MANITOBA PUBLIC UTILITIES BOARD

Re: MANITOBA PUBLIC INSURANCE CORPORATION (MPI)

2021/2022 GENERAL RATE APPLICATION

HEARING

Before Board Panel:

Robert Gabor, Q.C.	- Board Chairperson
I Hamilton, Q.C.	- Panel Chair
C. Hainsworth	- Board Member
(by Teleconference)	

HELD AT:

Public Utilities Board

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APPEARANCES

Kathleen McCandless	)Board Counsel
Robert Watchman (by phone)	)Board Counsel
Steve Scarfone (by phone)	)Manitoba Public
Anthony Guerra	)Insurance
Byron Williams	)CAC (Manitoba)
Charlotte Meek	) CMMG
Antoine Hacault	) Taxicab Coalition

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

THE PANEL CHAIRPERSON: Good morning, everyone. Ms. McCandless, will you outline what's on for today?

MS. KATHLEEN MCCANDLESS: Yes. Thank you. Good morning. Today we have closing submissions from the Interveners, and the order of closings will be Mr. Hacault first for the Taxi Coalition, followed by Ms. Meek for CMMG, and then Mr. Williams for CAC.

We expect that -- that Ms. Meek will finish roughly around 11:30 and so would break early for lunch and then come back for Mr. Williams' submissions, following which there would be a reply from MPI, and that would conclude the proceedings.

THE PANEL CHAIRPERSON: Thank you very much.

Mr. Hacault...?

CLOSING REMARKS BY MR. ANTOINE HACAULT:

MR. ANTOINE HACAULT: Good morning, members of the Panel, Madam Chairperson. I, again, take this opportunity to thank everyone: Ms. Schubert, the court reporter, all counsel, Board advisors, all MPI witnesses, persons on the MPI regulatory team.

And I know there's also Board people in the background, Mr. Christle and others, that are -- are helping, so thanks to everybody, especially in this time of pandemic, to make this basically seamless hearing. Really appreciate it.

Again, the Taxi Coalition thanks this Board for having given it the opportunity to intervene and participate in this hearing. I have provided a brief. I don't know if Ms. Schubert has provided Board members with a copy of it.

It's structured in the following manner. It starts with a list of the recommendations that are pulled from all the issue briefs. It has, prior to all those issue briefs, a brief discussion about the legislation and regulatory principles, and it is hoped in this way that, if the Board is dealing with any specific issue, it can go to the issue brief and glean some information which we believe is relevant to its consideration of those issues.

One (1) of the key issues that is dealt with early on in the brief is the whole issue of: Did we get the right starting point in 2018 for the passenger Vehicles for Hire?

And as I was thinking about this last night and this morning, I said, Oh, my God, it's a little bit like my kids or my grandkids. It's just like if -- if one (1) of them had two (2) units of something and the other one -- and that's two thousand (2,000) -- and the other one had nine (9) units of something, I said, well, how is that fair?

And I've come to learn through the hearing that there's a lot of reasons why the taxis are at nine thousand (9,000).

But we will be submitting that the two (2) units -- in the same way children would press me to say, Well, how's that fair? It's an issue we're trying to tackle and provide some information to this Board as to whether that was the right starting point and whether we need to take some corrective action now instead of applying principles that apply to long-standing classes with long-standing experience.

So with that, I'll briefly go through at page (I) the summary of recommendations. They're lifted from the evidence that was filed pre -- pre-hearing and -- and verbal.

Firstly, the recommendation that we correct the rates for the passenger Vehicles for Hire by doing an additional 56 percent increase.

And then the second alternative, number 2, is, if the Board prefers a more cautious approach, to do a 40 percent increase and then do -- we believe it'll be a 15 percent adjustment we'll be submitting at the follow-up hearing, but it may be a greater or lesser adjustment, quite frankly. It'll depend whether we can glean anything from the information on which to base that decision.

Number 3 relates to questions that Board counsel asked related to a chart they had asked our client to make. I don't think we can reach any conclusions, and Mr. Crozier did not, but it did alert us, and -- and me being a newbie to this hearing, that there's probably something that needs to be investigated.

It was at least worthy of some questions by Board counsel and interrogatories and worthy of some cross-examination. So you'll see we have a recommendation that perhaps by the time we get to the next hearing, there is a bit more investigation as to what's happening with respect to that item. And I'll discuss that a little bit further.

Lastly, I had a fairly lengthy discussion in cross-examination about the Vehicle for Hire framework review which is happening. Mr. Crozier has provided some recommendations and thoughts on that.

Mr. Johnston, also in response to my numerous questions, has provided some thoughts on that, and we thought it useful to try and address what we thought from the evidence was gleaned as to scope of that review, what was hoped to be achieved, and also the time frame.

You may recall I asked Mr. Johnston, Is it reasonable to expect that we can achieve 'A', 'B', 'C' within the time frames required to be able to implement them into Nova? And he provided some useful answers.

So, we're providing a recommendation on the following page number 5 that this Board direct MPI to make reasonable attempts to conduct its Vehicle for Hire framework review so it has a proposal for the next GRA with a view of being able to integrate the revised framework into Nova by April of 2022.

And the last item is a fairly discrete item. You may recall I brought that up. It applies to various Vehicle for Hires when there's corporately owned vehicles. There's a gap, in our respectful view, of coverage.

And I didn't have the opportunity because the evidence wasn't there specifically, but -- and I may be reaching a bit too far, but it may be a generalized problem in the sense that, for other categories like Commercial, there has to be some corporately owned vehicles. They're, you know, putting goods around.

So we have a gap in -- in the incentives, and we've made some recommendations on MPI making sure that incentive is also available and is not impeded by the ownership.

With that general introduction -- and I haven't gone through each of the detailed points of the framework for review, et cetera, 'cause they're there for your reading, and I don't intend on making this presentation this morning to go through all the information that's been provided, but hopefully highlight some of it -- I'm into the regulatory framework.

Being new to me -- and maybe I've got it wrong, but it's on Issue Topic 1, page 1 of 1. I have gleaned that I believe that the starting point is the new legislation, The Crown Corporations Government -- Governance and Accountability Act, which then incorporates, by reference, the regulatory principles of the Public Utilities Board Act. And I've taken the time to lift from that legislation what the legislation is telling us.

So we also believe that the principles that are set out in your Public Utilities Board Act, your governing legislation, are consistent with the Bonbright principles that was discussed by Mr. Bowman.

That brings me to page 1 of 2, the section which incorporates, by reference, the Public Utilities Board Act as set there at section 25(3), and then Mr. Bowman had referred to this.

There are a number of additional factors that the PUB can consider according to the Crown Corporations Governance and Accountability Act, and it did include policy reasons.

So, when Mr. Bowman had his discussion, he said, well, maybe there was a policy to subsidize this new entrant, the passenger for vehicle. But we didn't glean that from any of the Board decisions that that was the intent. In fact, we've extracted from a previous decision of this Board that the Board was concerned with the possible subsidization of the passenger vehicles for service by the private class; so the opposite was there.

The Crown Governance and Accountability Act then incorporating the PUB Act at 1 -- page 1-3, is appears from my review of the legislation that Section 77, which deals with orders as to utilities, would be applicable.

And I've put in bold some of the key words we see in regulatory principles as a Board monitoring this mono -- monopoly which otherwise would be in competition, right.

In other provinces, as we've seen from the tables, private insurers would be in competition and would, in my respectful submission, correct any errors in initial assumptions on pricing for the passenger Vehicles for Hire.

Well, there's nobody to do that here, except for this Board. We don't have the normal market forces which allow that to happen and that quick correction to happen.

And we view that's an important role for this Board to play to ensure that we got it right. Is the rate just? Is it reasonable? Is it insufficient; that's one (1) of the words that's bolded, unjustly discriminatory or preferential.

On the face it, unless we have the evidence that we do, a passenger Vehicle for Hire -- and we saw the tables when I was cross-examining -- that the large majority of the passenger Vehicles for Hire are operated into four (4) time bands. Unfortunately, we don't know how many of them are actually operating 24/7.

But on the face of it, if I go to somebody on the street and say, well, listen, don't buy a taxi, go Uber because you can go 24/7 and pay two thousand (2,000). If you go to a taxi, not only you're going to have to invest in the taxi, your entry point is nine thousand dollars ($9,000) per year of insurance. You'd be stupid to go to a taxi.

There's a preferential rate, in our view, for the passenger Vehicles for Hire. They're being subsidized and I'll go through the evidence of Mr. Johnston on this, and also of Mr. Bowman.

Now, we see on page 1-3 under 77(a), the word, "Unjustly discriminatory," and that is further defined in section 82(1), discriminatory rates. And it starts, "No owner of a public utility shall..."

And then there's a whole list of things that continues on to the next page, "(a) unjustly discriminatory, unduly preferential." But then applicable also we say in this Hearing is (d) and (e): adopt -- which is what MPI is trying to do -- or maintain -- that's what they're trying to do -- a practice measurement that is unjust and reasonable, unduly preferential, arbitrarily unjustly discriminatory.

And (e), there's been a note by MPI that says, well, I mean, that's not a regulatory principle, talking about competition or giving advantage to the passenger vehicles.

Well, I beg to differ. He says directly:

> "MPI should not make or give directly or indirectly any undue or unreasonable preference or advantage to any person or corporation in any respect whatsoever."

And we say that is happening. So, just as an aside, this is the first time we really take a serious look, as I can see, to this whole issue of was the starting point really the right starting point.

We really didn't have much -- we didn't have any data, as I'll go through it, before. And continuing and maintaining this subsidy, and it is a word Mr. Johnston did use, that's a high likelihood of subsidy, is unjust and reasonable.

I'll go to page 1-6 now. The -- at the top, this addresses My Learned Friend, Mr. Scarfone's, comments that he thought there was some unfairness.

And -- and I've brought extracts from

Sopinka on evidence from Browne v. Dunn, but, basically, it's -- a lot of the rules of evidence are about fairness. Did somebody -- was -- was there some unfairness in the inability to -- to deal with a particular position.

And we submit that there was absolutely no unfairness. In fact, MPI, on the issues of the recommendations of Mr. Bowman which were not change the formula, it was reject the formula, MPI had that pre-filed evidence.

A schedule of this Board provided for the opportunity for MPI to rebut. They chose not to on any of the regulatory principles and regulatory evidence; that's their choice.

But my point is it was their choice. They had the opportunity. They knew what that testimony was. And Browne v. Dunn, and I get this in trials, you don't know what the defendants are going to say until he gets up on the stand and says it.

So, Browne v. Dunn says, in fairness to the plaintiff who doesn't know what the defendant is going to say, you have to put those questions to him when you're cross-examining the plaintiff.

But the reason for that rule is that it would be unfair to the plaintiff because he doesn't know what the defendant is going to say.

In this case, as I continue in -- in the notes that I've made on this page, there's absolutely no unfairness. Mr. Bowman put his recommendations right upfront. We put all the analysis right up front. MPI could have rebutted; they didn't.

What's the second opportunity they could have done it? They could have done it when Mr. Johnston was up on the regulatory panel. They had all the answers to the IRs. They continued to have all the pre-filed evidence. They knew what our case was.

Mr. Johnston was conspicuously silent on commenting at all on the Crozier and Bowman evidence related to regulatory principles.

What's the next opportunity of fairness that -- that MPI had? Well, Mr. Guerra conducted a cross-examination. I fully thought -- I may be going a bit too far here -- is -- told Mr. Bowman, well, you should expect some questions from MPI on your regulatory principles and whether or not it's appropriate to apply them in this case. No, absolutely nothing, nothing. They didn't challenge it at all.

MPI has the onus of proof. Now, for

these reasons, we say there should be significant weight placed on Mr. Bowman's evidence. He was cross-examined by CAC on the principles, explained a number of his -- the -- the reasoning behind his recommendations.

He is a well-respected expert, not only locally, but nationally. He gets hired by both utilities and by consumers. And not only does his expertise extend across the nation, he has had international experience in regulatory principles and economics.

So this leads me to the issue -- one (1) of the issues that's at the heart of our case, I guess, the issue topic number 2, at page 2-1.

Should we full out correct the rates? I'll just step back a little bit and if I go, perhaps, before going through the submissions, right up to page 2-17 of this issue brief, I extracted some of the discussions that occurred between the Chairperson -- Board Chairperson, and Mr. Johnston. He had started by asking, you know, why 20 instead of 25 percent? How did you guys pick this initial rate?

Well, as you can see, Mr. Johnston then explains, he says, well, you know, it looks like when we were going across the country they were adding about 20 percent.

And just to remind everyone on the record, it's not -- it wasn't only a 20 percent because there's four (4) time bands. And the evidence shows that there was increments, all passenger rate, all purpose rate, plus 5 percent if you chose one (1) time band, plus 10 percent if you chose two (2) time bands, plus 15 percent if you chose three (3) time bands, and then finally, plus 20 percent if you chose all time bands.

Again, why is that relevant? There's -- if we're talking about barriers to entry and competition, if somebody is truly a part-time person and only needs one time band, they're only hit by a 5 percent number, not the full 20 percent increase.

But Mr. Johnston, in our respectful view, conceded that the initial starting rate wasn't a precise calculation by any means, that it was an imperfect calculation and when discussing the appropriate rate that's at line 23 and following, Mr. Johnston explains well, at the beginning we knew it was somewhere in the middle.

What was in the middle? I went through that evidence. It was somewhere between very close to three thousand (3,000) and nine thousand dollars

($9,000). It was 2,000-something in Quebec, and up to the nine thousand dollar ($9,000) mark about in Ontario, Toronto. They knew it was somewhere in the middle.

Now, they didn't pick somewhere in the middle, they didn't pick starting going down from the taxis are paying nine grand, they picked from the lower end and added 20 percent.

But if we go on to the next page, 2-18, Mr. Johnston continues. So maybe -- maybe that two thousand (2,000) should be three thousand (3,000), but it's not nine thousand (9,000).

So I think -- I think we got it right. It's in the middle, so he still uses that language, he thinks it should have been in the middle. But the magnitude wasn't as precise.

Now, going back to the initial part of the brief, page 2-1, I get into further discussion about -- about this, and at line 13, much has been talked about the two (2) years of experience. What do I note?

Firstly, it's been relatively stable. Secondly, I would submit if this was a private sector market, no private company in their right mind would not allocate something to serious losses.

Okay. At the three (3) law relativity data, and that's what they say there's a highly -- high likelihood, which is consistent for two (2) years, it tells you something about the collision losses, but it doesn't tell you anything about the serious losses, which we see in that kind of a group, because now that passenger Vehicles for Hire, you'll recall the evidence, are actually greater a number than the taxis, and I'll bring you to a table later on, the taxis do have serious loss experience.

So, in our respectful submission, it's unrealistic to price that market as an initial price with absolutely no consideration and allocation. I know it's the methodology, but I ask this Board to really, seriously -- would a private insurance corporation blindly set a rate to only cover collision costs? And they aren't even doing that, at three thousand (3,000) they would, apparently.

Now, the second point I make at line 18 on this page is that it's the evidence that as a passenger Vehicle for Hire market matures, major service providers and major service providers enter the market, you're going to get an increase in the professional drivers as a proportion of those passenger service Vehicle for Hire drivers, increasing time on the road in kilometres driven, all else being equal.

That's a normal consequence of competition. As I said, somebody can enter this market with a three thousand dollar ($3,000) premium and go to head-to-head competition with a taxi that pays nine thousand (9,000) and do 24/7.

It's unrealistic to think that you're not going to get entrance into the market. There's no barriers for them to come in, compared to taxis. There is going to be increased competition, there's no doubt about it.

And that, MPI has also conceded, is probably going to have an indirect impact on the taxis, because if there's less taxi business, they may be less on the road and there may be less claims by the taxis because of that competition.

So there's a market transformation, and I guess the difficult decision is: How do we deal with that market transformation and try to set a just and reasonable rate, which we submit based on the evidence you have, would be three thousand dollars ($3,000) about.

Now, the -- we say, and that's based on, in part, the testimony of Mr. Johnston in response to the Board Chair's questions, but also on the questions I asked him, if we had that data that we have now, those two (2) years of data, there's a -- I would submit, a fairly high likelihood that we would have set the rate at three thousand dollars ($3,000).

We didn't have that data, unfortunately. The best we could do was a kind of scan of what was happening in other provinces.

And we see that happening in hydro here, we'll say well, your overhead let's compare you and -- and the first thing everybody says, well, you can't compare us to private corporations, that's not comparable. But that's all that we had in 2018.

The next thing, we do these benchmarking in hydro or other hearings, on other crown corporations, like British Columbia or whatever, say, well, yeah, but they're different, so be careful about that.

So, in this hearing I questioned Mr. Johnston in a fair amount of detail, even with respect to SGI in BC. I said well, did you at least have the underlying data so that you could benchmark. Did you understand -- did you have the rates, did you have the data?

And the unfortunate answer was 'no'.

So, what are we left with benchmarking Not much. Nothing, quite frankly. There's no solid data. He didn't get anything from private insurers. He didn't get anything from public insurers. So that benchmarking exercise is not really a benchmarking exercise. There's nothing there to benchmark because you don't know the data and -- and how it's arrived at.

Now, it was acknowledged in the hearing that Mr. Bowman was not an actuary. And he explained that, Listen, we took the actuary's calculations and worked from there.

Now, what was that actuary's evidence though? Page 2-3, at the top. During cross-examination by Board counsel, Mr. Johnston opined that -- I took the quote:

> "The likelihood is very high that a rate increase of a larger magnitude is required."

Now, in normal onus of proof in litigation, we think, Well, it's more probable than not. Well here we have way more than it's more probable than not. He says there's a very high likelihood that we need a rate increase of a larger magnitude than what they're proposing, according to that formula, which we say is inapplicable.

For that reason, we say there's no sound reason to reject Mr. Bowman's evidence that the 56 percent increase is appropriate.

Now, what about the economic efficiency principles and rate stability?

Rate stability, in all the other hearings I do and even here, it's long-established, fully understand it. We can't rate shock people. I remember at the 7.9 hearing for Manitoba Hydro, we said, Listen, that's just going to disturb the whole market. It's going to, you know -- we've had this -- people have made major capital decisions based on -- on rates being stable. We can't do rate shocks.

But here, that doesn't apply because we're talking about a new entrant, new market transformation, and getting the number right as a starting point.

And there are other regulatory principles, which Mr. Bowman discussed, such as the avoidance of undue discrimination. I've touched upon that. It's in the legislation. The efficiency of the rate classes and rate blocks; discour -- wasteful use of service; sending the right price signals.

And those things support the

submissions of Mr. Bowman. And I'm turning to page 2-4. It was his view that the PUB should make it a priority to address the material cross-subsidization that is occurring now, before entrenching more unfairness in the market. That failure to address the issue now may lead drivers to opt into the TNC service when their actions are not economically efficient to be in that service and consuming insurance services, it would not have made that decision absent the cross-subsidization.

Getting back to my -- my kid. If I go to a teenager now and I say, Listen, you have to pay nine thousand dollars ($9,000) a year to drive my car. I go to the other one and I say, Well, you're going to be driving the same amount, but you only have to pay two thousand (2,000). Dad, why does he have to only pay two thousand dollars ($2,000)? He's going to be driving as much as me.

I know it's not on all fours with respect to -- because we've got passenger Vehicles for Hire going to driving part-time, some of them may be full-time and stuff like that.

But the issue of subsidization and discrimination and a major class paying higher rates than necessary and subsidizing passenger vehicles is definitely an issue.

Now, MPI asserted that this does not lead to higher rates for others, but, rather, a charge against the Rate Stabilization Reserve. I'm at line 10 now, going down.

In our respectful view, this is not correct. Ultimately, there's only one (1) source of funds for MPI. It's from the drivers.

If the passenger Vehicle for Hire drivers don't cover their costs, the only source of funds is from other drivers; whether this arises in the same year through the MPI balancing process -- we went through that -- or over multiple years, through the Rate Stabilization Reserve funding process, there is no means to retroactively recover these material subsidies from the passenger Vehicle for Hire customers in 2021.

Again, we note MPI's own evidence on this. I've quoted Mr. Johnston's evidence:

> "But I'm quite willing to say with consecutive loss ratios in this neighborhood [so we're taking about passenger Vehicles for Hire] that the likelihood there's some subsidization is high."

And I've tracked other instances where Mr. Johnston's evidence is consistent on that. And we say that that is significant evidence because when you have the chief actuary saying, Well, the likelihood is high, even on a two (2) year data set, he's coming to that conclusion. He does -- he does give those qualifications, but we've got to be careful. We've only got a two (2) year data set and it's a small set of some six hundred (600) cars.

Notwithstanding that knowledge, he still comes and repeats, more than once -- and this is the second quote that I've given you -- where, in various forms, he's saying that the likelihood is high that we got it wrong.

Different formulations, different subjects. But all dealing with, I say, the rates and, We got it wrong the first time.

Now, Mr. Bowman explained that shielding the current and prospective operators from the full cost of insurance may lead them to incorrectly assessing options, over-valuing the prospects for them to enter into passenger Vehicles for Hire.

