MANITOBA PUBLIC UTILITIES BOARD

Re: MANITOBA PUBLIC INSURANCE CORPORATION (MPI)

2023/2024 GENERAL RATE APPLICATION

HEARING

Before Board Panel:

Irene Hamilton, K.C.- Panel Chairperson

Robert Gabor, K.C. - Board Chair

Susan Nemec - Board Member

George Bass, K.C. - Board Member

Susan Boulter - Board Member

HELD AT:

Public Utilities Board

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Day 13

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--- Upon commencing at 9:01 a.m.

THE PANEL CHAIRPERSON: Good morning, everyone. We'll continue this morning with closing remarks. Mr. Williams...?

CLOSING COMMENTS BY DR. BYRON WILLIAMS:

DR. BYRON WILLIAMS: Yes. It -- it will be a tag team this morning. All the thoughtful contributions will be from Mr. Klassen, but you will hear more from -- from me.

And if we could enter as an exhibit the PowerPoint outlining the closing arguments of CAC (Manitoba) and have it marked as CAC-7.

--- EXHIBIT NO. CAC-7: PowerPoint Outlining the Closing Arguments of CAC (Manitoba)

CONTINUED BY DR. BYRON WILLIAMS:

DR. BYRON WILLIAMS: And perhaps we can turn to slide 2, please. Just by way of roadmap, it will be a bit of a lengthy journey this morning in terms of our clients' submissions. We are going to start with a shout-out to some very important people, including Ms. Schubert, Ms. Jassal, and -- and CAC (Manitoba).

We'll -- we'll be giving you a hint directionally of the type of signal our client is seeking from this hearing. We'll go through a bit of the -- the legal under -- underpinning of this hearing and then really get into some of the key issues. So that's your roadmap.

I'll try and tell you when we're changing subjects, but if we can move to slide 3. I cannot speak for anyone else, and I'm not trying to testify, but I will observe that I'm exhausted. And I can't imagine how tired the folks at MPI regulatory affairs or the PUB staff are.

But our clients did ask us to start with a -- a thank you to the people behind the scene to acknowledge their extraordinarily hard work. And a couple of folks we do want to flag for special recognition. One is Ms. Schubert who is truly amazing and a great ambassador for the Public Utilities Board.

And we're also mindful of our friend Mr. Guerra's comments about Ms. Jassal and the amazing work she did really for a while all by herself in terms of MPI regulatory affairs, and we want to acknowledge that.

And as always, we want to start with thanking our CAC (Manitoba) board who've been really involved in this hearing and are really gifted and intense Consumer Advisory Committee.

And many of the words that you hear today won't be the legal team's words, they'll be us trying to convey the instructions and the -- the motions and analysis that -- that we've heard from both our advisory team, as well as the CAC board. Slide 4, please.

We'll get to our ultimate recommendations near the end, but in this hearing and, in this submission, our clients are seeking a strong signal from the Public Utilities Board.

They're asking that it be reflected in the revenue requirement that Manitoba Public Insurance is on an unreasonable and imprudent path in terms of expenditure control. That is our number 1 message. That's the number 1 signal we're trying to seek.

Our clients are also seeking recognition of the need to modernize the Manitoba Public Insurance approach to claims incurred, which is a very significant part of the rate-making process, in the range of seven hundred thousand dollars ($700,000), to achieve best estimates.

And although we -- we suspect that our friends from CMMG will be more powerful on this point, our clients are also seeking a signal about the need for a time-sensitive path to address enduring inequities in terms of Driver Safety Rating.

We couldn't go without citing the amazing Court of Appeal decision of Madam Justice Steel, but it is important to remind ourselves of the challenging and important regulatory role.

And it all starts with the reality citing Bonbright that this is a monopoly. And the reason that we have public utility regulation is because we don't have market forces to discipline monopolies. We rely upon the independent regulator to do that.

And that extremely challenging role for the independent regulator is one of balance; the financial interests of the Corporation, as well as the health and well-being and fairness to ratepayers -- fairness to ratepayers as against the interests of the Corporation, and fairness among ratepayers, setting just and reasonable rates in accordance with the statute and in the public interest. Slide 6, please. Thank you.

I keep commenting about questions I

wish I would have asked. And there was a question on day 2 of this Hearing in terms of what was going on because there had been a flurry of changes in the Manitoba Public Insurance application, not only in the October 7th update, but literally on day 2 of the Hearing where we received that notice of the two hundred and eighty-three (283) additional fu -- full-time equivalents as compared to the previous year's budget.

And so, the Board -- Board member asked, is there something unique going on in this General Rate Application? And Mr. Giesbrecht, to his credit, acknowledged that there was. He said that, in other hearings, while there's been change, the quantum or the delta, generally speaking, has been much less.

So, our clients are asking this Board in trying to grapple with what is unique about this Hearing is to recognize the unprecedented nature of this hearing.

If the Board goes back through its decisions over the last two (2) decades, you will not see such significant year-over-year changes in terms of proposed operating expenses or full-time equivalents over the last twenty (20) years. That is one (1) of the key unique elements of this Hearing.

The other unique element of this Hearing from our clients' perspective is mid-hearing, of course, we've seen a fundamental diminishment of the Public Utility Board's authority related to financial targets for rate-setting purposes and in terms of rate rebates.

And if we go back again over those past two (2) decades, perhaps only Mr. Cathcart and I can -- can remember them well, just think of how central to the rate-setting process the PUB authority to set financial targets for rate-setting purposes and to initiate rate rebates has.

It has made a profound difference to independent rate regulation and in terms of disciplining the Corporation. The PUB's leadership has incented risk-based analysis rather than mechanistic formulas for financial targets.

It has deprived Manitoba Public Insurance of a bad management cushion in the form of excessive reserves and it has delivered real savings, or real rebates, in the form of $1 billion in rebates to Manitobans.

By virtue of BITSA and the Capital Management Plan, that has changed. The choice of whether and if to trigger a rebate application now rests with Manitoba Public Insurance. There's a discretion for it, and the PUB no longer has that authority, so that is a unique element and a material change.

Our client was quite interested in a discussion Chairperson Gabor and perhaps Hearing Chairperson Hamilton had with Manitoba Public Insurance in terms of Manitoba Public Insurance's discussion of the Manitoba advantage, the -- our place in the -- in the world in comparison to other insurance companies and in comparison to other monopolies.

And our clients, like many Manitobans, is -- is proud and invested in the system that we have created in Manitoba, but that system, our clients urge you to acknowledge, is not a product exclusively of MPI. There's an intertwined balance in terms of contributions to that system, including from legislators who intervened in the mid 1990s with the Personal Injury Protection Plan and -- and provided important savings and important value to consumers.

There's been an investment in the Manitoba advantage by Manitoba Public Insurance staff and executives over time who have balanced relatively high service levels with a commitment to vigorous cost controls, including three (3) -- through key performance indicators as a way to set aggressive targets and measure prudence and performance.

And some -- the Board can refer to prior Orders, but also some in this room will remember when the former CEO for Manitoba Public Insurance came in and took this room by storm, entrenching key performance indicators as a way to measure, incent, and evaluate performance, disrupting relationships with suppliers.

And so, a significant part of the Manitoba advantage is from that vigorous balancing act that Manitoba Public Insurance used to perform, balancing high customer service standards with vigorous cost controls.

The Manitoba advantage is also a product of Interveners; our friends from CMMG, Bike Winnipeg, the Taxicab Coalition, and others, and the independent experts they have brought to the Hearing.

And when we talk about the investment portfolio, the undue risks that Manitoba Public Insurance assumed in their -- in their 2018 policy and the improvements that they're making, the roots of many of those improvements come from one of those independent experts, Mr. Viola, who you've heard about from time to time in this Hearing.

And, of course, we can't understand the Manitoba advantage, a relative position compared to other insurance companies, without looking at the independent regulator.

And as we go to the next slide, in the course of this Hearing, Ms. Low and I had a discussion of -- of regulators and provincial regulators across Manitoba. And she agreed that the level of rigour varies.

And, clearly, in Manitoba, to the extent that we have an advantage, it's because of -- to a large degree, the leadership of this Board.

Slide 10 talks about what this Board has said in recent years in terms of prudence and reasonableness, and prudent cost control.

We start with a quote from an MPI Order 176/'19 on slide 10. Where the Board reminds us that one (1) of the key elements of its independent review function and rate-setting function is ensuring that actual and projected costs are necessary and prudent.

Going back a year, we see the Board responding to the vigour with which Manitoba Public Insurance was approaching that -- that balance between service and cost control, and supporting MPI's efforts at the time to reduce operating expenses and to optimize staffing levels.

On the third quote on this page, being slide 10, we see again the -- the Public Utilities Board stepping in on another important so-called generational information -- information technology product, the physical damage re-engineering project. And speaking to the challenges the Corporation was experiencing in controlling expenditures. Slide 11, please.

This is not -- the points on this page are not from a MPI decision, but they are from a Hydro decision, Order 69/'19.

And here, again, we see the Public Utilities Board's vigorous approach to cost containment and that essential balance between service and efficiency, using -- encouraging the use of -- use of stretch targets to mitigate inflationary pressures, and saying that, If you're coming to us with cost increases -- proposed cost increases, there's got to be evidence to justify it. Highlighting the need for evidence-based information to support operating expenditure decisions.

And in this Hearing -- in this Hearing above all, given the unprecedented, over the last two

(2) decades, challenges to operating expenses and the 14 percent growth year over year in full-time equivalents, that approach of the Public Utilities Board is, in our clients' submission, needed more than ever.

It has been on slide 12 surprisingly difficult to get clear information on what this rate application actually means to folks in North Kildonan or in Souris or in Thompson, or in Pimicikamak.

In cross-examination of the MPI's CEO and trying to get guidance from him in terms of addressing the actual implications of the GRA, he wasn't anxious to answer those questions. But he was quite keen to tell us how Manitobans should feel about this Application.

In terms of understanding the Application, our clients appreciate and endorse and accept the explanation provided by Public Utilities Board Counsel on Monday.

They accept the description of the overall premium change, when you can take the combined impact of a negative 0.05 percent rate decrease, with a 5.5 percent impact of removing the capital release provision leads to, on average, a 5.5 percent overall premium increase.

As Manitobans on average experience the rate proposal, if approved, in their expenditures on average, they're looking at a pretty significant premium increase.

Again, accepting the Board's calculations, under the MPI Application, about 68 percent of vehicles would see a premium increase, with 13 percent receiving no change in rates. The remaining 19 percent are expected to receive a premium decrease.

As Manitobans experience this rate application, if approved, this is a big hit.

I won't go through this slide in detail, but again, our client does accept the description of the implications of the MPI application, in terms of driver safety rating. And we're sure Ms. Meek and others will -- will go through that in greater detail.

Before we get into our clients' critical analysis of the Application, it's important to take a step back and look at where Manitoba Public Insurance is today. And, in our clients' view, it's at a cross -- crossroads.

Does it follow the aggressive path -- expenditure path, proposed in this rate application?

Or does it maintain behaviour consistent with what the Public Utilities Board and our clients have encouraged over the past many decades.

An important starting point is just to think -- think of Manitoba Public Insurance, what is it? And Mr. Herbelin was quite frank on this point, we're just this utility providing simple products to Manitobans; that's our core. It's not the MPI 2.0 core, whatever that means. A simple monopoly providing an important monopoly service to captive customers. Slide 16.

I've talked ad nauseam about the statutory monopoly, but that's important, because Manitoba Public Insurance is immune from the pressures and demands of the competitive marketplace. It doesn't mean it doesn't have its own demands, but when we look at its approach to information -- its ambitious approach to information technology, when we look at its ambitious plans in terms of full-time equivalent growth, this is not a company fighting for market share. This is not a company trying to fine-tune its offerings in the private marketplace, fighting for every slice of that share.

Its customers have nowhere else to go and those customers rely upon you. As I said at the outset, it's our clients' view that Manitobans are very attached to this Crown monopoly.

But what it offers is pretty simple. A simple product, which has barely changed over fifty (50) years, except for the Personal Injury Protection Plan. And from a ratepayer's perspective, a simple, seamless transaction, you go in, you buy your Basic, 72 percent of you also buy your Extension from Manitoba Public Insurance. Slide 17, please.

This is a simple monopoly with a simple service. It's not the Winnipeg Regional Health Authority or Manitoba Health. It provides auto insurance, adjudicates claims and, to a modest degree, invests in road safety, nothing more.

And it's important, when you think of this simple service by this monopoly, a lot of its services are performed by others. In recent years, Manitoba Public Insurance has delegated many of its simpler estimating tasks to repair shops, through the physical damage re-engineering project.

The -- we cite, in Footnote 21, some of the data on the hearing but a lot of the work it used to do has now been contracted out to -- or delegated out to repair shops. It has a contractual agreement and arrangements with body shops, automotive trades, and medical service providers.

And assuming Project Nova releases 3 and 4 are successful, Manitoba Public Insurance's role in delivering face-to-face services, either through brokers or services, will diminish. A simple product, a non-competitive marketplace and, to a significant degree, its services are -- are delegated elsewhere.

Slide 18 is an important slide. In terms of customer satisfaction and sas -- staff satisfaction, Manitoba Public Insurance is doing pretty well and pretty well compared to private sector peers.

Over the last four (4) years, based upon the Forrester analysis it conducts itself, it has scored in the good range and, sometimes, on the margin of excellent, and it outscores the overall home and auto industry by a significant margin. In terms of employee engagement, it scores over 80 percent.

A fact our clients believe is uncontested in this hearing is that Manitoba Public Insurance, over time, and we see -- saw those data points pre-COVID, is experiencing declining demand. You see Ms. Low, in the first quote, on slide 19, talking about how collision frequency continues to be down from pre-pandemic levels and, if you get to look at the Oliver Wyman expert re -- report, you will start to see, about three (3) years before COVID, collision frequency was starting to go -- move down.

You see, in the second quote, on that -- that page, Mr. Herbelin saying we expect a lower claims frequency on certain aspects of the coverage, including collision.

And you see the -- the Oliver Wyman perspective that the total number of accidents, we believe, is pretty convincingly declining.

And on slide 20, we put to the Board a statement by Oliver Wyman, which was not contested by Manitoba Public Insurance in cross-examination, and it is an important statement about the future of Manitoba Public Insurance and that's the observation that claims frequency is decreasing.

A lot of that's to do with improvements in safety technology, perhaps some road safety, and it's not just a Manitoba experience. It's an experience that Oliver Wyman, which does regulatory actuarial work in nine -- all Canadian provinces, except for Quebec, is seeing across Canada.

There are fewer and fewer claims and we're not talking about the -- the Nirvana, where there's -- there's no accidents on the road at this point in time but this is a corporation, a simple monopoly, experiencing declining demand, like property and casual ins -- auto insurance across Canada. That begs the question, at slide 21. Hope it's slide 21.

Is significant expansion of this simple monopoly justified? In the next twenty (20) or so slides, our clients are going to talk about unreasonable and imprudent practices in their perspective in terms of Manitoba Public Insurance expenditure control. What we call the broken guardrails of cost control.

Our clients are going to talk about the dramatic rise in Basic operating expenses. They're going to talk about the significant rise in full-time equivalents. Despite concerns in benchmarking reports about Man -- Manitoba Public Insurance's relatively poor perspective performance in that regard.

They're going to talk about inflation busting growth in corporate normal operation expenses. If you think of CPI year over year, 8 percent or so, look at corporate normal operation expenses. I think it's Exhibit 97. We'll come to it later, 13.56 percent. Year-over-year, '22/'23 to '23/'24.

Throughout this hearing our client has been seeking to understand how Manitoba Public

Insurance manages, controls, and evaluates expenditures and measures performance.

I've been away from this GRA for a year. I wasn't here last year. When I left this General Rate Application process, we knew how Manitoba Public Insurance set budgets. We knew how they managed performance.

You couldn't walk or go through five (5) pages of transcript without seeing key performance indicators. You couldn't look through the Application without having an active sense of how they were managing their expenditures.

Manitoba Public Insurance has struggled to explain what is driving significant budget growth and how it's even evaluating significant driver budget growth. Is it MPI 2.0? Is it KPIs, or Key Performance Indic -- Indicators?

Ultimately, in Exhibit 86, page 3, Manitoba Public Insurance admits that it is MPI 2000 -- 2.0, which is guiding budget decisions. We call it the ephemeral MPI 2.0, because we don't get it.

Mr. Herbelin, day 1 of the hearing, couldn't explain it. We've never heard anyone from Manitoba Public Insurance explain this except for as an aspiration, as an ambition. How is that driving budgeting decisions?

You'll hear our clients talk a lot about Exhibit 86. It's a monster. It is three hundred and twenty-five (325) pages. It's a response to Undertaking 10. Our clients asked, what is guiding your decisions? Give us what it is.

It took Manitoba Public Insurance two (2) weeks to prepare that exhibit, three hundred and twenty-five (325) pages. And in terms of key performance indicators, MPI will admit that they're not demonstrated to be used there with regard to Basic.

Of those three hundred and twenty-five (325) pages or so, you will see less than five (5) slides addressing key performance indicators and they relate to Special Risk Extension.

These will be detailed, but that's the heart of our clients' concern. Slide 22. Next slide, please.

I am definitely not a poet or a great writer, so why are we using the guardrail analogy. It's not our analogy, it's the Manitoba Public Insurance's choice of words. You'll see that in Exhibit 86, Appendix 1, slide 6.

