering -- you know, the five hundred (500) deductible, the two hundred thousand (200,000) third-party liability -- the Extension service offering, the lower deductible -- our client is suggesting that is worthy of review and periodic review. What we are saying is that the Board -- this Board, the Public Utilities Board, could make that recommendation to MPI and to the government, and I apologiz -- gize for being imprecise, but it can't order it.

BOARD MEMBER GABOR: Yeah. No, thank you.

(BRIEF PAUSE)

DR. BYRON WILLIAMS: Our client has some recommended findings. One (1) of them is that in light of five year -- the five (5) year renewal process and the issue of 90 percent clean reassessments, there is fundamental dissatisfaction with the existing broker commission structure both on the part of Manitoba Public Insurance, in terms of whether it's trailing fees or the 71 million guarantee -- or on the part of brokers, in terms of are all their services being compensated. That is a factual finding we think is open to this Board to make.

And underlying that tension is a more existential one relating to disruption in the broader marketplace. That disruption is driven by consumer demand, by technology, including online services. And as the McKinsey (phonetic) report and the Conference Board of Canada report appended to one (1) of the I -- IBAM Information Requests of the MPI, I think perhaps one dash -- well, number 4, but I could be wrong -- there is a rapidly changing insurance operational dynamic outside of Manitoba, and one (1) of the primary targets is -- is auto insurance.

So we've got the historic challenges related to the five (5) year renewals, and then we've got the -- the -- the -- the issue of -- of a market that is on the verge of disruption. And what are the consequences?

And from a consumer perspective, our clients' concern is making sure that they have cost-effective service that is reasonably available that preserves consumer choice. And that will lead to some of our recommendations to come.

The final point on this slide, and I apologize for this -- there is no one (1) size fits all in terms of consumer, as we've said before. There are some who want to be ear -- ad -- online conducting those transactions with autonomy. There are others who want to go down the street to the broker in their neighbourhood and -- and have confidence in that relationship. Our -- our clients' interest is value for money and preserving consumer choice and options, both in terms of service delivery model and the option of MPI or -- or brokers for bricks and mortar.

(BRIEF PAUSE)

DR. BYRON WILLIAMS: We'll talk more about market dominance in Extension under the capital management plan discussion, but our clients believe that the broker panel offered significant insight on this issue.

First of all, and I can't remember what the IWS acronym stands for, but the -- the fact that it makes sale of MPI Extension products considerably easier than those of other providers was factually uncontested in this hearing.

Secondly, that it may be more convenient for customer and brokers to have both Basic and Extension coverage from the same provider. In the case of claims, you only have to deal with one (1) insurance company.

Third, as noted by Mr. McGregor on Tuesday, that sometimes it's a challenge getting other competitive service offerings in the Manitoba marketplace. In his words, the challenge has been getting other insurers to offer the product.

And finally, the -- the -- the fact, I think, admitted both by Ms. Chammartin and Mr.

McGregor that Extension commissions set by other insurers are typically less than the commissions offered by MPI -- again, factors collectively that may help to explain Manitoba Public Insurance endemic dominance in the Extension marketplace.

Our clients' recommended findings in terms of the bricks-and-mortar service delivery model are first of all, that Manitoba ratepayers will not be well served by a service de -- delivery model that seeks to inflexibly lock in the status quo or ignore the realities of rapidly changing consumer market and technological demands. They think there are three (3) important principles in terms of accessibility and ch -- choice and which would deliver value to ratepayers.

First of all, that Manitobans would be well served by a service delivery model that commits, in a cost-effective ma -- manner, to maintaining and enhancing options from cons -- for consumers in northern, rural, and remote communities; a model that enables all ma -- Manitobans who choose to access online MPI services; and ensuring that all customers who wish to access MPI services through a bricks-and-mortar option, where available, have the choice between MPI and brokers.

Those, from our clients' perspective,

are important principles that they would recommend.

(BRIEF PAUSE)

DR. BYRON WILLIAMS: Our clients would be remiss if they did not note that there -- again, these are high level estimates -- but that there are certain delivery models which preserve consumer choice for bricks-and-mortar services that have potential significant cost savings on the commission side. They're not speaking to whether or not there would be corresponding cost increase on the MPI side.

One (1) is a shared delivery model, which would preserve choice in person at the broker or MPI and online, might offer potential savings over five (5) years of 91 million. And another one (1) of interest to our clients in terms of prudence and reasonableness was choice for bricks-and-mortar services both through brokers and MPI, and online through MPI. Those savings were significantly larger, estimated in the range of two hundred and thirty-seven (237) over five (5) years.

Again, high level estimates -- we don't know the puts and takes, but those are models that, from our clients' perspective, offered access to that important bricks-and-mortar services where available.

Just some final findings, and this is consistent with our earlier commentary. First, that the recommended finding that the package of broker commissions offered in Manitoba are not easibly (sic) comparable to other jurisdictions, given five (5) year renewals, the absence of competition in Basic and large -- dominantly in Extension, and the absence of frontline underwriting for Basic and Extension.

Second, that there are grounds for concern that the practice of industry-wide agreements historically undertaken by MPI may raise issues under the federal Competition Act.

Third, there are grounds for concern that the practice of industry-wide agreements historically undertaken by MPI may raise practical barriers to competition.

And fourth, that consumers, whether appearing at a broker's office or at MPI, should be entitled to notice of the existence of competitive options to MPI Extension.

Our clients don't have a lot of optimism that the Extension market can prosper in Manitoba, but our clients do believe that it's important to take efforts to at least make sure that

Manitobans are aware of their choices.

Flowing from those recommended findings, our client would recommend that MPI should be directed to report back on the prudence and reasonableness of existing compensation packages, especially in light of evolving consumer needs and the need to preserve and enhance service in rural northern and remote communities.

Secondly, that MPI should be directed to report back an alternative agreement models which might deliver better value for captive ratepayers, ensure compliance with the Com -- Competition Act and reduce barriers to entry for competitive services.

And third, and, again, this would only be a recommendation, but a review of existing Basic and Extension service offerings would be consistent with the recognition of evolving consumer needs and ongoing market dynamics.