And, at page 2-5, I go through some of the evidence that -- line 5, that Mr. Bowman had, where he was talking about the indicated rates were about eleven hundred dollars ($1,100) more. It's a little bit higher than that. And that if you gave some kind of allowance, like what's happening to the taxicabs, who are about the same size, the serious loss impact is about 10 percent on their rates.

And bringing the rates to three thousand (3,000) doesn't even consider the fact that, really, maybe it should go up another three hundred dollars ($300) or so. Because we're turning a blind eye and kind of assuming, Well, same size of group is never going to have a serious loss; that's turning blinders, in my respectful submission.

Now, pricing it the way it's priced and sending the wrong signal, Mr. Bowman explained, Well, listen, for somebody -- if they're really a part-timer and the additional cost to properly cover their risk is what MPI has assumed at thirty-five hundred (3,500) kilometers extra for that weekend driver, it would amount to forty (40) cents per kilometer.

And then, that's in the context also of -- of Mr. Williams' cross-examining Mr. Bowman, saying, Well, listen, we -- why do you say we need to get there so quickly? Can't we do fifteen (15), fifteen (15), fifteen (15), and do it gradually?

And quite apart from this Board's role to -- to, basically, replace competition and get the price right when it's a monopoly, there's that principle that we shouldn't subsidize and give people undue advantage or tell them the wrong information and assumptions, so that they get into the market when maybe they shouldn't.

I'm going to jump to page 2-7.

(BRIEF PAUSE)

MR. ANTOINE HACAULT: At the bottom, there's a discussion -- well, often when I appear in front of this Board, I don't get to be -- what your job is -- it says, You never have the perfect data, right? It's just like, What do we do? We've got two (2) years of data. To add to that, we've got COVID. Oh, my God.

So is it going to get better? Are we going to get better data by the next GRA? How -- how are we going to interpret that data? What are we going to do?

And that's why I repeatedly quoted Mr. Johnston on his opinion that this preliminary data was a high likelihood of a message that we got it wrong.

Because as you see from the table on the next page, 2-8, there isn't a -- a huge range in this developing market of the balanced raw relativity. Again, that's what the actual experience is.

I went through the tables in my cross-examination on how the -- the passenger Vehicles for Hire started a smaller group in -- you know, in the six hundred (600) range and then went up into the high seven hundreds (700s) and are very close to -- to eight hundred (800) now. But even with that kind of entrance into the market and the increased numbers, the raw relativity has stayed stable for two -- two (2) years.

And if we look at, generally, again, Mr. Johnston's evidence in answering the -- the Chairman's question, well, we thought it was somewhere in the middle between the two thousand (2,000) something in Quebec and the nine thousand (9,000) or so, around nine thousand (9,000), in Ontario, be it was somewhere in the middle.

Well, now you have, I say, probably as solid evidence as you are going to get for a number of years, because COVID is going to be subject to all tort -- sorts of interpretations, that it's time to correct this.

And I do have a quote later on, where Mr. Johnston says, Well, if we change it to three thousand (3,000), then we'll start balancing according to our ratio, you know, giving 10 percent weight. And if there's big spikes one (1) way or another, we'll adjust according to that kind of -- unless there's something -- he had explained, you know, a -- a big aberration.

So just jumping on a couple quotes, 2-9, line 21. There's a question by Mr. Watchman:

"You have a loss ratio in excess of 100 percent."

That was looking at board table, I think it was, IR-88-1, or something. They were around a hundred and twenty-eight (128), a hundred and twenty-six (126).

"You're clearly not charging enough."

Mr. Luke Johnston:

"That's true."

And he said, Well, that's not even taking things like operational costs. And you'll recall I went through, okay, well, this is the benefits that they're getting.

I'll flip to page 2-11, line 3, other

questions asked by Mr. Watchman. This, I had quoted previously:

"I believe the likelihood is very high that a rate of increase of a larger magnitude is required, but I can't peg that at that level of detail now. But your point, yes, if we change rates today by 56 percent, that would continue on and be adjusted as per rate-making methodology [and that's that 10 percent weighting formula]."

And then at lines 23 to 25 on this page of 2-11 of our -- our submission:

"I believe my comment --"

-- and this is Mr. Johnston again answering questions from me --

"-- is that there's a high likelihood --"

-- so I said, you know, this evidence gets repeated a couple times --

"-- that the actual loss experience is trafficki -- tracking higher than the current rates."

Then he puts a caution again.

(BRIEF PAUSE)

MR. ANTOINE HACAULT: And then I -- there had been similar questions by me at the top of page 2-12. Sorry, we have to start at the bottom of 2-11, line 34, to give it context. I was asking questions about the amounts paid in Ontario, Quebec, and Alberta. And so Mr. Johnston is responding and saying:

"A 50 percent increase would add a thousand dollars ($1,000) or so, so closer to three thousand (3,000) for all time bands."

And then me:

"Okay, so that would be somewhere between the Quebec low and where everywell -- where else is situated in the private jurisdictions."

Mr. Johnston:

"Yeah."

Why do I take time to quote that? I says, even it's -- even though it's unperfect (sic) information, if we're looking at competition and entry into the market, at three thousand dollars ($3,000), we aren't creating an unfairness. It -- it's -- we're not saying, Oh, well, you know, there's -- in Manitoba, you're going to have a barrier to entry compared to other provinces. No, that's not the case.

I'll then switch to Issue Topic Number 3, page -- that is -- okay. PUB has a tough decision. Does it, based on the evidence -- and we submit the evidence is there -- bump it up by fifty perc -- 56 percent and then adjust slowly as required, or does it take a two (2) stage approach, recognizing Mr. Johnston's evidence that, Hey, we only have two (2) years of data, the market's evolving?

And Mr. Williams' cross-examination was also along these lines. He says, Well, why don't we take it a bit easier and, you know, not do the 56 percent? So the alternative recommendation by Mr. Bowman was, Well, let's at least take big steps to get it right so we don't get all of these other principles offended, like drivers making inefficient economic decisions, et cetera.

And we've recommended in the evidence that it should be 40 percent, and then that would allow a 15 percent movement at the next GRA, which would break -- bring it in line with a breakeven ind -- indicated rate, all else being equal. But, again, -- I'm sounding like a broken record -- even that, if we get one (1) serious loss, we're going to be faced with, Hey, 15 percent ain't enough. You're not covering their losses.

Now, we've recommended that the PUB should explicitly reject the status quo approach to adjusting passenger for vehicle rates and should not approve the 10 percent credibility level formula, which was set out in the MPI submission.

But the key there is -- and we've got a table in this presentation elsewhere -- is that formula is really founded on levelling some big bumps. And we went through the table of the taxis. We saw that bump in the serious losses.

And you don't want some big changes up or down. The last two (2) years, taxis didn't even have any serious losses. That would have just, like, made the rate go way down, and then if they had another serious, go way up.

For longstanding rates, we can have a more in-depth discussion about that. I think there's maybe some issues with respect to small groups, but that hasn't been fully analyzed.

I can see where using that formula makes sense. The -- you don't -- you want some rate stability. You can't have taxis all of a sudden paying eighteen (18) grand and then the next year paying three (3) grand. You need to have some stability, and -- and it makes sense to -- to have that for longstanding groups that are -- that are smaller, give some weighting.

(BRIEF PAUSE)

MR. ANTOINE HACAULT: Now, the one (1) thing the record should have clarified, and I'm at line 20 on page 3-1, initially, there was an answer, well, if we applied that formula, we -- we would get there in ten (10) years because that's a 10 percent weighting.

Well, I went through that with Mr. Johnston, and that is not the evidence. If you had that -- and, I mean, I've spent way too much in depreciation. If you have a straight line depreciation table, 10 percent each year, you do get there in 10 percent.

But this formula doesn't say add 10 percent. It says we're going to give 10 percent weighting to current data and we're going to give 90 percent weighting, and it should be to a long ten (10) year list of data, but to incorrect assumptions.

That's what applying this formula means.

And we saw that even in two (2) years where if -- if the answer was we're going to get there in ten (10) years, you should have seen a 20 percent bump up in the rates. Well, there was on 16 percent.

And as you go on as you would in a depreciation table when you have this curve and not a straight line depreciation, it's going to take a very long time to get you close to the number, but you really don't get there because of that formula. It's -- it's not a straight line formula.

So, just to be clear on that, and I believe it's extracted in here, some of the evidence where I asked that question of Mr. Johnston.

Now, page 3-2, line 21, this repeats something -- some things that I've said. But the evidence of Mr. Johnston is also that the data from Ontario, Alberta, and Quebec, and this is consistent with Mr. Bowman's evidence on line 26 and 27, looking at that as a benchmarking is not great because we don't understanding the pricing objectives and market dynamics at play in those markets.

So, Mr. Bowman explained that there's perhaps loss-leaders offered by private insurers to try and get into a new market. We don't know all those things.

So, you got to be very careful of applying this credibility weighting to initial assumptions of which you don't know much about.

I went through quite a bit of cross-examination, and some it's attached in excerpts also, of Mr. Johnston to say, well, SGI, do you know what the rates are? No. Do you have data from them? No. What about BC, do you have data? No.

Now, would data have helped us? Probably help benchmarking a bit. But I also went through the fact that Saskatchewan's a newer market. It started in December of 2018 instead of the beginning of 2018. And BC was in 2019. It's even had a shorter-lived experience.

So, of all the criticism we have of two (2) years of data, if we were trying to benchmark against Saskatchewan and BC, well, they even have less data and a shorter time frame.

So, we're left with Mr. Johnston's evidence of high likelihood.

(BRIEF PAUSE)

MR. ANTOINE HACAULT: I'm going to

move to page 3-5, and it'll complete this part of the discussion on breakeven rates at a slower rate.

Mr. Williams, in his cross-examinating -- cross-examination, was pressing Mr. Bowman and saying, well, listen, you know, shouldn't we go slower on this, shouldn't we be careful because we only have two (2) years of data.

And then that raised a discussion about public interest in Mr. Bowman's view, and I'm at line 21, about, in his view, embedding a fairly blatant cross-exa -- cross-subsidization that is nothing more than delaying them paying their costs.

It's not letting them pay for what we expect the long-term cost to be but avoiding some kind of short-term aberration. But it's avoid -- it's delaying them paying what we reasonably expect their costs to be. And I would add to that a high likelihood of what we reasonably expect their costs to be.

I'll move now to issue 4 which is a -- repeats some of what I've discussed, but it's more focussed only on should any weight be given to the initial assumptions and the initial rate recommended by MPI, and at lines 15 and 16, for the reasons that I have argued so far, and which are contained in the various briefs but also fully set out here.

And I apologize, I see I wrongfully was referring to about nine thousand (9,000) at the higher end, and it's seventy-five (75) to eighty-one hundred (8,100), so please correct my inaccuracy there. I apologize for that.

This is the first time since the initial rate Application that the issue of whether passenger Vehicle for Hire rates are the subject of crose -- close scrutiny and analysis. And, quite frankly, it's the first time we have what I would say data that gives us a high likelihood of knowing where we're going with the two (2) years.

We summarize here there's no experience in Manitoba, best comparable being Saskatchewan and BC, and set out some of the data that was relied on in setting those initial rates in a range of 105 to 120 percent of all-purpose rates depending on the number of time zones chosen.

Now, in this proceeding, and I'm referencing at page 4-2, line 6, we've quoted from one (1) of the IRs. They've explained in the IR that, unfortunately, they didn't have the data from Saskatchewan because, as I said, they only started in December of 2018, that's at line 8, and then BC, practically a year later, in September of 2019.

So -- and, unfortunately, Nova Scotia and New Brunswick are just in the process of creating regulatory frameworks.

And in the current proceeding, MPI candidly admitted at -- this is at line 14 where I'm quoting:

"Further rating models used in other Canadian jurisdictions with private insurance are not considered suitable."

Unfortunately, that's what we started with, models that are not considered suitable within this environment given the compulsory nature of Basic and the regulatory framework in Manitoba. As such, in this proceeding, MPI didn't even go to benchmark there because they were private insurance.

So, we submit that nothing useful can be gleaned from the initial benchmarking from which initial rates were set.

Now it's our view that the evidence also indicates, this is at page 4-3, line 20, I'm quoting from MPI's response, that MPI, when it created this category, some of the assumptions that they had did not materialize.

It explained when they created the insurance use, MPI understood that individuals who drive for a ride-sharing company on a casual basis and pick up pars -- passengers as part of their regular day-to-day driving from one place to another, and they were set on that understanding, and it was explained in the evidence that it's not the view that that has materialized, especially with the evidence that I showed. There was a large proportion of all the collisions that occurred in that class -- remember that table -- when those passenger Vehicles for Hire were driving commercially and picking up passengers.

So the claims experience is showing us that the vast majority of the claims are occurring when these vehicles are in fact exercising the commercial right to carry passengers.

Now MPI did say they're unwilling to accept that it's the same thing as taxis. I understand that. There's -- it appears that -- I don't know what the percentage is going to be, but there's only a percentage of taxis and passenger vehicles that operated in the same way twenty-four seven (24/7). And to a certain extent, they do operate differently, but there's a lot of similarities.

We've gone through a lot of that evidence in the next pages, and I'm going to take you to page 4-7, and there's a table at line 13. It's a table that we've spent a fair amount of time on.

And a reason that I had to educate myself on raw relativity is what -- what the hell does that mean? I just spent quite a bit of time on that table with Mr. Johnston, and the balance current relativity.

And to my mind, I said, Well, listen, okay, when we started understanding what all these things mean now, we started assuming that, compared to the private vehicle passenger class -- 'cause relativities are based in classes -- we assumed that these passenger V for Hs would have a raw relativity -- we assumed it, okay, we didn't have any evidence -- of one point six five nine three (1.6593).

Now that was about, as it turns out, not quite half, but nearly half of actual experience, which was at three (3), based again on -- I'm going to use a very strong word here -- very unreliable and I would say speculative information with no data whatsoever and unreliable data from private markets.

So we got it wrong. If our guess -- and I would suspect -- and maybe this is a bit too strong -- what's happening in private markets which we know aren't applicable, let's see which way the wind's blowing, let's take a guess at it and see whether experience tells us right.

Now fairness is all about -- it works both ways. If MPI had started at taxis and said, Well, listen, we think they're closer to taxis, we're not going to charge them nine (9), we're going to charge them say five thousand dollars ($5,000). It's not quite half of what taxis pay, but let's start there because they're kind of in the same type of business.

And if actual was telling us, no, no, it should be three (3), people would be up in arms. They'd say, Well, listen, why are you paying forty-five hundred dollars ($4,500)? That's not fair. We should only be paying three (3).

Well, it works both ways. If you got it wrong and you were too low, let's bring it to where it should be. If we had had it too high, the right thing for this Board to do would be to say, Let's bring it where it should be. That's fairness. That's getting it right and then moving from there.

The point at lines 22 and 23 of the presentation re-emphasizes that it's not straight line because in two (2) years, if it was actually a straight-line adjustment and we'd actually get to a change in ten (10) years applying this I say inapplicable formula, we would have seen a movement of 20 percent, but we don't see that because of the way the formula works. You can see it's a gradual movement of 16 percent. So even in two (2) years, you don't move close to the 20 percent that this formula supposedly was going to do.

Now I need to address -- that's at page 4-9 -- disparity between actual data and initial assumptions. "Extreme Caution is not Warranted" is the heading. That gets back to what I just said, taxis are paying nine (9), if we had started say at five thousand (5,000) or forty-five hundred (4,500), but it works both ways.

Now Mr. Johnston says, Well, if we're four (4) or 500 percent off, well, that's sufficient to change it. Well, with due respect, I really question that answer and whether or not it's consistent with the principles of rate making.

Do we have to be four (4) to 500 percent off? So if it had been the other way -- 'cause it works both ways -- and we had set it at five thousand (5,000) and really it should be three thousand (3,000), do we have to be four (4) or 500 percent off on our five thousand dollar ($5,000) guess to start making a correction once we have reliable data which shows a high likelihood of where it should go?

I would submit that's not sound rate making approach, and that evidence should be rejected as being inconsistent with rate making principles, because that was his evidence in response to Mr. Scarfone, at lines 23 to 26:

> "We'd have to have a four (4) or 500 percent loss ratio if we got it completely wrong. That's when we'd change it."

We contrast that with other evidence of MPI -- that's at line 27 going down to the bottom, line 31 -- when we asked in interrogatories, Well, we see that the table is showing us that we've got a loss ratio of over -- or close to the 130 percent. And they said, Well, that's really rare. That's not something we should be seeing.

And then we say, Well, listen, if 130 percent ratio is really rare, do we really need to go to four (4) to 500 percent ratio? I -- I can't conceive where we -- we would ever get that. That would be so exceedingly rare that it would be practically impossible to envision.

There -- I think that I'm not going to go through any other points on the passenger Vehicle for Hire experience and assumptions. The evidence is there, we've lifted it. I think I've touched on that.

I'm going to move to issue topic 5. This is a more focussed discussion on that formula of the 10 percent weighting.

And just to be clear again, I want to correct the record, there is nothing in our recommendations and evidence saying that the formula needs to be changed to 40 percent for small groups with a long experience.

MPI suggests that we were trying to challenge that evidence. It's not being challenged in this hearing as it applies and properly applies to longstanding rates like the taxis.

It may be the subject of subsequent challenge because, as you will see later, there appears to be some inequities and problems in applying that formula to a small group that has a high raw relativity ratio. You really don't get to where you should very quickly at all if you start too high, or you start too low.

So MPI set out the formula from our evidence, but at 5-2 we set out the formula from MPI's evidence.

Now you'll see the word "historical," and that's why I say that formula was never intended to apply when you don't have that five (5) and ten (10) year history that we've been discussing in this hearing. It's intended to apply to five (5) year and ten (10) year experience when you have that history. That's what this formula says.

And then it gives credibility weighting to avoid those big bumps, either up or down. That's what that credibility factor is intended to do.

And when you have small groups, you're going to have bigger bumps, and that's why arbitrarily I'm not too sure why they chose 60,000 as kind of a acceptable group, that would be given 100 percent credibility weighting, and if you have smaller groups than that, they reduce the credibility to say, well, you might not have a uniformity, you might have bigger spikes one way or another in a smaller group.

I understand that. I understand that formula. I understand what it's intended to do and its purpose, but its purpose does not jive with this new class.

On page 5-3, Mr. Bowman put in his evidence the whole question of credibility and how much weight do you put on the actual data.

And that's why I spent quite a bit of time so far saying, What's our real evidence? And we say our real evidence, and I've given three (3) different quotes, that there's a high likelihood that the raw relativity is telling us what the number is.

Now if I go to somebody on the street and I say, Well, listen, there's a high relativity that this number is right, high probability, one.

I say, And we have this other number. Yeah, that one was an imprecise calculation. It was based on some kind of a benchmarking from private industry which we don't even use now.

Now I ask that person on the street, Which one would you put more weight on? I think the answer would be obvious, but this formula is telling us the opposite answer. It's saying put 90 percent credibility on something we have no confidence on and no longer want to even use or look at.

And page 5-4, we have a table, "Combined Relativity," pulled that from the evidence. And the one thing that was asked of our witness Mr. Crozier and he couldn't answer, and just remember this table when I say, Listen, I think it's worthwhile looking at this in the next hearing and -- and -- and seeing why this is happening. And, in fact, MPI has been saying, Listen, in this Vehicle for Hire review we're going to try and understand better why things are happening.

Unfortunately, when my clients ask me from Territory 3, Why is it happening, and that was a question to Mr. Bowman, that the "Raw Pure Premiums," that's column B, go across line 12 where the bold is, we're at .46. Well, what does that mean?

On a pure reading the data perspective, it means that the current data is saying we should pay 2,400 premiums, but they're paying fifty-two (52), nearly fifty-three hundred (5,300).

You're right, we didn't look at it in this hearing, you know, have the data MPI says we don't understand why this is so, but on the face of it, there's something that warrants investigation and why they're at -- at that level of I'm going to say paying more than what the indicated rate.

And it's more dramatic for Territory 4, which is the next line, 14, at fourteen hundred (1,400) -- or eleven (11) -- about a thousand nineteen dollars ($1,019) we see there, we go across and at point 2, instead of fifty-two hundred (5,200). There's something happening there. It may be that the formula is working well, that they've had a lot of good years of experience, and really they should be paying fifty-two hundred (5,200) because we reasonably expect, even though it's in that territory, that you're going to get serious losses, et cetera. So we've got to keep you at fifty-two hundred (5,200) and not only charge you a thousand dollars ($1,000).

But that underscores my submission that the current way to rate the passenger Vehicles for Hire without any serious losses may be material or materially undercharging them compared to what we reasonably expect to happen in that class of that size.

So there's -- for the taxis and some other companies, and it appears to be fairly generalized for the combined relativities which are the highest, that's what this table looked at.

Apart from the City of Winnipeg taxis, which are at point eight two (.82), a lot of them you see the numbers, if I go down to line (c), point two three (.23), point three five (.35), point two two (.22), point three nine (.39), point three nine (.39), a lot of them are paying significantly more than what the Raw Pure Premiums are.

I don't know what it's telling us, why it's telling that story, but it is telling that story for the people with high combined relativities. So we've got a recommendation that, in the Vehicle for Hire review framework, that this issue be looked at.