So, before discussing Exhibit 86, we

asked Manitoba Public Insurance can we define 'guardrail'. And we suggested that a guardrail is a strong fence at the side of a road, middle of expressway intended to reduce risk.

MPI accepted it for the purposes of that conversation. But when you look at the growth in full-time equivalents and you look at the growth in normal operating expenses, you will see that MPI's application of that definition is at odds with what it means.

In this hearing, guardrails, as employed by MPI, has served more as a baseline, but we might even call it a floodgate. And the guardrails for full-time equivalents and expenses that you would see in MPI Exhibit 86, Appendix 1, slide 6 have been obliterated. Slide 24.

Slide 24 focusses on the dramatic rise in Basic operating expenses. And if you think back to Monday, Manitoba Public Insurance, in its closing submissions, appeared to be suggesting that our clients' interest in operating expenses was somehow disproportionate.

There's a reason that our clients and every rigorous independent regulator in North America focusses on operating expenses. The PUB has long understood and stated that operating expenditures, those choices are far more within corporate control than, for example, claims expenses which to a significant degree are a function and have a correlation with claims.

Our clients are also focussing on operating expenses because this is a $100 million line of expenditure. And our clients think this is worthy of that vigilance, especially when it has grown by 38 percent in just the last two (2) years.

Our clients worry that the growth from a $76 million baseline to over a $100 million baseline will turn into a springboard for future growth, especially, if Manitoba Public Insurance does not begin to demonstrate improved controls over expenditures.

And our clients are focussing on operating expenses because there's something strange going on. The Manitoba Public Insurance forecast for operating expenses, for Basic operating expenses in '23/'24, is sharply different from what it told us they would be just in last year's General Rate Application.

It's sharply different from the -- from last year's actual operating expense budget, and it's sharply different from the initial '23/'24 GRA forecast in early July of 2022, growing by some $11.5 million in just a few months. Something is amiss. Something is wrong. Slide 26.

(BRIEF PAUSE)

DR. BYRON WILLIAMS: These are excerpts from a conversation that CAC legal counsel had with Mr. Giesbrecht, but if you want to go to MPI Exhibit Pro Forma -- 50, Pro -- Pro Forma 1, page 13, you'll see some of the same information.

Forecast Basic operating expenses for the '23/'24 year grew almost 20 percent year over year compared to the budget for '22/'23 -- a 17.9 percent increase year over year.

If you go back one (1) more year to the actuals for '21/'22, what is in the budget for '23/'24 represents a growth of 38 percent in two (2) years. Back in '21/'22, the actuals were 75.9 -- 75 -- 76 million.

They are forecasting $107.5 million in '23/'24. $31.5 million higher over the last two (2) years. Some of this is due to changes in claims allocation, but what's driving this is full-time equivalent growth.

In terms of reasonable check -- reasonableness checks in terms of this growth in operating expenses, one (1) basic reasonable check is: What did Manitoba Public Insurance say last year, just a year ago, about what the '23/'24 budget would look like?

First of all, let's take the '22/'23 year, the year we're currently in. Operating expenses are forecast to be 13.4 million higher for this current year than what MPI told you when it was before you seeking the rate increase, about 17.5 percent higher than last year's forecast.

And if we turn to the test year, the '23/'24 year, operating expenses are forecast to be 37 percent higher than what Manitoba Public Insurance was forecasting in last year's General Rate Application, $29 million higher than last year's forecast. And again, the sources for that are -- are put at the bottom of slide 26.

Another pretty basic reality check, reasonableness check, is: What did Manitoba Public Insurance tell us when it filed the General Rate Application, allegedly its best estimate of what it needed for the test year, back in July?

Operating expenses for the '23/'24 year are -- are eleven point five (11.5) -- as updated by the October 7th update are $11.5 million higher than at the time of the GRA filing. And you'll see Mr. Giesbrecht agreeing with our client on that point.

Expenditures that are so dramatically out of line with reasonableness checks, that are so markedly different in such short time frames, demand careful and rigorous justification, in our clients' respectful view.

Twinned with our clients' concern with Basic operating expenses is a significant rise in full-time equivalent staff. This is self-evident to all, but leave aside compensation increases. FTEs, full-time equivalents, as MPI admits, are a key driver in the growth of operating expenses, as well as overall corporate expenses.

Even before we got the General Rate Application, and more importantly the October 7th, 2022 budget update, full-time equivalents had been a long-standing concern with Manitoba Public Insurance. Full-time equivalents had been rising even during COVID compared to the pre-COVID numbers.

Benchmark data from Gartner Group in terms of information technology full-time equivalents has suggested that the numbers for Manitoba Public Insurance are already high compared to its peers. And benchmark data in terms of compared to other Crown corporations has all -- has also raised concerns in terms of MPI full-time equivalents as compared to other Crowns.

Here's an example of FT -- this is for the '22/'23 year, not the great leap forward in '23/'24. But already, FTEs were rising from the pre-COVID baseline despite decreasing claims frequency both pre and during the pandemic.

Here you see that the budget figure for '22/'23 as compared to pre-COVID years had eighty-four (84) more full-time equivalents. Next slide, please.

Slide 30 talks about IT full-time equivalents. There was an excellent cross-examination by Board counsel in terms of the Gartner IT benchmarking report and making the point that Manitoba Public Insurance, both with NOVA, but even without NOVA, has had higher IT spends, higher full-time equivalents, as well as higher IT maturity than its peers that are evaluated in the Gartner group. Slide 31, please.

The same time type of insight has come out of Crown benchmarks, again, an excellent cross-examination by PUB legal counsel. MPI is underperforming its peers on full-time equivalents as compared to premiums written. And MPI has higher FT -- full-time equivalent counts as compared to its Crown peers by multiple metrics.

And this is the Crown benchmarking exercise that MPI undertook. It doesn't reflect the '22/'23 year or the 14 percent growth in full-time equivalents for the purposes of the '23/'24 budget.

(BRIEF PAUSE)

DR. BYRON WILLIAMS: In '23/'24 and on day 2 of this Hearing, slide 14, I think it's Exhibit 55, MPI revealed to our clients' knowledge really for the first time the full extent of the growth in FTEs captured in its '23/'24 GRA proposal.

The total normal operation full-time equivalent forecast for the '23/'24 year is two thousand two hundred and sixty-nine (2,269). This is two hundred and thirty-two (232) more full-time equivalents than MPI suggested at the time it filed its General Rate Application.

It is two hundred and eighty-three (283) more full-time equivalents in the '23/'24 budget versus the '22/'23 budget, year over year, two hundred and eighty-three (283) more FTEs, a 14 percent increase. And the sources for that are, of course, set out at the bottom of this slide.

(BRIEF PAUSE)

DR. BYRON WILLIAMS: MPI claims that these two hundred and eighty-three (283) full-time equivalents equals about $36 million. And here you'll see Ms. McCandless, on behalf of the Public Utilities Board, suggesting that the two hundred and eighty-three (283) translates into $36 million from the '22/'23 budget.

The PUB, of course, will want to take a look at whether it's only 36 million, but that's the position of Manitoba Public Insurance. It's a lot. Next slide, please.

When we think of that two hundred and eighty-three (283), our default assumption might be, well, it's all Project Nova; it's not. MPI has assisted us to understand this. It's identified forty-four (44) IT consultants with NOVA.

More digging by the Public Utilities Board on November the 3rd suggests that perhaps sixtythree (63) of the two hundred and eighty-three (283) FTEs can be ascribed to NOVA. Go back to that slide for just one (1) second, please.

That's in the range of two hundred and twenty (220) FTEs, full-time equivalents, that are not NOVA related. There's a lot going on at Manitoba Public Insurance in terms of full-time equivalent growth. Slide 35, please.

At a higher level, one (1) other reasonable check -- reasonableness check on the MPI expenditures for the '23/'24 year are corporate normal operating expenses. Inflation's a thing. We know that there's inflation putting a lot of pressure on everyone, Mr. Herbelin admitted it, on corporations, on folks just trying to pay the bills, on folks who can't pay the bills.

Exhibit MPI-97 is a great exhibit. It's a one (1) slide exhibit, and it compares the growth of normal corporate operation expenses over a two (2) year period as compared to inflation.

What does that exhibit tell us? Normal corporate operation expenses grew by 44 percent or 13.56 percent between the '22/'23 budget and the '23/'24 budget; 5.56 percent higher than the rate of inflation.

Leave aside stretch targets, if the normal corporate operation expenses would have simply tracked inflation, they would have been $19 million lower. It's a great exhibit and -- and very illustrative of what our clients are trying to convey.

(BRIEF PAUSE)

DR. BYRON WILLIAMS: As I indicated previously, for years it was pretty easy to understand how Manitoba Public Insurance was making budgeting decisions. The word 'key performance indicators' is a measure to evaluate. Its performance was a key tag word for a number of General Rate Applications.

In this Hearing, MPI's explanation of what is driving significant budget growth has been inconsistent. In our clients' discussion with Mr. Herbelin on October 19th, it was very challenging, and he seemed unwilling or unable to provide clarity on how MPI develops budgets and measures performance. Imagine Mr. Graham with those same type of questions.

On slide 37, we see Mr. Giesbrecht trying to suggest it's all about performance metrics. We're asking him, how are you going to measure what they're achieving? And he suggested that there's all sorts of different operating metrics. And -- and so, we asked Mr. Giesbrecht, and so there's a document that will articulate the expectation of value that will be delivered by this $36 million investment in full-time equivalents. That discussion eventually led to MPI Exhibit 86. Slide 38, please.

So, early in the Hearing we can't get a sense from Mr. Herbelin in terms of how MPI's making budget decisions. A day later, Mr. Giesbrecht is suggesting that there are certain metrics.

Ultimately, we get Exhibit 86, that three hundred (300) some page document. And at the heart of Exhibit 86 slide -- third page here's what it says.

"The five (5) year ambition, MPI 2.0, guided the buildup of the MPI budget. MPI based its budget buildups, breaking the guardrails, on its five (5) year ambitions in alignment with its corporate goals."

And if you dig deeper into those key documents, for example, appendix 2 which talks about the budget for the '22/'23 year, here are the guiding questions: How will the requested new rules -- how will all those full-time equivalents support the journey to MPI 2.0? Slide 39, please.

So, what is MPI 2.0? Think back to the very first day of this Hearing, the noble efforts by learned PUB counsel to try to get Manitoba Public Insurance to explain it. We've been struggling collectively throughout this Hearing to try to understand or document what it is. It's got to be important. Apparently, it's guiding budget decisions and the dramatic buildup in full-time equivalents, so what is it? Slide 40.

Here's the CEO of Manitoba Public Insurance on the first day of the Hearings. Make of this quote what you will.

> "But effectively, there are plans that are for the future that have not necessarily elaborated just yet. That the picture -- that depict the picture of MPI 2.0 in the five (5) year ambition level."

Here's Mr. Parti, a candid witness, again in response to a question by a Board member:

> "So MPI 2.0, I do not believe is a document. It's an aspirational state for MPI. It's about everything post-NOVA. No, we don't

have an MPI 2.0 document."

Slide 41, please. Back to slide 40 for a second.

How can a document that is aspirational, not necessarily elaborated, about everything guide a budget with any rigour? Slide 41.

We'll come back to Exhibit 86 in a second. But our clients make the general observation that there's little evidence in the budgeting documents provided by Manitoba Public Insurance to suggest that, in terms of normal operational expenses, key -- that key performance indicators, balance scorecards, or any other good management practices are being used to evaluate proposed expenditures and measure outcomes. Slide 42.

Where are the key performance indicators? Our clients have been on this journey throughout this Hearing. We sought to understand and to identify performance measures and targets, including for IT, the process about how they're set and developed, and how they're measured and adjusted to.

We did so because, for years, MPI expenditure decisions were driven by a rigorous and measured approach to KPIs. It was very frustrating when you were trying to cross-examine them in hearings years past because it was very vigorous. Not so much this year. Slide 43.

What do we know, leaving aside Exhibit 86? We know that MPI does not have a target for benching -- benchmarking performances on full-time equivalents per gross premium written. We know that when MPI has to do its report to the Minister, full-time equivalents are not a key -- key performance indicator for that Minister reporting. And Manitoba Public Insurance tells us that the KPIs are alleged -- or tells us that they're scattered throughout the application.

Exhibit 86 is intimidating but it's important. We had asked Manitoba Public Insurance, by way of undertaking, to the extent that their expectations are indicated, that it expected to guide the budget deliberations for '22/'23 and '23/'24 provide them.

Manitoba Public Insurance spent two (2) weeks responding to the undertaking. It provided a lot of paper. Yet KPIs were merely impossible to identify. Less than five (5) of the two hundred -- or three-hundred-and-twenty-five (325) slides were attempting to apply them and that was in the context of Special Risk Extension, a competitive line of business.

As Mr. Giesbrecht candidly explained, talking about the Special Risk Extension KPIs, he said, This is an example of one, but I wouldn't expect you to see this in Basic.

This is a far departure from the admittedly vigorous approach that MPI took only a few years ago.

In our clients' respectful view, the dramatic growth in MPI Basic expenses and FTEs in the '23/'24 budget is not reasonable. It is not prudent. The so-called guardrails have been obliterated.

With declining claim -- collision claims frequency, declining weekly indemnity claims frequency, with the reduction in estimating pressures flowing from physical damage re-engineering, with the pending delivery of online services, what is wrong with Manitoba Public Insurance in managing its businesses that full-time equivalents have to grow by 14 percent?

In our clients' respectful submission, operational cost containment initiatives and measures have faded from the General Rate Application. In our clients' submission, they need to be returned with increased vigour and determination, organization wide.

In terms of this specific area of our clients' submissions, we have a number of recommended findings for the Public Utilities Board.

In terms of the current benchmarking practices, it's our view that they are either weak, i.e., the Crown benchmarking exercise or dated. And that they need to be strengthened to enable MPI to attain optimum performance -- optimum performance across all areas.

In terms of key performance indicators or analogous measures, our clients recommend that the Public Utilities Board find that they can be a critical tool to establish performance measures and targets, including for IT.

They recommend that the current MPI KPIs, when they can be found, seem to be focused on providing material for presentations, but do not appear to drive organizational performance improvements.

They also observe and recommend that MPI should differentiate between lagging and leading KPIs to drive performance and to add value. Slide 48, please.

In terms of our clients' recommended

findings in terms of the reasonableness and prudence of expenditures in this specific area, our clients recommend that the Public Utilities Board find that the forecast of Basic operating expenses for '23/'24 is unreasonable.

They recommend that the Public Utilities Board find that the growth in MPI FTEs, full-time equivalents, between the '22/'23 year and the '23/'24 year is unreasonable.

They recommend that the Public Utilities Board find that more reasonable and prudent management of full-time equivalents and expenses and the use of stretch targets could achieve savings in excess of 2 percent in the revenue requirement.

They also recommend that the Public Utilities Board observe and find that there are -- that there are other budgetary placeholders in the '23/'24 GRA budget that do not appear to have been rigorously developed and which can provide opportunities for prudency, including the $5 million placeholder budget and special services for MPI 2.0 and the $2 million placeholder budget in loss prevention for pre-determined projects.

Focusing on expenditure control and to send a prudency signal, our clients recommend that the current revenue requirement for MPI should be reduced by between 2 percent and 3 percent in this specific area. Thank you.

Madam Chair, we're going to turn to Project Nova. And given the time that our client spent on Project Nova in the CSI portion, this will be shorter than it -- it normally would be on this issue.

But I've probably -- I probably have another twenty (20) minutes, which might -- might be a good time to get us to just a short break. If that would ...

THE PANEL CHAIRPERSON: That's fine. Thanks, Mr. Williams, proceed.

CONTINUED BY DR. BYRON WILLIAMS:

DR. BYRON WILLIAMS: Slide 49, we highlight a really powerful quote by the MPI CEO:

"In terms of Project Nova, we are entering the dead zone and we have to go through."

We'll come back to that quote a bit later. But again, we see our argument in the public record on Project Nova supplementing our core argument which, unfortunately, is under CSI. And we ask that they be read and understood together. Slide 50.

In terms of what's on the public record, in our clients' view, it confirms that competing corporate priorities continue to place the achievement of Project Nova outcomes in terms of functionality, costs, and benefit at risk.

In their view, turning to the second bullet, it confirms that senior non-NOVA executives appear to be late to the table in assuming ownership of Project Nova. And that Project Nova governance challenges continue to place the success of the project at risk.

Our clients re-iterate our concern that the untendered contract to McKinsey of February 2022 was unreasonable. And our clients' observed, based upon the public record, that the achievement of current expectations of Project Nova, in terms of functionality, benefits and net present value continues to be at high risk.

Our clients note that additional cost pressures on Project Nova may inadvertently arise from Corporate messaging suggesting that the project must be completed at all cost.

And for further review, at a later GRA, they suggest that one (1) item for consideration is the allocation of the costs of Project Nova.

I wasn't at last year's General Rate Application, so it's -- it's -- these aren't my words, but I think it's instructive to go back and look at what the Public Utilities Board said then. And remember, at this point in time, the Public Utilities Board was only looking at the 2021 re-baseline, not the 2022 re-baseline.