(BRIEF PAUSE)

DR. BYRON WILLIAMS: Turning from brokers and bricks and mortar service delivery model to information technology. Our client's observations of the record of this Hearing are that they are mixed.

To the -- to the credit of MPI, and certainly Mr. Remillard was helpful on this issue, MPI continues to de -- demonstrate candour and learnings from the physical damage re-engineering project.

And some of the lessons are not to be industry leaders and create new and improved technologies and, secondly and critically, making software customization an exception, not the norm.

A second observation is that Manitoba according -- Manitoba Public Insurance's in -- information technology service delivery processes, according to Gartner, are somewhat more mature generally than peer organizations, and every domain, with the exception of Enterprise Architecture.

But despite its overall maturity, Manitoba Public Insurance continues to have more information technology full-time equivalence is a percentage of total company employees than peers.

Also flagged in the Gartner report was that ous -- outsourced spending at $10.2 million was 94 percent higher than the peer group average. And we would note that there is a review of the IB -- IBM -- that should not be IBAM, it should be IBM on slide 64 -- agreement has been undertaking.

And third, as flagged by Gartner Group,

maintenance costs at 5.8 percent are significantly higher than the peer group average as well.

Again, we discussed this with MPI, and there were some reasons offered, but these are sources of concern with the overall information technology assessment, and also an indication of why those Gartner benchmark reports have been so important and insightful to the Board and of the importance of ensuring that good benchmarking continues into the future whether delivered by Gartner or otherwise.

(BRIEF PAUSE)

DR. BYRON WILLIAMS: We've titled this -- the discussion of Project Nova calculated risk or leap of faith. There's no factual denying the challenges by the MPI legacy programs, including Autopac online cars, the claim adjuster reporting system, whatever that acronym stands for, and, in particular, the -- as well as the driver and vehicle administration challenges.

On the calculated risk side of the equation, our clients would note that Nova, or the Legacy System management, is highly ambitious, constituting the li -- largest IT project in MPI history.

We would also note that its high-level business case, very preliminary, has un -- undergone a thoughtful review by two (2) very well regarded firms. And we note our -- on our client's behalf with interest significant, a internal and external prov -- project oversight is contemplated with interesting user and consumer engagement anticipated.

Our clients will have some comments of -- on Project Nova in the commercially sensitive discussion. But for the purposes of the public record, they would flag the following major risks associated with the project.

One (1) is the complexity of addressing a number of major Legacy Systems at generally the same time and as part of the same project. And we've set out four (4) there, including driver and vehicle administration, the special risk Extension project, AOL, and cars.

A second risk is the relative inexperience of Manitoba Public Insurance with the Agile methodology. As Mr. Bunkle (phonetic) notes, it's an emerging skill set within the Corporation, but they haven't built a lot of business cases around that methodology.

Third, our client notes substantial budget uncertainties given the stage of the pro -- project with Mr. Dessler noting there's a risk that numbers may deviate from the $106.8 million.

Fourth is the reliance of the business case on broker's commissions.

And fifth, maybe not a risk, but a lack of clarity, at least to our client, about whether MPI would be held -- and that word should be whole on the last arrow by the Provincial Government for the risks and costs associated with the project.

In terms of information technology on the public record, our client would not that MPI continues to demonstrate some challenges with IT expenditures related to full-time equivalence and operational and maintenance expenditures.

That Project Nova is an important but extremely high-risk project, in our client's view, with significant uncertainties related to implementation and budget.

And given the magnitude of the project and potential impacts on service deliver of MPI and government services, our client would recommend that regular updates on the risk status budget and business case should be delivered to the PUB which is consistent with the Board's rate approval and function and its authority to examine the prudence and reasonableness of expenditures.

(BRIEF PAUSE)

DR. BYRON WILLIAMS: I'm most nervous about this part of our submissions because my learned friend, Ms. Dilay, did a fantastic job, but I have to deliver her findings so -- on road safety.

But the client and Ms. Dilay have asked me to highlight the importance of road safety to all Manitobans, but the grounds for concern, first with the increase in serious injury over the period from 2014 to 2017, as well as ongoing higher than Canada average -- averages in terms of fatalities and, finally, the number of pedestrian deaths in 2019.

Our client wishes to highlight as well the ongoing reality that rural Manitobans experience a disproportionate share of fatalities with se -- seatbelt use being an ongoing concern, and that the social costs of collisions in Manitoba is estimated to be about $2 billion annually, or about 3 percent of Manitoba's gross domestic product.

From our client's perspective, it's

important to Manitobans, but it's also important to the rate approval process. Successful road safety efforts and investments impact claims, claims costs, and the premiums required to fund the Basic program.

And our client notes the longstanding priority placed by this Board on whether the value of road safety programming is being maximized.

(BRIEF PAUSE)

DR. BYRON WILLIAMS: Of concern to our client is the fact that the Provincial road safety budget has not yet been developed and it's not clear if we're concerned about efficiency, if we're concerned about values for dollars, if we're concerned about optimization, it's not clear that it's a priority.

There is no evidence on this record to conclude that Manitoba Public Insurance is able to assess whether it is optimizing its investment as part of the broader provincial road safety system. And no provincial road safety budget has been issued as part of the overall road safety strategy.

Ms. Dilay had an interesting discussion with Mr. Eden (phonetic) at slide 71 of this Power

Point, from which our client concludes that the road safety priority setting pro -- priority setting process is conducted in a vacuum without the full picture of road safety programs in Manitoba.

And Ms. Dilay suggests to the MPI witness, pages 769 to 70 of the transcript, that the priority setting process of Manitoba Public Insurance, with regard to road safety, is currently been -- being applied without reference to a spreadsheet of Manitoba's road safety programs, and associated budgets and the respected funding.

And it -- and that's confirmed and that's of course because the document does not yet exist.

Also mentioned in our introductory comments, but of particular concern to our client is the absence of a First Nation and/or Indigenous road safety strategy, which our client believes is not only troubling, but inconsistent with our duty, collectively, of reconciliation.