Next page, page 5-6, I put that table in because I thought, to me anyways, it helped me understand how this formula of a 10 percent weighting really helps us stabilize things. And Mr. Johnston explained that.

If we look in territory 1 for the taxicabs, from 2010 to 2019, you've got some years where you don't have any serious losses, some years where you do, some where it's big. If you didn't have this formula, it would go up and down.

But the other point is, passenger Vehicles for Hire are bigger right now than this grouping in Winnipeg. And if this is the experience in the last ten (10) years in Winnipeg for that size of grouping -- so the taxis are now smaller than the passenger Vehicles for Hire -- is it really reasonable to think, Oh, there will be zero serious loss claims over the next ten (10) years. I submit that the evidence is suggesting that's an incorrect assumption and underpricing the product.

Topic number 6, moving along fairly quickly to the end of my presentation, the "Framework Review." Two (2) questions we asked: What should the scope be? And, What are desirable time frames? So we've made recommendations.

We've noted that MPI -- and I questioned on this -- has expressed a desire to look at this over the next couple of years to be able to implement it into Nova, and it's our view that this is an excellent opportunity to deal with all this new information on an emerging market.

A TNC, so transportation network companies, including -- and I put quotes in there -- you know, the Skip the Dishes, Uber Eats, it's kind of a market transformation, even more so in COVID, and it's time to -- to look at how to properly price and categorize this -- these new market entrants in our insurance system.

To do that, Mr. Johnston explained that he needed information. So I asked questions, and that's (a). We suggest and recommend that there be an analysis as to whether MPI requires any regulatory or municipal bylaw changes in order to collect relevant information for the Vehicle for Hire rate design, because we've seen in Saskatchewan and BC there's a lot of weight put on kilometres driven model. So far, in my review of the Winnipeg bylaw, it only collects information on fares, just like the number of fares. So there may be some bylaw.

They're looking at the driver safety rating models. Let's look at it and see what best reflects risks and incentives to reduce risk. MPI has indicated they're open to that.

I've had discussion about the fleet program. Just a reminder, that program is not available to the small taxi cab owners, although the answer to undertaking I asked, Well, how long does it take on average to deal with that? Nineteen (19) minutes was the answer.

So if we have a couple of them that need -- would be able to benefit from that, it might be something that's worthwhile considering.

(d) "Metrics," so there's been discussion in cross-examinations about that. We think it would be useful to have that in the scope.

(e) "Time bands," there's been a discussion as to whether time bands work for passenger Vehicles for Hire and work for taxis. You'll recall the evidence where I showed, well, it's not equal --

it's supposed to be 25 percent in each on the risk. And I showed Mr. Johnston the two (2) tables and said, Yeah, I was surprised too that, basically, their accidents are occurring pretty much in the same proportion in the same time bands, but one time band was quite a bit lower. So that would be useful to look at.

Collection and analysis of relevant data in order to better understand the causes of high relativities for the taxis, (g), I've had some discussion with Mr. Johnston in cross-examination on whether it's appropriate to have passenger Vehicle for Hire in private delivery service -- like Uber Eats and Skip the Dishes -- in a different major class, because that's what's currently happening. The Uber Eats are in commercial. The Ubers are a private major. So to look at that.

And report in (g), I have put the recommendation on relevant data, looking at what's happening, where the accidents are occurring, when they are occurring; and then what parts -- that's (j) as in jump -- of the proposed VHF framework requires regulatory changes or PUB approval.

So these issues are more fully developed in the pages that follow with supporting references to evidence where there was a discussion about these issues and what MPI was trying to do in this framework review.

So at lines 21 to 27 on this page, you'll see what MPI had identified as things they need to address: significant differences between taxi and passenger Vehicle for Hire rates; significant differences in exposure; kilometers driven; and driver risk not properly captured. They want to get feedback from the transportation network companies, that's great, on perfect product offerings; and, finally, lack of incentives to improve driving behaviour, and we've discussed that also in our cross-examination so.

(BRIEF PAUSE)

MR. ANTOINE HACAULT: The last subject that I want to cover on this topic is at page 6-9. It's at -- the speed at which this is to occur. I asked questions on cross-examination as to what was realistically -- or realistic objectives on when things could be done.

And Mr. Johnston was cautiously optimistic that, assuming they had the cooperation of everybody, that they could do this review -- and I'm at line 18 on page 6-9 -- by April 22, which was kind of a key date they identified in questions from the Board Chair on the DSR program, especially if that's one of the things they're going to be looking at here. So we've put the extracts related to that.

I'm not going to get into a lot of detail about the fleets, except to say Mr. Johnston expressed the view, Well, listen, there's going to be volatility if you let small corporate owners go into the fleet program. My only point is, Well, if it's optional, let the customer decide. Why should you impose your values and your views on the customers? Let the customer decide.

The last topic is the program gap for small corporate customers. That's issue 7.

We've identified that gap specifically with respect to Vehicles for Hire, and just a reminder, in our application for Intervener status we explained it's not only taxis, we have accessible vehicles in -- in the pool.

There's a gap in the driver safety rating program and there's also a gap for the ten (10) vehicles not being available for the fleet program.

So page 7-3, we pulled up the chart that we had discussed in the evidence, and in the middle line -- or seventeen (17) -- there's -- under the heading "Individuals," there's a heading "Corporate DSR Level."

And this is an issue not only for passenger Vehicles for Hire, as you can see if we go across the line, there's fifty-eight (58) corporately owned vehicles. It's an issue for taxicabs. There's -- at this time, there was twenty-nine (29) of them. Accessible Vehicles for Hire, that's a larger issue for them. And also, limousines it's an issue for them. They cannot benefit from any kind of reduction, not the fleet program, if they aren't ten (10) or more; and not the current DSR rating program, which is based on the registrant of the vehicle.

In our view, that's a material gap and it's a discriminatory application of that incentive in not being available. And we have, accordingly, recommended that MPI be directed to make it available for those corporations on a registrant basis until we move to another system.

The other point is, if it's happening here, as I indicate at the very outset of my submission, although we didn't review it, it's probably happening in the commercial sector. That's where the Skip the Dishes are right now and other commercial driving units. They're probably people that have less than the fleet.

So the only option right now is if it's a single owner, so corporation ones one (1) vehicle, then you can designate somebody. But if it's more than one (1) vehicle, you don't even have that option. So it creates some discriminate -- that's a discriminatory factor in -- in how this program has been laid out in 2018.

Those are my comments with respect to the submission. I leave it for your reference as needed with the evidentiary matters. I think I've covered everything that I needed to cover at a highlight basis. And I thank the Board and all parties for their attention. Open to questions.

THE PANEL CHAIRPERSON: Thank you, Mr. Hacault. Mr. Gabor? Ms. Hainsworth, do you have any questions?

MS. CAROL HAINSWORTH: No, Madam Chair, I do not.

THE PANEL CHAIRPERSON: Thank you. Thank you very much. We'll take the morning break now and come back, please, at quarter to 11:00. Thank you.

--- Upon recessing at 10:33 a.m.
--- Upon resuming at 10:53 a.m.

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

CLOSING REMARKS BY MS. CHARLOTTE MEEK:

MS. CHARLOTTE MEEK: Good morning panel members, Interveners, and ladies and gentlemen joining us virtually today.

The Coalition of Manitoba Motorcycle Groups would like to begin by thanking the Board for the opportunity to act as Intervener in these hearings for the twenty-eighth (28th) year. CMMG would also like to take this opportunity to thank MPI for its collaboration with Interveners and open dialogue in this year's General Rate Application.

MPI has come to the Board this year requesting an overall rate decrease of 8.8 percent. While motorcycles, similarly to other major classes, have had similar experience in terms of collision frequency plateaus or declines, MPI is seeking a rate increase of 4.7 percent for the motorcycle major class while seeking rate decreases for every other major class.

CMMG will focus its submissions today on three (3) main topics: firstly, the investment strategy of the Corporation and the implications of that investment strategy on the motorcycle major class;

Secondly, the Driver Safety Rating system and the distinction between the registered-owner model versus the primary-driver model;

And, finally, the methodology changes implemented by the Corporation this year and the impacts of those changes on the rate indication for motorcyclists in Manitoba.

In 2017, the Corporation, with the help of Mercer Consultants, completed an asset-liability management study. The Mercer report recommended the exclusion of equities from the Basic portfolio and limited the portfolio to only fixed-income assets.

The Corporation acknowledged the significant differences between the makeup of the different major vehicle classes. More specifically, the makeup of Basic for the motorcycle class includes a 91 percent designation towards Personal Injury Protection Plan, whereas the private passenger class includes only a 23 percent designation towards the same plan.

The implications of the differences between the makeup of these various vehicle classes is significant when examining MPI's investment strategy. As the Board is aware, PIPP claims, which are generally long-tailed claims, are more sensitive to the changes in long-term interest rates. As a result of the motorcycle Basic makeup, declining long-term interest rates have a major impact on the motorcycle class. As other major classes have a much smaller proportion of PIPP, the impacts of declining interest rates are much less significant.

In Exhibit 16, MPI states that the ALM -- ALM study completed by Mercer precluded MPI from including equities in the Basic portfolio. It was acknowledged by Mr. Bunston at page 476 of the transcript that the ALM recommendations were based on the Corporation's board of directors' stated appetite for risk. That risk statement is that MPI had no appetite for interest rate risk in the Basic portfolio. As a result of this extremely conservative risk appetite, the ALM study suggested the exclusion of equities from the Basic portfolio entirely.

While MPI has boasted that the ALM strategy has reduced the impacts of changes in interest rates on the Basic portfolio generally, the same is not true for each vehicle class. The very conservative investment strategy has had a deleterious impact on the motorcycle major class in particular. Mr. Johnston, at page 481 to 482 of the transcript, acknowledged interest rate fluctuation was the second major factor that negatively impacted motorcycle rates in this year's GRA.

Mr. Johnston, on cross-examination, provided some explanation for the underlying reasons for this, at page 482 of the transcript, noting that the majority of claims from other major classes relate to physical damage claims. As a result of the nature of physical damage claims, the Corporation earns the premiums and will pay out for those premiums within a year or two (2). As Mr. Johnston said, money is in and out the door.

Mr. Johnston went on to explain that the resulting effect is that there is no real chance for MPI to earn investment income on those dollars. Motorcycle premiums, on the other hand, with such a high percentage of PIPP claims, create an opportunity for MPI to invest those premiums that are held for years and earn returns on them, thereby offsetting the premiums required for motorcycle ratepayers.

Mr. Scarfone made the point during his

closing submissions that the primary goal of the Basic portfolio is not returns, but rather is mitigation against interest risk rate forethasing -- sorry, interest rate risk forecasting. CMMG does not dispute this point.

MPI has a responsibility to mitigate against interest rate risk for all ratepayers, not just for major classes with the most ratepayers. The impact of declining interest rates on the motorcycle class -- not just in this year's GRA, but over the last number of years -- clearly demonstrates that MPI has failed in its own mandate.

The investment strategy adopted by the Corporation provides protections to some rate -- ratepayers to the detriment of one (1) class. Mr. Scarfone described the motorcycle class as unique. He commented that it was a class with only seventeen thousand five hundred (17,500) customers and with a completely different makeup than any other class, with such a heavy weight to PIPP. These characteristics should not preclude the Board from holding the Corporation to its only stated mantra -- mandate that interest rate risk must be mitigated.

Shadow portfolios, which were created as a result of Board Order 159/'18, provide some insight into how MPI has forgone the opportunity to mitigate interest rate risk on motorcycle rates with investment returns.

In Exhibit 16, MPI made the assertion that the inclusion of the growth assets in the Basic claims portfolio would not have had the desired effect of ameliorating the impact of interest rates on long-tailed claims liabilities. While MPI's assertion was correct when looking at shadow portfolios between March 2019 and March 2020, in Undertaking 11, MPI Exhibit 50 provides a different picture.

Exhibit 50 provides the returns of Shadow Portfolio 2 between August 2019 and August 2020. The returns in Shadow Portfolio 2 exceed those of the Basic portfolio. Despite the dip experienced by Shadow Portfolio 2 in March, the portfolio has experienced significant gains in subsequent months, ultimately outportform -- performing the Basic portfolio.

It is further noticeable that the performance demonstrated in Shadow Portfolio 2 is stifled by the J-curve effect being applied for six (6) months of the portfolio spread. On cross, Mr. Bunston confirmed, at page 493 to 494 of the transcript, that we would expect to see more positive returns in the third and fourth year of this portfolio. The returns of this portfolio would likely then be even greater, further exceeding the current Basic portfolio. Shadow Portfolio 1, which included real return bonds, also demonstrated superior returns than those earned by the Basic portfolio.

The Corporation was aware of the implications of the makeup of the Basic portfolio on long-term investment opportunity before implementing its current strategy.

CAC Manitoba, in the 2019 GRA, called an expert witness who voiced concerns with the ALM strategy. In Board Order 159/'18, at page 86, a summary of the position of CAC Manitoba in relation to the ALM study is provided. It reads as follows:

> "According to Mr. Viola, a mix of low-risk and risky assets together provides a better risk-versus-return tradeoff than assets concentrated in either one. MPI's determination of short-term stability would come at the cost of long-term opportunity and create risk of high long-term rates instability."

Despite these concerns, MPI proceeded

with its plan for the Basic portfolio that hedged against short-term risk at the expense of long-term risk.

The Board has a jurisdiction to determine whether the rate indication as requested by MPI is just and reasonable. While the Board cannot direct MPI to invest in a particular way, pursuant to Section 25(4) of the Crown Corporations Governance Accountability Act, the Board may consider any other factors that the Board considers relevant in its review of rates. The Board can take the investment decisions of the Corporation into consideration in its determination of the reasonableness of the rate indication.

It is CMMG's position that the Corporation had the opportunity to invest in a way that would mitigate interest rate risk for all classes of vehicles and chose not to do so.

MPI has pursued an investment strategy that is detrimental to the mitigation of long-term interest rate risk, which in turn is detrimental to the motorcycle class. As a result, it is CMMG's position that MPI should not be able to come to the Board this year and request a rate increase for the motorcycle class as a result of that investment strategy.

CMMG recommends that the Board reject the increase in the motorcycle rate indication which is attributable to reduction of interest rates.

I'd li -- like to move on to a discussion of the Driver Safety Rating system. The current registered-owner DSR model has been questioned by CMMG for years. The Board has expressed their concern over the DSR model on numerous occasions, and for years, the Corporation has sidelined this issue.

In this year's GRA, the Corporation candidly conceded, at page 1518 of the transcript, that the registered-owner model is a more fair model which would allow MPI to more accurately relate premium level to risk level.

Despite this, the Corporation does not appear to be in favour of the primary-driver model being implemented. At page 1576 of the transcript, counsel for MPI stated that the Corporation would not endorse a recommendation by the Board for the primary-driver model to government. The Corporation instead suggests that improvements be made to the current system to make it more actuarially sound.

While CMMG is supportive of improvements to the current DSR system to better align discounting methodologies to risks posed by insureds, these improvements will only take us so far. Mr. Johnston conceded this point at page 1587 to 88 of the transcript, where, on behalf of CMMG, the following question was put to him:

> "So what I hear you're saying is, within the limits or confines of the current system, you think the pricing is appropriate, but you are limited based on the system that you're working with."

Mr. Johnston responded, saying:

> "Right. So that is right. The current registered-owner model has discount levels. Those are not actuarially sound. So to that point, there's obvious spots where we're charging more or less than actua -- than actuarial rate would indicate. So that part is true. The potential for another model to do an even better job at that hasn't been explored, and nor could I price that way anyways."

Mr. Johnston can only improve the

registered-owner model within the confines of that model. Where another model is more actuarially sound, the registered owner model will always be limiting.

Mr. Johnston acknowledged at page 1,518 of the transcript that the primary driver model would have to be considered more fair, going on to explain that the primary driver model would provide better information, allowing him to more accurately price the product.

The potential revenues that MPI would earn from a primary driver model are significant. It is currently impossible to determine the actual revenue that could be earned by the Corporation as MPI does not collect primary driver information from insureds.

During cross-examination though, Mr. Johnston, at page 1,594 of the transcript acknowledged that there are three hundred and forty-seven thousand two hundred and sixty-one (47,261) merit eligible vehicles registered at the DSR level plus 15 receiving that 33 percent discount.

He acknowledged that those vehicles registered at the 33 percent discount represent approximately half of all merit eligible vehicles in the province.

During a review of CMMG-MPI-2-1, Mr. Johnston acknowledged that, if for every additional vehicle registered at the 33 percent discount level no discount was applied, MPI would earn additional revenue of $56.2 million.

Further, it was acknowledged by the Corporation that where for all discount levels, if every additional vehicle received no discount, MPI would earn in the range of $89.6 million.

In Undertaking 34, which is Exhibit 80, MPI provided a further calculation which allocated the additional vehicles across the discount levels in a simmer -- similar proportion to driver count.

This analysis provided that MPI would earn additional revenue of 37.9 million from just the DSR plus 15 level, with a total additional revenue for all DSR levels of 51.3 million.

While these calculations, of course, do not provided numbers based on the actual data in the province, they shed some light on the revenue that is being forfeit as a result of the current DSR model.

Concerns relating to the DSR model have been raised in the PUB hearings for several years. MPI has consistently deferred an examination of the model and, again, this year has used Project Nova as a reason that changes should not occur now.

It is CMMG's position that changes to the DSR system must coincide with implementation of Project Nova. These changes need to happen now.

As the Corporation has suggested, implementing the Nova system only to make changes to it immediately after its implementation does not make business sense.

Mr. Johnston, during his testimony with MPI counsel, made reference to the positive consequences seen as a result of the implementation of the current DSR model.

Mr. Johnston noted at page 1,202 of the transcript that, as a result of the current DSR system being implemented, that MPI saw improved experience in demerit drivers.

Further, Mr. Johnston also confirmed at page 1,379 of the transcript that rectification of deficiencies or inadequacies in the way MPI charges insureds relative to their risk generally improves trends.

A DSR model that is more appropriate -- that more appropriately designates premiums to risk will not only result in a pricing system that is more fair and equitable, but will actually have a noticeable impact on driving behaviour.

The registered owner model, as acknowledged by Mr. Johnston at page 1,584 of the transcript, does not provide a discounting framework that is based on the actual statistical risk of the driver's driving vehicle.

The primary driver model was acknowledged by MPI to be more fair and will allow Mr. Johnston to more accurately assign premium to risk. This is a win/win for the Corporation and for Manitoba ratepayers. Not only will revenues be increased, but collision frequency, especially by those insureds who present the highest risk, are likely to be reduced.

It was acknowledged by Mr. Johnston at page 1,555 of the transcript that the progression towards a more actuarially sound system of the DSR model would not prohibit MPI from implementing the primary driver model in the future.

CMMG supports the improvement of the current DSR model in the interim until the primary driver model can be implemented.

CMMG makes the following recommendations to the Board regarding the DSR system:

That the Board make a recommendation that the registered owner model be replaced by the drimary -- primary driver model.

In the alternative, to direct MPI to begin collecting primary driver data on each policy renewal over the next year and provide a pricing analysis of the primary driver model at the 2022 GRA, including a comparison between the primary driver model and the registered owner model.

Direct that MPI undertake to engage in public consultation on the primary driver model and, specifically, that MPI request public feedback on the concept that the current DSR system causes DSR positive 15 ratepayers to subsidize those ratepayers at demerit levels.

(BRIEF PAUSE)

MS. CHARLOTTE MEEK: I'd like to move on to talk about the methodology changes that the Corporation has applied this year.

Last year in Board Order 176/19, the Board commented on observed differences in loss development patterns between serious and other than serious losses.

It was noted that the Corporation had acknowledged that its current methodology did not recognize the distinction between these claims and that the Corporation undertook to review its process for this year's GRA.

It is significant that the comments from the Board were neither a recommendation, nor an Order. Despite this, the Corporation chose to implement those changes by applying separate loss development factors to the rate-making methodology this year.

As agreed by Mr. Johnston on cross-examination, loss development refers to the difference between ultimate losses that are recorded by an insurer versus what the insurer's latest estimate was.

The estimated ultimate total in this application was calculated by an external actuary. The ultimate total was then used by MPI to determine the appropriate loss development factors.

Despite MPI initiating a methodology change this year to separate out serious and other than serious losses, Mr. Johnston acknowledged at page 1,744 for the -- of the transcript that MPI did not have the external actuary provide estimated ultimate totals for serious and other than serious losses separately.

Mr. Johnston explained at page 1,743 of

the transcript that it did not make sense for the Corporation to use different ultimate loss estimates than were calculated in the actuarial evaluation and that, for reconciliation purposes, the same figures were required.

The Corporation instead implied LDFs from the serious loss ultimates which is calculated from the difference between the estimated ultimate total and the other than serious losses ultimate total.

When asked why the Corporation did not have the external actuary provide ultimates for serious and non-serious losses separately, Mr. Johnston conceded at page 1,762 to 1,763 of the transcript that they have no clue what will happen with injury claims in the first couple of years.

He indicated that:

> "As a result of the -- as a result, the Corporation's strategy is to look at multiple different methods and take the highest indicated number."