And again, I wasn't at the hearing, but apparently there was a discussion of moving from Project Nova through -- towards MPI 2.0 through Super Nova. And, in the quote at the top of the page, you see the Board even on the 2020/'21 re-baseline expressing concern with budget overruns and expressing its concern quite presciently that the 2021 re-baseline may not be a reliable indicator of future project costs. And also warning about scope creep, given the plan -- plan move towards MPI 2.0 through Super Nova.

Again, I wasn't at the hearing, so I don't know who picked the words 'Super Nova', but I thought that was a curious choice of words and we went to the handy Oxford dictionary just to try and understand a common parlance for Super Nova, which is a star that suddenly increases greatly in brightness because of a catastrophic explosion that ejects most of its mass.

And I'm, again, I don't know who called it Super Nova, I hope that is not an aspirational intention and that Super Nova has a different meaning than -- than common parlance. Slide 52.

In terms of computing Corporate priorities, our client recommends that the PUB turn back to our confidential CSI slides 24 to 29. But, we do note, Mr. Mitra again noting actually in the spring of 2021, that already MPI was struggling with competing corporate priorities. Slide 53.

What is striking to our client is -- you'll recall in cross-examination on the public record, there was actually a discussion of two (2) steering committees. And one involving the sponsors, the CEO, the -- the COO, the CIO, so the Chief Operating Officer, the Chief Executive Officer and the Chief Information Officer.

Undertaking 1 -- or Exhibit MPI 106, we were trying to find out when this started, because you'll -- you'll know that with the project deeply in trouble, as Project Nova has been, leadership across the Corporation is necessary. Ownership of the project is necessary.

To our surprise, our clients learned

that the sponsor steering committee, including the Chief Executive Officer, was not announced til June of 2022 and did not meet until well into July of 2022.

And this raises concerns for our clients, given the dramatic escalation of cost, decline in benefits in MPV and material challenges with scheduling, our clients would have expected senior executive ownership of this project sooner in the process, including through this sponsor steering committee.

Slide 54 merely repeats, based upon the public record, issues related to the significant untendered contract for McKinsey to serve as general contractor. With MPI back in February of 2022, defending this decision, on the grounds that it could not afford the delay involved with issuing the tender process. Had -- it had to act then and urgently to hire a general contractor. It couldn't afford to wait for tenders. Slide 55.

The public record on this point is actually better than the confidential record in -- in our clients' view. It confirms that Manitoba Public Insurance and the MPI Board technical committee were aware of concerns that MPI could not fulfill the general contractor role by the summer of 2021. And in the case of the technical committee, perhaps early September. Oh, go -- go back please, thank you, Ms. Schubert.

It highlights that by mid 2021, MPI was starting to understand that the complexity and scale of NOVA was greater than anticipated. It was recognizing that were -- there were concerns in terms of the timing and the budget for NOVA.

MPI confirmed that by the summer of 2021, it was concerned that it was not competent to fill the entirety of the general contractor's role and that the technical committee of the Manitoba Public Insurance Board was advised that -- Manitoba Public Insurance was struggling in its role as general contractor in the August to September 2021 time period. And you'll see that's part -- from the transcript October 31st of 2022.

MPI confirmed its awareness, or at least its -- its tendering folks' awareness of the opportunities for accelerated tenders but as Mr. Mitra candidly admitted, subject to check, Manitoba Public Insurance did not evaluate that option. Next slide please.

At slide 57 we merely highlight, that apart from McKinsey, and let's leave aside KPMG and other potential vendors, there were also other -- other elite firms in -- in -- potential in the marketplace who could have participated in a tendering process, especially if it would have been initiated in the fall of 2021. Slide 58.

Again, because so much of this documentation is on the CSI record, at slide 58, our clients just want to highlight that the achievement of current expectations for NOVA continues to be at high risk.

Among the key risk factors are the complexity of the -- release 3, compared to releases 1 and 2. Uncertainty in broker negotiations. The fact that pre-discovery and discovery have not yet been done for the largest release being release 3. And, obviously, there is a risk of further schedule slippage that would impact costs.

So, for our clients' view, this -- this highlights the risks associated with relying too heavily on re-baseline 2022. Slide 59 please.

PUB counsel did some nice work in just kind of tracing the changes in -- in corporate and Board expectations for Project Nova.

As late as December 2020, the tech committee was only approve -- prepared to approve budget increases up to zero (0) MPV. Of course, now we're at minus one hundred and eighty nine million (-189). Slide 60.

Slide 60 is a candid discussion between Chairperson Gabor and Mr. Herbelin and the question was put, you're in deep and perhaps I'd -- I'll just -- just let me say, the question was put, There isn't pulling back from this. And Mr. Herbelin go -- goes:

"If you take the analogy of the summit, we are entering the dead zone and we have to go through."

Our client is somewhat concerned that this type of messaging may be like a moth to a consultant's flame and, certainly, from our clients' perspective, it reinforces the nay -- necessity of independent governance, oversight, and rigorous PUB review.

Even if Manitoba Public Insurance is no longer budgeti -- or governing this project with guidance, in terms of aiming for zero MPV, it is very critical for independent oversight, in our clients' view, to bring as much rigour as possible to the -- to expenditure control.

The Corporation, in our clients' view, appears to be vulnerable and deep into the project and

-- and our clients are concerned that that may trigger further pressures on expenditures.

Slide 61. Next slide, please. Just a simple acknowledgment on slide 61 that this is a high risk project. It continues to be a high risk project and we appreciate Mr. Mitra's candour. Slide 62.

On slide 62, we just raise some comments on -- on cost allocation and as the Public Utilities Board is aware, the cost allocation methodology for Project Nova has changed, with less being allocated to Basic, and you would think our clients would be celebrating, and our clients certainly will be celebrating if -- if -- if that is a valid cost allocation methodology.

Our clients do not want to pay one cent more than they need to pay but they do not want to pay one cent less than what is just and reasonable. That's what this process is about.

And, so, our client is just being mindful of cost allocation because the changes to the cost allocation methodology have not been explored -- externally val -- validated, and their timing happened to be very contemporaneous with -- with re-baseline 2022.

Our clients will applaud with joy if

the cost allocation methodology related to Project Nova is validated by external method -- methodology but it -- they -- they suggest that it should be looked at with some care, in future regulatory proceedings. Slide 63, please. And that basically reiter -- reiterates what I just said on slide 62. So, we can move on, please.

In terms of our clients' recommended finding, again, these should be read in -- in -- in harmony with the CSI submissions but, again: that Project Nova is a high-risk pro -- project, by virtue of its complexity, financial challenges, and timing challenges; that its ability to meet critical dead -- deadlines has been put at risk by competing corporate pressures; that its capacity to meet critical deadlines has been put at risk by challenges in engaging senior, non-NOVA executives; that the MPI Tech Committee was aware of concerns that MPI could not fulfil the general contractor role by the summer of 2021; and that it was imprudent -- that MPI was aware of but did not explore an accelerated tendering process; and that it was imprudent to issue an untendered contract for McKinsey in February '22.

We also recommend a finding that there is uncertainty whether the project can be delivered on the existing re-baseline budget, time line, and net present value -- negative net present value.

In our clients' view, without commenting on material on the confidential record, the Public Utilities Board has benefitted greatly from the insights of the independent governance advisor PwC, and, if Manitoba Public Insurance continues to retain an independence governance advisor, our clients would recommend that that -- Public Utilities Board should ask that entity to appear as a witness at the next General Rate Application.

If an independence governance advisor is not retained, given the magnitude of the project, given the risk of the project, in our clients' view, the PUB should request an independent assessment of the risks and business case for NOVA for the next GRA.

Bullet 3, it's not the PUB decision but we are proposing that the PUB should recommend to the MPI Board that it directs MPI to contain costs within the 2022 re-baseline.

It's important, from our clients' view, especially given other competing priorities, especially given the risk of project scrope -- scope, that a line be drawn in the sand somewhere and, perhaps, the last line that can be drawn is the 2022 re-baseline and -- which may require hard decisions. It may not achieve the aspirations of Super NOVA but it would be helpful guidance to Manitoba Public Insurance, given its struggles with this project.

And, again, our clients recommend that the PUB should defer determination of cost allocation -- an ultimate determination, and request independent review, at some future date. Slide 66.

I'm not going to go through this in detail but, if the Board is looking for precedent or examples of where it has undertaken similar activities in the past, it can look to what it did with the physical damage re-engineering project. That was only "a sixty-five million dollar ($65,000,000) project" but, again, it was badly out of scope and over budget.

And, certainly, these two (2) slides, being slides 66 and 67, we recommend for the Board to read at your leisure -- I'm sure you have so much of it -- because it does give a good history of Manitoba Public Insurance's aggressive adventures, prior to Project Nova, in modernizing its IT footprint. Go back to slide 66.

In that second paragraph, you can just see all the projects that it was involved with prior to physical damage re-engineering. It's not like

Manitoba Public Insurance has been sleeping in the backwoods for -- for a decade. There's been an aggressive effort, pre-NOVA, to enhance its maturity and that maturity is reflected in the Gartner Group Peer benchmarks showing it with a relatively high maturity compared to its peers across nine (9) different arc -- categories.

Slide 67, again, is just an example of what the PUB did with the physical damage re-engineering project and the recommendations that our client is making in -- in this hearing are highly analogous to what the Public Utilities Board did in Order 128/'15.

Slide 68 takes -- takes us to investments and, Madam Chair, I'm a couple of minutes ahead of schedule but this is -- recognizing I've still got a ways to go, this might be a good break point for -- for a health break.

THE PANEL CHAIRPERSON: Thank you, Mr. Williams. Yes. Let's come back, please at twenty-five to 11:00.

--- Upon recessing at 10:19 a.m.

--- Upon resuming at 10:36 a.m.

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

CONTINUED BY DR. BYRON WILLIAMS:

DR. BYRON WILLIAMS: Yes, thank you. When we look at investments, it's -- it's important to understand that there's -- there's two (2) confro -- conversations. One (1) is the policy decisions by Manitoba Public Insurance in terms of its investment portfolio for Basic and for Rate Stabilization Reserve that are affecting us today and that will be affecting us next year, and that relates to the 2018 Asset/Liability Matching Study and the 2018 policy.

And then there are the choices Manitoba Public Insurance will make at its Investment Committee meeting and -- and implement over the next year, so that's the forward-looking.

So, when -- when we're having this discussion, I'm going to start by focussing on the -- on the existing policy, the 2018 policy.

And slide 68, at a high level, outlines our clients' submissions, that today's ratepayers and -- and next year's ratepayers are -- are being impacted by investment policy choices made by Manitoba Public Insurance in 2018 that were high risk choices that were further impaired by low return constraints.

And I have the utmost admiration for My Learned Friend, Mr. Scarfone, counsel to Manitoba Public Insurance and after our -- our client completed its cross on the investment portfolio, I remember a question he asked Mr. Bunston. You know, could anyone predict where inflation was four (4) years ago?

That's not the issue. It's not about who can predict inflation better. At risk and at issue is the reasonableness and prudence of high-risk choices and low return constraints adopted by Manitoba Public Insurance in terms of a -- it -- of its existing investment policy. And ratepayers are currently paying a price in terms of unreasonable risk and in terms of constrained returns.

Bullet 4 on this slide notes that while some of these high-risk choices reflected in the existing investment policy appear likely to be eliminated in the next policy, MPI continues to impose certain constraints that undermine Basic portfolio optimization.

And My Friend, Learned counsel for CMMG, will also be sharing her client's perspective on this important issue. The last bullet on this page is a bit more of a forward-looking thing.

And -- and we're still working our -- our way through to make sure we understand the MCT calculation as it rela -- relates to financial risk, but our client does have a preliminary concern that the mechanistic MCT calculation may be deterring portfolio optimization and we'll -- we'll explain that rather arcane subject in -- in a few slides.

At slide 69, let's start with what should be a parenthood statement. Inflation's a thing. Of all the MPI lines of business, Basic insurance has the greatest exposure to inflation risk.

And Mr. Bunston confirmed that in a conversation with myself. And MPI's Chief Executive Officer talked about inflation impacting all aspects of the Corporation: operating expenses, wages, physical damage claims. But more unfortunately, inflation really has an impact on those personal injury pot -- protection pan -- plan benefits that are subject to indexation.

And in response to a very inelegant question by myself, Mr. Bunston provided really helpful elaboration on this and described the significant amount of long-term liabilities of Manitoba Public Insurance impacted by inflation.

Those claims that may last ten (10)

years, twenty (20) years, forty (40) years, and that are indexed. There's a typo on this page and we'll correct that because it's not just 3 percent that are directly indexed to -- to Manitoba CPI, that should read 83 percent.

And the remaining 16 percent not directly tied to increases in CPI, but impacted by increases in healthcare inflation, which is different but often higher than CPI. Mr. Bunston's point here is that long-term liabilities are highly exposed to inflation risk. Slide 70.

So, this goes back to the 2018 policy decision. And when you're doing asset/liability matching, and there are people in this room who are far more insightful on this point than I am, but the starting point isn't to look at the assets, it's to look at your liabilities.

What are the risks inherent in your liabilities? And that's what we call that critical first step, the benchmark liability portfolio. And Mr. Bunston, as always, is a candid and thoughtful witness and he flagged that the first step is to model the liabilities and develop an asset mix that responds to the risks and manages the risks associated with those liabilities.

And candidly, again, he confirmed that the liability benchmark should reflect the characteristics of those underlying liabilities, esp -- especially in the case of liabilities that are long in duration and inf -- inflation sensitive. Slide 71, please.

So, Manitoba Public Insurance had a choice back in 2018. In determining its 2018 policy, it could have looked at a liability benchmark - and Mercers presented one - that focussed on both interest rate risk and inflation sens -- sensitivities. That's what we call a real liability benchmark, or sometimes a real interest liability benchmark.

Or he could have just focussed on interest rate sensitivity, sometimes known as a nominal liability benchmark. Mercers did both models for MPI and Manitoba Public Insurance chose to model a nominal liability portfolio, i.e., just focussing on interest rate sensitivity rather than one reflective of real interest rate risk, i.e., after inflation.

And as Mr. Viola has pointed out, and as our client has pointed out, for the better part of a half decade, that's an extremely risky choice, because the nominal liability portfolio selected by MPI did not appropriately match the risk of Basic liabilities, including their vulnerability to long-term inflation.

It's not a predictive exercise. It is good risk prevention 101. Match your liability benchmark to the real risks venture liabilities face. Slide 72, please.

And that liability benchmark is such a critical exercise because the choice of whether you go with a nominal liability benchmark or a real liability benchmark is critical to the decisions that the computer optimizations make -- the opt -- the optimizers make.

And on slide 72, you see me discussing with Mr. Bunston -- again, always a fair and candid witness -- confirming that when you're starting to move from the liability benchmark to the actual selection of assets along an Efficient Frontier, everything flows on whether -- what benchmark is selected. Mr. Bunston agreed that's fair.

So the choice of a nominal liability benchmark would lead to different optimization choices than the choice of a real liability benchmark.

So if you're sitting here today or if you were sitting here last year wondering why there were no real return bonds in the MPI Basic portfolio which provide a full hedge against inflation, or why there was no real estate which provides a partial hedge against inflation, a core policy choice way back in 2018 to -- to develop a nominal liability benchmark rather than a real liability benchmark is what has left Manitoba Public Insurance so exposed in the face of high inflation; not because Mr. Viola on behalf of CAC had a crystal ball, but because Mr. Viola, based upon his vast experience whether with Ontario Teachers or CPP, knows what good practice is.

The starting point is: Evaluate your risk inherent in your liabilities and acknowledging that inflation is a risk; not that we're predicting it, but it's a risk that is -- that Manitoba Public Insurance, especially under the Personal Injury Protection Plan, is acutely vulnerable to.

This fundamental design flaw, this choice of Manitoba Public Insurance, exposed it to undue risk. Slide 74.

We're not ascribing all of this loss in marketable bonds to -- to that choice, but -- but MPI definitely had a tough year in '21/'22 in its investment portfolio. And none of those bonds had inflation protection. Slide 75.

(BRIEF PAUSE)

DR. BYRON WILLIAMS: There are two (2) things happening here that we're trying to get at on slide 75. One (1) was the selection of the nominal liability portfolio that led to an optimization process that excluded real return bonds, it excluded real estate. So that's a design flaw, if you will.

There was also a policy choice that Manitoba Public Insurance made to constrain the Basic investment portfolio: all bonds, no equities. Regardless of the diversification value, for example, a portfolio with real return bonds and investment portfolios and still focussed on bonds, regardless of that diversification potential make a policy choice to constrain equities.

And the Mercer Report in this year's Application had a really interesting portfolio, Portfolio D. Portfolio D was a more unconstrained portfolio, including equities, but also including inflation protection, and with no more risk, according to Mercers, than Portfolio A, Manitoba Public Insurance's 2018 policy portfolio.

And bullet 3 just does the math that we did during cross-examination with Mr. Bunston, just looking at one year, and showing that in the current year, the impact of these choices might be as much as $25 million. And that was com -- comparing Portfolio D of a similar risk to the Manitoba Public Insurance portfolio, but with a higher return because it was -- it was not unduly constrained and it was using the principles of correlation and diversification.

And so when our clients suggest that the 2018 policy accepted undue risk but also denied MPI ratepayers important opportunities, that's what they're referring to, the double whammy: the -- the design flaw to pick the nominal benchmark and the policy choice to constrain the optimization process.

That analysis is a snapshot in time, but we're trying to convey through that analysis both the risks and the opportunities.