Our clients notes that no First Nations or Indigenous political organizations were invited to participate in the road safety technical conference, and that there is currently no First Nation or Indigenous representation on the provincial road safety committee level.

Our client was greatly concerned with the sharing of Mr. Wennberg, not that he shared it, but his observations of his visit to the four (4) island lake -- well, the Island Lake region and the communities there.

Anecdotally, presumably, Mr. Wennberg made observations that there is maybe even up to 80 percent of the people are unlicensed, a number of the cars over half of them don't have insurance, and don't have plates, even in terms of driving around, and obviously rough roads and signage concerns.

Obviously concerned himself, this is, from our client's perspective, in a province where we assume that we're all insured, that we're all licensed, this is a concern to all ratepayers and all citizens.

In terms of road safety, our client recommends that this Board recognize and confirm the importance of road safety to all Manitobans, including rate payers, and that road safety issues should remain a regular, periodic feature at PUB hearings.

And Ms. Dilay has some guidance in terms of the frequency of that in the final recommendations.

Second, that a road safety budget, a provincial road safety budget, would assist this Board in determining whether MPI's portfolio is truly optimized and assist MPI in that important endeavour, not only within its own budget, but within the broader context of managing scarce resources and optimizing investments in road safety.

And third, that following good practice engagement, and this is from our client's perspective, is -- is urgent.

MPI should report back to the PUB at its next general rate application regarding its progress in developing a Canadian best practice, First Nations and Indigenous road safety strategy.

Our client has a couple of slides regarding the elimination of the monthly credit card option. And the starting point is that that elimination of the pre-authorized payment option was done without consultation with consumers.

That option was an important option to many Manitobans, affecting roughly 10 percent of the customers of MPI.

And notably, MPI, prior to making its decision, engaged in discussions with the Insurance Broker's Association and with the government.

And you'll see from pages -- the reference from the October 16th transcript to the conversation with Mr. Remillard, referring to engagement with brokers then the province, but asking what type of engagement was undertaken with consumers, directly, if at all.

With consumers, replace MPI? Yes. So meaning Manitobans? Good question. We will acknowledge that we did not directly go to customers to seek their input as to how they would feel about eliminating this option.

This comes back to the rates for service dialogue and our client likes to think of themselves as fiercely fiscal, but it's rates for service and for certain Manitobans, 10 percent of Manitobans, this was an important option.

And from our client's perspective, this is an unfair burden on vulnerable consumers who may be challenged to afford to make a larger payment all at once or change now and pay their bills later.

They are losing a viable payment option that helps make -- make ends meet while those who can afford a three (3) or four (4) payment cost are still able to use credit as their form of payment. And for our client, that is deeply troubling.

Our client notes rather lengthy commentary by Manitoba Public Insurance about the regulatory process. With the Board's permission, we're not able to digest that commentary today or reply to it.

Our client, in due course, perhaps after the efficiency Manitoba hearing is done, would appreciate the opportunity to -- to respond to those comments.

And our client never wants to diminish the cost of any expenditure by Manitoba Public Insurance and agrees totally that every cent, every penny, should be scrutinized.

But our client did wish to notice in what they think is an apples to apples comparison, that regulatory appeal costs, including both the Public Utility Board and Automobile and Injury Compensation Commission constitute about one half (1/2) of 1 percent of total claims cost percentage wise.

In effect, the price of a monopoly, the price of accountability is about half of 1 percent of claims costs mathematically. And from our client's perspective, we always have to scrutinize those costs. We always want to be efficient, but we also want to be effective.

And this process has delivered tremendous value to ratepayers in terms of accountability, transparency, and ensuring that Manitobans have confidence that decisions are being made based upon evidence in public, not in back -- not in back rooms and non-tra -- transparent fashions.

(BRIEF PAUSE)

DR. BYRON WILLIAMS: We use the credit card example on behalf of our client to highlight what bad consumer engagement looks like, or nonexistent consumer engagement.

Best practice consumer engagement suggests that customers, consumers should be engaged often and should be informed about options. There are tremendous learning opportunities for MPI and for this Board in consumer engagement.

Stakeholder engagement is important, but direct engagement with consumers is, as well. One (1) of those examples is service delivery and engagement with Manitoba consumers about future operating models, including the provision of online services, the important role of brokers.

The important role of MPI and different challenges and options in urban versus rural and remote areas may assist this Corporation in forging a path forward that will benefit ratepayers and be more likely to be successful.

In terms of road safety, while MPI consults with consumers in evaluating its programs, there is room for improvement in pro -- program selection and development by engaging consumers early in the pro -- process.

Given experience in other jurisdictions and the fact that the majority of serious collisions happen in rural areas and on gravel roads, there would be substantial merit for MPI to engage with rural Manitobans and with Manitoba First Nations and specifically towards developing a First Nation road safety strategy.

In terms of driver safety rating, CAC (Manitoba) was very pleased with the MPI's engagement with customers to date and looks forward to receiving results of further engagement that will serve to inform the decision-making process.

(BRIEF PAUSE)

DR. BYRON WILLIAMS: Madam Chair, just if I could just -- maybe four (4) minutes, five (5) minutes, just -- and then we'll finish her -- finish her off, if that's okay with the panel?

THE CHAIRPERSON: That's -- that's certainly fine, Mr. Williams. I just have one (1) question, and that is when do you expect that you will be concluded for today?

DR. BYRON WILLIAMS: I'm expecting around 4:30.

THE CHAIRPERSON: Okay.

DR. BYRON WILLIAMS: Just one (1) second. I want to...

THE CHAIRPERSON: Yeah, that's sort of the outside-end as far as --

DR. BYRON WILLIAMS: Okay.

THE CHAIRPERSON: -- the panel's concerned, if that's all right with you.

DR. BYRON WILLIAMS: That should be fine.

--- Upon recessing at 3:11 p.m.
--- Upon resuming at 3:14 p.m.

THE CHAIRPERSON: Thank you.

Mr. Williams...?

DR. BYRON WILLIAMS: Thank you. We're on the overall health of the Corporation and taking into account reasonable reserves.