Finally, Mr. Johnston conceded that creating two (2) different triangles for loss development factors would give a more precise answer than the Corporation's current methodology.

The implications of this methodology change were severe for the motorcycle class. Mr. Johnston commented at page 2,205 of the transcript that the Corporation observed that impact, and then did its best to offset that impact with a further methodology change of excluding the last two (2) years of data.

The effects of applying separate LDFs for the motorcycle class had an impact of 8.7 percent of the required rate change, with an offset of negative 4.5 percent with the new weightings for indicated pure premiums, giving a final cumulative total change of 4.2 percent.

The implications of these methodology changes on other major classes was minimal when compared to the motorcycle major class.

The private passenger class experienced a .1 percent decrease. The commercial vehicle class received a 1.8 percent increase. And the public class received a .7 percent increase with trailer and off-road vehicles not being impacted.

A methodology change that so negatively impacts one (1) vehicle class should demand review and testing of the actuarial soundness of the calculations completed by the Corporation prior to implementation.

Board Order 176/19 commented on these changes and acknowledged the statements of the Corporation which expressed concerns over the sparseness of the data available to implement this change.

Mr. Johnston acknowledged that having separate ultimates for serious and non-serious losses would lead to a more actuarially sound loss development factor, as well as using separate loss development triangles that would give more precise results.

It is the position of CMMG that the implementation of this methodology change has not been applied using an adequately large data pool or with the use of appropriate ultimate totals.

Further, where a methodology change so negatively impacts one (1) major class with little benefit to the other major classes, it is not reasonable to apply the modification.

CMMG recommends that MPI be directed to remove this change from the rate-making methodology this year.

In the alternative, CMMG recommends that MPI be directed to not apply the methodology change this year but that a more thorough examination of this methodology and its impacts be undertaken in the 2022 GRA.

Subject to any questions, that concludes the submissions of the Coalition of Manitoba Motorcycle Groups.

THE PANEL CHAIRPERSON: Thank you, Ms. Meek. Mr. Gabor...? Ms. Hainsworth, do you have any questions?

MS. CAROL HAINSWORTH (via phone): I do not, Madam Chair.

THE PANEL CHAIRPERSON: Thank you. So, at this point, I think what we'll do is break for lunch, probably come back at 12:30. 12:30? I'm -- I understand that Mr. Williams is ready to go whenever we reconvene.

MS. KATHLEEN MCCANDLESS: That's what he has told me, so, yeah.

THE PANEL CHAIRPERSON: Thank you very much.

--- Upon recessing at 11:15 a.m.

--- Upon resuming at 12:35 p.m.

THE PANEL CHAIRPERSON: Good

afternoon.

Mr. Williams, would you please proceed?

DR. BYRON WILLIAMS: Yes, and thank you. Before you, you have CAC -- the PowerPoint which we'd ask be marked as Exhibit 8.

--- EXHIBIT NO. CAC-8: CAC PowerPoint

DR. BYRON WILLIAMS: And I'll just note that my late-night hyperbole editor fell asleep, so on the paper copies, there's a -- I hope a hand-made edit on slide 99, the second bullet, you'll see the word 'suffer' -- 'sacrificed' which should be replaced by 'disadvantaged'. So just for the record I wanted in case I forgot to do it as I -- as I moved along.

CLOSING REMARKS BY DR. BYRON WILLIAMS:

DR. BYRON WILLIAMS: On the cover page, there's probably the most stereotypical or cliche statement you could make in this extraordinary week, whether we're watching CNN or Fox News or whether we're in Code Red in Winnipeg.

But our client did want to acknowledge how abnormal, how extraordinary these times are, certainly in the insurance industry, but clearly in the -- in the human reality that -- that Manitobans and others face.

And our client thought that this was a critical theme for this submission because the -- as we turn to the second slide, the issues of how we deal with these extraordinary times and what is fair has come front and centre.

And from our clients' perspective, the two (2) critical or fundamental challenged (sic) before you in this GR -- General Rate Application is (1) we haven't returned to normal.

These are extraordinary times with resultant stresses for consumers, for forecasters, for very able forecasters like Mr. Johnston, and for formulaic Capital Management Plans. So that's one (1) of the great themes in our clients' submission in this hearing.

The other one is fairness, and arising out of the Driver Safety pricing review is not only important insight into DSR, but also critical insight into the relativities relating to territories and uses.

And that analysis, captured in -- in 'C' -- in MPI Exhibit 82 on -- on the last weekend (sic) of the hearing, is -- is raising important questions about the fairness of our rate-making system not only as it relates to Driver Safety Rating, but also to territories and uses.

And, of course, some of those fairness issues are ones that the PUB by itself can address; others, the answers to some of them lay outside this room on Broadway.

And if I was on the MPI board or MPI legal counsel, I might be asking, Why is this hearing so contested when there's an 8.8 percent rate change before the Board?

And one (1) of the reasons it's so contested, in our clients' view, is because it's clear that the MPI best estimate for the current year is palpably wrong amid Code Orange and now Code Red. And that raises the prospect of excess capital beyond the capabilities of the rule-bound Capital Management Plan to address.

A second reason why this hearing isn't easy is because our client is concerned, gravely concerned, about statements which MPI made in -- in Information Requests and then on the record which appear to walk back its:

"non-discretionary commitment to

transfer excess capital back to
capital ratepayers."

And our clients' confidence in the Capital Management Plan was stressed before those statements, but it is exacerbated as -- as our clients review the record, even the closing submissions of Manitoba Public Insurance, which seemed to spend an inordinate amount of time defending the prerogative of the -- of the MPI board in terms of the treatment of Extension excess capital.

As I adverted to on the previous slide, another reason on the third bullet on -- on page 3 why this hearing is contested is because, thanks to the hard work of the team that did the DSR, Driver Safety Rating, pricing review, starkly before this Board is an issue of unduly discriminatory rates for vehicle owners, especially at Driver Safety Rating level 20, and also critical issues relating to territories and uses.

And this is not an easy hearing because the registered versus primary driver issue which the Board has been seeking to resolve for at least three (3) or four (4) years is still outstanding.

And from our clients' perspective, this is not an easy hearing because it's hard to look at registered owners at DSR level 15 paying rates, vehicle premiums that may be more than 20 percent above their indicated costs, and worry about them having to wait perhaps a decade for just and reasonable equilibrium.

And certainly as our clients review the record, it is troubling to see an important class such as motorcyclists facing a 4.7 percent rate increase while the trend, on average, is an 8.8 percent in terms of rate relief.

Going to slide 4, the Board knows its job better than I could advise it on. We've just repeated the -- the careful balancing act that underlies just and reasonable rates in the public interest.

And on slide 5, we highlight the elements of the just and reasonable test as normally applied -- as always applied by this Board.

The observation we'll make about this hearing, though, is if we think of the primary focus of many hearings, whether Hydro or MPI, it has been about ensuring that activities are necessary and prudent and looking at financial targets.

If you think back to the -- the dialogue before this Board over many years related to

MPI, this hearing is different as we turn to slide 6 because the focus in this hearing is on forecasting, rate discrimination -- or at least allegations of that, price signals, and the implications for just and reasonable rates.

As the Board no doubt expected when it adopted the 100 percent MCT as a two (2) year pilot project, there's less debate in this hearing about those financial targets and much more about forecasting, rate discrimination -- alleged -- and pricing those.

On to the next slide. The first question from our clients' perspective -- and we note that it was barely addressed in the closing submissions of MPI -- is: Can we conclude that the MPI best estimates for the '20/21 year -- that's what we say was barely addressed in their closing submissions -- and the '21/'22 year are reasonably reliable?

And certainly when it comes to the October 9th financial update for the '20/'21 year, the current year, our clients say we cannot rely on the naive forecast presented by MPI because it's already been overtaken by the unforseen duration of the pandemic and its impact on collision frequency.

And that suggests that the projected excess retained earnings at year end are understated at a time of great need for Manitobans.

In our clients' respectful view, and we'll come to this later, in terms of the best estimate for the current year, naive is off the table. The real debate is -- is a -- the third quarter COVID-19 scenario or the fourth quarter COVID-19 scenario.

And we are deep into the third quarter COVID-19 scenario, we're in code red. And the Board saw on Tuesday morning, when we went through the MPI updated data in terms of collision frequency, fairly flat into August and then starting around September 18th, declining away from the five (5) year average frequencies.

And our clients cannot conclude that the Corporation's best estimates for the 2021/22 year are reasonably reliable either. It is highly uncertain whether we will return to normal for the 2021/22 year, which suggests that the PUB may wish to play a more assertive monitoring role informed by monthly MPI updates.

But to be clear about the 2021/22 year and MPI forecasts, while we can't have a lot of confidence in them, our client cannot suggest an alternative better alternative.

The best estimate may be the best we have for the 2021/22 year. And that's even with the ongoing uncertainty that we have regarding PIPP, touched on in Board Counsel's closing statements in terms of PIPP's severity trends.

On Slide 8, we go back to that theme of things are not back to normal. And on this slide, we simply note the ongoing financial and social challenges of a number of Manitobans and Mr. Johnston, quite reasonably, agreed that those are ongoing.

Where it relates directly to insurance though, is on Slide 9, where we see things are not back to normal. Many Manitobans are continuing to work at home, and that Google data that MPI, the mobility data that they shared with us, Exhibit 53 if -- if my memory and my weak eyesight reminds me, that shows that workplace mobility patterns remain significantly lower than pre-pandemic levels and have yet to rebound beyond the pre-pandemic levels.

So on Slide 10, we dig into this a bit more in terms of things not being back to normal. Many Manitobans continue to work at home, and they're not going back to work in the near future.

And if you'll recall the conversation

on day 1 or 2 of the hearing, that CAC Manitoba had with Mr. Giesbrecht, just take the example of the MPI employees. And we asked them back on October 19th or 20th, are they going back to work next week, and the answer was they don't expect so.

Are they going back to work before January 1st, 2021? Mr. Giesbrecht said it's hard to vision they'd be back before Christmas.

That's a microcosm. More Manitobans working at home, we can take judicial notice of that, but even the examples of Manitoba Public Insurance, that's why our clients strongly believe that the naive scenario, which assumes no COVID impacts beyond August 31st, 2020 is not viable.

And even looking at the MPI situation, it strongly suggests that the Q3 COVID-19 or Q4 COVID-19 scenarios for 2021 are far more likely.

Thank you. Next slide, please.

Going back to Exhibit 53, it's not just workplace mobility patterns, but MPI's reported claims counts. And as MPI exhib -- pointed out in Exhibit 53, those track very closely with both remaining lower than pre-pandemic levels. Next slide, please.

One (1) of our clients' concerns in the emergency rate rebate was that while the impacts on claims costs was quite palpable at the height of the -- the lockdown, they weren't sure what would be the impacts on premiums.

And what has been quite interesting and important for the financial health of the Corporation and for its excess capital position, has been the asymmetric effect of COVID-19 on costs, revenues, and risks.

And MPI put this quite cogently in CAC-2-4b, it has shown that claims costs are tracking significantly below budget in the current year, while there has been only minor impacts to premiums.

And if we turn to the next slide, we can see how pandemic influence mobility patterns have had a material downward effect on costs. There are closely correlated relationships between collision claims, incurred frequency and ultimates, and property claims.

And if memory serves me right, I believe MPI has described that as a perfect correlation, as well as close relationships between claims expenses.

As collision claims frequency goes down, in near lock steps so do property claims incurred, with also a significant effect on claims expenses.

Mr. Johnston has been very careful and it pains to point out that it is more challenging to -- to disentangle the relationship between the Personal Injury Protection Plan and -- and PIPP -- and collision frequency. But as he does observe, over time, there also is a relationship between collision frequency and PIPP.

And at the bottom of this slide, you see Mr. Johnston saying our assumption that if collision goes down 20 percent, PIPP will go -- down -- probably go down 20 percent as well. And he thinks that con -- that continues to be reasonable.

Not as tangible or direct, as we see with property, but there is that effect. And that's important from our clients' perspective because as we look at those COVID-19 third quarter or fourth quarter scenarios that MPI kindly shared, they don't include savings from -- from PIPP. You know, MPI is being duly cautious, but that gives us -- our clients more confidence in the robustness of those numbers.

At slide 15 our client discusses the asymmetric effect of COVID-19 on risks. And this is an excerpt from the financial condition test of Manitoba Public Insurance, the former Dynamic Capital

Adequacy Test.

And here MPI points out that there continues to be much uncertainty in the forecast for the remainder of the 2020/21 year, but MPI believes that these risks are either potentially favourable, i.e., less claims than expected, or adequately modelled in the FCT report, i.e., the equity decline risk.

Our client reiterates that their view that the naive forecast is not the best estimate for 2021, and I just want to be clear, those are the -- that's the -- the language MPI used. We're not taking issue with the interest rate element of that, we're taking issue with its assumption that there will be no COVID-19 impacts on claims incurred beyond August 31st, 2021.

And on this quote on slide 16, Mr. Johnston captures the uncertainty, how we're in uncharted territory, and we clearly don't know what the forecast is going to be for COVID-19 and its impacts on MPI, and CAC Manitoba concurs.

It is worthy of note on slide 17 that MPI struggles to forecast the implications of COVID-19. Take your mind back to the emergency rate application in April or May. It seems so long ago now. Built into the MPI forecast then was that the -- as of mid-May, that COVID-19 impact on -- on claims incurred would dissipate. And, obviously, as we talk about on slide 17, that has not occurred.

On slide 18, you see again, just a reminder, that built into the naive forecast update for the current year is a reversion to normal by August 31st, 2020.

Slide 19 makes the point -- this was at the very start of the hearing -- October 19th -- that collision frequency patterns, even by then, six (6) weeks after the naive forecast assumed there were no lingering COVID-19 impacts still aren't normal.

In the early days of the hearing, we were talking about collision frequency being approximately ten (10) to 15 percent below the five (5) year average.

Slide 20 just notes that, obviously, the reality of code orange wasn't built into the naive scenario forecast.

And slide 21 just makes the point that, in the naive forecast, the -- it was as if code orange in Winnipeg, which seems so long ago -- what we were in as of October 19th never happened. It would be excluded from the original pre-COVID-19 forecast.

On slide 22, we just make the palpably obvious point that we're in code red. And that while we're appearing in person at this hearing, Manitobans are being told to stay home. And so, the impacts that MPI expected to dissipate in September, which were still there in October, which were still there, are even more tangibly here in -- as we speak in November. Well into the third quarter.

Next slide, please. And on slide 23, we have an excerpt from the transcript on November 3rd. And this is the discussion going through Exhibit 53. And following those claims frequency patterns, if you'll recall -- we don't need to go there -- but there was a sharp drop in May, then there was kind of a fairly steady period for a number of months -- between 10 and 20 percent below the five (5) year historical average. And then, towards the out -- the end of the graph, as we pass September 18th, again a steeper decline in late September, moving into October.

And Mr. Johnston, far more able than I was to read those figures, confirmed that as of August 28th, 2020, reported collision claims were between ten 10 and 20 percent below the five (5) year average. Clearly still a COVID impact.

After, though, there were still some weeks where the 2020 reported claims were between 20 and 30 percent below the five (5) year average. And if you'd direct your minds to the time after September 18th, there you see those 2020 reported collision claims being consistently 20 percent or more than 20 percent below the five (5) year average, extending into October. A clear, tangible, real COVID-19 impact.

Slide 9 -- slide 24, excuse me. Again, that's from the November 3rd transcript. Still both reported claims counts and workplace mobility patterns lower than pre-pandemic levels.

So in slide 25, we talk about how, in our clients' view, the COVID-19 fourth quarter estimate is the best estimate.

From our clients' perspective, we drop naive off. It's between the COVID-19 third quarter and the COVID-19 fourth quarter.

And we are well into the third quarter with higher than August impacts on collision frequency as compared to the five (5) year average.

We are in zone red for territory 1, by far the largest territory in terms of registered vehicles. This panel can take judicial notice of the fact there's a -- a dialogue contemplating curfews and it can also take fact -- note of the evidence of MPI that its workforce is just one (1) example. It's not really realistic to contemplate them coming back before Christmas.

From our clients' perspective, deep into the third quarter with more tangible COVID-19 impacts on claims frequency than back in August, it is most reasonable to assume a COVID-19 fourth quarter scenario.

Just a point -- a deft piece of examination by My Learned Friend, Board counsel. There have been some changes in severity trends during COVID-19. And we'll leave that with you for your -- to discuss between yourselves and your actuarial team and your -- and your lawyers.

But Mr. Johnston here is pointing out that that change in terms of severity trends during COVID-19 reflected, in part -- at least as we understand this dialogue -- the under representation of urban high frequency lower severity claims.

Mr. Johnston quite candidly pointed out, it's not so much an increase in rural as it is a decrease in the city and a change in that distribution.

Turning to slide 27, we do want to turn to the test year in terms of COVID-19 impacts. And we want to find common ground between Manitoba Public Insurance and CAC (Manitoba) on those forecasts. Common ground that it's highly uncertain what's going to happen.

And this quote from Mr. Johnston is, we think, very apt. He describes a return to normal scenario as the best guess -- sorry, that may be me interpreting his language. That's how I interpret it. But it's only a guess.

And here, you see, in his actual quote, on the third bullet on slide 27:

> "This is an outlier year. In our view, our best estimate of '21/'22 today is the pre-COVID forecast. But being reasonable, I only think that now. Three (3) or four (4) months from now, it could get worse and it would be hard to make that statement. But as of today, that's what MPI believes."

These are our clients recommended findings in terms of the forecasts for the '20/'21 and '21/'22 year.

First of all, we recommend that the naive forecast should be rejected as the best estimate for the 2021 year. And our clients think that is critical because that best estimate drives the Capital Management Plan calculations. They submit that the COVID-19 Q4 estimate should be accepted as the best estimate for 2021. And that MPI's return to normal forecast should be accepted as the best estimate for '21/'22 at this time.

They recommend that this order -- that his Board Order, first, that MPI continue to provide regularly monthly updates of COVID-19 impacts until March 2021.

Secondly, as compared to the updates we received in the summer, that they should present both accounting budget variance -- which we got over the summer -- and actuarial world views, i.e., a variance from the five (5) year frequency or otherwise.

And we don't have to say this, the Board doesn't have to order it. It always has the right, if there is a material change in circumstances in these highly abnormal times, it -- by virtue of the statute -- reserves the right to review and vary 2021/'22 rates if it identifies a material change.

Our clients want to highlight for the

purposes of the MCT -- of the Capital Management Plan calculations that a Q4 COVID-19 or Q3 COVID-19 estimate will have a material effect on excess retained earnings.

At the time of the General Rate Application filing, MPI was projecting about 78.6 million in net income for the current year. Its October 9th update provided an estimated 29 million positive variance, this is in Basic ultimate claims incurred, from mid-May to August 31.

And we highlight that because, if you think back to the initial General Rate Application, MPI identified roughly a $43 million impact on -- of COVID-19 on claims.

When we asked them to replicate that analysis up to August 31st, they came up with another 29 million positive variance.

Mr. Johnston did remind us on, I think, November the 3rd that there was a lot of COVID-19 impact there. He said we could debate how much, but clearly a material lingering COVID effect.

That naive forecast, of course, assumes no pandemic impact beyond August 31st, 2020. And we see it's been fundamentally dated by lived experience.

But if there was no COVID-19 impact

after August 21st, the naive forecast, MPI expects net income to be around $104 million. And that's what it built into the -- its analysis of the Capital Management Plan, allowing it, if that was the level of excess returns, to release those excess returns over and above 100 percent MCT, Minimum Capital Test, over a three (3) year period.

The second last bul -- bullet highlights the expectations of Manitoba Public Insurance if the COVID-19 third quarter scenario is the more reasonable scenario, the better estimate.

In that case, Manitoba Public Insurance expects net income of 127.5 million for the current year, leaving it some 88 million over the -- the target fina -- financial target MCT and leaving it unable to achieve a hundred percent MCT over a three (3) year release period with the 5 percent. It would take about 6 -- a bit over 6 percent to achieve a hundred percent MCT within those three (3) years.

If what our client expects -- or submits is the most reasonable scere -- scenario, the fourth quarter COVID-19 impact, that's the last bullet on that page, then we're looking at an MPI expectation of 147 million net income, 110 million in reserves, excess capital, over the hundred percent MCT target, and that's after the emergency rebate.

And at those levels, 127 to 128 percent MCT, one could not achieve 100 percent MCT over three (3) years with that 5 percent cap. You'd require a 6.84 percent annual release. Next slide.

From our clients' perspective, that 5 percent capping rule is interfering with the timely return of excess capital at a time of substantial hardship for many Manitobans.

Slide 31, I want to have a bit of caution on this page. Our -- in terms of looking at those Q3 COVID-19 and Q4 COVID-19 estimates, our clients are -- are confident that there have been no PIPP savings built into them, an element of conservatism.

We aren't clear whether there's been any property savings built into them, although we -- we cite from the transcript if -- because Mr. Johnston, in cross-examination, wasn't sure, but that, if they didn't include property, there would be some additional underestimation of the savings.

Again, perhaps more able legal counsel would have -- would have taken an undertaking on that, but that's the state of our knowledge. We know that the Q3 COVID-19 and Q4 COVID-19 estimates include estimates of reductions in collision frequency. We're uncertain about what's happening with property. And we're certain that they exclude PIPP savings.