To its credit, Manitoba Public Insurance, Mr. Herbelin and -- and certainly Mr. Bunston, now acknowledge the importance of real inflation risk.

And here you'll see Mr. Herbelin recognizing the importance of designing your importment -- your investment portfolio to be alive to the real risks of inflation, and the 2022 asset liabilities management study of Mercers does use a real liability benchmark.

Going forward, they're going to correct the design flaw that has left Manitoba Public Insurance unduly exposed to inflation risk.

And our clients do want to note on slide 77, again, we don't know the ultimate policy, but the twenty (20) -- MPI seems to be making some improvements as compared to the 2018 policy.

It appears to have accepted the -- the need to better match the benchmark liability portfolio to its actual risk, i.e., interest and inflation, not just interest rates. That would lead to optimizations based upon real after-inflation interest rates and it appears the inclusion of real return bonds.

MPI has also eliminated the constraint that the portfolio should be 100 percent bonds, and with better optimization due to the elimination of this inefficient constraint, again, recognizing that this is a future-looking exercise, MPI appears to have accepted lower risk with the opportunity for somewhat higher returns.

So as compared to what our clients would consider to be the high-risk/low-opportunity 2018 decision, there have been some improvements. Slide 78.

And as Ms. Meeks (sic) will no doubt express far more eloquently than I, it appears that inefficient constraints will continue to remain in the going-forward MPI portfolio. Our understanding is that the recommendation to the MPI board will be that it continue to adopt the inefficient constraint of no equities, no levered bonds.

And our clients think this does a disservice to ratepayers and is unfortunate because Mercer's 2022 analysis demonstrates an opportunity for MPI to achieve higher returns at comparable or lower risks to its current portfolio, including by diversifying its portfolio to include equities, alternatives or levered bonds.

And if you think of that cross-examination that we did with Mercers and with MPI and the Efficient Frontier grid, down here on the right and fairly low down was MPI's current portfolio, and above it and much higher was Portfolio D: equivalent risk and -- as measured by Mercer's but significantly greater return. And again, My Friend Ms. Meeks will I expect to be speaking to that. Slide 79.

In our clients' view, MPI doesn't like this peer review, but there's a really helpful peer review on the record that looks at how MPI has performed in terms of its investment portfolio compared to the investment gross returns of certain other entities: ICBC, Saskatchewan Government Insurance, Worker's Comp, the Civil Service Superannuation Board, and Teachers.

The analysis came to a couple conclusions about midway in the -- the page, this won't shock anyone. Over this four (4) period for the asset mixes with higher allocations to fixed income, generally, on average, they had a lower return.

And it compared the performance over this snapshot in time, being a four (4) year period, of MPI to six (6) peers. It noted that, of the -- the six (6) companies, Manitoba Public Insurance had the largest allocation towards fixed income and that all but ICBC outperformed MPI.

On the record, there's another -- additional information which brings the comparison with SGI up to fiscal '21/'22. And in that particular year, the MPI investment portfolio underperformed SGI by 2.9 percent.

Just to stay on this slide for one (1) more page. Again, our clients' point isn't just about return. Our clients' point is about the relationship between risk and return. We're highlighting that the

2018 policy made -- had design flaws and policy choices that prejudice Manitoba ratepayers both on risk and in terms of opportunities.

And while there have been -- it appears that there's been some progress on the risk side, from our clients' perspective, there continue to be inefficient constraints imposed by the MPI Board on the investment portfolio which -- which deny it the optimizing benefit of portfolio diversification and -- and significant opportunities, especially for classes, all ratepayers, but especially classes who experience a disproportionate share of costs associated with the Personal Injury Protection Plan.

(BRIEF PAUSE)

DR. BYRON WILLIAMS: Slides 80 and 81, you'll hear a bit of caution in my voice because we're still trying work our way through this. But one (1) really interesting thing flowing from the Mercer analysis, Mercer focussed on risk in the marketplace. They're comparing different types of portfolios based upon surplus volatility.

And what we're trying to get at at slide 80 is two (2) portfolios, portfolio A, which is the MPI portfolio, and portfolio C, which was a less constrained portfolio and had significantly less risk as measured against MPI's approach. And so, that's Mercer's approach, focussing on -- on the middle of the bell curve.

But what was puzzling to us in the initial Mercer's analysis was you took portfolio C, which in the marketplace had significantly less risk, and then you plugged it into the minimum capital test financial risk calculation, and it's showing up with an additional minimum capital requirement of 65.4 million as compared to the MPI portfolio of 16.8 million.

So, we -- we had an undertaking. And we -- we got the -- the mechanics by which Manitoba Public Insurance undertook this calculation. Obviously, they just applied the mechanics of the MCT analysis.

And if you'll recall that conversation, and I'll take you to a reference point in just a second, in that conversation, we confirmed that, in terms of investment risk factors, government bonds, whether they were T-Bills or provincial bonds or -- or provincial -- or Canada bonds, had no risk factor attached to them in terms of this metric whereas equities had 30 or 40 percent. And that was puzzling to us because it didn't seem to account for portfolio diversification.

Slide 81 we put to Mr. Bunston an extreme scenario, a basic portfolio with a hundred percent T-Bills. So short -- a gross duration mismatch with the actual characteristics of the MPI portfolio. And he confirmed that the risk wouldn't change based upon that weight. And so, we intend to explore this going forward as we get greater understanding of the potential limits of the MCT calculation.

But going back to slide 80, our client is concerned that legitimate investment decisions based upon market measures which might better optimize the portfolio might be deterred by the mechanics, the rigid mechanics of the MCT calculation.

Again, we have to be careful on that because we're still learning about it, but that is the concern.

And on slide 82, this will no doubt suck out your attention span, and so we're just trying to confirm that the MCT is really a balance sheet exercise. It's not a market exercise like the -- the Mercer's calculation.

And you'll see the question made, this -- the last question:

"In essence, actual capital is measured using accounting standards."

If we can go to slide 83, hopefully, I can pull this together. These were our clients' recommendations in terms of the MPI investment portfolio. There's a few recommendations that our clients have been making since about 2017 or 2018 that we reiterate.

From our clients' perspective and in their -- from their perspective, Manitoba consumers and ratepayers are better served if the portfolio is managed in terms of long-term sustainability. Return and surplus risk as measured by -- by Mercers, for example, not short-term earnings volatility, that accounting sheet versus market realities that -- that sometimes occurs with -- with all apologies to the accountants.

In terms of constraints, our clients continue to recommend that constraints should be reviewed and relaxed, to the degree possible and prudent, to avoid lower risk adjusted returns. Constraints never increase expected risk adjusted returns.

And if constraints are going to be imposed upon the portfolio, there should be an explanation and supporting evidentiary analysis. They shouldn't be concerns -- driven by concerns about a newspaper headline, for example.

Based upon our clients' review of this proceeding, we make a number of new recommendations. Like our friends, I suspect, from CMMG, our clients recommend that Manitoba Public Insurance remove the no equities constraint in Basic portfolio optimizations given the cost of this constraint. And, again, that was expressed by that comparison between portfolio D and portfolio A. In essence, you get lower returns for the same risk.

Not remove, but relax, the no leverage constraint as the asset liability matching study support its use and explore ways to manage any additional risks associated with the prudent use of leverage, i.e., counter-party risk and liquidity risk.

Slide 85. Remove or relax other costly constraints where cost is measured as the foregone returns. MPI's tolerance for surplus risk.

4) Be more transparent regarding the rationale for imposing various constraints and

ensuring that they're supported by appropriate evidence, empirical research.

Continue to evolve in -- in the understanding of other portfolio risks, such as liquidity and counter-party risk. At a high level, it appears that MPI's justification for imposing certain constraints, such as no leverage, relates to these other types of risk, but our clients have not seen any evidence related to the materiality of these risks in terms of adverse impact and the probability of occurrence or the compensating cost of managing these risks at a -- at acceptable levels. Slide 87.

Adopt a decision-making process that is based primarily on economic considerations, market values, and cash flows, rather than accounting ones.

And there's some important commentary here, both about IFRS 17 and the pension plan, that I'll leave to the -- for the Board to read and enjoy at its leisure. Slide 88.

Again, this perhaps imagined a world without BITSA, but adopt risk metrics and methodologies for capital reserve management that are more consistent with the metrics and methodologies used in the asset liabilities studies.

And importantly -- and again,

consistent we believe with our friends from CMMG, conduct MPI's own risk and solvency assessment, ORSA, and consider ways to look at the capital RSR targets without undue reliance on regulatory capital measures, such as the MCT.

In a way and in essence -- again, recognizing the constraints of BITSA -- going back to what we had very successfully in Manitoba for a number of years with the collective approach to Dynamic Capital Adequacy Testing informed by contributions by the PUB, by Interveners, and by MPI.

Before I turn things over -- no doubt to your relief -- to Mr. Klassen, I want to go to claims frequency. And sorry, it's -- the title for this should be modernizing claims incurred.

But this specific slide, being slide 89, we're now moving to the claims incurred forecasting section of our submission.

And we wanted to start with a -- what we think was an important admission and comment by Ms. Low on behalf of Manitoba Public Insurance.

And in this conversation, which took place on October 21st, I was drawing to her attention some revisions to the weekly incurred ultimate assessment. And suggesting to her that what that was telling us was with regard to certain of the PIPP perils or lines of business, MPI was employing assumptions that were too conservative.

And as is her want Ms. Low candidly agreed. And then, she went on to say, But these were long-term claims. There's a lot of uncertainty. The more mature the block of claims get, the less uncertainty there is.

So you always build in a little ounce of conservatism because we don't know how the claims are going to play out.

In our clients' view, that little ounce of conservatism is a pretty important statement. And we ask whether building in a little ounce of conservative -- conservatism -- not trying to take any political positions -- I mean, conservatism in terms of actuarial analysis is consistent with the obligation to provide a best estimate and one that is without bias.

And so, this little ounce of conservatism, in our clients' view, helps you to understand where Oliver Wyman was coming from when they made their ultimate conclusions.

Back to slide to 89 for -- for a minute. The duty of actuaries, certainly as our client understands it and -- and -- is to provide a best estimate and one without bias. And part of the tension between the position of Manitoba Public Insurance and the evidence -- the independent evidence of Oliver Wyman may revolve about this -- around this little ounce of conservatism. Slide 90, please.

Other important and candid admissions by Manitoba Public Insurance during cross-examination is that they use a linear trend for weekly indemnity frequency and assume that frequency decreased at a rate that is constant in amount. And -- and we know, based upon our experience in the real world, that -- that that is -- it's not a safe assumption.

MPI confirmed that in terms of its estimates of weekly indemnity frequency, it did not calculate regression statistics to test them.

And with regard to collision severity -- total loss collision severity to be more accurate -- that it uses a simple average for trend -- a three (3) year trend -- and that's that jagged line that we discussed in cross-examination. And relies upon one (1) data point as its -- as its starting point. And those were candid and important admissions from our clients' perspective.

So let's talk about Oliver Wyman.

Obviously, an important element of this Board's role, when it's looking at just and reasonable rates, are whether forecasts are reasonably reliable.

To that end, our client retained Oliver Wyman, an internationally recognized actuarial firm. And Oliver Wyman certainly has -- has roots in Philadelphia and in New York. But it brought to this proceeding the insight it gained from its advisory work, not just in the United States, but its work in every Canadian province, except for Quebec.

And it offers its Canadian services both to independent rate regulators in places like Ontario and Saskatchewan, as well as other public organizations such as our clients.

And, obviously, as this Board is aware, its outstanding advisory and teaching skills are recognized by organizations such as the Canadian Automobile Insurance Rate Regulators Association.

Oliver Wyman, of course, appeared before and presented to CARRS, C-A- -- well, anyways, to the Rate Regulators Association just prior to the General Rate Application.

By way of overview, what did the Oliver Wyman evidence tell us? They highlighted that there are opportunities to modernize and make more rigorous the MPI approach to claims incurred forecasting. And they highlighted the importance of this, given the sheer magnitude of the claims incurred in terms of affecting the ultimate rate indicator. They suggested that Manitoba Public Insurance's approach would benefit from a more rigorous and transparent analytic approach.

But they also had common ground with MPI and with other Canadian auto insurance experiences to the point that claims frequency is trending downward due to a variety of factors: better vehicle safety, road safety, and persons working more frequently at home. And you saw that quote from Oliver Wyman earlier in the evidence.

What did Oliver Wyman do? They looked at forty (40) aspects of Manitoba Public Insurance's approach to predicting claims incurred: collision total loss, frequency in severity, weekly indemnity frequency in severity. They even eyeballed the very small rodent estimates under comprehension.

So they lifted those portfolios and claims incurred forecast -- the big huge ones like collisions, the material ones like weekly indemnity, and the tiny ones like rodents.

And they looked at them with a view to

circumstances where their views on projected claims incurred differed materially from those of MPI.

In thirty-two (32) of those cases, they did not identify a materially different view on projected claims incurred.

This does not imply an endorsement of the MPI forecasting approaches, but what it does suggest is that they would not have come up with a materially different estimate. Think of, for example, rodents. Is that going to move the needle? Not very likely.

In some of the thirty-two (32) cases, Oliver Wyman estimated a lower result in terms of claims incurred. In others, it estimated a higher result based either in statistical analysis or visualization. But, in all of these cases, the difference in projected claims incurred was not expected to be material.

So, it's not, as my friend from Manitoba Public Insurance may have inadvertently suggested, that they left out all the bad results and kept in all the good ones. It's just, they exercised judgment and looked at materiality. Again, think of rodents unlikely to be material. Slide 94.

Oliver Wyman identified eight (8)

forecasts of claims incurred perils where the methodology of MPI appears unreasonable and the outcome for claims incurred is material. And that's well documented both in their evidence and -- and -- and in their powerpoint and I'll take you to one (1) particular example.

Assuming that the PUB accepted the Oliver Wyman proposed methodology in all eight (8) cases, this would impact the claims incurred forecast by somewhere between four and a half (4 1/2) and 5 percent. And there's a question from the PUB on the record on that.

I -- I want to be clear here, if you think of a 5 percent change in claims incurred, claims incurred are a big part of the rate indication, but that is not a one-to-one relationship with the ultimate revenue requirement, obviously. Slide 95.

Before I get to some of the methodological recommendations of Oliver Wyman, I do want to highlight yet another exchange in the evidence, in terms of a really impressive cross, I've got to say by Ms. Moore, in terms of our witness.

And Ms. Moore was bringing to our attention the issue of collision frequency and you know how significant collision is to the ultimate claims incurred. And -- and she was bringing to the attention an -- an exhibit and an update in terms of year-to-date experience of Manitoba Public Insurance. And asking, what would it tell us about Oliver Wyman's findings, that frequency projection is overstated for '23/'24 and '24/'25.

And Mr. -- Mr. Raj Sahasrabuddhe, as he observed, what he's telling us here in this quote, is that observed frequency is coming in less hot, it's coming in lower than MPI anticipated, and of course more consistent with the Oliver Wyman conclusions, that the MPI frequency provision for collision -- projection, not provision, is overstated.

That was a -- an important exhibit and an -- an important update and slide 96, again, an excellent cross by PUB counsel, re-enforces this point, because MPI earlier in the hearing had admitted the same thing. We know that frequency continues to be lower than the 5 percent adjustment, and that's the first quote.

And confirming that the frequency expectations for collision, that big ticket item, are overstated based upon the information before her.

Like we're assuming collision frequency is 5 percent -- percent lower because people working from home, it could actually be even -- it could go lower, than that, if we were to base it on today's claims.

Again, you see the able cross-examination and to the extent that that's correct, savings are underestimated. Just to stay on that slide for a second.

It's really important to look at overall developments and data points not a particular snapshot in time. We could have a really bad winter, but that is an important dialogue because it's supportive of a key observation of Oliver Wyman that MPI is likely to be over estimating collision frequency. Thank you. Slide 97.

This is just an excerpt from the -- the Oliver Wyman evidence. Looks to me like slide 8, yeah, there it is in the corner.

And the point that they're making on the right-hand side is what's material. You look at collision, half a billion dollars. You look at other important lines of business, like comprehensive around a hundred (100) million.

The combination of the PIPP benefits, accident benefits and weekly indemnity, getting close to a hundred and eighty (180) million. Highlighting just where materiality exists and -- and what Oliver Wyman did was -- they focused on these big ticket coverages and looked at where the claims incurred was unreasonable, and whether it was -- it would have affect the rate application. And -- and that's the -- the essential exercise that they performed. Slide 90 -- or 98, if we can turn.

This is an under appreciated slide. This is slide 45 from the Oliver Wyman presentation. When they talk about modernizing the MPI approach on claims incurred, this is what they're talking about.

The first step is data visualization. Seeing it to understand it and -- and importantly plotting on a log access to consider changes on a percentage or exponential basis.

I think sometimes when people hear data visualization, they just imagine that you're just looking at it. An important part of that exercise is plotting it on that log access, considering change on a percentage basis.

And, if you think of the -- the -- the dispute between Oliver Wyman and Manitoba Public Insurance, in terms of weekly indemnity, for example, Oliver Wyman says you're plotting it the wrong way. You're not looking at change as it most often occurs in the real world which is on a percentage basis, you're doing it in a linear fashion, on an amount basis.

The second step that Oliver Wyman proposes, based upon its experience across North America, including nine (9) Canadian jurisdictions, is doing modeling to explain the relationship.