And our client has identified six (6) critical questions for the setting of the rate stabilization reserve and the consideration of the capital management plan.

First, what do we know generally about the overall health of the insurance lines of business and the relationship between Basic, Extension, and SRE?

Second -- this relates to Mr. Todd's evidence -- what did generally accepted regulatory practices suggest?

Third, how does the proposed capital management plan and underlying reserve regulation compare to generally accepted regulatory practice?

Fourth -- Ms. Dilay's area -- to the extent that the capital management plan does not appear to be consistent with good practice, what are the options of the Public Utility Board? Is the regulation lawful and binding?

Five, if it's not lawful or binding, what weight, if any, should be given to that document?

And sixth, if the reserve regulation is lawful and binding, is the capital management plan consistent with it?

I'll just note that in terms of our timing, I'll try to finish Questions 1, 2, 3, 5, and 6 in the next thirty (30) minutes or so, giving Ms. Dilay the opportunity for about half an hour to go through the -- the legal submissions for which we've already filed substantial briefs.

THE CHAIRPERSON: And just one question, Mr. Williams, if that doesn't afford you enough time, is Ms. Dilay available for tomorrow morning?

DR. BYRON WILLIAMS: She is. And the -- the issues that follow, including the recommendation she would have -- she would be available for.

THE CHAIRPERSON: Okay. Thank you.

DR. BYRON WILLIAMS: And the CSI, Ms. Dilay, is versed in the material and could present it as -- as well.

THE CHAIRPERSON: Okay. Thank you.

DR. BYRON WILLIAMS: When we know generally about the overall health of the insurance -- of the insurance lines of business and the relationship between Basic, Extension, and SRE, generally our clients conclude that the overall health of the Corporation is strong underpinned by its statutory monopoly in Basic and market dominance in the allegedly competitive Extension and SRE Special Risk Extension lines of business.

The characteristics of the Extension line of business which is directly relevant to the capital management plan include longstanding dominance at over 95 percent -- at or over 95 percent of the market for over a decade and with over 85 percent of all Basic Autopac policyholders purchasing Extension coverage.

Another characteristic is stable expenditures buttressed by the certainty, as Mr. Wennberg shared, that roughly 60 percent of its claims costs associate -- are associated with deductibles which it has that certainty that they're limited to a certain amount per claim.

We also know that the current state of the MPI Extension line of business includes unusually high profit range, not in the 15 to 20 percent range noted by Mr. Graham on the opening day on the hearing as standard in marketplaces, but in the range of 32 percent in its most recent year with profit targets in the range of 27 to 28 percent in the current and test years.

We also know that the strength of the Extension line of business is its relationship with Basic -- the benefit it draws from Basic. For the most part, Basic and Extension customers, as noted by Mr. Johnston, are the same people.

Core elements of that market dominance include shared customer information, seamless shared screens and service delivery platforms, ease of claim, and price, and it is unclear whether all or many Extension customers are aware they have a competitive choice.

(BRIEF PAUSE)

MR. BYRON WILLIAMS: On slide 82, you'll see Mr. Watchman pushing Mr. Todd in terms of whether there's indicia in -- in the current marketplace of Extension of anti-competitive behaviour. Mr. Todd is cautious, noting he hasn't conducted any detailed analysis, but that would be a reasonable starting assumption for any analysis.

What do generally accepted regulatory practice -- what do those principles suggest in terms of process, and how have they been applied in Manitoba regarding the rate stabilization reserve? Our client finds particularly helpful Mr. Todd's evidence generally and in particular pages 21 to -- 2,124 to 2,137. We're trying to highlight some of those key elements for the -- for the Board.

The starting point is: Why are we doing this? Mr. Todd notes that it's a legislative monopoly. Basic fits the mode of a regulated utility, and the purpose of rate approval of rate regulation is to protect customers and to service a proxy, a substitute for competition in areas whether there's either a natural monopoly or, in the case of MPI, a statutory one.

We've already spoken that the essential starting point of independent rate setting is balance. Here's the well known words of the Court of Appeal about the Public Utilities Board balancing act of ratepayer's interests and the financial health of the utility in the public interest.

Mr. Todd notes the prudence and balance -- excuse me -- the balance requires a prudence consideration including for necessary reserves. The purpose is to set rates that recover prudently incurred costs, fully recovered but not over recovered. That implies in the MPI context that rates should be sufficient to achieve the required reserves but no more than sufficient.

What happens in circumstances like with Extension in particular but also SRE when there are new non-utility services offered by a monopoly? In those circumstances, issues arise a fairness to monopoly customers and the importance of avoiding anti-competitive behaviour.

As Mr. Todd notes in slide 87, the concern for regulators is that the fair treatment and pricing of the utility services -- that's the concern, the fair treatment of pricing of the utility service as it interplays with the revenues that are generated by the competitive services to ensure the customers of the monopoly are fairly treated.

What does subsidy mean? Mr. Todd notes that it is open to regulators to adopt a broad interpretation of subsidy meaning anything that affects the competitive position of the competitive services could be viewed as a subsidy.

He also notes that excess benefits are generally returned to the monopoly consumer. Most regulators say, he advises, that those benefits flow -- flow from the monopoly consumer and that the value of the benefits to the other line of business should flow back to them. This statement assumes that the goal is to benefit monopoly customers.

Mr. Todd's conclusion is that 100 percent of excess profits in excess of prudent cost recovery -- it is appropriate to -- including prudent reserves for the non-utility service can be flowed back to monopoly consumers.

(BRIEF PAUSE)

MR. BYRON WILLIAMS: Applying these principles to Manitoba Public Insurance requires, in Mr. Todd's view, consideration of appropriate reserve levels for the non-utility service.

As he puts it, whatever the Board decides is the -- the regulatory Board is the appropriate reserve structure in generally accepted principles. If you're generating reserves in excess of what's needed for that, the concept says the only reason they can get excess reserve is because they're being -- benefitting from being associated with Basic.

And that excess revenue in excess of prudent reserves becomes the way you define the benefit of the joined operation of competitive and

Basic services. And again without the benefit, competitive pricing would not result in excess benefits. Therefore, the excess earnings should accrue back to Basic.