Next slide, please.

(BRIEF PAUSE)

DR. BYRON WILLIAMS: Our client has struggled with the implications of COVID-19 for the Capital Management Plan.

And on this slide, being slide 32, we -- we cite Manitoba Public Insurance, indicating that it does not anticipate any impacts by COVID-19 on its Capital Management Plan unless significant COVID-19-related claim saving persists much longer than anticipated or unless a second wave of COVID-19 prompts a mass shutdown.

Just stay -- go back to that slide for one (1) second. Clearly, there is a persistence of claim savings. We're clearly in a second wave. One would not yet characterize it as a mass shutdown but, from our clients' perspective, there is a real tangible impact on claims incurred at this point in time. Next slide, please.

So, our -- our client in the next few

slides is going to try and work through what's going on with the Capital Management Plan, its technical elements, its philosophical elements, and will certainly come to a candid submission by Mr. Johnston that it's under significant stress, challenged to handle the -- the reality of what we've been in since March of 2020.

Clearly, the Capital Management Plan was accepted by the Public Utilities Board for a two (2) year trial period. And, from our clients' perspective, we're clearly in the trial period when we looked at the releases for the purposes of the emergency rebate.

In our minds, we're bound by the PUB-approved target of a hundred percent MCT. Our clients may disagree with it, but that's the Board's decision in its ultimate discretion. We're in the trial period. Slide 34.

When our clients look back and -- and reflect upon the Capital Management Plan, these are, on slide 34, five (5) key elements. A critical one was "compulsory," "nondiscretionary," a commitment by MPI to transfer -- transfer excess reserves to the Basic program at fiscal year-end.

And if you're looking for a citation

for that, that's the dialogue between Mr. Gabor with Mr. Geibrecht -- Giesbrecht quoting back to Manitoba Public Insurance some of the language it used in last year's General Rate Application, including in its closing arguments.

Another key technical element of the Capital Management Plan is the acceptance of the hundred percent MCT target.

A third key element was no more rebates; that was central to the Capital Management Plan.

A fourth key element, in our clients' understanding of it, was rate stability would be enhanced by releases of excess capital over a three (3) year period towards a hundred percent MCT or, if there was a deficit below that hundred percent MCT target, a five (5) year plan to address those shortfalls.

And if you look at how Manitoba Public Insurance has described this process in terms of the 5 percent cap, it describes it as:

"In order to manage rate volatility
-- which is the main purpose of the
RSR -- the CMP uses a 5 percent cap
on capital release provisions in any

given year."

Next slide, please. Those are the technical aspects of the CMP.

As our client backs away and thinks philosophically what is it all about, again, one (1) key element and a really important element, from our clients' perspective, was that recognition by Manitoba Public Insurance that Basic and Extension are intertwined not only in the eyes of the Manitoba public, not only in the -- the eyes of the business where they enjoy a statutory monopoly on one side and a market dominance on the other, but in the eyes of MPI and for the purposes of the regulatory process. And in our clients' view, that was an important implicit recognition by MPI that -- that em -- Extension's dominance would not exist without Basic.

A second key philosophical underpinning of the Capital Management Plan, from our clients' perspective, was the recognition by mi -- MPI that excess capital, whether in Extension or Basic, should be returned to Basic ratepayers.

And so in the tradeoff, in the balancing act, those are the key tradeoffs for consumers, recognition that they're intertwined, Basic and Extension, for regulatory purposes and that excess capital would be transferred back.

But there were tradeoffs. Those tradeoffs in -- in that balancing act were -- these were given in exchange for significantly more-conservative financial targets for Basic, an end to what MPI considered to be disruptive rate rebeats -- rebates, and enhanced rate stability through the 5 percent annual cap on releases.

(BRIEF PAUSE)

DR. BYRON WILLIAMS: A point our client wants to emphasize on the Capital Management Plan and the contemplation of releases is how crucial the year end of the current year is in the design of the Capital Management Plan.

And on slide 36, you see a conversation with Mr. Johnston where he acknowledges that the end of March 2021, the year end, was an important factor in -- in the determination of the corporate's ultimate capital release proposal.

And as Mr. Johnston says:

"We're just updating our forecast as best estimates and letting the Capital Management Plan kind of run

its course and produce the indicated
bill to release."

Stay on that slide just for one (1) second, Ms. Schubert. Thank you.

And from our clients' perspective, that just highlights the importance of that best-estimate determination for the Capital Management Plan.

On slide 37, there's a conversation from October 19th between CAC Manitoba and Mr. Johnston, and he notes that -- that that best estimate, as of the fall, runs both ways.

Remember when MPI brought in their rate Application in the spring -- or, in the summer, it had a provisional capital release. It was provisional upon the determination of best estimates in the fall.

And as Mr. Johnston candic -- candidly agrees on slide 37, provisional runs both ways. If MPI was having adverse negative results, it could contemplate a smaller capital release. If it was having positive results, that provisionality, as Mr. Johnston agrees, could be amended with a larger capital release, hence our clients' focus on whether MPI's best estimate for the -- the October 9th update is truly the naive or whether it -- it is more properly the Q4 or Q3 COVID-19.

(BRIEF PAUSE)

DR. BYRON WILLIAMS: So from our clients' perspective, that's the Capital Management Plan in theory and in philosophy. That theory and philosophy, looking so clear on paper last year, doesn't look a lot like what's happened in the current year.

And on slide 38, our client highlights three (3) things. One (1), as canvassed in the cross-examination of PUB ca -- PUB counsel, excess capital in Extension at year end of '19/'20 wasn't transferred to Basic. Part of the COVID-19 emergency response, MPI chose to go a different way.

The first return of excess capital to captive ratepayers took the form of that much-maligned rate rebate, 110 million in total, not being bound by the capping rule. And in this hearing, we've heard MPI starting to walk back its Capital Management Plan commitment by asserting its right to pre-collect excess retained earnings from captive Extension ratepayers in order to fund capital projects. And just think of how much time in closing submissions MPI legal counsel spent defending that prerogative.

And if we can just go back to that

slide for one (1) second.

Ultimately, the Board can't force MPI to transfer from Extension to Basic, but the zealous defence of that right in this hearing and in closing argument, from our clients' perspective, raises significant concerns about the philosophical underpinning of the Capital Management Plan.

Slide 39 there -- this has been well canvassed in this hearing. We just see the first inkling that MPI was contemplating or consider it conceivable that Extension profits could be utilized for purposes other than transfers to Basic.

Slide 40, you see a conversation CAC had on two (2) aspects. One (1) was asking whether MPI, to its recollection, remembered bringing to the attention of the Public Utilities Board or others that it was conceivable that Extension profits could be used for purposes other than transfers to Basic, and Mr. Giesbrecht could not recall that diskish -- discussion.

At the bottom of this page, though, our client asked whether in terms of corporate policy for MPI, whether it would be accur -- accurate to say that MPI doesn't have a corporate policy which prevents it from using excess capital in Extension for purposes other than transfers to Basic, and Mr. Giesbrecht was not aware of any policy to that effect.

(BRIEF PAUSE)

DR. BYRON WILLIAMS: From our -- our clients have asked me to reiterate their concern that the walk-back of the "non-discretionary" Extension transfer commitment is a critical factor in their concern that excess capital will either be stranded or dissipated in Extension.

(BRIEF PAUSE)

DR. BYRON WILLIAMS: Slide 42 describes the Capital Management Plan as "battered and bruised." Certainly, in this year -- being the '20/'21 year -- and next year, the idea of rate stability when it comes to rebates and releases has become a myth, quite properly in our clients' perspective.

And on the first bullet on slide 42, you see the ebullient opening statement of Manitoba Public Insurance highlighting the roughly $200 million in returns to ratepayer in the current year.

And you will not hear our client objecting to that, but that is hardly the kind of rate stability contemplated in the Capital Management Plan. From our clients' perspective, rebates like that are not a bad thing; they're a good thing, provided they're prudent. But that is not the concept of rate stability articulated in the Capital Management Plan.

(BRIEF PAUSE)

DR. BYRON WILLIAMS: Our client asked, on slide 43, whether this decision to kick rate stability to the curb was a failure, and Mr. Johnston quite properly said no. In his view, MPI did the right thing. But he observed in the underlined quotation under the first bullet, that the types of models, the Capital Management Plan, are under stress right now because the situation is so unusual.

So it wasn't a failure, it wasn't a bad decision by MPI to release this money, but it underscores the frailty and inflexibility of the existing Capital Management Plan, if it's rigidly applied.

CAC Manitoba agrees that MPI acted appropriately in the initial wave of the pandemic, and it noted the commitment on Slide 44 of:

"MPI Board members supporting the rebate as it expedited customers receiving excess capital in a time of need."

The underlining is our clients.

So this $200 million in the -- in the space of a -- a very tight time frame, our client agrees that those actions are appropriate in light of the pandemic emergency, actuarial evidence, and excess capital.

But that's what mystifies our clients, it makes the failure of Manitoba Public Insurance to respond to the evidence of ongoing impacts of COVID-19 in the third quarter so mystifying.

And our client observes that a commitment to the 5 percent cap leaves excess capital in the hands of MPI Basic at a time of acute customer need.

We don't need to go back there, but if you think of the language of the MPI Board back in April, about expediting customers receiving excess capital in a time of need, our clients draw strong analogies to where we are today.

And our clients interpret the MPI

choice not to seek a greater release for ratepayers in light of its -- the ongoing impacts of COVID-19 in its October update is an example of an inflexibly applied cap to promote the myth of rate stability.

(BRIEF PAUSE)

DR. BYRON WILLIAMS: These are tough times. People are unemployed, entrepreneurs are closing their doors or laying off staff, and our client asks, in light of the material balance that MPI is receiving via the pandemic, is it appropriate to ignore the best evidence of an ongoing COVID-19 impact and to inflexibly apply the 5 percent cap.

And there's two (2) challenges, just to go back to that slide for a second.

It is clear that the naive forecast is not the best estimate for this year. And then rigidly applying the 5 percent cap in -- in light of that reality cannot be reconciled in our clients' views with what MPI's did in the spring, or what they're contemplating even with the 8.8 percent rate change.

This is not the time, in our clients' view, to inflexibly stick to the 5 percent cap on releases.

Slide 47. Our client has canvassed four (4) different options, aimed at the objective of returning excess capital to consumers on a more timely basis at a time of acute need.

And I'll underscore that these options are premised on our clients' view that the Q4 -- fourth quarter COVID-19 is the best estimate, but the same analysis would apply to our clients if -- if the Board accepted the Q3 COVID-19 best estimate.

One (1) option our clients contemplated was accepting the MPI release proposal with the 5 percent cap, the status quo. But from our clients' perspective, that would take too long to return excess capital to Manitobans at a time of need, especially in light of the musings of Manitoba Public Insurance about other roles or purposes for excess capital within Extension.

A second option was to, essentially, follow the Capital Management Plan process, but release the 5 percent cap constraint. I think it's MPI Exhibit 29 that looks at unconstrained caps, and if you were assuming a fourth quarter COVID-19 scenario, that would be a 6.84 percent release.

And so the relax cap constraints in option number 2 would be aimed at returning excess capital over the three (3) year period.

In our clients' view, if one is -- is really focussed on respecting the spirit and intent of the Capital Management Plan, it's a bit better than a 5 percent cap. It's less costly than a rebate, but it does not meet the objective of returning excess capital at a time of need, as well as a rebate.

The third option our client looked at, and its preference, is the -- to order a second COVID-19 rate rebate by cheque.

Of course, leaving it open for MPI to propose creative ways to return the rebate other than a cheque. In our clients' view, this would be more timely than a rate release, and it would be the best option to return excess capital on a timely basis, although mailing costs are a drawback.

Ms. Schubert, I wonder if I can get you to focus on footnote 42 for a second.

Our client does urge, in footnote 42, that, you know, if the Board decides to accept option 3, which our client strongly reminds, put it back in MPI's creative hands. Is mailing out rebate cheques the only way to do a rebate? Are there other least cost alternatives?

One (1) option, conceptually, would be

a demand-pull approach, putting a credit on consumer's accounts, and leaving it up to ratepayers whether they chose to have that paid out, that negative balance, or leave it in -- in the account until renewal.

I can make a guess what my -- my children would do with that and what I would do with that. I'm not sure what my -- my spouse would though.

Another option, going back to -- thank you, Ms. Schubert, we can go back to the...

Option 4 was a -- a second COVID-19 rate rebate to be credited to consumers at the time of renewal. So we call that a rebate at renewal time, that lump sum, but over the year of staggered renewals.

Our client thought conceptually this was an interesting idea. They're not confident that it's technically feasible. They see it, at best, as a second best option, a way to return excess capital on a more timely basis, but not as immediately as getting money into the hands of Manitoban -- tobans, excess capital when they need it the most.

Slide 48. Our clients recommended order with regard to the treatment of excess reserves, as you may have guessed, our client rejects the status quo in the relaxed cap constraint.

It feels option 4 would be reasonable, if technically feasible, but it strongly prefers option 3.

And in terms of a calculation of what that rebate would look like, it recommends a second COVID-19 rebate, by cheque, or MPI suggested alternatives of $70 million, which our client has approximated by taking the difference between the fourth quarter COVID-19 best estimate of $147 million in net income and subtracting the net income projected at the time of the GRA filing of $78.6 million, roughly in the range of -- of 70 million.

Such an estimate would still be projected to leave excess capital over the 100 percent MCT target at '20/'21 year end. But from our clients' perspective, it best meets the objective of shed -- sharing the COVID-19 balance in net income with hard-pressed Manitoba consumers.

Just as we tease out this analysis a bit more, and in strongly supporting the concept of a second COVID-19 rate rebate, our client notes, as Mr. Johnston did, that we're not at a negative fifty (50) variance in claims frequency as we were in March.

But think back to Exhibit 53 where it appears, quite clearly, that we'd been at minus twenty

(20) frequency variance in recent weeks, and Winnipeg is in Code Red.

MPI might argue that that excess capital is prospective -- it's not in the bank yet -- but our client notes that is at the very heart of the Capital Management Plan, relying on that best estimate as of October 2020 to make the decision on the -- the level of release of excess capital.

And we captured that discussion -- we do not need to go back there -- but at PowerPoint slide 36 and 37. And Mr. Johnston agreed that the provisional Capital Management Plan release should run both ways, both in negative times and in positive times.

On slide 50, again supporting its submissions in favour of a second COVID-19 rebate, CAC (Manitoba) observes that MPI's continuing to enjoy lower than expected claims incurred, and we're very thankful for that. But we're not thankful at this time of tough personal circumstances for far too Manitobans.

It notes that the Capital Management Plan inflexibly applied is just ill-suited to these times, and Mr. Johnston noted that. And from our clients' perspective, the 100 percent is already a highly conservative capital target.

Our clients respect it. That's the Board direction that would still be, on best estimates in their view, excess capital over and above 100 percent MCT, but those are additional factors considered by our client. Next slide, please.

And perhaps I've belaboured this point, but I'm trying to convey our clients' strong concerns that a three (3) year release plan is untenable when Manitoba Public Insurance is before you vigorously defending its prerogative to walk back its so-called non-discretionary capital management commitment of Extension transfers to Basic.

Our client in the next number of slides wants to turn to what they think is the second great theme of this hearing: How do we address issues of fairness regarding our rate-making system flowing from the recent analysis of the relativities between Driver Safety Rating, territories, use, and rate groups?

Related to that is: How do we address the primary versus registered driver issue while recognizing the respective roles of the Public Utilities Board, Manitoba Public Insurance, and government?

We talk a lot about just and reasonable

rates and sending appropriate price signals in the context of these hearings. And as Mr. Johnston reminds us, we do have to be mindful of other policy considers -- considerations including accessibility for high-risk drivers.

In a way, that's why Manitoba Public Insurance was granted its monopoly in the first place, or one (1) of the drivers.

But if we focus on the concept of just and reasonable rates and proper pricing signals, we do that and we want a rating system that reflects the risk that vehicle owners and drivers bring to the system because it's generally regarded as fair.

They might complain a bit, but people are prepared to pay for the risk they bring to the system, but they tend to become unhappy if they're being asked to cover part of someone else's costs or risks. They want to pay their fair share.

And we place such emphasis on pricing signals and just and reasonable rates in this hearing, rates that reflect costs, because those rates that reflect cost and risks send an important message about the value of risk-reducing behaviour. They help keep Manitobans safe.

In the next number of slides, our

clients are going to focus on four (4) critical issues of fairness from the perspective of -- of the private passenger class.

The first is findings arriving -- arising from the Driver Safety Pricing Review minimum bias procedure regarding Driver Safety Rating levels. The second, of course, is registered versus primary drivers, but the third, in our clients' view, is the sleeper in this -- this hearing from Exhibit MPI-82, which are the findings arising from the Driver Safety Pricing Review relating to other relativities including territory and use.

And our clients' fourth critical issue that we'll focus on in terms of fairness reflects the need to address the outcomes of the pricing review on a timely basis while ensuring that the PUB, MPI, and government can have an orderly dialogue on the issue of registered versus primary drivers.

Lest our friends from the motorcyclists, the CMMG, or the Taxi Coalition think we've forgotten them, later on in our submissions we'll have some brief comments about those as well.

On slide 55 -- and, Madam Chair, could I just get a drink of water? Thank you.

(BRIEF PAUSE)

DR. BYRON WILLIAMS: For those kept in suspended animation, I'm returning to slide 55. And our clients want to focus on this slide on the key findings from the Driver Safety Pricing Review as they relate specifically to Driver Safety Rating levels.

(1), discounts and surcharges do not reflect the relative risks of drivers with different Driver Safety Rating levels.

(2), relative to the risks their registered vehicles bring to the system, Driver Safety Rating level 15, registered owners, are paying at least, I should emphasize, 20 percent too much.

(3), there appears to be a material cross-subsidy of other vehicle owners by Driver Safety Rating levels 11 to 15, registered owners.

4) Addressing the cross-subsi -- subsidy rapidly would require very significant increases, just using the base DSR level zero as an example, 23 percent.

I'm going to turn for a moment to the findings of the PUB-related -- sorry, the excerpts from the record from this Hearing related to the primary driver versus the registered driver issue, relying mostly on the cross-examination of My Learned Friend from the Public Utilities Board.

One (1) thing our client observes from the record, although we don't provide a cite, it is on the record, is that the provision of discounts to registered owners is a longstanding approach of Manitoba Public Insurance dating back to -- to those -- to what those of us with grey hair can recall was known as the bonus-malus system.

Secondly, it is, I do not think, disputed that the registered owner model encourages policyholders to register all household vehicles in the same name of the household driver with the best Driver Safety Rating regardless of who actually is the primary driver of that vehicle.

Third, the record shows that MPI has expressed concerns that the primary driver approach may be difficult to enforce for MPI in the same way as all-purpose versus pleasure.

And I want to flag that note and just when we come back to the relativities analysis between uses, it may be important to recall this.

But, as My Learned Friend for the PUB noted in cross-examination and Mr. Johnston agreed, assuming that most people are honest in responding to the primar -- primary driver question, which would be CAC (Manitoba's) expectation, if the primary driver is truly the primary driver, then the shortcomings with respect to the registered owner model should be reduced.

The next observation from the record is that, again, it seems without dispute that the primary driver model would have to be considered more fair in that it would allow MPI to more accurately price the product and do a better job of relating premium level to risk level.

The final key excerpt from the record is that the ultimate decision maker on whether or not to amend the registered model is government, which has shown reluctance to do so in the past; Mr. Johnston reflecting on the 2020 -- excuse me, the 2010 rollout of the driver safety as -- as his personal experience on this issue.

Slide 57 is -- is what our client would describe as the sleeper issue of this Hearing. That's Exhibit 82, which -- of MPI, which was not filed until Monday evening but was discussed on cross-examination on November the 3rd.

And if you think of what the Driver Safety Rating model did, its innovation was -- it did the minimum -- minimum bias procedure to get better insight into the relative risk brought to the system by different Driver Safety Rating levels.

So, it built on what the Corporation has done for years, look at the relativities, the relationship between territories, uses, and groups and added one (1) more insight, how the correlations between the four (4) work together as compared to the analysis between the three (3).

And there's some really insightful insights from that approach. So, this is another output of the driver safety relating -- rating pricing model -- pricing analysis, but it just wasn't filed on the record until November the 2nd as MPI Exhibit 82.

The first bullet on slide 57 flags that territory 1 and 2, so Winnipeg and rural -- rural south, Portage, Brandon, Steinbach, are much more similar than implied by the current relativities. And by 'current relativities', we're referring to the ones that are employed in the General Rate Application.

When you threw in that fourth variable, when you looked for the best fit, when you applied more rigour to the analysis, the relativities -- the risk was more similar than implied by what was built into the GRA.

And one (1) of the reasons for that was another innovation brought in by the pricing analysis is that they desegregated PIPP from the other factors.

And Mr. Johnston here in this -- quoting from the transcript at page 2,197 and 98, in trying to explain why these relativities look more similar, draws the reasonable inference that territories involving more highway driving may have been undercharged for PIPP. So, that would territory 2, and also territory 5, the commuters. That's the discussion he was talking about.