And then third, is to test the modeling, evaluating the fit and, we'll come to that, but an -- an exercise that MPI often did not show at least -- sorry, let me back up, an exercise that Manitoba Public Insurance definitely did not do when it came to weekly indemnity, for example, and -- and if you look at the MPI reports this evaluation of fit is -- it's not clear if it's done. It's certainly not reported, or rarely reported.

The fourth element of a modern best practice approach to claims incurred is actually reporting in a transparent fashion, providing confidence to stakeholders and explaining the predictive value. Slide 99, please.

If you get an opportunity to go back to Oliver Wyman's evidence, this is what they're trying to do here. This is taking the weekly indemnity frequency model and this is MPI's approach. And, on the right-hand side, and I'm not going to get into all -- all the coverages, but Oliver Wyman is expressing two (2) fundamental concerns.

First is, MPI's doing this in a -- a linear fashion, which Oliver Wyman says is out of step with Canadian regulatory practice, because the real world understands that frequency tends to occur on a percentage basis.

And also testing for fit and reporting that this particular expectation of weekly indemnity has a poor fit, weak R-squared statistics and very poor 'P' value reports.

So, transparent, those four (4) steps visualization and then modelling, testing for fit and then transparently reporting. This is illustrative of what Oliver Wyman would expect in other jurisdictions and -- and what we should expect in Manitoba. Slide 100 please.

Here's Oliver Wyman's analysis of the same model and look at how it reports. They start with an acknowledgment that the 'P' value is slightly greater than the upper threshold but that its model explains a significantly higher percentage of the variation in the data.

They also talk to the value of using a

log linear or exponential approach. Again, visualization plotting exponentially or log linear fashion, modelling, testing for fit, and transparently reporting the strengths and the weaknesses of your analysis. We put this in here just as a snapshot, so we can get a sense of what Oliver Wyman is recommending that this Board should expect, in terms of reporting and claims incurred.

I want to spend just a few moments on questions raised by -- of Oliver Wyman, and start with the PUB questions. Again, I've complimented PUB counsel for its adept cross-examination and, if you think of what the PUB did, it got right into a technical analysis of the Oliver Wyman report and it focussed on two (2) of the eight (8) recommendations.

It didn't meaningfully test or challenge the other six (6) and, in fact, on one of the other key recommendations, its in -- inq -- inquiries reinforce the Oliver Wyman observations.

The PUB did raise concerns, in terms of the hail comprehensive approach. And also asked, in our clients' view, questions of co -- clarification, in terms of collision severity. And I just want to -- on pages -- slide 101 and slide 102, we -- we cite from the record where Oliver Wyman addresses these questions. Go to 102, please.

Importantly, and from our clients' perspective, six (6) of the core recommendations of Oliver Wyman were not meaningfully tested in cross-examination. Comprehensive, we -- we would agree that there are -- it is a place comprehensive hail frequency, where reasonable folks could disagree, and, so, we're not really pushing that recommendation.

But, in terms of collision total loss severity, on -- on this slide, being 102, we understand the point that the Public Utilities Board, through its inquiry or at lea -- at least its advisors were trying to make, is that the most recent year is fully credible but being fully credible is not the same as being fully predictive.

And consider what MPI did, which was focus entirely on one (1) data year, as its -- as its starting point versus the inclusion of -- of a far deeper body of relevant data and, the Oliver Wyman approach, in our clients' view, is more likely to be fully predictive of the future than the MPI approach, especially because that '21/'22 data point is the most uncertain and the most volatile and it contains the highest percentage of open claims.

So, in terms of what appeared to be the

direction of PUB counsel, not testing six (6) of the eight, our clients definitely agree with that. Raising some legitimate questions on comprehensive hail, our clients accept. But our clients' confidence in the Oliver Wyman recommendations on collision total loss severity remain unimpaired.

I want to contrast what the PUB did with what MPI did in cross-examination, and I have to be honest, that technically, I totally enjoyed the cross-examination of -- of my friend, Mr. Scarfone, and -- and of Mr. Guerra. They did what our teachers, students fir -- first day of cross-examination preparation. If you can't give up at the analysis, make some noise, do the smoke and mirrors, divert and distract but never meaningfully engage in the substance of the analysis, and I thought MPI demonstrated a -- a classic example of that approach and I commend them for that.

And -- and, you'll note when MPI actually gave its closing arguments on Monday, in terms of the substantive analysis, it didn't rely on its cross. It relied on the two (2) points identified in the cross of the PUB. The only meaningful technical arguments advanced by MPI relied on the PUB questions.

And in our respectful submission, MPI never dared explore the analytic credibility of Oliver Wyman. It was smoke and mirrors.

To the extent that MPI's concern is that Olive -- Oliver Wyman's recommendations lead to lower revenues, it certainly should take a more nuanced -- nuanced look at the rec -- at the -- at the Oliver Wyman process, as we explained earlier.

It also should be alive to Ms. Low's ounce of conservatism estimate because if the best estimate does not form the basis for the underlying analysis, it is not surprising that recommendations that are material will tend to lead to lower estimates.

MPI assertion -- also asserts that Oliver Wyman lacks independent (sic) and displays bias and, from our clients' perspective, that would no doubt come as a surprise to the independent rate regulators in Canada that rely on its advice, as well as to the Canadian Association. With the greatest of -- of respect, those arguments, in our clients' view, smack of desperation.

In terms of the Oliver Wyman recommendations, our clients are recommending that the PUB accept seven (7) of the eight (8) recommendations, with the exception of the comprehensive hail frequency and that it accept the seven (7) of the eight (8) recommendations, on the grounds that they better fit the claims incurred data and are more reasonable. Over to Mr. Klassen.

CONTINUED BY MR. CHRIS KLASSEN:

MR. CHRIS KLASSEN: Thank you. Turning our attention now to the DSR, this Board is no stranger to the fact that cross-subsidization has plagued the Driver Safety Rating system, since its initial approval in 2009.

And it's our clients' respectful submission today that MPI has shown little commitment to change and little concern for those of its customers who have long been overcharged.

We saw, in last year's proceeding, and it was not the first time that the Board took this approach but, in last year's GRA Order, the PUB impressed upon MPI the gravity of the unfairness that it perpetuates against the safest drivers and requested that, in this year's application, it file a proactive plan for correction and that took place in Directive 11.15.

And in response to that directive, this

year, MPI proposed, again, only marginal changes to the discounts and deferred meaningful progress on cross-subsidization years into the future. Next slide, please.

It is our clients' submission that potential future changes to the rating model, being MPI's proposed transition to Generalized Linear Modelling, should not be allowed to perpetuate unfairness today.

And it is our clients' position that there is room today for MPI to make faster progress toward correcting cross-subsidization in the DSR, before its proposed implementation of Generalized Linear Modelling. Next slide, please.

And CAC (Manitoba) proposes a number of principles that might guide MPI in taking steps toward correcting cross-subsidization in advance of its move or proposed move toward GLMs.

First, as a starting point, in CAC (Manitoba)'s view, MPI's proposal, to merely allocate future rate increa -- decreases -- I apologize -- to the DSR levels most acutely in need of correction is inadequate.

Instead, CAC (Manitoba) recommends that, in future years, the base rate, which we learned about in this year's proceeding, be increased on an annual basis, by up to 5 percent, to allow for more substantial adjustments to the highest DSR discounts.

However, this year, in particular, CAC (Manitoba) is concerned about the pressures that inflation has inflicted on Manitoba households. And, so, for this year, to the extent that this Board elects to approve a rate decrease, CAC (Manitoba) proposes that a substantial portion of that decrease be applied uniformly, across customers, to largely mitigate the effect of the removal of the capital release provision and, given current inflationary pressures, any rate da -- decrease, CAC (Manitoba) proposes, should be used, first, to mitigate the effect of the removal of the capital release to within 1 to 2 percent before allocating remaining changes to the DSR levels and discounts. Next slide, please.

With respect to the primary driver model, we'll note briefly that CAC (Manitoba) has not to date, in this proceeding or past, endorsed a transition to the primary driver model.

CAC (Manitoba) looked forward to engaging more deeply on that issue this year, but notes that the MPI's proposed five (5) year transition plan is not sufficiently detailed for informed decision making.

And so for the time being, on this particular issue, CAC (Manitoba) recommends that the steps, the data collection steps outlined in the early stages of MPI's five (5) year plan, be taken so that future decision making can be properly informed. Next slide, please.

Turning our attention to road safety. It's been acknowledged by MPI's witnesses this year that road safety has admittedly taken a backseat through the pandemic, both through the postponing of the technical conference and cancellation of certain programs.

But we did see earlier this year in the technical conference and learned more about, again, in this proceeding that MPI is proposing certain new approaches to its road safety programming. And those include a 2022 to 2025 road safety strategy and a renewed commitment to data-driven decision making enabled through new approaches to data collection and analysis.

And for today, CAC (Manitoba) chooses to share a laudatory comment shared with our team in preparation for the road safety technical conference, and that is with respect to MPI's road safety strategy: that if they implement this plan as described, they will see many reductions in fatalities and injuries in the years following.

And that's a comment from Ms. Mavis Johnson who is an internationally recognized road safety expert who's well known to this Board and supports CAC (Manitoba) in its engagement with road safety issues. And with that in mind, CAC (Manitoba) looks forward to reviewing progress on the implementation of the strategy in future proceedings.

But before moving on from road safety, CAC (Manitoba) does find it appropriate to offer one (1) key and important reminder to -- to Manitoba Public Insurance, and that's that MPI should remember that it is uniquely positioned to add value to road safety initiatives province-wide.

And we heard this year that MPI is aware of that important role that it holds, but that that needs to be held in harmony with the reality that Manitoba Public Insurance's mandate with respect to road safety is narrow.

And so CAC (Manitoba) encourages MPI to continue to pursue road safety interventions with real impacts on claims costs while also developing partnerships which provide the wide range of road safety stakeholders in Manitoba with access to its valuable data sets and expertise. Next slide please. Thank you.

CONTINUED BY DR. BYRON WILLIAMS:

DR. BYRON WILLIAMS: To take us home, we want to talk about the Rate Stabilization Reserve and the Capital Management Plan. And obviously, our clients' participation on this subject matter has been less intense than it otherwise would have been. These are fundamentally important matters, but legislative changes have overtaken our -- our client in this area. So if -- if I adopt a somewhat mournful tone on behalf of our clients, you'll understand.

We don't need to turn to the title of this slide, but the title -- the title of this submission, but the title was "Loss Balance, Loss Controls: MPI and Captive Ratepayers."

And when we were talking -- and we were talking about loss controls in the title page, we're talking about the failure to control expenditures and the failure to apply well-known methodologies that MPI has successfully employed in the past.

When we talk about loss balance, we're speaking about the general application which we see has been against the -- the public interest and our clients' interest, as well as the approach to the Rate Stabilization Reserve.

Our client -- and we -- we will not offer any pointed comments about our clients' views on how MPI has honoured or not honoured its prior commitments under the existing plan because we're being courteous.

In terms of important issues like the transfer to the DVA, our client accepts that they've taken place and that the PUB does not have the lawful authority to remediate those actions.

Our client in no way accepts the premise that those expenditures were authorized under the governing legislation, properly authorized.

With regards to BITSA, our client accepts that the Legislature has spoken, both in eliminating the reserves regulation which speaks to rate rebates -- or rate releases and in entrenching basic financial targets into the law.

And while important legal questions remain about BITSA, from our clients' perspective, it is -- there is no doubt that the PUB has lost its authority to initiate rate rebates absent an application by MPI.

Before we leave this important chapter in the PUB history, our client appreciates the efforts of the Public Utilities Board over the past two (2) decades to bring rigour and public interest balance to the determination of financial targets for rate-setting purposes. That independent evidence-based approach has served Manitobans extraordinarily well, and our clients thank you.

Again, there are limits to what we can do but pontificate at this point in time, given legislative changes. But our client has abiding concerns about the appropriateness of the MCT formula in a rate-setting context, as well as the vulnerabilities of that calculation to discretion and to error.

Fundamentally, going back to the loss of control point, our client also has concerns that the additional cushion provided in terms of excess reserves to MPI by virtue of BITSA may further incent unreasonable and imprudent spending behaviour.

That has been one (1) of the core concerns of our clients over the last twenty (20) years, when we have fought vigorously to bring evidence and rigour to financial targets is because this a monopoly, consumers have no choice, and we don't want this monopoly to get too comfortable. We don't want it to have that excess cushion.

Slides 114 and 115, we won't go into in detail except for the express through cross-examination why the MCT is not a good fit for the purposes of the RSR.

At a high level, they get to the point that the MCT was designed for a very different purpose, the financial well-being of companies who are federally regulated, many of those companies in a competitive marketplace, where a single bad year can make them very vulnerable.

And if they have to raise rates, they can lose significant market share and -- and put the well-being of the insured at risk -- a very different purpose than the more modest purpose of the Rate Stabilization Reserve.

On slide 116, our client does wish to highlight how the exercise of discretion with regard to retained earnings and the MCT may harm the interests of ratepayers. And again, a really helpful cross-examination by PUB counsel in terms of IFRS selections and in terms of their, at this point in time, adverse impact on the RSR to the tune of around 83 to 84 mil.

Again, our clients, in terms of evaluating the proposed capital management plan, note how much discretion MPI has apparently to use Extension reserves within the Corporation as it sees fit, at least in Manitoba Public Insurance's view, as well as, so important for ratepayers to understand, MPI's understanding that it is under no obligation to issue rebates even if it is at or above 120 percent MCT. And that is consistent, sadly, with our clients' interpretation of the legislation.

Manitoba ratepayers are very -- going back to slide 117. Manitoba ratepayers are very vulnerable to the exercise of MPI discretion with regards to the MCT and how excess returns are utilized -- excess reserves, excuse me. They no longer have the PUB as an intermediary -- as an evidence-base intermediary to protect ratepayers.

Slide 117 just makes the point that while the RSR in theory is there for unexpected variances from budget extreme events, it -- just the mechanics of it, it can be there for bad weather, bad investments and prudent investments, or bad management.

And, again, our concern is that it is a cushion for bad management. And we see in this

Hearing a living, breathing example of the opportunities for bad management, especially with the significant growth in Basic operating expenses and full-time equivalents.

In terms of our clients' recommendations in terms of the revenue requirement -- oh, actually, slide 118, please. Sorry, I missed that one.

(BRIEF PAUSE)

DR. BYRON WILLIAMS: People may not remember this, but think back to the first day of the -- the Hearing where those really bright, young students from the Faculty of Law's Rights Clinics came forward and brought a really thoughtful analysis of the General Rate Application from the perspective of the public in terms of accessibility of information, calls for a table of comment and -- and plain language summaries.

Our clients took note of that. They thought that was fantastic advice. Our clients have also recognized that this has been a troubled rate application for a variety of reasons. And without trying to diminish the hard work of everyone involved in the -- in the rate application, there have been many revised files, a multitude of unconsolidated documents, and goodness knows how many undertakings with regard to confidentiality, probably about eight (8).

Our clients would recommend that prior to the next General Rate Application MPI get together informally with the Board, advisors, and certainly informally with Interveners. I don't think we need a technical conference, but just talk about ways that we can make this application process better, including the filing itself, and opportunities to make it accessible to the public.

And perhaps those bright, young students from the Faculty of Law Rights Clinic might also be invited, as well as some folks who -- who more -- are more representative of the general population.

We can do better. It's such an important public process. Manitobans deserve the opportunity to have a better understanding of this process. And collectively, we think that there are some thoughtful ideas that could be exchanged in -- in an informal matter. And we would invite MPI to reach out to ourselves, as well as other Interveners, and explore that opportunity.

Slide 119, we talked about a strong signal at the start. Our clients are asking for a just and reasonable signal for the revenue requirement.

Our clients have grave concerns that the budget presented by MPI in this proceeding is unreasonable and imprudent and -- and does not demonstrate the type of expenditure control that we've come to expect from MPI or other Crowns.

Our clients have concerns with the "ounce of conservatism" in the MPI claims incurred forecast, the need to forecast for best estimates. And certainly, they believe that Oliver Wyman has set out a pathway to -- to assist MPI and -- and ratepayers to get there.

And our client is also trying to navigate the longstanding enduring inequities to Driver Safety Rating while recognizing the extraordinary times we live in. Slide 120.

In terms of a just and reasonable signal for the revenue requirement, our client has done some scenarios and certainly taken into account the unreasonable increase in full-time equivalents and operating expenses, the unsubstantiated room in placeholder budgets, the lost opportunity and undue risk in the current investment portfolio, as well as challenges, material challenges, with certain claims incurred forecasts.

Our clients are asking for a significant rate reduction, between 5 and 6 percent, as compared to the current indication. And they believe there is strong support for that in terms of the extreme increases in FTEs and operating expenses, as well as the insight provided by Oliver Wyman in terms of excess conservatism in the estimates of the current investment portfolio, as well as ongoing trends in terms of frequency, especially collision frequency.

Slide 121, Mr. Klassen.

CONTINUED BY MR. CHRIS KLASSEN:

MR. CHRIS KLASSEN: Thank you. A high-level summary of CAC (Manitoba's) recommendation for the allocation of its proposed rate decrease was -- was shared a few moments ago.