What are the implications for the capital management plan? First, recognize as a fact that the benefit that Extension and SRE derive from Basic has legitimate value for Basic to recover.

Second, Mr. Todd concludes that would you -- you would limit, consistent with good regulatory practice, the capital target for Extension and SRE to a level that reflects sound actuarial practices.

And that's so that the competitive services won't retain the benefit of the joint operations as the subsidy from Basic but rather would flow back to the benefit of Basic and that whatever success should be flowed back to Basic systematically.

Mr. Todd is an economist, indicated a preference for lump sum rebates as opposed to rate reductions because it enables you to keep the price signal on the premiums for insurance at a cost base level.

In this slide, we're moving from Mr. Todd to what this Board has historically done in terms of the relationship between Extension and Basic and the rate stabilization reserve target.

First of all in our client's conclusion, this Board has endorsed the concept of the rate stabilization reserve as a vehicle for protecting customers from rate instability from one time only events or significant variances.

Second, it has considered the adequacy of Basic reserves within a broader conversation of the overall health of the Corporation. It's looked at Basic reserves, but it's also looked at reserves for the other lines of business.

Third, it has adopted an evidenced-based approach to the approval of RSR levels grounded in a one (1) in forty (40) risk tolerance, and the recognition that excess conservatism and risk tolerances is inconsistent with fairness and social utility.

Fourth, it has expressly rejected the hundred percent MCT as an upper RSR target. And fifth -- and we'll come to this in a couple seconds -- it has asked whether the benefit provided to Extension from Basic is fully reflected in cost allocation principles.

Sixth, it has established cost

allocation rules to prevent more narrowly defined subsidies, and seventh, it has sought express statutory authority to regulate Extension and again, as recently as last year's hearing, question the utility of excess reserves in the Extension and SRE lines of business. That's the historic practice.

To date, what the Board has not done which is the logical step from Mr. Todd's analysis, it has not imputed excess profits from non-utility lines of business into its Basic rate calculation or its -- its reserve calculation.

And to date, the Board has not recommended mechanisms, to our client's knowledge, to improve competitive outcomes for the Extension line of business.

The point of these two (2) slides is that the Board has actively been following some aspects of the analysis set forward by Mr. Todd in terms of good practice. An evidence-based approach to risk on the Basic line of business, considering the relationship between Extension and Basic, but it hasn't gone those two (2) final steps that are set out in his analysis: imputing excess profits into the -- into the Basic rate calculation or recommending mechanisms to improve competitive outcomes for the

Extension line of business.

(BRIEF PAUSE)

MR. BYRON WILLIAMS: Just a couple quotes from prior decisions of the Board. The first one expresses discomfort with the Basic Extension relationship and questions arise in both the language at the top of page 94 as to the wisdom of allocating costs on a basis that ignores the centrality of Basic and the value that Basic brings to Extension, SRE, and DVR -- DVA operations.

And then you see later in this -- in this lengthy paragraph reference to prior practices of transferring Extension premiums back to Basic.

At the bottom of the page, we've also put in the Board's express rejection of the MCT and the threshold MCT ratio of a hundred percent as the upper limit of the RSR target.

The Board, at that point in time, expressing a concern with the degree of conservatism implied by that target, potentially giving risk to utilitarian concerns and concerns of moral hazard.

(BRIEF PAUSE)

DR. BYRON WILLIAMS: Our client does note a bit of a discussion from our learned friend, Mr. Guerra, with Ms. Sherry and Dr. Simpson in terms of the Board's comments last year about the purpose of the rate stabilization reserve, including the question of insolvency.

And from our client's perspective, there are many sources saying -- suggesting that, in the context of rate stability, the concept of insolvency is of questionable relevance for a Crown-owned monopoly with annual access to an independent rate approval process.

Those sources include Kopstein, Dr. Simpson, Ms. Sherry, and Ernst & Young, and the report done for ICBC. And we're going to go to that Ernst & Young commentary on the next slide.

This is Ernst & Young in 2016, noting that whereas -- noting why insolvency is such a concern for the office of the superintendent of financial insurance and why it's such a concern in competitive marketplaces and in the MC -- for the MCT, but how it's of questionable relevance for Crown Corporations.

Whereas a sole private insurer would face bankruptcy in the event of insufficient capital, leaving policyholders and claimants at risk of not being fully indemnified for their losses, a government insurer is implicitly backed by the Government, meaning the risk is minimal in comparison.

And if we think of the whole OSFI intent of the MC intent -- MCT intent, those significant levels of reserves are there because, if a Corporation if facing having a bad year, if it raises rates, it loses more market share and gets in a vicious death circle.

Ernst & Young is arguing here that that's not the issue when you're looking at a more narrow question of stability of rates with regard to a Crown monopoly.

And you'll see there, they're raising the concern or making the recommendation that consideration should also be given to whether the OSFI, O-S-F-I, MCT ratio is the appropriate framework for setting capital for the Basic product.

How does the proposed capital management plan of MPI and underlying reserve regulation compare to generally accepted regulatory practice?

(BRIEF PAUSE)

DR. BYRON WILLIAMS: It may be implicit, but our client would argue that one (1) positive aspect of the capital management plan proposed by MPI is recognition of the concept of excess profits.

Our client is concerned that MPI does not demonstrate rigour in its assessment of the risks faced by Extension, but that the actual proposed transfer of the access in excess of the RSR target is consistent with the concept of Mr. Todd of excess profit.

Our client's concerns, and some of these were expressed by Mr. Todd, as well, our -- I -- we don't think MPI has acknowledged it -- acknowledged that the Extension profits are excessive.

And our clients believe that MPI has not yet accepted that the transfer of excess profit is not simply a matter of its discretion, but it consistent with good regulatory practice and the ambit of the Crown Corporation's Governments Act.

I just want to be clear on this point, Madam Chair, as it gets late in the day. As our client understands Mr. Todd's authority -- or Mr. Todd's advise, and also the legislation itself, the point he's making is that the benefit flowing to

Extension that enables its market dominance and excess profits, it is appropriate for the Public Utilities Board in its rate setting analysis to impute tho -- those excess profits into the Basic rate calculation.