Even in terms of uses, some very interesting insight came out of that minimum bias procedure. And Mr. Johnston observed that when you factor in consideration of Driver Safety Rating, is that fourth barrel -- variable, if you look at the correlations and look for the best fit through the minimum bias procedure, you see that the relative rates between different uses, such as all-purpose and pleasure become, in his words, less volatile or more similar.

So, very important observations coming out of MPI Exhibit 82, going both to how we look at the relativities and the risk presented by territories, as well as between the all-purpose and pleasure class.

And the reason our client has been insistent upon this exploration is, when you do that kind of minimum bias analysis, you're not just getting insights about Driver Safety Rating levels, you're getting insights about four (4) variables.

And you can't respond to that insight just by tweaking Driver Safety Rating variables. As was confirmed on this record, the findings from the DSR pricing review cannot be reviewed or understood in isolation from the revised relativities, especially as they relate to territories and uses.

As Mr. Johnston observed, the sensible thing to do would be to adjust the relativities for all of these variables with the same timing to ensure the correlations between them are accounted for. And he noted that this could be done for the next GRA.

And he did note, in terms of some of the information coming out of -- of -- that led to Exhibit 82 of MPI, that there was a bit of a need to standardize the -- some of the time frame for the data.

Slide 58. I'm turning back from the big picture of the interplay between the four (4) relativities, being territory, use, group, and DSR, to focus back on the Driver Safety Rating levels.

And the simple conclusion from this slide, being slide 58, is that, as Mr. Johnston confirmed, it's quite reasonable to conclude from an actuarial perspective that driver safety level 15 are paying roughly 20 percent too much in their insurance for their vehicles.

We don't need to dig into this quote at the bottom of slide 58. Mr. Johnson -- Johnston notes that it's not just an actuarial decision, there may be other policy implications, as well. Presumably, accessibility is something he -- he and all others would be concerned about.

But the stark fact is that there's a significant cross-subsidy from that DSR level 15 to -- to other -- other DSR levels. If you think of someone paying in their Basic insurance rates a thousand dollars at DSR level 15 as a registered owner, they're probably paying about two hundred dollars ($200) too much.

And it's important to remember -- and Mr. Johnston was quite persuasive on this -- focusing only on DSR level 15, the magnitude of the overpayment is likely understated.

Even when you -- you know, if you think

of the red -- even if there's vehicles that are primarily driven by someone else, but registered by the DSR level 15 owner, that loss experience was brought up into DSR level 15. So when they're saying it's a 20 percent overpayment, that's a conservative estimate. It's an understatement of the degree of -- of cross-subsidy for DSR level 15.

Slide 60. Our clients, of course, are quite concerned when they see an overpayment of that magnitude. But they're also mindful of the dialogue going on in this room between Manitoba Public Insurance, the Board, other Interveners -- notably the CMMG -- about primary versus registered drivers.

And so, an important part of our clients' discussion with Manitoba Public Insurance was while -- while the PUB, MPI and others are debating with the politicians about whether we should move to the primary driver system and away from the registered driver system, does that mean we just have to live with this cross-subsidy?

And the quote on slide 60 is the discussion with Mr. Johnston asking if we started to move towards vehicle discounts within the current model, i.e., the registered driver model, would that prejudice ultimate changes to the primary driver system, if that was ultimately the choice of government to -- to adopt.

Mr. Johnston, in his thoughtful answer, says,

"Directionally, the primary and registered drivers should produce the similar results.

So if we move on -- move on this information directionally toward targets, I don't think doing so would prohibit us from implementing primary driver."

So for our -- from our clients' perspective, that was an important observation.

As you can guess, our client will be urging you -- in a few slides -- to give direction to Manitoba Public Insurance to start addressing the output from the driver safety pricing model review as it affects DSR levels and vehicle discounts, as it affects territories and uses.

And it notes that government approval is not required to begin to address the cross-subsidy of the best drivers -- by the best drivers who are registered owners.

And it notes, on slide 61, that Project

Nova is not a factor in this either. That there could be a way to move premiums closer to the actuarial target independent of Project Nova. And that, from our clients' perspective, is also important.

While our client is committed to the general principle that rates should reflect risks and costs, and that appropriate pricing signals are important, we can't escape the consequences that addressing the overpayment by the best drivers who are registered owners will have consequences for others.

Here, if you're looking at level zero (0), you see Mr. Johnston saying, "If you did it all at once, it would be 23 percent." And that's clearly not palatable for anyone.

And so, just staying on this slide for a second, our clients want to clearly suggest that we should be moving towards addressing this cross-subsidy, but they want to be aware of -- we are in a pandemic. And also, if we look at these levels -- whether it's DSR minus 5 or DSR 0 or DSR level 5 -- all of which would have to move up if we were to better reflect the -- the signal coming from the pricing study.

We can hypothesize about what those drivers are. Like, who they are in DSR level 0 or 1 or 2. And hypothesize, not affirm as fact, that the -- that there may be an over-representation of younger drivers or newcomers to Canada.

So while our client is strongly committed to moving towards addressing the cross-subsidy, they do want to be mindful of the other side of that equation. And so that appropriate pace, but also moderation, is also important from our clients' perspective.

And on slide 63, we highlight the message that there should be a move to address existing circumstances where rates are not reflective of risk, based upon the relativity analysis. But also to highlight that that approach to the issue should be measured, but not glacial.

And you'll see at the -- in bold, at the bottom of the slide 63, is Mr. Johnston talking hypothetically about one approach. Not his recommendation, but one (1) way to do it would be to get to the targets within ten (10) years.

And from our clients' perspective, we know he was not recommending that. But ten (10) years is too long. That would be unfair to those who, today, are paying too much.

And at slide 64, our clients just want

to emphasize that a 20 percent overpayment is not a token thing. So dislocation is inevitable. They -- they emphasize it should not be shocking and suggests strongly that it should be moderate, especially during COVID-19.

But they want to highlight that just because the registered vehicle owners with the best records have -- here's my hyperbole sentence -- have lived with, rather than endured, significant overpayment without complaint, does not mean that the concerns about dislocation should allow us to proceed at a -- a glacial pace. It shouldn't be a ten (10) year march to -- to equilibrium.

One (1) example, if the Board is debating this, about what the appropriate pace should be, from our clients' views, there might be important learnings from the last major effort at this, which was by the Public Utilities Board when it implemented what we now know is the CLEAR, C-L-E-A-R, in large caps, rating system. What, at the time, was known as the VICC rating system.

And there -- there, you'll see a march to implementing that over five (5) years. It might be useful -- our client will observe that there was some push-back at that time that the Board -- if it's contemplating the pace -- can pick up in prior Board decisions, dating to the late '90s, early 2000s. But there, you'll see kind of a measured approach by the Board to -- to the implementation of now -- what we now know is the CLEAR rating groups.

One other comment on slide 65. And this would have been a good year if one wanted to start addressing these issues of material overpayment and cross-subsidy. This would have been a good year to implement some of those changes.

And so, our client is merely saying that if -- if addressing the -- the issue is important, there may be opportunities going ahead to consider accelerating the pace of change at times where rate decrease is -- is mandated. That's just an observation there.

Slide 66 -- I'm going to back away from Driver Safety Rating and go back to territories and uses. And from our clients' perspective, this issue of territory is important. It reflects the fairness between commuters and folks in Winnipeg and folks in -- in Brandon or in my hometown of Souris.

And so a review of territory would have been important even without the insight flowing from the minimum-bias procedure in the Driver Safety Rating pricing study. Location is a significant driver of the difference in risk in most jurisdictions, with Saskatchewan being the one (1) notable exception. They -- they work off of a postage stamp territorial rate.

Our clients note, as discussed with Mr. Johnston, that ICBC recently updated its territorial data for its fourteen (14) territories to better reflect different regis -- regions in the province and that that should be a matter of course for -- for corporations, especially monopolies.

They also note, as Mr. Johnston observed in the course of cross-examination, that there are interesting demographic or quantitative changes in the vehicle population. The vehicle population in Winnipeg, as well as in the commuter territory, is increasing relative to the other rural populations. So that all was information suggesting to our client that looking at territory, the time had come.

Slide 67 would observe that at the start of this process, Manitoba Public Insurance did not appear overly enthusiastic about rev -- reviewing territories. MPI noted that it had not conducted a territory review since their introduction. None of us can remember when that actually was. I have a stink -- a sink -- as suspicion that well -- that we might have brought in the commuters at a later point in time.

And MPI initially, in this hearing, suggested that a territorial review might have to come behind other priorities such as Driver Safety Rating, because Driver Safety Rating affects almost everybody.

Just staying on territories -- on this slide for a second. It won't be a big thing for Project Nova. Rating by territory is such a common thing that an out-of-the-box solution should be readily available.

Slide 68, we go back...

(BRIEF PAUSE)

DR. BYRON WILLIAMS: Slide 68, we talk about that review of relativities flowing from Exhibit 82. This is the one that came in Monday night and we talked about on Tuesday. The first bullet, you again see Mr. Johnston talk about territory 1 and 2. They'd be much more similar than implied by the current relativities; that seems to be driven by PIPP. And the amou -- the analysis basically is saying that we're potentially undercharging for PIPP in Territory 2.

In the second bullet, he's -- he's taking that PIPP analysis to looking at territories 3, 4, and the commuter territory. And again, in terms of the commuters, there's a potential PIPP undercharge there as well, his hypothesis being that if you're on the highway more, you're more likely to get into a more serious claim versus city-only driving.

In the third bullet, we're just repeating his conversation about uses, all-purpose versus pleasure, and suggesting quite interestingly that if you put DSR -- tho -- those correlations in to the analysis, all of -- all of a sudden -- sorry, that's the wrong language, but out of this analysis flows a conclusion that the risk experience of all-purpose and pleasure is less volatile or more similar than -- than what is currently built into the assumptions in the General Rate Application.

Slide 69 is our rebuttal and really Mr. Johnston's rebuttal of the initial position of MPI in this hearing -- do DSR first, then do the others -- at least as we understood it. Because flowing from the minimum-bias procedure, you can -- it's not -- you have to understand that the relativities for DSR in that famous Figure 5 from the pricing study are impacted by the lift or impact of the other fitted relativities that come out of terry -- territory, use and group. It's all part of the same package. You can't poke at one (1) problem without addressing the other problems, if you follow the logic of their minimum-bias-procedure analysis. Slide 70, please.

And the headline on this page says:

"It is not analytically defensible or sensible to adjust DSR based on the pricing review without adjusting other relativities flowing from the pricing study."

And on Tuesday morning, we put to Mr. Johnston -- we asked:

"Does MPI plan to adjust the relativities for all of these variables, i.e., Driver Safety Rating, territory, use with the same timing to ensure the correlations between them are accounted for?"

And Mr. Johnston appli -- replied:

"Yes. That would be the sensible thing to do, yeah."

And when asked whether he had a

timeline for that plan, he noted some -- some additional analysis that needed to be done and noted that:

"I have no concerns that we could do this for the next year's GRA."

Slide 71, please.

Finally, in terms of making some incremental changes to Driver Safety Rating, our clients note that there may be a claims frequency bonus for moving to better pricing signals.

So on slide 72, our clients make five (5) recommendations.

First, they recommend that the Board find that flowing from the Driver Safety Rating pricing review is evidence of a material cross-subsidy, definitely for DSR Level 15. But it's reasonable to -- to suspect that the best drivers with registered vehicles, including those from DSR levels to fifteen (15) -- oh, excuse me, eleven (11) to fifteen (15), are paying rates that appear to be unduly discriminatory.

Flowing from that, our clients recommend that using the transition to the clear rating group is one (1) example and, considering the existing MPI rules, as well as the current hardship from the pandemic, that MPI should be asked to present options at the next General Rate Application which consider addressing the exi -- existing subsidy in a time period of three (3) and of five (5) years, indicating how it would plan to mitigate against excessive dislocation and allow for the orderly planning and avoiding rate shock for those who pay more.

From our clients' perspective, if the Board ordered that and MPI considered those dislocations over those time periods excessive, it would be prudent to present other options as well. We -- our clients want to get at the fact that a subsidy exists. In their view, it would be inappropriate to address it over a glacial ten (10) year period, but we should be looking at options to move towards that equilibrium, recognizing as well that -- that there are people on the other side of the equation -- hypothetically, young drivers or newcomers disproportionately or others -- that we have to be aware of the realities for both sides of that equation.

Recommendation 3 on this slide is very important from our clients' perspective, and as Mr. Johnston recommended on Tuesday, any such process should be coordinated with adjustment to the rel -- relativities for all of these variables with the same timing to ensure the correlations between them are accounted for.

We'll just note Exhibit 82, it flagged issues with territories and uses. Mr. Johnston was very pleased with the -- the three (3) lines that appeared in terms of rate group, you know, relating to the vast data relating to CLEAR.

But from our clients' perspective, you can't poke at one, you need to address the three (3). That's the insight from the minimum bias proceeding -- procedure.

Our client would recommend on the fourth bullet on slide 72, that MPI be asked to recommend, for the government's consideration, replacing the existing registered owner approach with either a primary driver model or a blended model.

And that discussion of the blended model came out of some discussion of MPI and engagement over the last couple of years, and I can't do justice to it today, but really in the blended model, at least as our client understands it, one would identify both the primary and secondary driver. And that may -- may be something a bit different than the primary driver model.

The last bullet on that slide is simply a statement of the Board's own jurisdiction, so I won't -- I won't dress -- address it.

Our client is now going to ask you to turn to Project Nova.

Just so people hearing coughing in the background, don't become concerned. I hope that's just water going down the wrong way.

Our client is asking what is the level of risk posed to the Man -- to Manitoba Public Insurance and its ratepayers by Project Nova.

Before we leave this page, this issue could have been better -- better stated, as I reflect up on it this morning, because it's not only the level of risk by Project Nova, but the level of risk based upon the current reality of MPI with its old Autopac Online and claims, CARS, C-A-R-S, systems.

So it's a dual level of risk posed by the existing system as well as the disruption, no doubt, that Project Nova brings.

Slide 74 we hope cap -- captures some of that nuance. As we described, Project Nova is a high risk, not a medium to high risk, but a high risk, but extremely important project.

And our client certainly wishes it to be under -- understood that there's little doubt that 20-year old systems, such as CARS and Autopac Online, are nearing their cost effective end of life and that it is essential that MPI cost effectively address these technology challenges in a way that mitigates risk.

Flowing actually from a conversation from PUB Chair Gabor with Mr. Wennberg, our client also observes on the second bullet of slide 74 that given the importance of the project and risk of the project, it may be overly ambitious to expect a positive net present value of this project upon final evaluation.

Our clients don't want this statement to be misunderstood. There -- they -- they want this project to be approached and -- and expect it to be approached with the highest rigour, with the greatest care, and if costs start to get out of control, a recognition that it needs to be scaled back.

But unlike, for example, physical damage re-engineering, where really the -- the matrix of evaluation for that was quite -- quite properly, will it deliver the benefits it's promised?

There is a far greater technical risk

associated that MPI has to address. So our clients are going to be highlighting the risks associated with this project, but they also want to acknowledge the reality that, in their view, something needs to be -- to be done. They're on a common page with Manitoba Public Insurance and -- and they suspect all in this room on that point.

So our clients will be looking very closely at the business case, but as they evaluate the performance of Project Nova, their focus will be a little bit less on the -- the net present value calculation and more on the risk -- the risks with that project.

Our client does not agree with Manitoba Public Insurance that this is a medium to high-risk project. It its view, despite the mitigation efforts of Manitoba Public Insurance, this is the very definition, the very definition of a high risk project, even with mitigation.

And they note that projects of this scale and scope are inherently risky. They rely to a significant degree on technical -- technological experts to get the business, and on the business, to be flexible enough to incorporate the technology without undue customization, and then perhaps just --

or more critically, to have a robust culture to manage the disruptive transition.

And if you think of the enduring adverse legacy of the BI3 initiative, where MPI is still struggling to get a handle on PIPP claims, management, and reserving practices ten (10) years after the fact, that's a tailor-made example of not having a corporate culture robust enough to manage the transition.

Another key factor in terms of this being a high-risk project is the internal capacity concerns of Manitoba Public Insurance.

The last two major projects, Physical Damage Re-engineering and the BI3 initiative, have had major challenges both in delivering cost-effective projects, but also in delivering promised benefits without material adverse consequences.

And you don't need to go there now, but footnotes 83 and 84 talk about examples from the records of the significant financial challenges, as well as challenges in delivering promised benefits still on the record today from those two projects.

Whether it's the impairments associated with Physical Damage Re-engineering, the 48 customizations associated with FINEOS, F-I-N-E-O-S, for the record, as part of the BI3 initiative, whether it's the 8 percent severity spike when Mitchell came online in 2015 in terms of Physical Damage Re-engineering, whether it's the fact that in terms of expected equivalent full-time savings from Physical Damage Re-engineering, Manitoba Public Insurance has had to walk some of those back in -- in terms of capping EL -- EAL limits, having to give up 15 -- 15 -- the hopes of reducing 15 full-time equivalents; or whether it's the personal impairment backlog, and the un -- unintended consequences of centralized reserving, again, flowing from BI3, which came online in 2010 and we're still grappling with that challenge to this day.

So our client remains concerned that within Manitoba Public Insurance the capacity for handling a project of this scale is not palpably evident.

Slide 76. And our client says this because the scope of this project is unprecedented. As Mr. Mitra in -- indicated, they have not been able to find an analogous program involving both a complex property and casualty line of business and a complex driver and vehicle administration line of business, which are going to integrate.

By themselves, standalone, those are substantial, extremely challenging projects. Integrating them, putting them together in a big bang is even more challenging, our clients would submit.

Our client, in observing that they see this as a high-risk project, notes that to date there is evidence that the Manitoba business -- MPI Business Plan underestimated (a) the complexity of the project -- Mr. Remillard spoke of that in footnote 86; the cost of the project -- My Learned Friend from the Public Utilities Board went through the more than $22 million in adverse variances. Hopefully there'll be some puts and takes in terms of the positive variances, but those are concerning. And the very real governance challenges of the project.

When the Legacy System Modernization Business Plan was developed, this was envisioned as something that people could do off the side of their desks. There's $9.3 million in negative variances in the -- in the budget related to project governance, and Mr. Remillard told the PUB candidly that there's probably some more of that coming.

Slide 78 -- sorry. Yeah, slide 78. Our client makes two (2) other observations about Project Nova. From its perspective -- and our client appreciates the insights shared by Mr. Dessler -- the business plan and initial analysis for Project Nova appear much more careful than for physical damage re-engineering, but they note that there has been no independent evaluation of the business case, and there may be value, they observe but do not recommend at this point in time, in having PricewaterhouseCoopers undertake an independent evaluation of the business plan at some point in the future.

Slide 79. Again, on slide 79, our client takes issue with the characterization of Project Nova and recommend that the PUB observe that it remains a high risk rather than a medium-high risk project.

Our client would recommend that the Public Utilities Board request an update for the next General Rate Application based upon the revised business case, including updates on the status of projected savings relating to Equivalent Full-time Positions and brokers, and that the PUB reserve the right to direct that MPI retain an independent party to -- to conduct an independent valuation of the business.

I'm hesitating because I realize that I forgot to go to slide 77, so I just want to go back there for one (1) second.

In terms of discussing this as a high-risk project, I had talked previously about the cost side. And I would simply observe that, using the language of the MPI witnesses on the public record, there is residual risk remaining for over 50 percent of the projected benefits related to both broker commissions and Equivalent Full-time positions.

And just on this note, on the public record clearly in terms of the Equivalent Full-time positions, there's more work for Manitoba Public Insurance to do on that. They -- I think they're coming back in the spring of 2021 on that point.

And one (1) of the important lessons from both the Physical Damage Re-engineering Project and the BI3 Project is that those Full-time Equivalent savings might look good on paper, but they're harder to realize.

And if you think back to BI3 -- and Mr. Wennberg was really candid about this in -- in the second Monday of the hearing -- one (1) of the challenges that Manitoba Public Insurance had with the permanent impairment backlog is, in -- prior to 2010, they had a specialized team familiar with this complex skill.

As some of the alleged savings of the BI3 initiative, those positions -- those EFTs were eliminated. Those folks went to work elsewhere in the Corporation, and that aggregated insight was lost, and -- and that posed major challenges. So that's out of the BI3 initiative.

On Physical Damage Re-engineering, as Mr. Wennberg also discussed on October the 26th, MPI has had to walk back about fifteen (15) Full-time Equivalents in estimated position savings because it capped the -- the -- what is called the EI -- EAL. That's the higher limits for doing projects without adjustments.

The simple point I'm making is one (1) of the concerns of our clients is projected Equivalent Full-time benefits may either challenge the ability of the Corporation to still deliver its service or just may be there on paper but not there in reality as the program rolls out. That's why our client thinks there's significant residual risk, especially with full-time positions.

Slide 80. These next two (2) slides really talk about just where the funds come for capital projects. And currently, Manitoba Public Insurance funds its capital projects through cash, and then it amortizes the capital expenditures and rates.

And that's certainly a defensible approach. It makes the ratepayers who are expected to benefit from these projects, the future ratepayers, pay for these projects in their rates, and our client gets that.