But to offer a little bit of clarification, our client struggled significantly with -- with its DSR proposal, and the source of that struggle was its concern for Manitobans' response to significant inflationary pressures that are being felt in monthly bills and at grocery stores across the province this year.

And so, CAC (Manitoba) poses as much as possible that the rate decrease it requests from this Board be allocated to mitigate the impacts of the removal of the capital release provision. And if the rate decrease approved is greater than the amount of the capital release provision, then CAC (Manitoba) would propose that the capital release be mitigated in its entirety and that the remainder of the release be directed toward collecting cross-subsidization in the DSR. And that's in a perfect world, if it could achieve both, it would be happy.

If that's not possible, if the rate decrease to be approved does not exceed the amount of the capital release, CAC (Manitoba) maintains its concerns for the impacts of inflation but also recognizes the long -- longstanding unfairness that MPI perpetuates at the high end of the DSR scale.

And so, it would propose that the rate decrease approved first be allocated uniformly across ratepayers to as much as possible mitigate the effects of the removal of the capital release ideally to a margin with 1 to 2 percent and that remaining amounts then be allocated to addressing cross-subsidization at the high end of the DSR. Thank you.

CONTINUED BY DR. BYRON WILLIAMS:

DR. BYRON WILLIAMS: I'll just conclude. It is always an incredible honour to participate in these processes. And our clients are so grateful for the opportunity to intervene and appreciate the opportunity to be -- take part in an independent, evidence-based process, balancing the complexities of the public interest.

And so, with that, subject to any questions this Board may have, those are our -- our closing submissions.

THE PANEL CHAIRPERSON: Thank you, Mr. Williams and Mr. Klassen. Mr. Gabor...?

BOARD CHAIR GABOR: Thank you. I've got a few questions. Kristen, could you go to screen 108, please. Mr. Klassen, I just want to understand what you're asking for. It says, Bullet 2:

> "CAC recommends that in future years that the base rate be increased by up to 5 percent to allow for more substantial adjustments."

And then on the last one you said you're concerned about inflation. So, in this year, it'd be 1 to 2 percent. Is it that it is -- is the proposal it be 5 percent in future years or is it that we need to look year-by-year at what the inflation is?

MR. CHRIS KLASSEN: Thank you for the question. And this -- the experience of this particular year is illustrative, of course, that inflation is variable and volatile.

And CAC (Manitoba) would recommend that -- the recommendation in bullet 2, that the base rate be increased yearly by an amount up to 5 percent. But again, that that be a consideration on a year-by-year basis based on the pressures facing Manitobans that year.

BOARD CHAIR GABOR: Right. So if we had high inflation next year, your position is -- and it's 5 percent -- it's -- consider the 5 percent but consider it in light of the inflation for the next year.

MR. CHRIS KLASSEN: Exactly. So similar to how CAC (Manitoba) is proposing an alternate to the 5 percent this particular year with reference to current circumstances.

BOARD CHAIR GABOR: Right. Okay. Thank you. Kristen, page 48.

Dr. Williams, in terms of the signal to

-- to and through -- between 2 and 3 percent, is this a calculation or is this sort of a number you came up with that you thought was reasonable in the circumstances?

DR. BYRON WILLIAMS: To coin a phrase that might have come from my cross-examination of CEO Herbelin, we started with a bottom-up exercise.

So our clients -- mindful of what the Public Utilities Board has done in -- in the past, we looked at different scenarios.

For example, what if you dropped off the $19 million in terms of the growth in -- in normal operating expenses or -- we looked at a number of scenarios to get a sense of what those would look like. And a number of them were getting us to that 2 percent range, so we tried to -- to test that.

We looked at a -- a stretch factor of zero (0) -- of -- similar to what was adopted with MPI. And again, that started to take us over 2 percent. And then, we looked at the allocated -- or the placeholder budgets and thought there were additional opportunities there.

So I -- I want -- you asked me what we did. I'm hesitant to give evidence. But based upon the evidence of the record, we looked at a number of scenarios and -- and then, the clients ultimately did make a judgment call. But it wasn't unguided by scenarios and -- and we're trying to articulate at a high level on Exhibit 48 some of the elements. If that assists, Mr. Chair.

BOARD CHAIR GABOR: Okay. Would it be accurate to use a phrase that was used earlier during Oliver Wyman, which is, you looked at a number of scenarios and you performed an eyeball test as to whether you thought it was reasonable looking at all these other scenarios.

DR. BYRON WILLIAMS: We looked at a lot of data points, not only in scenarios, but if you think of what -- the oral argument that we took you through today, if you look at that unprecedented growth in terms of operating expenses or FTEs, there were numbers that -- that show up. You know, the 36 million with the FTEs.

Those numbers -- so there was some judgment, but it was a pretty thorough examination of different scenarios.

The Board ultimately is balancing the public interest. It can look at those same kind of scenarios and we're pretty confident we'll come up with numbers that look a lot like ours. And this is on the cost control side.

BOARD CHAIR GABOR: Okay. So Kristen, if you go to page 120.

DR. BYRON WILLIAMS: Your next question is how did we get from two (2) to three (3) to fit this --

BOARD CHAIR GABOR: Well, how did you get to between five (5) and six (6)? Is it the same process?

DR. BYRON WILLIAMS: So if you think -- well, Mr. Chairman, if you think of the -- the two (2) core arguments that we brought here, leave aside what we're saying on investments. We're saying imprudent and unreasonable expenditures, and we think it's easy if the Board can replicate to get to the two (2) or three (3).

We're also taking issue with the claims incurred forecast. And you know that Oliver Wyman was in the range of 5 percent on claims incurred. Drop off comprehensive, do the math, and that's an explanation of where you get to that five (5) to six (6) range.

If that helps, Mr. Chair.

BOARD CHAIR GABOR: No, it helps. I guess the -- I guess the situation we face is that we spent three (3) weeks going through very specific data. And now we're -- we're given a -- a comment of, Well, we reviewed scenarios, it's not a formula. There's not a table. It's, We looked at a number of different factors and -- and came up with those numbers.

DR. BYRON WILLIAMS: Sir, if you want a practical route to some of the numbers that we're looking at, take, for example, what are the FTEs in the -- the current application? Make a judgment -- you know, make a judgment call. What does it take it to back -- to get to last year's FTEs? What's the stretch factor?

It's a similar exercise that -- that -- that you -- that you performed. That's the kind of exercise.

On the claims incurred, do you accept Oliver Wyman's evidence on these key issues or not? There's a -- there's a number that comes right out of those calculations, sir. The information is all on the record.

BOARD CHAIR GABOR: Thank you. Those are my questions.

THE PANEL CHAIRPERSON: Ms. Nemec...? Mr. Bass...? Ms. Boulter...?

Thank you very much. We're almost at noon. So we'll break now until one o'clock and then continue with the rest of the Interveners, thank you.

--- Upon recessing at 12:01 p.m.
--- Upon resuming at 1:01 p.m.

THE PANEL CHAIRPERSON: Good afternoon, everyone. We'll continue with closing remarks.

Ms. Meek...?

CLOSING COMMENTS BY MS. CHARLOTTE MEEK:

MS. CHARLOTTE MEEK: Thank you, Madam Chair. On behalf of the Coalition of Manitoba Motorcycle Groups, I'll focus my submissions on several key issues today that are of importance for the motorcycle class, the first being, investments; then I'll look at the Driver Safety Rating system, the Rate Stabilization Reserve, and Capital Management Plan, ratemaking and its implications in the large vehicle study, as well as road safety.

So starting off with investments, the Corporation's investment portfolio has been a topic of concern for CMMG for several years. In previous decisions, the Board has acknowledged and noted its concern with the disproportionate impact that interest rate changes have on the motorcycle class.

MPI was directed to examine this issue and consider a model which would ameliorate the effect of changing interest rates on motorcycle insurance rates. In particular, the Corporation was directed to examine the inclusion of equities or growth assets which may support long-tailed liability.

The following year, the Corporation asserted that it had no appetite for equity exposure in the Basic claims portfolio. Instead, the Corporation provo -- proposed the use of interest rates at points on a yield curve corresponding to the duration of liabilities.

This methodology, the Corporation suggested, would have a positive impact for the motorcycle class, but since that time, these benefits have not materialized.

Volatilities in the financial market have been an ongoing factor for the last three (3) years. The COVID-19 pandemic shocked the world market, and the following year, while still volatile, demonstrated an impressive recovery aided by government stimulus.

Most recently, impacts of the Russian war on Ukraine have affected global supply chains, and the wide rating -- ranging impacts on commodity markets, fuel, energy, and food. These fluctuations have contributed to high inflation levels and changes in the equity investments and investment returns.

The Corporation in this Application paints a picture that the current investment strategy is working as intended. This generalization ignores the continued fluctuations still be experienced by the motorcycle class. The Corporation's assertion also fails to acknowledge the lost opportunity cost of the Corporation's investment decisions.

While the Corporation glosses over this factor, the shadow portfolios ordered by this Board pursuant to Order 159/'18 enable us to measure the costs of placing undue constraints on the basic portfolio by MPI.

Of particular interest to CMMG is the Shadow Portfolio 2 which removes the constraint that prohibits the inclusion of equities and other assets that increase returns without adversely impacting risk.

Portfolio 2 includes Canadian and private equities of 18 percent, real estate and infrastructure of 9 percent, and levered real return bonds of 16 percent.

Through cross-examination of MPI, the Corporation confirmed that Shadow Portfolio 2 from inception in March 2019 to March 2022 has outperformed the Basic portfolio. Shadow Portfolio 2 had 3.32 percent higher compound returns and 0.27 percent lower surplus volatility as compared to the policy portfolio. As a result, Shadow Portfolio 2 had a higher risk-adjusted return than the policy portfolio.

The performance of the shadow portfolios allows us to partake in a historic examination of the prudence of MPI's investments. MPI acknowledged on cross-examination that optimization of a portfolio is to be viewed at the total portfolio level.

Further, when comparing two (2) portfolios, a more optimized portfolio would have less surplus volatility with equal expected return. What we can then observe from Shadow Portfolio 2, when compared with the Basic policy portfolio, is that not only does Shadow Portfolio 2 have lower surplus volatility, but also benefited from much higher compound returns.

What this means then is MPI took more

risk with the policy portfolio and at the same time earned lower returns.

MPI repeatedly asserts that a portfolio which includes equities or other investments offering higher returns is contrary to the purpose of the Basic claims portfolio. In doing so, MPI has essentially blacklisted certain asset classes.

This investment decision is contrary to prudent investment strategy and creates a basic portfolio concentrated on one (1) type of risk, interest rate risk.

As conceded by Mr. Bunston on cross-examination, the volatility of an asset class in isolation does not conclusively indicate how that asset class may impact the surplus volatility of a portfolio as a whole.

Due to MPI's imposition of restrictive constraints on the policy portfolio, the Corporation has taken on more risk and realized lower returns. Contrary to their assertion that the current investment strategy is working as intended, CMMG submits that ratepayers have lost on both sides of the coin. We have taken more risk and earned lower returns. This is the opposite of an optimized portfolio.

This year, the Corporation retained Mercer to complete an asset/liability management study. Mercer's study provided a detailed examination of the risk-return tradeoffs arising from the various asset mixes available to MPI for the Basic claims portfolio.

From MPI's perspective -- or, sorry, from CMMG's perspective, an essential element was missing from the study to allow this Board to partake in a meaningful examination of the issue. MPI's chosen asset mixes were not determined and shared.

Through the Information Request process, MPI indicated that the recommendations to be made to the investment committee would be filed with the 2023 GRA after their review and approval by the investment committee.

Given that the investment committee is scheduled to meet after the conclusion of the hearings, it's unclear how MPI intends to fulfil that commitment.

While CMMG acknowledges that the decisions for MPI's investment strategy ultimately rest with the board of directors, CMMG is perplexed by the Corporation's refusal to provide some indication of the anticipated recommendations to be provided to the investment committee prior to the commencement of this hearing.

Without any prior notice, Mr. Bunston announced during the investment panel presentation that they are not recommending the inclusion of equities or levered bonds in the Basic claims portfolio. Despite MPI's previous resistance to provide this information, it appears that the proposed recommendations intended to be made to the investment committee were available.

MPI's refusal to provide some indication of the recommendations, even directionally, has hampered this hearing process. MPI has suggested that Interveners' ability to respond to the various asset mixes is not contingent upon the selection of recommended mixes by MPI.

While this may be true, in the interest of proportionality and to assist with focussing the issues being examined in this hearing, any directional indication provided by the Corporation would circumvent unnecessary examination.

Were MPI's position regarding equities and levered bonds was provided prior to the commencement of the investment committee panel, Interveners could have focussed their examination to assist the Board in evaluating the reasonableness of that proposal.

As the Board will recall from previous applications, CMMG has been advocating for the inclusion of equities or other gross assets in the Basic claims portfolio for several years.

As previously outlined, it's necessary to examine a portfolio as a whole to determine its optimality. In the IR process, PUB-MPI-1-128(e), Appendix 1, provides some insight on the optimization of a portfolio which includes a more inclusive and, therefore, diverse set of assets.

What we see is an example of a portfolio with the inclusion of asset mixes which offer an opportunity to reduce risk and/or increase return.

Mr. Lloyd from Mercer confirmed that Portfolio C, the lower-risk portfolio, Portfolio D, the mid-point, and Portfolio B, higher return, all have similar or far less risk than the current portfolio, while all providing similar or higher return.

It is somewhat counterintuitive that even though some asset mixes provided by Mercer which include assets that are more volatile than those in the current portfolio, they still demonstrate lower overall surplus volatility ratios.

Mr. Lloyd confirmed that this apparent contradiction is due to the fact that risks don't add, that correlations matter and, finally, that this demonstrates the diversification benefit of having other asset classes.

This underscores the position that CMMG has asserted before this Board for the last several years. The impact of asset classes on a portfolio must be reviewed at the total portfolio level. Correlations between asset classes and the benefits of asset diversification are integral elements that must be considered.

We have not been provided in this General Rate Application with any reasonable rationale for MPI's decision to exclude equities or levered bonds in the Basic claims portfolio.

While MPI has mentioned that some additional risk related to leverage, for example, the Corporation has not provided any indication about the size of these additional risks or the controls that could be put in place to allow for their prudent use.

In past GRAs, MPI has simply stated that the inclusion of equities is precluded by the risk appetite of the Board of Directors. Respectfully, this reasoning falls far short of being supported by any valid evidence.

As a result, CMMG makes the following recommendations: that this Board make a finding that the inclusion of equities in the Basic claims portfolio is not in conflict with MPI's stated risk appetite when viewed from the proper total portfolio perspective.

CMMG echos the recommendations of CAC (Manitoba), that the Board recommend the removal of the no equities constraint in the Basic claims portfolio.

CMMG recommends that MPI be directed to file with the 2024 GRA the recommendations made to the investment committee at their meeting on November 10th, 2022.

Finally, CMMG recommends that MPI be directed to develop a new set of shadow portfolios to enable a further assessment of the impact of various key constraints imposed by the Corporation.

And in constructing these portfolios, MPI shall consult with interested Interveners and the Board regarding the shadow portfolio compositions, any key assumptions and methodologies to be used, and will file a report in the 2024 GRA comparing the realized return of the shadow portfolios and other key metrics with those of the policy portfolios chosen by the Corporation.

I would now like to move on to talk about the Driver Safety Rating system.

CMMG has long been concerned with the issue of cross-subsidization existing in the current Driver Safety Rating system. Our clients were pleased with the direction from the Board arising from the 2022 GRA which directed MPI to provide a five (5) year plan for the implementation of a primary driver model.

The Court of Appeal decision reside -- arising from MPI's application to appeal that Order has reinforced the jurisdiction of this Board as it relates to the authority to examine and designate the methodology by which customers are grouped.

Since the inception of the DSR system, the goals and stated purpose of the program have been threefold: First, to provide higher rewards via reduced premiums for the safest drivers;

Second, to provide stronger incentives for higher risk drivers to improve their driving behaviour; and,

Third, to improve drivers'

understanding of how their behaviour can affect the amount they pay for auto insurance.

In last year's GRA, MPI again confirmed that the DSR system is key in reducing collision frequencies within MPI and that the reduction in collision claims and losses were due to the DSR system working.

Despite maintaining this position historically, in the 2023 GRA, MPI appears to be shifting its position. Suggesting it cannot say whether more accurate pricing incentivizes improved driving behaviour and ultimately reduces claims and claim -- claims and claims costs.

While Ms. Jatana confirmed that, generally speaking, the DSR system can promote safe road driving behaviour, she qualified that statement saying she would respect the opinion of the actuary where it came to the ratemaking.

These statements demonstrate a concerning change in the position of the Corporation regarding the benefits and real world impacts that an actuarially indicated DSR model can have on improvements in driving behaviour.

Through cross-examination, CMMG reviewed the proposed changes to the DSR scale by MPI.

The proposed changes offer the bare minimum in improvement to the current cross-subsidization and suggest that we can anticipate a lethargic transition towards actuarially indicated rates.

The Corporation proposes that DSR level plus 15 shall not receive any rate change. The Corporation provided a rather lengthy and convoluted explanation as to why this DSR level with the highest number of customers should not receive an improvement.

Ultimately, the explanation boiled down to the reasoning that the indicated rate of DSR level plus 15 is made up of the collective loss experience of drivers above and below that DSR level.

On cross-examination, Ms. Low conceded that this reasoning is easily applicable to every other DSR level which are each made up of the collective loss experience of drivers at higher and lower levels.