The Public Utilities Board cannot force the Extension line of business to transfer those profits. But given its authority under the legislation, given a finding that the benefit and the excess profit on the Extension side is attributable to the relationship with Basic, it is consistent with good regulatory practice to impute those dollars in the rate setting process for Basic.

So, I hope that makes his point clear and that what he said in evidence on Tuesday morning which is inconsistent with MPI, they seem to think it an act of charity, Mr. Todd would say that imput -- imputy (phonetic) of excess profits into the rate calculation is consistent with good regulatory practice.

And our client would argue that it is contemplated under the Crown Corporation Governance Act.

So, that's the generally positive side of the capital management plan. Where our client takes fundamental disagreement with the capital management plan is if we think of the central role of this Board, which is balancing interest, balancing the interest of ratepayers and balance versus the interests of the Corporation.

In the exercise of that balancing act, this Board has for a number of years come up with that risk tolerance level of one (1) in forty (40). Our clients don't like it. They would like it lower. Manitoba Public Insurance definitely doesn't like it. They would like it higher, a one (1) in one hundred (100) year risk tolerance.

But that's the Board's job, not to make us happy, but to create that balance in the public interest. And our client's fundamental concern with the reserve regulation and the capital management plan is that that concept of balance has been undermined because the risk tolerance of the Manitoba Public Insurance has been substituted for the risk tolerance envisioned in prior Public Utility Board orders.

That is one (1) of the fundamental disputes. That authority that has long resided in the Public Utilities Board to approve the RSR level, to approve the methodology, including risk tolerances, had been undermined, usurped by the regulation.

And here you see a discussion with Mr.

Johnston. He's asked whether the one (1) in one hundred (100) year risk tolerance captured in the Corporation's analysis more closely align with the risk appetite of the MPI Board of Directors.

And he says, yes, we have been targeting a hundred percent MCT as our capital, not just in this application, but in previous applications. But the hundred percent MCT aligns with this risk tolerance, that's the comfort level of our Board.

And it's fine for their Board to have that risk tolerance, but in independent rate approval processes, that judgment call, as it has for the last thirty (30) years, resides with the independent regulator.

And our client notes numerically that Mr. Johnston confirmed that from the lower bound of the RSR target, based upon a one (1) in forty (40) risk tolerance to a one (1) and one hundred (100) risk tolerance, there is an increase up in the range of about $200 million.

I think his language at page 1,218 of the transcript was something, like, about 200, maybe a little less, 200 million.

So, there is a substitution of the

Board of Director of Manitoba Public Insurance's risk tolerance for the balance determination of the Public Utilities Board, but where is the evidence of increased risk?

In this Hearing, Manitoba Public Insurance has not adduced evidence suggesting a material increase in risk as compared to 2019/'20. And if the Board reflects upon the record in its entirety, the Board will remember comments by Manitoba Ins -- Public Insurance, saying that, with the completion of asset liability management, it has derisked that Basic portfolio.

Our client may take issue with that factual assertion in terms of derisking, but MPI, if anything, is suggesting that risk is rel -- reduced as compared to 2019/'20.

(BRIEF PAUSE)

DR. BYRON WILLIAMS: Another fundamental error -- sorry, area where the capital management plan approach as envisioned in the reserve re -- regulation is inconsistent with good regulatory practice, is in the setting of the reserve targets for Extension and special risk Extension.

Go back to the logic of Mr. Todd. Recognize that there's a benefit flowing to the non-utility business. Recognize the right of the Board to impute the excess profits back into the Basic or monopoly calculation.

How does one determine excess profits? Look at a prudent -- go back to prudency. What is a prudent risk target for the Corporation? And in this discussion at transcript pages 1,234 to 1,237, our client raises with Mr. Johnston the suggestion that the 200 percent MCT target for Extension is built upon the myth of competition.

And you'll remember our learned friend, Mr. Guerra's, cross-examination of Mr. Todd. And he suggested, on average, the MCT target in the private sector is a little north of 200 percent MC -- MCT.

And at the top of this page being slide 101, you see Mr. Johnson (sic) be -- it being suggested to him that the Board of Directors' deliberations as represented in the 200 percent MCT target would be analogous to a target adopted by a number of firms in the private sector and in competitive markets. Agreed.

And then the suggestion being put to Mr. Johnson (sic) that, given the 95 percent share in

Extension extending back over a decade, a 2018 profit target in excess of 30 percent and flat expenses, would it not be fair to describe the assertion that Extension is a competitive market is a myth.

While Mr. Johnston rejected that premise in the question, he added more evidence, noting that it's not only Extension that has that market dominance, it's -- it's well on the commercials, the SRE side, where that market dom -- dominance exists, as well.

From our client's perspective, this is a fundamental weakness in the reserve regulation analytically and in the capital management plan because the capital risk targets, the MCT targets for the MCT -- for the Extension line of business based on 200 percent is based upon the analytical and mathematical fallacy that the Extension market is competitive.

Where is that evidence? Excess profits -- 95 percent market share enduring over a decade. This record is replete with foundational, fundamental evidence that that allegation of competition in that marketplace is empirically mythological.

And Board counsel had an interesting discussion with Mr. Todd at transcript pages 2,322 and

2,323, and put to them elements of, if memory serves me right, the Manitoba Public Insurance investment strategy for Extension and SRE, and our client would urge this Board to go back to that analysis, and if -- if it does so, we think you will accept the conclusion of Mr. Todd based upon that discussion and consistent with the information put to him that the kind of risk that you see with the Basic polidy -- policies, those long-tailed personal injury protection plan policies, are not being observed in the Extension or special risk lines of business, further undermining the -- any suggestion that the SRE or Extension targets are based upon evidence and based upon market realities and based upon prudent risk principles.

And our client asks a final question on this subject matter on slide 102, again from the principle of good regulatory practice. If you think of Mr. Todd's analysis, the objective was to prevent subsidy broadly defined to the competitive lines of business and also prevent anti-competitive behaviour.