The second bullet speaks to Manitoba Public Insurance using Extension excess retained earnings to fund capital projects. I think they would put the word "Extension capital projects" in front of the words "capital projects," which -- and that is concerning for our clients for two (2) reasons.

One (1), it -- one (1) is that it could -- they don't see that consistent with the message MPI sent about the this Capital Management Plan last year, but it also raises questions of inter-generational equity, especially if that was applied on the Basic line of business, because that would be -- amount to pre-collecting capital from yesterday's ratepayers to pay for projects that would benefit tomorrow's ratepayers. And from our clients' perspective, that's -- that's not fair to yesterday's ratepayers.

What is interesting from the CAC (Manitoba) position is that, even as we're at record low interest rates, MPI, to -- at the start of this hearing had not been considering the options of debt financing major capital projects.

And they've not looked at the relative merits of these options either from the perspective of its own financial well-being or the interests of ratepayers.

Slide 81, please. From our clients' perspective, they would recommend that the Public Utilities Board advise MPI that using pre-collected excess retained earnings from Extension is inconsistent with the understanding of the PUB when it approved the Capital Management Plan on a two (2) year trial basis.

As our client has emphasized, that is ultimately an MPI choice, not a PUB choice, but that's not all -- how our client understood the Capital Management Plan vision last year.

Our client also recommends that MPI be asked to review the relative merits of cash and debt-funding options -- both we think are reasonable -- from the perspective of its own financial well-being and the interests of rate -- ratepayers, and report back.

And I think, in my conversations with -- or our clients' conversations with Mr. Giesbrecht on the record, I think that's something that MPI's in the course of doing in any event.

Slide 82 relates to Maitre Hacault's clients and the allegations of unduly preferential pricing for private passenger Vehicle for Hire.

Our client won't have a lot to say on this, but it does have to respond and has chosen to respond to a comment by the Manitoba Public Insurance legal counsel on Tuesday. And a suggestion was made that the high private -- private passenger vehicle loss ratio was not a subsidy because the money to cover that came out of retained earnings.

And that logic escapes our clients, with respect. They agree with Mr. Johnston, who says I'm quite willing to say that with consecutive loss ratios in this neighbourhood, the likelihood that there's some subsidation (sic) is high.

And before we go to the next slide, from our clients' perspective, if it walks like a subsidy and the actuary calls it a subsidy -- going to the next slide -- it likely is a subsidy.

All other things being equal, if the rate's more cro -- for the private passenger Vehicle For Hire, more closely approximated risk than retained earnings, and excess capital would be higher and potential releases would be higher under the Capital Management Plan.

This walks, talks, and costs other ratepayers just like a subsidy. And our client would simply observe that retained earnings are not a magic part of money to absorb or mitigate the effects of cross-subsidy or questionable capital spending decisions.

To the extent that they exceed appropriate financial targets, they represent excess funds which, in the context of a publically-owned Crown monopoly, should be repaid to cap -- captive ratepayers.

Based on the only two (2) years of data we have with regard to private passenger Vehicle for Hires, there appears to be a subsidy. The question becomes how does one address that in a principled fashion being alive to, first of all, the data limitations involving both limited years of experience, no serious losses in the first two (2) years, and also the tiny size of -- of that group.

Also, there's a balancing act here, in a way, a four (4) way balancing act between the interests of other ratepayers who are being cost by the subsidy, the interest of Manitoba Public Insurance and its financial health, and the respective competitive interests of the new kids on the block, the market disrupters and the established industry.

And our client, going to sub (d), is also aware that there are the interests of living, breathing humans and drivers who may be affected by these rates.

These are not good times, one suspects, for taxidrivers. These are also not good times for, again, one might hypothesize, folks trying to make a bit of extra money as private -- doing a bit of Vehicle For Hire using their -- their vehicles, so a complex balancing act, which is why I personally am glad this is your job and not mine.

The Board has been presented with two (2) starkly competing approaches to resolving this issue from Mr. Johnston versus the independent experts of the Taxi Coalition, Mr. Bowman and Mr. Crozier.

The first bullet talks about the slow and steady approach of MPI, that 10 percent credibility weighting for the actual experience, which would take something like ten (10) years go get to the indicated rate.

And then there's the recommendation, at least as our client understands it, of Mr. Bowman proposing a 56 percent rate increase on this relatively new class based upon quite limited data.

And on the second bullet of -- of slide 86 our client spent a lot of time reflecting on the words of Mr. Bowman. And -- and Mr. Bowman, as an independent expert, is always full of interesting insights.

First of all, he noted that the major players are only now showing up. This is still our chance to fix a problem. And our client could look at that -- that statement in and of itself in two (2) different ways.

One (1) is fixing what appears to be a material cross-subsidy. The other is raising the barriers to entries as the big players start to -- the -- start to show up in the marketplace.

Our client suggested, not as a recommendation, but the concept of a pricing signal of up to a 15 percent rate increase. Mr. -- Mr. Bowman rejected that as not strong enough to send the signal that we know -- and our clients have underscored the word "know" -- is needed; they bolded it.

Our client understands Mr. Bowman's position, but to say that the signal that we know is needed is, from our clients' view, overreach, very small data set, only two (2) years of data.

From our clients' perspective, we don't know 56 percent is needed; might be more, but -- but it might be less. So that would, from our clients' per -- perspective, suggest caution in simply adopting the 56 percent increase.

From our clients' perspective, neither the ten (10) year plan or the one (1) year plan are recommended. Next slide, please.

Again, the empathy of our client on this one, because it's not just a rating issue, it also is implications for the marketplace, a disruptive new entrant into the marketplace and -- and the well-established taxi industry but facing its own pressures.

From our clients' perspective, a directional pricing signal sufficient to address the issues within the range of a five (5) year period may be appropriate, recognizing that in another year you'll have significantly more data than what you have now. Three (3) years is a lot better than three (3) -- than two (2).

Just one (1) final note on this, this is not on our slides, but there's been some criticism of the Taxicab Coalition for coming to this hearing and raising this issue. Our client does not share in that criticism. The whole concept of unduly discriminatory rates or unduly preferential rates was to speak to fairness between all ratepayers.

And certainly, from our clients' perspective, if the Taxi Coalition is of the view that these are unduly preferential rates, they're fully in their rights to -- to raise these concerns with the Public Utilities Board because that cross-subsidy, some of it notionally may be coming out of their pockets as well as the pockets of others.

And the fact that there's no Uber here to defend their position, ultimately, the Public Utility Board counsel very ably explored these issues. And the Board is the ultimate arbitrator of the public interest in this forum, so our clients find that criticism of the Taxi Coalition unfounded.

(BRIEF PAUSE)

DR. BYRON WILLIAMS: I want -- on behalf of CAC (Manitoba), I want to turn to the issue of transparency, coverage changes and the negative option. A little bit nervous on this section, as you might expect, a subject near and dear to my -- my clients' heart.

Slide 89. On the instructions of our client, I want to talk about the terminology that's been used about this rate change, and I've been guilt of it myself, but from our clients' perspective, in no way is this an 8.8 percent rate decrease. There is a rate decrease before the Board. It is a 0.8 percent proposed rate change in accordance with accepted actuarial practice. And, from our clients' view, this is appropriately described as a rate decrease.

There is also a 3 percent price reduction relating to a diminished insurance product, and that most definitely is not a rate decrease. It is the unilateral creation of a new product being sold -- a new and lesser product being sold for a lower price. It's a 3 percent rate change if one doesn't get the Extension, but it's not a rate decrease. And from our clients' perspective, the 5 percent Capital Management Plan release is definitely not a rate decrease.

It is simply a return of excess capital over-collected, not with any ill-intent, from Basic and Extension consumers over time, reflecting a number of factors, including very positive developments in terms of collision frequency, especially in 2019/'20.

You'll recall that sharp downward drop in the trend line. It's a reflection of the market dominance of MPI and Extension by virtue of its Basic monopoly. It's a result of the compounding cumulative impact of roughly 8 percent in rate increases flowing from Board orders in 2016 through '18.

It is a result of the combined efforts of the regulator, MPI, and Interveners to eliminate prior MPI speculation on interest rate duration mismatches. And it's a reflection, to the credit of MPI, of assertive efforts by it in terms of its relationships with the trades and service providers.

So ratepayers can celebrate pricing release -- relief of this magnitude, but they take issue with the description of it as an 8.8 percent rate decrease.

What is negative option marketing, as we turn to slide 90? In essence, it turns a sales transaction backwards. Instead of the merchant having to sell you a product or service, it starts with the assumption that you've already bought it. It's up to the consumer to contact the merchant and cancel the order if they don't want to complete the transaction.

And on slide 90, I simply note, based upon hard personal experience with Columbia Records, that I bought a lot of really bad cassette tapes that way in the 1980s. I believe there is still an REO Speedwagon cassette buried shamefully in a shoe -- shoe box somewhere in one of my closets.

There is legislation, in many jurisdictions, about negative option marketing. In Manitoba, just to be clear, insurance companies are exempt from that -- from that legislation, but this issue is always of fundamental concern to consumers. In their view, it is an imbalance in the marketplace when it's employed and it's not something that they generally recommend, forcing consumers to opt out of a relationship, rather than opt in.

Slide 91. If you're looking for a practical, living, breathing example of -- of what that concept on slide 90 is, look no further than the five hundred dollar ($500) deductible.

Customers who currently have a five hundred dollar ($500) deductible in Basic, which means they have not previously purchased Extension insurance to buy down their deductible, at least in this insurance year, will have the five hundred dollar ($500) deductible level -- will be transferred to the five hundred (500) -- or be assigned to the five hundred (500) deductible level of Extension. And they'll have that indication put on the renewal invoice or -- or sold to them without their prior consent.

And here you see the discussion of CAC (Manitoba) with Mr. Johnston. We note, first of all, that there's about 14 percent of captive Basic customers who either -- who don't have -- who don't purchase their -- any deductible Extension product from MPI. Those may be customers who don't have a deductible buy-down or they may be purchasing from a competitor.

And those customers will have forty-five (45) days to visit a broker or the MPI Service Centre if they want to change their side coverage.

And in the middle of the page, you see me asking MPI, to the extent that those customers had Extension insurance with another service provider -- they bought their deductible from that other service provider -- would they also be assigned to the five hundred dollar ($500) deductible level of MPI Extension? And, as Mr. Johnston admitted, they would.

And towards the bottom of this page, you see me suggesting to Mr. Johnston that that 14 percent who are currently at the five hundred dollar ($500) deductible cap don't have a prior contractual relationship with MPI Extension with regard to deductibles. And Mr. Johnston agreed that most of them would not, yes.

From our clients' perspective, although the insurance industry is exempted in Manitoba, this is negative option marketing. And to them, it's concerning treatment of -- of captive MPI customers, including those who have relationships with other competitive service providers.

In their view, it can only harm the competitive marketplace and place burdens on customers who either did not wish to lower their deductibles or who chose to lower their deductibles with another insurer.

MPI thought carefully about this. They clearly didn't want to disadvantage the 86 percent who buy Extension from MPI, deductible Extension, and make them go to the brokers. But our client is quite uncomfortable with the treatment of -- this negative option treatment of ratepayers.

They're not confident it's within the Board's jurisdiction to do anything about it, but they do believe that this has been part of the dialogue of this hearing and feel strongly that the concerns and the implications for the competitive marketplace and for consumer choice should be observed.

On slide 93, we don't make these as recommendations to the Public Utilities Board. We're using this process to speak to Manitoba Public Insurance with your indulgent -- from our clients' perspective, whether or not the insurance industry is -- is exempted from the legislation, this is negative option marketing, and it should be called that.

They recommend to MPI that, in directly communicating with consumers of their responsibility to opt out of Extension deductible coverage, that MPI consider advising consumers that there are competitive options with regard to the Extension product.

And our clients' hypothesis is that many consumers are not aware of that reality.

An option CAC (Manitoba) would ask Manitoba Public Insurance to consider is that MPI customers who are assigned by MPI -- we've lost the slide here -- here -- who are assigned by MPI to an Extension product as a result of this unilateral product change and transferred to the Extension line of business, if they wish to amend their coverage within a one (1) year period, whether within the forty-five (45) day opt out period or after, that MPI choose to waive any processing fees.

And finally, our clients would recommend that MPI share its consumer information package and advertising materials with stakeholders, including CAC (Manitoba) and CMMG, for comment.

And even understanding what that forty-five (45) day period means and the nuances of it, our clients think that MPI might benefit -- would benefit from stakeholder comment.

Slide 94. Our client will talk about fairness and risk issues associated with the MPI investment portfolios. And before we leave this slide, I'll say our client found this analysis challenging because there was a debate before this Board just a couple of years ago in terms of the choices Manitoba Public Insurance was making. MPI has just basically -- you know, we're in the first full year of their implementation of those choices.

Our client did not agree with the entire direction of Manitoba Public Insurance but understood the Board's reasoning in -- in its prior reasoning -- prior decisions.

But CMMG has certainly been raising the flag that they're being disadvantaged by the approach -- the investment strategy in the Basic portfolio, in particular because of the over-representation of PIPP, Personal Injury Protection Plan, claims experience within the loss experience of CMMG.

And so our client -- we'll spend some time on this. I'm not trying to revisit old issues, but trying to bring them up to date, including recognizing the significant changes in the marketplace that have tak -- taken place over the past couple years. And our clients do have some considerable sympathy for the position C -- CMMG finds itself in, although they will -- you'll see that they may disagree on the remedy at this point in time.

Slide 95. As our client understands the regulatory process under the existing legislation, the Public Utilities Board cannot tell MPI how to invest ratepayers' premiums. But it is open to the Public Utilities Board to examine the prudence and reasonableness of MPI's management of its investment portfolio as it determines the -- the revenue requirement.

It's also our clients' understanding that to the extent that MPI has not reasonably managed its investment portfolio or if it has incurred undue risk or unreasonably prejudiced or disadvantaged certain ratepayers, the PUB can reflect that in its ultimate rate-approval decisions. Slide 96.

The basic facts are clear. MPI is committed to a Basic insurance portfolio exclusively comprised of nominal bonds at a time of record low interest rates, at a time of significant volatility in the equity markets during COVID-19, and at a time when the Bank of Canada is reviewing its focus on a low inflation target. And our clients would note that the record low interest rates currently being experienced are part of a broad -- part of a long-term pattern of decline.

We do not need to turn there, but the Board will recall, in the early days of the hearing, the second day, CAC (Manitoba) presented Exhibit Number 6, which was Bank of Canada data documenting the -- the relatively steady decline of bonds from the year 2000 to the record low where they are today. So it's a bit of a depressing story when it comes to bonds.

But perhaps in contrast to CMMG, our clients do want to note that this is not the ideal time to be going out and buying equities. And that's perhaps reflecting the -- or definitely reflecting the absence of competitive options for those seeking returns.

The equity markets are volatile and

challenging at present, given valuation and growth concerns. And one (1) example of that is the -- the Board can take notice of is the price-to-earning ratios and the fact that the price that certain companies are getting for their shares are not reflective of what they would normally get with historical -- as compared to their -- their earning ratios.

So that's a note of caution with regard to the equities market. Things look bleak on the bond side. I'm not sure a lot of folks would be jumping in to buy equities tomorrow just with the highly volatile circumstances we're in. Slide 97.

(BRIEF PAUSE)

DR. BYRON WILLIAMS: Other background issues in terms of the investment portfolio fairness and risk issues. Unlike the private passenger class, motorcyclists will experience a significant rate increase due in large part to the relatively large representation of PIPP claims and the extremely modest new-money rate that underlies the setting of the actuarially accepted pra -- or the rate set in a -- in accordance with actuarially acce -- accepted practice.

It's also notable, as I adverted to previously, that MPI undertook a significant portfolio review in just the last couple of years and it has only recently fully implemented the portfolios. And that, to our clients, is significant.

Our clients did not agree with all of Manitoba Public Insurance's choices, but if you're only a year in, it would -- it would not seem prudent to be moving to a -- a materially different vision. Whether we agree with those choices or not, that would -- that would not be recommended by our clients.

Slide 98. Our clients' observations of what the Basic portfolio of MPI appears to do well currently, it clearly largely escaped the short-term volatility associated with equities in -- in what Mr. Bunston agreed was the shortest bear market in global economic history, that short, sharp drop in March and April, only to be followed by a -- a very steep growth afterwards.

And, obviously, in terms of interest rate duration matching of liabilities and assets, Manitoba Public Insurance has clearly and significantly mitigated nominal interest rate risk. So from our clients' perspective, that's what it does well.

But what it does well comes at a cost, both in terms of an opportunity cost, just the lower expected returns of Basic, given the 100 percent fixed income. There's no equity risk premium built into Basic, and that's something that all ratepayers should -- should be paying attention to, especially those with an over-representation with PIPP claims.

On slide 99, I've -- I've struck out the word prejud -- "sacrifices" and replaced it with the more appropriate word suggesting that the composition of the bond portfolio disadvantages the interests of those whose risk is driven by long-term claims, at least in today's times, with the resulting adverse consequences on rates at a time of low interest rates. Literally, the real purchasing power of those bonds is diminishing.

Slide 100. So that slide 99 is what our clients see as the thrust of the CMMG concern, and our clients have articulated that for a number of years. But more pressing today, our clients would suggest, at least in terms of risk, is the lack of inflation protection in the MPI portfolio, given its focus on managing nominal interest rate risk rather than real interest rate risk.

And on the second major bullet on slide

100, our clients note the risk that MPI is potentially on the wrong side of history at this time where the Bank of Canada really for the first time since it brought in its interest rate targeting practice in 1992 is seriously reviewing its current inflation targeting practices and considering other policy objectives -- for example, increased long -- there's a risk there of increased long-term inflation risk.

Our client also believes that moving beyond Basic, there's concerns with the broader portfolio in terms of lower diversification, contrary to portfolio theory and the policies implemented by their funds.

Slide 101. The first bullet goes to our core point that the lack of inflation protection in the Basic portfolio, given a focus on managing nominal interest rates rather than real interest rates, is concerning at a time when the Bank of Canada is reviewing its current inflation targeting practices.

Our recommendation is that MPI should be directed to monitor and report back on the Bank of Canada deliberations in terms of long-term inflation risk, including the expectations, if any, that governments carrying heavy debt loads may see inflation as a partial remedy to alleviating the costs -- the carrying costs of those debt loads.

Like CMMG, CAC (Manitoba) has serious concerns with what it considers the short-term fixation of the MPI investment decisions, but it recognizes that MPI has only recently established its new segregated portfolios, and are of the view that a portfolio review or redesign would be premature.

It would also note that the equity markets are extremely challenging at present, given valuation and growth concerns.

Slide 102 just speaks to investment income forecasting. And on this slide, I just want to be clear our clients -- this does not affect the rates set in -- in accordance with actuarial-accepted practice.

Those are reflective of the new money yield, but these are relevant and significant for how we look at the revenue projections of the Corporation and how we look at excess capital.

On bullet 2 of slide 102, we talk about how MPI's expectation of its investment returns for the purpose of forecasting net income is based upon investment return methodologies, many of which have not changed for many years and have not been tested for predictive policy -- predictive power.

There have been high-level evaluations put on the record in this hearing, and a number of asset classes have proven to either have forecasts that understate their actuals or are highly variable, although, again, these were based on a pretty simplistic test.

This calls into question the reasonableness of the investment forecast and suggests that MPI conduct a more thorough effort to test the forecast. And MPI, in our understanding, has agreed to do so for the next GRA.

Our recommendation on this is simple. We appreciate MPI's responsiveness on this issue and recommend that the PUB direct what MPI has already indicated it will do: undertake a review of the predictive pol -- power of its invested income forecasts and to propose amendments, if any, to that forecast for the next GRA.

Just the last couple of slides. Claims frequency. There was a narrative that came out in public discourse at the time of the eight point eight (8.8) per -- or in the spring of the proposed over 10 percent rate change.

An inference could have been drawn at

that point in time that it was all about improved efficiency. A major driver in the improved performance of Manitoba Public Insurance is reductions in claims frequency.

If we look out to '21/'22, a big driver is the $26 million reduction in frequency which is part of a longer-term trend. And interestingly, a major driver of collision frequency -- Mr. Wennberg spoke a lot about this on October 26th -- appears to be the adoption of collision avoidance technology in the marketplace which has a demonstrably -- a demonstrable role in reducing frequency and severity of accidents.

Notable for the Board is that over 60 percent of the Manitoba market has not adopted this technology, and we -- and we note without criticizing that, to date, MPI has not assessed the implications of increased adoption of this technology on claims incurred frequency and severity. Next slide, please.

On this page, I just want to be clear where our clients' coming from. It's not suggesting MPI adjust its methodology. What MPI has done is quite appropriate. It's taken its last five (5) years of declining trends as part of an average and building that into its forecasts.

But our client merely notes that increased adoption of Driver Safety technology has potential important implications for claims frequency, and that's what Mr. Wennberg was speaking about quite a bit on October 27th, and our -- in our clients' view may represent a -- a hidden strength or opportunity for claims saving in the future.

We're not suggesting that MPI adjust its forecasts, simply saying that there may be a hidden strength there related to increased adoption. And that conclusion is supported by the words of Mr. Wennberg on October 26th.