CMMG submits that DSR level plus 15 should receive a rate change. As MPI has acknowledged, the indicated rate level for DSR 15 is 56 percent.

MPI is proposing a discount increase of 1 percent for DSR levels plus 9 to plus 13 and level 16 and a 2 percent discount increase to DSR level plus

14. From a dollar value perspective, a 1 percent discount increase is equal to approximately sixteen dollars ($16). This is MPI's proposed adjustment for customers who are currently being overcharged between a hundred and ninety-nine (199) to two hundred and eighty dollars ($280) annually.

The Corporation's original strategy to adjust the DSR level relied on the use of the negative rate indication which would be reassigned to higher DSR levels.

The Corporation acknowledged that the original application did not consider including a base rate increase in tandem with the allocation of the negative rate indication. Ms. Low indicated this may be something that is considered in the future.

The extent of cross-subsidization between DSR levels was revealed as a result of a pricing examination ordered by this Board in the 2019 GRA. While it is unclear how long the substantial cross-subsidization has existed, it's safe to assume that drivers at DSR levels 9 -- plus 9 and above have been paying a hundred and ninety-nine dollars ($199) or more in excess premiums for years.

This accumulative year-over-year impact is alarming. Given this history, a hasty transition to actuarially indicated rates is absolutely necessary as opposed to a slow and gradual progression.

Where MPI continues with the current method of change prospectfully, it will take up to ten (10) years for DSR level plus 15 to achieve accurate pricing. Respectively, this time -- time line and methodology is unreasonable.

In order to shift the DSR system more quickly towards accurate pricing, it's necessary to raise the base rate. Doing so will slightly increase costs for all customers. But the revenue earned from such an increase can be allocated to the DSR levels experienced in the highest level of overpayment with the effect of ensuring ratepayers requiring the rate increase pay more and customers requiring a rate decrease pay less.

MPI has acknowledged that in examining the issue of cross-subsidization in the DSR system, it's necessary to balance the unfairness of overpayment by customers at the top end of the scale against perspective rate increases for customers at the other end of the scale.

CMMG respectfully submits that when undertaking this balancing exercise a more expedient approach is required. A 2 percent increase in the base rate would allow for an increase in DSR levels and DSR discount for DSR levels plus 9 and above.

The increase discount can then be distributed to allow for an increase of 1 percent for DSR levels 9 to 11, 2 percent for 12 to 14, and a 4 percent increase for DSR levels 15 and above.

In this GRA, MPI was directed to file a DSR transition plan which would outline MPI's proposed year-over-year transition to ultimately achieve accurate DSR discounts.

The Corporation requested that this directive be deferred to after the GLM pricing framework has been completed. On cross-examination, Ms. Low confirmed that pricing analysis is anticipated to be provided in the 2025 GRA.

It is unclear whether the Corporation is proposing that the transition plan as contemplated in Directive 11-15 of Board Order 134/'21 would then be filed with the 2025 GRA or the following year, with the 2026 GRA.

It's CMMG's position that the Directive 11.15 should have been completed by MPI for this GRA and the request to delay this process for an additional two (2) or three (3) years is not reasonable, especially given the cumulative nature of the existing cross-subsidization.

As it relates to the primary driver model in compliance with Directive 11.13 of Board Order 134/'21, the Corporation provided a calendar time line outlining anticipated key initiatives and milestones to achieve implementation of the primary driver model over a six (6) year period.

The proposed time line suggests an eighteen (18) month period to allow government approval and legislative changes to allow for collection of primary driver information.

As pointed out by Madam Justice Steel in the recent Court of Appeal decision, section 6(2) of the MPIC Act, authorizes MPI to do all acts and things necessary to carry out its functions, which includes the power to prescribe the information in detail required to be set out in any form.

CMMG submits that MPI has the requisite authority through the MPIC Act to obtain primary driver information from its customers.

CMMG is encouraged by the Court of Appeal decision and previous directions from this Board requiring MPI to proceed with our examination of the primary driver model in earnest.

CMMG encourages the Board to remain

vigilant with this issue to ensure efficient collection of primary driver information, which is the key piece of data that will allow for a fulsome and accurate examination of the primary driver model.

MPI suggests three (3) options for collection of data from customers. CMMG submits that the mandatory collection of this data, the data renewal, is the only viable option from which an actuarially sound pricing examination can be completed.

On this point, CMMG makes the following recommendations:

That MPI's request that Directive 11.15 of Order 134/'21 be deferred to after the completion of the GLM pricing be rejected, and MPI be directed to provide a fulsome transition plan in the 2024 GRA.

That MPI be directed to immediately commence the collection of primary driver data, which data is to be obtained on a yearly renewal and on a mandatory basis.

Where MPI believes that legislative changes are necessary that MPI forthwith provide recommendations to the Lieutenant Governor in Council for legislative amendments to allow the collection of this data from insureds, and to provide an update to the Board upon the recommendations being made.

Finally, that the PUB approve a base rate increase of 2 percent, which shall be offset to be revenue neutral by increasing DSR discounts.

The increase in discounts are to be allocated to DSR levels plus 9 and above, with DSR levels 9 to 11 to receive an increase in discounts sufficient to neutralize the base rate increase. The remaining amount is then to be allocated to DSR levels plus 12 to 17, weighted to those DSR levels with the largest difference between current and indicated rates.

Now, to move forward with the discussion about the Rate Stabilization Reserve and the Capital Management Plan.

The RSR acts as a safeguard to protect customers against rate increases, which would otherwise be necessary due to unexpected variances from the forecast and due to events and losses arising from non-recurring events or factors.

While the Corporation acknowledged that the more money in the RSR, the more protection motorists have from unexpected variances from the forecast, this protection must be balanced with the principle that the Corporation should not an excess of reserve funds.

Ultimately, the Corporation has an ongoing duty to engage in actuarially sound forecasting methodologies.

As we all know, MPI is a Crown monopoly within Manitoba and, as such, the rate application process is an integral mechanism by which this Board has an opportunity to review the methodologies employed by MPI in ratemaking and examine the capital held by the Corporation for use to pay claims liabilities.

The capital reserves being held by MPI for the Basic portfolio is our collective money.

The first iteration of the Capital Management Plan was proposed to the Public Utilities Board in the 2022 GRA. That initial iteration relied on a single Basic target capital level, reflecting 100 percent MCT ratio.

This Board approved the proposed plan, including the target 100 percent MCT ratio, on a temporary two (2) year basis in Order 176/'19.

In the following two (2) years, the COVID-19 pandemic caused vast worldwide changes, which continue to impact financial markets and collision claims and costs today.

From MPI's perspective, the COVID-19 pandemic revealed flaws in the CMP model, as the Corporation was unable to quickly return significant capital that was accrued over a short period of time.

The RSR balance has grown steadily over the last decade. From reserves of $154 million, in the 2009/2010 year, to reserves of $448 million, in the 2021/'22 year.

Accommodating for implications of the recently instigated Bill 45 -- excuse me -- MPI is forecasting that the reserves balance will increase to over $500 million before any rebate can be issued to customers. This will represent over a three-fold increase in the reserves balance over the last decade.

Based on the Corporation's historical pattern, CMMG submits it's safe to say that where a target range exists, we can expect the RSR balance to linger up against the maximum target.

In the last decade, whether this Board had approved a target range with a minimum and maximum level or a single target, the RSR balance tended to float at or below the maximum target.

Over the same period, the RSR has only dipped below the minimum range on three (3) occasions, with two (2) of those occasions occurring in years where the Board approved a minimum target that was higher than the previous year's maximum target.

What CMMG observes is a Crown monopoly with a consistently growing reserves cushion. The recent legislative changes paved the way for MPI to balloon that cushion up to $500 million, and coupled with this ever increasing reserves balance is a statutory scheme with an optional mechanism for granting rebates to customers.

MPI has been vague and contradictory in their explanation of the parameters by which they will determine if a rebate application will be brought before this Board.

In CMMG's view, this statutory scheme frustrates the oversight role of PUB as it pertains to rebating funds to customers.

The PUB exists to examine the decisions of MPI as a Crown monopoly. This legislative change has the effect of inverting the roles of the Crown monopoly and the Board. Rather than MPI having an obligation to bring an application based on a specific set of factors, the Corporation may, at its own discretion, forego an application altogether.

The result is that the Corporation decision -- sorry, the result is that the Corporation decision -- Corporation's decision not to apply for a rebate can proceed without an examination from this Board of the reasonableness of that decision and the ability to vary that proposal where it is deemed unreasonable.

CMMG makes the following recommendations in these regards:

That the PUB make a finding that the Corporation's listed parameters upon which they will bring an application for a rebate are vague and undefined. And that MPI be directed to provide a detailed report in the 2024 GRA, outlining the factors that MPI can rely on when making a decision to forego a rebate application in the future.

Now I'd like to move on to a discussion of ratemaking methodology and the implications of the large vehicle study.

During the Road Safety Technical Conference, held in May of 2022, the Corporation provided the results of a large vehicle study, which was ordered by this Board to be completed by MPI.

The study was recommended by Bike Winnipeg, with a view to examining the damage that is caused by large vehicles on the Road.

While the study was completed from a

road safety perspective, it raises questions about whether the Corporation's current methodology adequately addresses the issue of damage caused by large vehicles on the road.

MPI made the following findings from the large vehicle study. First, that vehicle size has an impact on collision claims cost, with larger vehicle segments consistently having higher collision costs; pickup trucks, mid and full size cars, and passenger and cargo vans all had higher incident cost, higher injury cost, and higher vulnerable road user costs than compact cars.

Third, SUVs had a higher average incident and physical damage cost than compact cars, while injury costs for SUVs were consistent with those for a compact car, both overall and for vulnerable road users.

Then compounded with this -- these results is the finding that heavy vehicles, pickup trucks, and passenger or cargo vans also have a higher likelihood of being at fault in an accident.

Despite these different findings, the Corporation has taken the position that no further action or research is necessary on the issue of vehicle size as it relates to road safety. And because of the methodology used in the study, that the results do not transfer well to a discussion regarding ratemaking methodology.

Included in MPI's ratemaking methodology is the use of CLEAR rating groups. The intention of the CLEAR rating is to provide incentives to customers who purchase vehicles which are deemed safer or less susceptible to damage or more resistant to theft.

Through this system, each vehicle is assigned a rating which, based on different features of the vehicles, may increase or reduce the rating of that vehicle, which in turn will increase or reduce the insurance premiums charged for that vehicle.

For example, a vehicle which has anti-lock brakes, dual inside air bags, side impact door reinforcements, or anti-theft devices would have lower CLEAR rating, and, therefore, lower insurance premiums.

The CLEAR rating does not account for third-party bodily injury claims. As acknowledged by Ms. Low on cross-examination, a feature of a vehicle which contributes to a lower CLEAR rating -- and, consequently, lower insurance premium -- might also be a feature that increases the potential third-party bodily injury costs in the event of a collision.

Pursuant to Board Order 97/'05, the Corporation uses the following claims cost allocation methodology.

In any accident involving only MPI insured vehicles, one or more, and no other insured party, total PIPP costs are to be allocated equally per vehicle across the rating categories to which those vehicles belong.

And, secondly, in any accident involving one or more MPI insured vehicles and one or more unidentified hit-and-run offenders or another injured party or parties, 50 percent of the total PIPP costs are allocated equally per MPI insured vehicle across the rating categories to which the MPI vehicles belong. And the remaining 50 percent of total PIPP costs would be effectively allocated across all vehicle rating categories.

On cross-examination, Ms. Low acknowledged that, while this allocation methodology transfers PIPP costs between major classes, it does not transfer costs between vehicles within those major classes.

As a result, the vehicle size difference within major classes is not considered in the ratemaking methodology employed by MPI. And through the use of the CLEAR rating system, features which may cause more damage may also be features which discount the insurance premiums for that vehicle.

Ms. Low confirmed that MPI has no plans to examine the issue of vehicle size as it pertains to the rating structure and that MPI does not currently have vehicle rating groups for third-party bodily injury claims.

During re-direct examination with Mr. Guerra, Ms. Low indicated that the decision not to have rating group for third-party bodily injury claims, was because it's impossible to do so and she's never heard of a fair rate group for third-party liability bodily injury.

CMMG questions the accuracy of these statements and believes that further examination should be undertaken.

In that regard, CMMG makes the following recommendations:

That in the 2024 GRA, MPI report on any Canadian jurisdictions or American private insurers, where vehicle insurance providers have a rating group for third-party liability.

Secondly, that PUB direct MPI to

collaborate with CMMG and Bike Winnipeg regarding the methodology of the large vehicle study and provide a report in the 2024 GRA, which provides as follows:

Firstly, that the recommendations -- firstly, provides the recommendations from each stakeholder for improvements and/or additions to the large vehicle study; and,

Secondly, MPI's anticipated time line for completion of a further study, incorporating the recommendations from CMMG and Bike Winnipeg, should the PUB order MPI to proceed with that study.

Finally, I'd like to talk about the issue of road safety. CMMG is a active participant in other stakeholder engagement opportunities outside this GRA process.

As well as participating in the Road Safety Technical Conference, CMMG is also engaged with external stakeholder committee and regularly engages with them -- directly with MPI, outside of the GRA process, to collaborate on and discuss Road Safety Planning and Strategy.

Of particular concern for CMMG, is the issue of single vehicle accidents for motorcyclists. These types of collisions make up over 50 percent of total collisions for motorcycles over the last three

(3) years.

While these collisions are characterized as single vehicle collisions, CMMG raised concerns at the Road Safety Conference that this data may not convey the true circumstances of the collision.

Specifically, there may be circumstances where a motorcyclist is, in fact, avoiding a collision caused by another vehicle which forces them off their bike or off the road. Despite not being at fault, the motorcycle class incurs the loss for that collision in terms of ratemaking.

For the anticipated implementation of MPI's publicly available dashboard, CMMG hopes to have the opportunity to review data and provide feedback to MPI for information that may be useful to address this concern.

During cross-examination, CMMG reviewed the methodology and under -- underlying the large vehicle study. CMMG rate concerns regarding Bike Winnipeg's request to be included in the development of the study which was rejected by the Corporation.

During the Road Safety Technical Conference and during this GRA, Mr. Triggs, on several occasions, suggested that road safety is best addressed through collaboration between stakeholders and MPI, rather than through this GRA process.

Unfortunately, when provided an opportunity to partake in that collaboration with an interested Intervener, MPI fell far short.

As a result, the large vehicle study fails to provide some basic data that stakeholders would find useful. CMMG hopes to see MPI follow through on its assertion that collaboration with stakeholders is an integral part of the road safety process.

While CMMG believes that MPI fell short as it relates to the large vehicle study, CMMG does acknowledge that there have been other circumstances where MPI has been responsive in engaging stakeholders on other Road Safety issues.

In particular, CMMG would like to commend MPI on the quick response, following the loss of Mr. Denis L'Heureux. CMMG appreciates the open dialogue with CMMG (sic) in facilitating collaboration and communication with other parties or stakeholders to address the safety issue arising from this tragic event.

In conclusion, CMMG would like to thank the Board for the opportunity to intervene in this

General Rate Application and looks forward to receipt of the Board's Order.

CMMG would also like to extend that appreciation to MPI, all of the people working in the background at MPI. We appreciate the work that they do to make this application as seamless as possible.

And I would also like to thank the Board and Board staff for everything that they do in assisting Interveners throughout this process.

Subject to any questions, that concludes the submissions of CMMG.

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

BOARD MEMBER NEMEC: Thank you. I just want to clarify something on page 18. You mentioned as a result of vehicle size difference with major classes is not considered a rate-making methodology employed by MPI.

And later you mentioned that, in your recommendations, that in the 2024 GRA, MPI report on Canadian jurisdictions or American private insurers where vehicle insurance providers have rating groups for third-party liability.

And -- and, I guess my question, initially was, and then I saw your recommendation, so

I just wanted some clarity.

Do you know of anywhere where they do ratemake -- the rate-making methodology does include the issue of vehicle size?

MS. CHARLOTTE MEEK: Am I aware of any jurisdictions where it does? I -- I believe -- obviously, this isn't from my own research, but my contacts, that there's some private insurers in the States in -- in America that have bodily injury -- third-party bodily injury included as a rate -- rating group.

THE PANEL CHAIRPERSON: Mr. Bass...? Ms. Boulter...?

Thank you, Ms. Meek. Ms. Wittman...?

CLOSING COMMENTS BY TAXI COALITION:

MS. KAREN WITTMAN: Thank you, Madam Chair. For the record, Karen Wittman appearing on behalf of the Taxi Coalition.

And, I would like to begin by thanking the Board on behalf of the Taxi Coalition for the opportunity to participate in this year's GRA and to provide submissions in closing.

The Board should have before it, a -- a copy of our written submission. We'd like to mark that as Exhibit TC-8.

--- EXHIBIT NO. TC-8: Taxi Coalition Submission

MS. KAREN WITTMAN: I don't intend to read the submission to you, but to provide you with a -- a general overview of the contents of the submission and to focus the -- our remarks on the four (4) key areas that were of most interest to the Taxi Coalition.

And those areas are: the Ratemaking and Serious Loss Loading, the Vehicle for Hire Framework, the DSR System and the proposed changes to the Capital Management Plan.