Recognizing the myth of the competitive and ex -- or the Extension and SRE lines of business as competitive, what does excessive reserves -- imprudent reserves in those lines of business do for the competitive marketplace that is already so fundamentally compromised? More room to lower rates to preserve market share, more room to, as MPI said in their Board of Directors' minutes, in -- or recommendation 2014, to inoculate the market from competition.

What public interest purpose is served by ext -- excessive reserves in Extension and special risk except to further compete the already compromised competitive balances in these lines of business, and not to the benefit of the Basic customers from whom these benefits enure.

There's been a lot of target in this -- a lot of target -- a lot of talk in this hearing about targets versus ranges. Mr. Johnston has an opinion, Ms. Sherry has an opinion, Dr. Simpson has an opinion. Mr. Todd put the subject and the issue, I think, in -- in good light, drawing analogies is with the revenue cost coverage ratio in Hydro, 95 percent to 105 percent, one (1) of the objectives being more rate stability, the point being that a range is more consistent with the objective rate stability than a target.

And our client -- before we leave that slide, with my apologies, Ms. Dilay -- will note that there are circumscribed rules around the MPI Capital

Management Plan, the five (5) years to -- to build it up, the three (3) years to bring it down, but still will suggest strongly that if rate stability is the objective, that whatever the determined target number, it's better achieved with the range around that number rather than a target.

We're going to come back to item number 4 in just a minute, and I will shut up, no doubt to your pleasure. But I wonder if we can go to -- to the next one.

One (1) of the que -- the last questions that I'll be challenged with addressing is if the reserve regulation is neither lawful or binding what weight, if any, should be given to that document? And I'll confess -- I'll confess to this Board that I didn't come across that -- that question till about four o'clock in the morning, so I started to look at the -- at the Crown Governance Act and the -- and other legislation, and from our clients' perspective, this is how we would approach this issue.

Just one second.

(BRIEF PAUSE)

DR. BYRON WILLIAMS: I've made this

mistake once before, but I also made it on this slide. When we're speaking of the legislative amendments, those are 2018 amendments, with my apologies to the Panel, and I -- I've made that mistake on the record.

But the starting point for our answer to this question is, let's go back to those changes to the Crown Corporations -- the introduction of the Crown Corporations Governance Act replacing the Crown Corporations Review and Accountability Act, as well as changes to the MPI Act.

What was the legislative purpose of those amendments? And Ms. Dilay will speak to this, and you'll see it in our written brief, but Minister Schuler, in introducing those amendments, spoke of clarifying the rules of government, the Corporation, and the PUB, clarifying the roles. Minister Schuler also spoke of the desire to reduce political interference. So what was actually done in those legislative amendments?

First of all, the express power of the Cabinet with regard to vehicle insurance in terms of the rate approval process was removed. That power that had been in the legislation for decades, under what is now known as Section 33 of the MPI Act, was taken out with regard to vehicle intersher --

insurance.

So that's one (1) of the acts of clarity from the legislature, in its wisdom, get government, get politicians out of the business of vehicle insurance rates.

(BRIEF PAUSE)

DR. BYRON WILLIAMS: So that's the first step of our analysis.

The second step in the analysis was recognizing that the Crown Corporations Governance Act is about clarifying the respective rules of government, the Corporation, and the PUB, what tools are in that Crown government -- governance -- lead -- lang -- legislation for government to communicate with the Corporation or -- or the Public Utilities Board?

Well, there are two (2) tools in the legislation. One (1) is a mandate letter under Section 6, and one (1) is a directive to the Corporation under Section 13(1). From our client's perspective, the directive to the Corporation, the language of that provision, Section 13, does not contemplate the type of activities such as the reserve regulation. And in terms of the mandate letter, that is directed to the Corporation, not to the Public Utilities Board.

So from our clients' perspective, if you think of the long-standing independence of the Board is in trying -- in trying first, and the Crown Corporations Public Review and Accountability Act and the Crown Governance Act, the express removal of the power of cabinet in any regard with regard to vehicle insurance rate setting, and the absence of a tool in the legislation -- legislation defined to clarify the respective rules of government, the Corporation, and the PUB, from our clients' perspective, the reserve regulation, if it is neither lawful or binding, is interesting information.

But if one thinks to the intent of this legislation in 2018, to put government in its proper role, to put the Corporation in its proper role, and the PUB in its proper role, what more can it be?

(BRIEF PAUSE)

DR. BYRON WILLIAMS: Our client did not create the dilemma imposed by the cabinet action, and neither did Manitoba ratepayers. If the cabinet wishes to remove the thirty (30) year old independent authority of the Public Utilities Board in terms of rate stabilization reserves, in terms of their methodology and their level surcharges and rebates, the answer to cabinet is not to propose a regulation that is not within its authority as an interference in rate setting, but to propose a legislative bill which, if passed by the legislature, could turn back the clock on independent rate app -- approval.

But from our clients' perspective, in light of the legislative changes established in 2018, that regulation by itself is deserving of no weight.

BOARD MEMBER GABOR: Sorry, Mr. Williams, can I just interrupt you for a second?

DR. BYRON WILLIAMS: I was hoping I could sneak through that comment, sir.

BOARD MEMBER GABOR: Go back to the last chart. No, it's just --

DR. BYRON WILLIAMS: Yeah.

BOARD MEMBER GABOR: -- I want to clarify for the record. Your comment was, Our client did not create the dilemma imposed by cabinet action.

And the wording is, The PUB did not create the dilemma imposed.

DR. BYRON WILLIAMS: So --

BOARD MEMBER GABOR: Which -- which

one is it?

DR. BYRON WILLIAMS: I would say both, Mr. Chair (sic). So -- so the point I was simply trying to make --

BOARD MEMBER GABOR: No, I understand the point.

DR. BYRON WILLIAMS: Yeah.

BOARD MEMBER GABOR: I just want to make sure that --

DR. BYRON WILLIAMS: Yeah. Yeah. So --

BOARD MEMBER GABOR: -- that the -- the record is accurate.