There's a lot of discussion in this hearing in the Information Requests and transcripts about PIPP. We've tried to put it on one (1) slide.

And our clients, again, commend Manitoba Public Insurance, led by Mr. Wennberg and Mr. Johnston, for their strategic review of PIPP in 2017. It resulted in hiring more staff to better -- in the hopes of better managing claims in terms of better training managers and also the centralized reserving.

But it is apparent that are -- there are ongoing challenges with the reserving and management practices at -- of PIPP. And you've heard Mr. Johnston, in the course of this hearing, talk a lot about what they did was increase the up-front reserves at a certain point in time.

And the expectation -- or at least the hope -- both of MPI and I guarantee you of ratepayers -- is, if you up the claims reserves, we can look at releases related to the incurred but not reported with a favourable impact at some uncertain point in the future on net income for Manitoba Public Insurance.

What slide 106 tries to capture is the uncertainty and the volatility on -- around this. First of all, question 1 or question A is whether the increase of case reserves for weekly indemnity should be met with a commensurate reduction in IBNR, or whether that judgment is premature given the lack of evidence to date in terms of favourable development.

Secondly, there are, as MPI admits, ongoing challenges with the volatility of the Accident Benefit Other Index, notwithstanding the favourable developments that are being -- that are gradually being recognized.

Third, that delays in paying Accident Benefit Other, non-indexed personal impairment benefits, have been -- there's been a backlog.

And fourth, that there's been over-reserving related to those permanent impairment backlogs because centralized reserving treated these delays as adverse developments rather than delays on payments. Next slide, please.

Again, this goes to our hidden-strength observation. We're not quite sure what's going on in PIPP. The second bullet on slide 107, our clients suggest that MPI be directed to report back on the outcomes flowing from its strategic review of PIPP in 2017 in terms of successes, challenges, uncertainties, and whether it is delivering on the improvements in claims management and reserving expected.

Subject to questions from the Board, those are our clients' comments, although they have asked me to just offer in -- in these tumultuous times, including in -- with the backdrop of Bill 35, our clients' sincere appreciation to the Public Utilities Board and its staff.

Our client has asked us to say that -- how important the opportunity to appeal -- appear before the Board has been to consumers for over thirty (30) years, and whether it's Manitoba Hydro, payday lending, Centra Manitoba, or MPI.

And from our clients' perspective, the PUB, its staff, and independent advisors have delivered outstanding service to Manitoba in the public interest.

And Ms. Desorcy, and our clients, the CAC Manitoba board have asked to express their appreciation for the rigger, the independence, the courage and compassion brought to their tasks by all individuals associated with the PUB.

With those, our clients close their -- their submissions, subject to questions.

THE PANEL CHAIRPERSON: Thank you, Mr. Williams. Mr. Gabor...? Sure, I'm sorry, we'll take a break for --

THE CHAIRPERSON: I have questions.

THE PANEL CHAIRPERSON: -- until 3:30. Mr. Gabor has some questions so we'll resume at 3:30.

DR. BYRON WILLIAMS: And I apologize, I didn't even note the time. I should have asked for a break earlier, my apologies.

THE PANEL CHAIRPERSON: Fine. Mr. Guerra, after Board questions are you prepared to proceed with reply?

MR. ANTHONY GUERRA: Yeah, I'm going to take some time during this break just to consult with my team just to make sure that we have everything in place but, yes, that's my expectation. And it will not be that long at all, I can tell you that.

THE PANEL CHAIRPERSON: Thank you, Mr. Guerra.

--- Upon recessing at 3:17 p.m.
--- Upon resuming at 3:33 p.m.

THE PANEL CHAIRPERSON: Thank you. Mr. Gabor...?

THE CHAIRPERSON: Yes. Firstly, Mr. Williams, thank you for your comments at the end.

I just want to confirm something. The -- when you were talking about CERP and change of products and negative -- negative options, the government passed a regulation that set the rates.

I suspect you're not saying the -- the regulation is invalid --

DR. BYRON WILLIAMS: There's no argument of that.

THE CHAIRPERSON: -- and that the Board has no jurisdiction to look at any of the --

DR. BYRON WILLIAMS: The -- the advice that we offered was -- was presented to MPI just because there has been discussion in this process on that.

THE CHAIRPERSON: Yeah. Kristen,

could you go to page 74 of Mr. William's submission -- sorry, presentation? Yeah.

I'm a little concerned about the comment between Mr. Wennberg and myself in -- in bullet 2. I thought that the -- the point raised was -- or the question I put to him was, that given the importance of the project, that the Board had the discretion to approve it even if there was a negative MPV?

DR. BYRON WILLIAMS: Yeah. I'm not -- I'm not -- I think we understood that. So, I wasn't trying to read too much into it. But I -- I think what the -- the value our clients took out of that is just -- it's -- our client will be looking very carefully at the MPV indicators.

But we were just trying to make the point as compared to physical damage re-engineering, which we --

THE CHAIRPERSON: Yeah.

DR. BYRON WILLIAMS: -- we saw as less central --

THE CHAIRPERSON: Yeah. Okay.

DR. BYRON WILLIAMS: -- to the -- and -- and if -- if I didn't articulate that well, that was the point, where -- whereas our client is worried about the risks with Project Nova, but they see it very existential for the Corporation's ability to continue to deliver the products that Manitobans expect.

THE CHAIRPERSON: Okay. So, the main question I have is, the suggestion that -- given the -- the turbulent times now as a result of COVID, that we not use a naive interest rate and use the Q4 -- either Q3 or Q4 estimates for 2021.

And, as I understand it, the suggestion isn't that the Q4 estimates be used in relation to the rate, but it be used in relation to a return on excess capital.

DR. BYRON WILLIAMS: Yeah. And --

THE CHAIRPERSON: Is that correct?

DR. BYRON WILLIAMS: Yes. And so, just so I'm clear, when we're looking at the '21/'22 rate, there's a lot of uncertainty, but we're not taking issue with the test year rate.

What we're saying is that when we're looking at our expectations for the current year of excess capital, the best predictor of that, the best estimate, is the COVID-19 Q4 scenario.

THE CHAIRPERSON: Okay. So, we have a new rating year starting April 1st of next year. Are we using the naive rate or are we using the Q4 rate?

DR. BYRON WILLIAMS: What our client said is -- because then you're projecting eighteen (18) months out.

THE CHAIRPERSON: Right.

DR. BYRON WILLIAMS: And so, for that, our clients would say go back to the naive rate.

THE CHAIRPERSON: For the '21/'22 --

DR. BYRON WILLIAMS: Yeah. When we're looking at the -- the rate indicator in accordance with accepted actuarial practice, and especially we're not looking out just a few months, we're looking out, you know, to April of -- or March of 2022, then, although there's high uncertainty, we would not be recommending for the test year using that same approach.

THE CHAIRPERSON: Okay. Thank you. Those are my questions.

THE PANEL CHAIRPERSON: Thank you. Ms. Hainsworth, do you have any questions?

MS. CAROL HAINSWORTH (via phone): No, I do not, Madam Chair. Thank you.

THE PANEL CHAIRPERSON: Thank you very much. Thank you, Mr. Williams.

DR. BYRON WILLIAMS: And I just -- I

do want -- I have to excuse myself. We just have another matter we're filing tomorrow morning. So, with apologies to my friends, we will be listening in.

And I'm just worried. I'm not sure where you're going to...

THE PANEL CHAIRPERSON: Thank you for your participation, Mr. Williams, and for the participation of your client. Mr. Guerra...?

(BRIEF PAUSE)

REPLY BY MR. ANTHONY GUERRA:

MR. ANTHONY GUERRA: Thank you, Madam Chair. As this is a reply, I'm obviously going to keep my comments as succinct as I possibly can.

One (1) main theme that I'd like to bring to your attention as we go through this exercise is that we consider at MPI the rate-making methodology, the Capital Management Plan, our investment strategy to be almost like akin to an ecosystem, right, everything is interconnected.

And the danger with that is, if you start to tinker with the bees or the ants or the deer or the bears, what you see is that there's going to be some consequences that you can predict and other consequences that you may not be able to predict.

And what we've seen today -- or throughout this entire process -- from the Interveners are suggestions or -- or requests that we tinker with the ecosystem. That we tinker with the credibility weighting for raw relatives when it comes to the passenger Vehicle for Hire class.

And before I get to the other recommendations, just with respect to that one, it's -- it's important to note that we didn't hear anyone advocating for that same tinkering when it comes to the credibility weighting for the taxi Vehicle for Hire. When you -- when you are discussing -- excuse me -- the rate-making methodology for the taxi class.

And so, the question becomes at this point is if the Board was prepared to -- to change the credibility rating from a 10 percent to, let's say, a 40 percent, for example, would the Board be considering doing the same thing for the taxi class? And has the Board considered what the implications might be for the taxi class?

The suggestion in the evidence is that changing the credibility weighting and placing more emphasis on the most recent data, the raw data, would increase the rates for -- for the passenger Vehicle for Hire class. It may do the same thing for the taxi class as well. And may be why we didn't hear any recommendations that those classes be treated equally.

On the part of the CMMG, we heard that this Board should consider tinkering with the rate making methodology as applies to separating the loss development factors. And also that we should consider either tinkering or penalizing MPI for not tinkering with its investment portfolio to alleviate some of the concerns that they have with their -- their impact on their class due to the heavy weight of PIPP claims.

And with respect to the CAC, we've heard arguments in favour of tinkering with the Capital Management Plan, reducing -- or sorry, increasing or removing caps on rate -- or sorry, on releases from the CMP, issuing rebates, basically ignoring the CMP altogether.

And also suggestions that we tinker with our collision forecasts, such that we assume certain events to take place when no one really knows exactly where we are going to be from day to day.

With respect to that last point, the evidence from -- or sorry, the arguments made by -- by counsel for the CAC was that we are currently in a code red. And while that's true, we don't know where we're going to be at the end of November, with respect. We don't know where we're going to be at the end of the year. And we certainly don't know where we're going to be at the end of this rating year.

And we may be in the same position. I -- I would hope not. But what we do know at this point in time is that even though we are in a code red, the code red doesn't look the same as the events that we all suffered through back in March and April of 2020 when, arguably, the impacts of COVID were not well -- as well-known as they are right now.

And so, there's a danger in assuming that simply because we see reports in our Twitter feed about case numbers increasing and talk about curfews and things like that, that we have to assume that the people aren't going to try to do their best to get back to normal. And so, we have to be careful. And that's all MPI is asking, is that we be careful.

With respect to Extension transfers to the Basic Rate Stabilization Reserve, there does need to be something said about that and I appreciate counsel for the CAC had mentioned that we had focused some time on -- on this topic in our closing. That's because we anticipated it would be quite a topic of discussion from the CAC, and, obviously, we were not wrong.

To be clear, MPI has always said that Basic should be self-sustaining. And to the extent possible, it should benefit from excess transfers from the Extension line of business. MPI has also said it has no plans to do anything with the Extension excess capital but to transfer it to the RSR.

The only example to date has been the transfer from the -- sorry, the transfer from Extension to the rebate that was issued. And no one who has argued before the panel this -- this time around has took any -- any issue with the rebate issued from Extension.

MPI is not walking anything back by presenting its position that the CMP does not mean that there is no discretion by the Extension line of business to -- to use profits for capital projects or things like that. But that is not the same as saying that it will be using those profits. That's not the experience that we are bringing to the Board this year and it's not the expectation that that will be the -- the experience that we are bringing to the Board next year.

With respect to the purpose of the Capital Management Plan, we note that it is not just about the transfer of Extension monies to the RSR. It may be one (1) of the functions, but it is not necessarily the main purpose.

And even without that, even if there was no money in the RSR, there is still benefit to the Capital Management Plan. It still helps to -- to tell the Corporation and to ratepayers how money is going to be used by the RSR.

Now, there are -- were a number of exchanges throughout the hearing that I think are important to highlight for the benefit of the Board when it comes to some of these issues that we're talking about.

And I'm wondering, Ms. Schubert, if you can pull up the transcript from October 21st. And, in particular, if you could go to page 704, please. And I'm going to start at line number 17.

So in this exchange between Mr. Johnston and Mr. Scarfone, Mr. Scarfone asks:

"Would it be fair to say the Capital Management Plan is a pilot project?"

And Mr. Johnston says,

"It's fair. My hope is, obviously, that -- obviously, we designed this with the intention of improving rate

stability over time. But from the
Board Order, understand that there's
-- we're not quite there yet."

And then, Mr. Scarfone adds:

"It is also fair to say that in year
1 of this two (2) year trial, there
may be some kinks to work out during
the two (2) year trial period."

Mr. Johnston explains:

"I agree that there would be. Very
interesting year for this to start
and I don't think we should hold the
extreme volatility of the pandemic
as the fault of the Capital
Management Plan in any way. It --
we did what we had to do in extreme
parts of the COVID situation. But
what you're seeing now, I believe,
is a Capital Management Plan doing
its job. And I would continue -- I
would believe that this will -- that
will continue to be the case if we
maintain this methodology."

So what -- what I mean to say by -- by presenting this line of questioning to the Board's --

for the Board's consideration is that we have to be mindful of the fact that this is still a pilot project and -- and there may be instances where we need to -- to tweak it.

Nobody is here challenging the fact that we had to issue a rebate at the beginning of the year and -- and, in fact, we -- we own the fact that we came to the Board back in April to ask for the rebate. Maybe there are instances where, by virtue of a 1:100 year pandemic, we will have significantly more capital on hand than we expect. And in those cases, as we've done, it may be appropriate to come to the Board for a rebate.

However, the fact that we have in the past -- in recent past -- because of a pandemic come to the Board, asking for a rebate does not necessarily mean that the Capital Management Plan is not doing its job or cannot do its job in -- in instances where, otherwise, we would not be in that financial position.

I'd also like to bring to your attention the line of questioning at page 659 of the transcript. So this is a exchange between Mr. Johnston now and counsel for the CAC. And if we can go down to line 24, please.

Mr. Williams -- Dr. Williams, on behalf

of the CAC, says:

"Comparing the two (2), Mr. Johnston, being the capital release a -- and a rate rebate, it generally -- it would generally be accurate to suggest that a special rebate will get money in the hands of ratepayers sooner than a capital management release over three (3) years."

Mr. Johnson's response is:

"I actually don't agree with that. So I'll -- I'll give you an example. So earlier today, you provided a chart that showed that MPI had escalating net income over a period of three (3) to four (4) years. In assuming that we were around the 100 percent MCT target, MPI makes it as shown, that income pushes over the 100 percent. We immediately trigger a small release to return to the target. MPI probably makes a little bit less money the following year because it -- because we've done that release. It triggers another adjustment to that release up or down and gets money into the hands of ratepayers again on and on and on forever.

In the rebate scenario, we wait some undetermined amount of time to decide that MPI's collected an extra thirty-three (33), twenty-four (24), eighteen (18), whatever the number is. And then, you know, we come to the PUB and we say, Well, sixty-ni -- 69 million is too much over the target. You should pay out that as a rebate, and we go through the whole process, and then eventually the customer gets the rebate cheque. The Capital Management Plan would have been addressing that issue every single year in this process and hopefully present -- excuse me, preventing this from ever happening."

So, again, I just want to highlight for the -- the Board's consideration that a rebate isn't not -- isn't always necessarily the best and only remedy available to get money into the hands of ratepayers as quickly as possible.

The CMP, when workin -- when working -- and we expect that it will work going forward -- is designed to always be directing money towards either building the MCT ratio or releasing the MCT ratio, as opposed to waiting for a -- a certain proportion to -- to build up before a significant release or -- or build is required.

And -- and finally, I'd like to bring to the Board's attention the exchange that happened at page 6 -- 638, please. Same transcript. And if we can go to line number 10.

So in this case, counsel for CAC says:

> "Between the rebate, Mr. Johnston, and the proposed 8.8 percent rate -- rate decrease, including a 5 percent excess capital release, it would be fair to say that the ratepayers in that time period we are speaking of would be seeing an effect of 20 percent difference in their -- in their rate -- in their rates between the $110 million rebate and the $95 million decrease?"

Mr. Johnston responds:

"I'll accept that on an approximate basis, obviously recognizing the uniqueness of a $110 million rebate would not be considered normal course. But the math you're providing, I agree that is the approximate impact in that period."

And counsel for CAC continues:

"And recognizing that the premise of the capital release provision under the Capital Management Plan is to manage rate volatility, and thank you for help on the math, would MPI regard this reality as a failure on the part -- on its part to manage volatility, contrary to the intentions of the Capital Management Plan, or would it consider that its actions to be an appropriate response to both the pandemic crisis and to the objective of sharing the benefits of program changes in excess capital with captive ratepayers in an orderly manner?"

And Mr. Johnston responds:

"Well, I hope there's no debate on the emergency situation and the position MPI found itself in. Never in the design of the Capital Management Plan will we have anticipated to be fifty per -- 50 to 60 percent lower crash rates, so something -- something needed to happen there. If we had been further along on the Nova journey, a more practical way to provide relief might have been to adjust the premiums for a couple of months, if there is a way to do that. That's not something MPI can easily do today. So other options were explored, and the rebate was chosen. In terms of the question of whether this was a failure, I don't see how we can consider it a failure. We're managing to the situation like -- like everyone else. We -- I thought we did a really good job of forecasting the impacts of the

rebate in a very uncertain
situation."

And so again, what I would just caution the Board on is to avoid the temptation of -- of seeing a rebate as the best possible solution to deal with this uncertain time.

And -- and as counsel for CAC mentioned, a rebate in this scenario would involve taking money out of the bank that MPI doesn't currently have and assuming that, in the future, the rate -- or, the collision forecasts will -- will result in that accumulation of funds in -- in the account.

And -- and that's -- that's MPI's reply on that. I don't want to belabour the point, so subject to any questions, those are our submissions. Thank you.

THE PANEL CHAIRPERSON: Thank you, Mr. Guerra.

Mr. Gabor, do you have any questions?

THE CHAIRPERSON: Mr. Guerra, I'm going to ask you a question. If you don't want to answer, I understand, because I'm trying to remember what the testimony was earlier on.

Is there a point -- let me take a step

back. The government directed a rebate out of Extension. MPI came to the Board for a rebate out of Basic, and we were talking $110 million, because of the extraordinary circumstances during COVID.

Is there sort of a line where MPI says, Above this number, we'd consider a rebate; below this number, we would consider a credit or some other -- some other way to deal with the -- deal with the excess cash?

MR. ANTHONY GUERRA: That's a good question, Mr. Gabor. Unfortunately, I don't have a response for you.

THE CHAIRPERSON: Okay, yeah. I didn't know if you were the appropriate person, so.

MR. ANTHONY GUERRA: But -- but I would -- I would say this. As I mentioned before, the CMP is in a pilot project, right, and we are exploring -- we are now dealing with a scenario that wasn't contemplated by the CMP, right? Clearly, it was not.

So maybe, as part of this exercise, that is a legitimate question to go forward. Does the CMP need to be revised to include a provision that would say, Normally we would get, you know, from the 100 percent CM -- MCT in three (3) years using the 5 percent cap, but there may be an instance, and here's the trigger, where we completely ignore that and say rebating is the only option. It probably, in practice, wouldn't come into -- to use very often, but we also didn't expect to be here in this case, right?

THE PANEL CHAIRPERSON: Thank you.

Ms. Hainsworth, do you have any questions?

MS. CAROL HAINSWORTH (by phone): No, I don't, Madam Chair. Thank you.

THE PANEL CHAIRPERSON: Okay, thank you.

Thank you. This now concludes the 2021 Manitoba Public Insurance Corporation General Rate Application hearing.

On behalf of the Board panel, I would like to thank everyone for their cooperation throughout this hearing. This includes the MPI witnesses and their counsel, including Mr. Johnston, Mr. Wennberg, Mr. Bunko, Mr. Giesbrecht, Mr. Remillard, Mr. Bunston, Mr. Lazarko, Mr. Mitra, Mr. Ramchander, Mr. Yakel, Mr. Scarfone, Mr. Guerra.

The Interveners and their respective counsel, for CAC Manitoba, Mr. Williams; for CMMG, Ms. Meek; and for the Taxi Coalition, Maitre Hacault.

The witnesses who testified before the

Board, Mr. Bowman and Mr. Crozier, for the Taxi Coalition -- or, with the Taxi Coalition; and the presenters who made their submissions this year.

The secretary of the Board, Dr. Darren Christle; the assistant -- associate secretary of the Board, Ms. Jennifer Dubois; and our judicial hearing assistant, Ms. Kristen Schubert. Our court reporter, Digi-Tran, including Ms. Donna Whitehouse and Ms. Wendy Woodworth; our advisers, Mr. Cathcart and Mr. Pelly and Mr. Manktelow; and our counsel, Ms. McCandless and Mr. Watchman.

The Board also appreciates the members of the public who took the time to follow the proceedings via our live streaming on the Public Utilities Board website. The panel will be meeting in the very near future to deliberate and make our final determinations on the matters before us.

That concludes our hearing. Thank you.

--- Upon adjourning at 3:59 p.m.

Certified Correct,

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Donna Whitehouse, Ms.