DR. BYRON WILLIAMS: Yeah. And what I -- what I erred in, sir, the intent of that arrow was to say that ratepayers did not create the dilemma, nor did the Public Utilities Board. And my apologies for misspeaking.

BOARD MEMBER GABOR: You're fine. That's fine.

(BRIEF PAUSE)

DR. BYRON WILLIAMS: Finally, from my perspective, if the reserve reg -- regulation is lawful and binding, the question was posed by the Board: is the Capital Management Plan consistent with it?

(BRIEF PAUSE)

DR. BYRON WILLIAMS: From our clients' perspective, if the reserve regulation was validly enacted and binding on the PUB for rate approval processes, Manitoba Public Insurance's current capital position and its proposed Management Plan are not in compliance with the reserve regulation.

That reserve regulation doesn't say, create a range around MCT of 100 percent. It does not say, build up to MCT of 100 percent over five (5) years.

That rate reserve regulation, if valid and binding, which our clients deny, imposes mandatory language. The minimum amount the Corporation must maintain in its Basic insurance RSR is the amount determined using an MCT ratio of 100 percent, the minimum amount the Corporation must maintain.

MPI embarks upon a novel and creative effort to sidestep the mandatory language of the reserve regulation, both in PUB-MPI Information

Request 1-100 and Undertaking 18. But that dancing around the regulatory language, the mandatory regulatory language, cannot be reconciled with the reserve regulation itself.

And our client adds that there has been no legislative fact evidence adduced to undermine or challenge the unambiguous regulatory language. And just on that point, and Ms. Dilay will talk about it more, in our client's analysis of the evolution of the statutory regi -- regime, we do rely upon statements made, whether in Hansard, in the legislature, or in the Kopstein report prior to the development of the legislation to give insight into the legislative intent.

That is what is known as legislative fact evidence. There is no such legislative fact evidence on the record that would in any way undermine the unambiguous regulatory language.

(BRIEF PAUSE)

DR. BYRON WILLIAMS: So -- so Madam Chair, just in terms of timing, I did go fifty (50) minutes longer.

Ms. Dilay's available today. Would it

-- we're at the Board's -- you sh -- we will do as you -- we can keep going, or we can stop and then resume in the morning -- or she can, anyways. We're at your -- we'll -- we'll wait for your guidance.

(BRIEF PAUSE)

DR. BYRON WILLIAMS: And Madam Chair, I apologize. Ms. Dilay reminds me that if you do have presentations on the non-law -- or, presentations -- questions on the non-law side -- or, the not -- I -- I can make myself available to answer those as well. It's obviously where -- whatever you decide.

THE CHAIRPERSON: Well, perhaps what we could do is this. I would think that if Ms. Dilay were able to start and continue uninterrupted, that would be preferable, which would be tomorrow morning. But if there are questions with regard to your portion of the presentation, perhaps we could deal with those now. Is that acceptable to you?

DR. BYRON WILLIAMS: Yes, and thank you for your guidance.

THE CHAIRPERSON: Thank you.

(BRIEF PAUSE)

BOARD MEMBER GABOR: Mr. Williams, the only -- the only question I have -- you made a reference to ICBC and the interference there, and I'm -- I'm trying to understand what the interference there is. I -- I know of situations, quite frankly, where the government has issued an Order in Council saying here's what the rate is, contrary to -- to the Board. I -- I don't know if that's what you're talking about or if you're talking about something else.

DR. BYRON WILLIAMS: Yes, and thank you, and I apologize for being imprecise. What our client was referring to -- as everyone knows, the Insurance Corporation of British Columbia is in significant financial distress. I think that's on the record of this -- this proceeding.

Our clients' understanding of some of those events, both based upon the record in documents they've reviewed as well as from media commentary, is that on -- on more than one (1) occasion, the indicated rate, the rate necessary to -- was -- was politically interfered with by the Cabinet at the time.

So that was what I was trying to refer to, sir. And -- and the -- the point that I was inelegantly trying to make is that from our clients' perspective, the independence of the Board as set on the statute is -- is sacred, and it's sacred because one doesn't know whether it will be a government making a well-meaning intention or a politically -- well-meaning recommendation or exp -- expedient ones. Once there starts to be that interference in the independent rate setting process, then our client believe (sic) that undermines the integrity of the process but also undermines and -- and puts at risk ratepayers.

And I'll just finish to say that those are the specific examples, but even the kind of Cabinet directive setting out risk targets, which was allowed under the BC legislation, different than our legislation -- from our clients' perspective, it begs the question, who's better placed and situated to -- to do that. And certainly, the Manitoba practice has been the independent regulator.

BOARD MEMBER GABOR: Right. But I just want to clarify, this was by way of Order in Council as a directive to the utilities commission in BC --

DR. BYRON WILLIAMS: Yes, as authorized under the legislation, sir.

BOARD MEMBER GABOR: Right. Okay, thank you.

THE CHAIRPERSON: Thank you very much for you presentation, Mr. Williams. And just subject to comments from PUB counsel, I understand we have the other Interveners who will be presenting tomorrow, together with our continuation with Ms. Dilay first thing in the morning. From a timing perspective, is that going to be acceptable?

MS. KATHLEEN MCCANDLESS: I -- I believe so, yes. So I have been in touch with counsel for all of the Interveners who have not yet presented. Counsel for CMMG gave a time estimate of fifteen (15) minutes. I believe Mr. Unfried's estimate was ap -- approximately an hour, but he can correct me if I'm wrong. A little more? Maybe...

MR. CURTIS UNFRIED: I expect that we'll be closer to an hour and a half.

MS. KATHLEEN MCCANDLESS: And Mr. Monnin is -- he said about thirty (30) minutes to maybe an hour at the outset -- outside, so.

THE CHAIRPERSON: Okay, thank you. And we have the day reserved tomorrow, so I think we should be capable of finishing that then, well within that time frame.

So thank you very much to everyone. We'll adjourn for the day and start tomorrow morning with Ms. Dilay. Thank you.

--- Upon adjourning at 4:05 p.m.

Certified correct,

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Wendy Woodworth, Ms.