So, with respect to the first issue, ratemaking and serious loss loading, over -- begin by reminding the Board that serious losses refer to losses where total PIPP claims exceed five hundred thousand (500,000).

Now, the approach that MPI's taken to ratemaking and serious loss loading has been an issue in the past and it continues to be an issue in this year's GRA for the Taxi Coalition.

Traditionally, MPI only includes serious loss loading to insurance uses that have actual serious losses in the last ten (10) years. What this means, is that for any use or territory, which does not have serious losses in the last ten (10) years, MPI does not include any serious loss loading in the expected claims in the rating year.

The passenger Vehicle for Hire is an example of an insurance use that does not have serious loss loading; more specifically, because it was only introduced into -- as a class in 2018, it did not yet have a ten (10) year history of serious losses.

Consequently, under MPI's methodology, no serious losses are applied to it. The Taxi Coalition challenged that approach last year. The Taxi Coalition took the position, that the mere absence of a serious loss in a particular insurance use in the past ten (10) years, was not a reliable indicator of whether that particular insurance use was free of risk of serious loss.

Further, by failing to include any serious loss loading, MPI was increasing the likelihood of future rate volatility as a result of serious loss loading being added once there was a loss.

Following last year's GRA, the Board directed MPI to file an alternative rate indication taking into consideration serious loss loading and this was set out in Directive 11.3.

The calculation to be completed by MPI was further clarified in the information request in PUB-MPI-1-8(D). We refer to this in our written submission and today, as the alternative -- sorry, the alternate serious loss loading calculation.

Now MPI has complied with that directive and produced ratemaking appendix 12 and in addition to that, they've also produced a response to PUB-MPI-1-8(D) with an addendum to the rate-making appendix, which sets out further revised calculations.

But despite putting together these calculations, it is still not clear whether MPI intends to adopt a revised serious loss loading methodology. In the written materials, MPI suggested that they would not, but, then, during the course of the hearing, passing reference was made to the possibility that MPI would look at this in the future.

The Taxi Coalition, therefore, says that MPI should be directed to revise its rate-making methodology to include serious loss loading for all insurance uses that do not have a serious loss experience in the last 10 years, including the passenger Vehicle for Hire use.

And we say this for three (3) reasons. First, it's clear that MPI's current methodology has a number of limitations and weaknesses. Again, under the current methodology, the serious losses are only included where there has been a serious loss in the last 10 years. If there is no serious loss, then the serious loss is reduced to zero.

The problem with that, however, and, as was reviewed with MPI during cross-examination, is that -- well, they're reducing the loss to zero only because 10 years have passed and not because anything in the actual risk profile has changed.

For example, MPI was taken to the Pleasure Motorhome insurance use. Currently, that insurance use has a serious loss load of twenty-seven thousand eight hundred -- eight hundred dollars ($27,800) based on a loss in 2012.

Next year, however, that will be reduced to zero. MPI admitted, during the cross-examination, that there is nothing in the insurance profile that has changed that reduces the risk, except that one (1) year will have passed.

The same thing was shown in the Petroleum Chemical Truck insurance use. Last year, that reflected a serious loss load, based on a serious loss of six hundred and ninety-seven thousand (697,000) that occurred in 2011.

This year, the serious loss is reduced to zero but the risk of serious loss has not changed dramatically from last year to the current. So, there is not, in other words, in the Taxi Coalition's submission, a justification for the removal of the serious loss loading, other than another year has passed. That's one (1) weakness in the current methodology but there's more.

There's also weakness in MPI's methodology with respect to insurance uses that are small in size and have no historical experience.

The issue here is the -- the credibility and the reliability of the data. MPI says that it considers insurance uses with 10 years of data and no historical losses to be statistically credible, if they have a large exposure base and it's the "if they have the large exposure base" that's the key because MPI acknowledged, during cross-examination, that not all insurance uses have a large exposure base.

They further acknowledge that the data becomes less rosa -- less reliable and not fully credible, when the exposure base is small. At that point, it becomes more difficult to predict which group is more prone to serious losses or just had bad luck one (1) year.

These same limitations also apply to insurance uses that are newer uses and do not have ten (10) years of experience in serious losses. So, in other words, the current methodology has its limitations.

The second point the Taxi Coalition wishes to make on this is that the Board's alternative approach to calculating serious loss loading is preferable. MPI was cross-examined on this issue and, during the cross-examination, MPI admitted that the alternative method helps spread out serious losses for insurance uses that are smaller in size.

The alternative method also helps spread out serious losses for new insurance uses that have no historical experience. The alternative method also may result in less volatility for some insurance uses.

This then brings us to the third issue, which is not only is the Board's alternative approach preferable but MPI has now done all of the work that it needs to do in order to adopt this approach.

MPI was specifically asked about this

at the hearing and it acknowledged that the work was done and it further acknowledged that it would not require a significant effort on its part to adopt the serious loss loading methodology proposed by the PUB.

The Taxi Coalition, therefore, recommends that MPI be directed to adopt the alternate serious loss loading approach proposed by the Board, at last year's hearing.

The second issue we'd like to address is the Vehicle for Hire framework. Now, as the Board is well aware, the Vehicle for Hire insurance model remains relatively new, having only been intro -- introduced on March 1st, 2018.

The initial framework was based on a time ban model, which involved the creation of four (4) separate time bans that corresponded to certain hours of the day. Vehicle for Hire operators were given the option of choosing to register for up to four (4) time bans, and the premiums charged corresponded to the number of time bans selected by the Vehicle for Hire operator.

At the last GRA, it was acknowledged by pretty much all Vehicle for Hire operators that the time ban model didn't really work for their business model and needed to be changed. It didn't work for the passenger Vehicle for Hire group because they needed to select all four (4) time bans because they needed to have flexibility in their driving, they needed the ability to work part-time or any day of the week.

It also didn't work for the majority of public for hire vehic -- public Vehicle for Hires, including taxi, limo, and accessible Vehicle for Hires, because the way the time bans were set up, they did not work with their business operations.

So, following last year's GRA, MPI committed to completing a review of -- of the existing framework and to develop a new model. Unfortunately, the introduction of the new Vehicle for Hire framework has been postponed until next year.

MPI has, however, provided an outline, in broad strokes, of the approach it take -- intends to take to the new framework. And one (1) of the key components of the new framework is that the current time ban model will be eliminated and replaced with two (2) Vehicle for Hire products: the blanket policy and the full-time Vehicle for Hire insurance.

What we heard about the blanket policy is that it will be mandatory for all Transportation Network Companies or TNCs and it will also be available to other Vehicle for Hire dispatchers who meet the requirements.

How it works is that the dispatcher would provide insurance coverage for the ride-sharing portion of the use of the vehicle and the non-ride sharing periods would be covered by the TNC drivers registered owner's policy, which must be maintained by the driver.

Although MPI has not yet finalized the pricing and rating structure, one (1) of the main attributes will be that there will be a single starting rate for all Vehicle for Hire dispatchers or TNCs and, then, at policy year end, MPI will finalize the premiums, based on actual kilometres travelled and actual claims experience and will, then, use a rebate surchange -- surcharge scale to determine whether a rebate or surcharge is required and, if so, the amount of the rebate or surcharge. MPI will, then, collect any outstanding premiums or issue a refund, if there is a surplus.

For the full-time Vehicle for Hire insurance, this is a product that will be made available to all taxi Vehicle for Hire, limousine Vehicle for Hire and accessible Vehicle for Hire groups.

As it stands right now, when the time ban model is removed, any taxis currently operating on a less than full-time basis, will be required to register for full-time insurance.

Now, we heard, during the course of the hearing that MPI may develop a part-time option for taxis but nothing has really been done on that and, as far as we're concerned, it -- there has been no clear commitment to do that. There are, however, a number of taxis that are currently operating part time. Now, that number is less than 10 percent but the surveys that were taken show that there are more that would like to operate part time, if it wasn't under the time ban model, which doesn't really work for them.

It's as many as 20 percent of the taxis would like a part-time option. One (1) of the things that MPI was asked during the course of the hearing was what the financial impact of moving part-time taxis to full time would be. And the answer is set out in Undertaking Number 26, which I believe is marked as Exhibit MPI-105. And the increase in premiums will range, according to that exhibit, from nine hundred and five dollars ($905) to as much as five thousand five hundred and sixty-one dollars ($5,561).

(BRIEF PAUSE)

MS. KAREN WITTMAN: So, based on the information that's been presented, both in the written application and during the course of the hearing, the Taxi Coalition says that there are three (3) issues that need to be addressed with respect to the new Vehicle for Hire framework.

The first is whether MPI should be required to ensure that there is no cross-subsidization for rebates under the blanket policy. When the Vehicle for Hire framework was first introduced in 2018, one (1) of the underlying principles was that there would be no cross-subsidization between Vehicle for Hire and other insurance use -- uses.

This principle was reflected in MPI's own interim application and it was also reflected in the Board's Order 11/'18. So although MPI has not yet finalized the pricing and rating structure for the new blanket policy, we note that in a number of important respects, it would appear that the blanket policy is going to operate very similarly to the existing Fleet Rebate Program.

Now, under the current Fleet Rebate

Program, the source of the funds for the rebates comes from all private, commercial, and public major class customers. In other words, all private, commercial, and public major class customers fund or subsidize the Fleet Program even though the rebates are only paid to owners participating in the Fleet Program.

MPI was asked during the Information Requests how the blanket policy will be funded and MPI's response was: that level of detail is still unknown.

MPI confirmed, however, that cross-subsidization of a blanket policy by the broader fleet in Manitoba should, on a principle basis, be avoided, and we agree.

So consequently, and although MPI does not yet know how the funding for the net rebate under the proposed blanket policy would be payable, the Taxi Coalition recommends that MPI should be directed to ensure that there is no cross-subsidization of any rebates payable under the blanket policy.

(BRIEF PAUSE)

MS. KAREN WITTMAN: The second issue with respect to the Vehicle for Hire framework is whether MPI should be directed to reduce barriers to blanket policy participation for all Vehicle for Hire dispatchers.

One (1) of the positive features of the Fleet Program is that customers are incentivized to drive carefully in order to receive a rebate or avoid a surcharge.

The owners of the fleets are also encouraged or incentivized to manage their employees driving habits. Given the similarities between the Fleet Program and the Blanket Policy, the Taxi Coalition expects that the Blanket Policy is going to -- will help incentivize drivers to drive more carefully, which would be a benefit to everyone.

The Taxi Coalition would like to see this positive feature, the Fleet Program, being made available to all Vehicle for Hire dispa -- dispatchers. It would provide prompt feedback by way of a surcharge or a rebate on an annual basis and would help improve claims experience.

Unfortunately, the Taxi Vehicle for Hire don't currently have the technology necessary to participate in the blanket policy. And the Taxi Coalition asked during the Information Requests whether MPI was aware of any products that were available in the market that would provide the technology to support this insurance product.

MPI responded that it was not aware of any, but MPI did agree to participate in a Telematics pilot project with the taxis. It is expected that much of the information that will be obtained as part of this Telemat -- Telematics Project would be useful for helping Taxi Vehicle for Hire participate in the Blanket Policy.

And therefore, the Taxi Coalition recommends that the Board direct MPI to work with the Taxi Coalition to set up the technology required to record trip data for use with the Blanket Policy.

(BRIEF PAUSE)

MS. KAREN WITTMAN: The third issue with respect to the Vehicle for Hire framework is whether the Board should direct MPI to offer a reasonably priced part-time option for Taxi Vehicle for Hire.

Now, under the proposed Blanket Policy, TNC drivers would be permitted to drive part-time if they wanted, without any restrictions on part-time hours. And currently taxis operating under the time ban model can work part-time if they want.

And as mentioned a moment ago, surveys conducted confirm that as many as 20 percent of -- of taxis would like the part-time option, if the part-time hours is more closely aligned with their business model.

The Taxi Coalition has requested that MPI provide a part-time model that captures part-time taxi operations during a certain defined period of hours. But to date, MPI has taken the position that a part-time option cannot be made available for Taxi Vehicle for Hire, largely for two (2) reasons.

First, MPI says that it cannot provide a discount to part-time taxis unless full-time taxis pay an increase premium to make up the difference.

Second, MPI says that it cannot consider a part-time option that does not collect the difference in premium from full-time operators until it has the data confirming that taxis that are on the road less have fewer accidents.

(BRIEF PAUSE)

MS. KAREN WITTMAN: The Taxi Coalition says that there's a number of flaws in MPI's position.

First, it already exists this way right now. This model was introduced in 2018 and under this model the drivers are already permitted to register for less than four (4) full-time bans. And if they do, they pay a reduced premium.

This is available not just to passenger Vehicle for Hire, but also for taxis and all Vehicle for Hire groups. And full-time taxis are not being asked to make up the difference.

Second, the requirement that MPI must have data to consider a reduced rate is inconsistent with the approach that MPI has taken in other circumstances. Let me provide the Board with a couple of examples.

First, when the time ban model was introduced it included a part-time option even though MPI did not have the data about passenger Vehicle for Hire experience, for the obvious reason that it was a brand new insurance class.

And it also didn't have the data on taxi part-time operations, because as far as MPI was aware at the time, taxis were operating 24/7. In other words, MPI did not have the data to support the idea that drivers who were on the road less had a reduced risk of collision that would support a reduced premium.

Yet despite the absence of actual data, MPI, nevertheless, agreed to make a judgmental decision that drivers who were driving reduced hours had a reduced risk of pre -- of collision and provided them with a reduced premium.

(BRIEF PAUSE)

MS. KAREN WITTMAN: That's one (1) example. Here's a second, which is the work-from-home adjustment that MPI is going to include in this year's pricing, and -- and specifically, that's a 5 percent reduction in frequency for collision, property damage, weekly indemnity, and ABO-3 index claims.

The 5 percent reduction is based, in part, on the experience through the pandemic but also, significantly, on the surveyed intentions of drivers with respect to their future work-from-home intentions.

In other words, drivers have told MPI that they intend to work from home and MPI has accepted the results of that survey. What's significant, though, is that is -- this is based on a stated intention. It's not data.

In other words, it's on what the drivers say they're going to do, but a driver's stated intention is not the same as actual data and neither MPI nor the drivers themselves yet know whether the drivers will, in fact, actually work from home or even be permitted to do so by their employers. Yet, despite this lack of data, MPI has agreed to adjust the rates.

Third, and perhaps most importantly, MPI actually has data right now that says when taxis are on the road less, they have fewer collisions.

In the rate-making chapter, at ratemaking Appendix 9, table 8, it shows that the actual losses for Taxi Vehicle for Hire across Manitoba from 2017 to 2019 were close to 4 million.

In 2021 -- or 2020 to 2021, the actual losses were reduced to approximately 2.5 million. In other words, MPI already has the data, which confirms that when Taxi Vehicle for Hire are on the road less, there was a corresponding reduction in collision frequency.

(BRIEF PAUSE)

MS. KAREN WITTMAN: The Taxi Coalition

says that MPI must remain fair and equitable in its approach to full-time Vehicle for Hire insurance.

MPI ought not to be permitted to pick and choose which insurance uses require data to support the -- its pricing decisions and which do not.

If MPI were to be giving a reduction or a discount to one (1) group, based on the fact that that particular group was driving less, MPI should also ensure that a similar discount to a second group, if the second group is also driving less, is given in order to remain fair and equitable.

During the course of the hearing, the Taxi Coalition prepared, based on MPI's own methodology used to price the time ban model, a part-time taxi Vehicle for Hire policy for Winnipeg. It was reviewed during cross-examination and is attached as an appendix to the written submission that the Taxi Coalition has provided.

Now, MPI took issue with the methodology during re-direct, suggesting that this was not a method that MPI would adopt. But the problem is it's based on MPI's own methodology in the first place, and it was -- and it's the meth -- sorry, it's the very same methodology that is currently in use right now, and it was previously approved by the

Board.

So the bottom line is, that methodology is there. It's available to be used by MPI. It's simply an adjustment in the configuration, and it would be a very useful tool to implement an approach for a part-time model for taxis. The data from the Telematics project - which we understand will be forthcoming - can then be used to adjust the rates, if necessary.

The essence here is that the Taxi Coalition submits that a part-time option should be made available to them, and it should be reasonably priced. Ideally, it would be based on the model that the Taxi Coalition has presented, but at a bare minimum, it should be available and it should be reasonably priced.

So in short then, what the Taxi Coalition is seeking with respect to Vehicle for Hire is that MPI should be directed to:

(1) ensure that there is no cross-subsidization of the rebates payable under the blanket policy;

(2) to require that MPI work with the Taxi Coalition to reduce barriers to participation in the blanket policy for all Vehicle for Hire

Dispatchers; and

(3rd) to include a properly priced part-time option similar to the one outlined by the Taxi Coalition in the appendix, with the expectation that pricing can be updated based on actual data from the Telematics project.

The third issue that we'd like to address is Driver Safety Rating and the DSR scale. Now, this has been covered fairly comprehensively already, so we will be relatively brief. But the essence of the issue is that, at least for the past three (3) GRAs, if not longer, it's been recognized that there is considerable cross-subsidization within the DSR system.

Further, the magnitude of vehicle premium discounts provided at each DSR level is not actuarially based. In this year's GRA, MPI prepared an actuarial review that confirms that signi -- significant cross-subsidization continues.

And to remedy this cross-subsidization, MPI has adopted an approach that will "incrementally adjust DSR levels." And by 'incrementally', it would appear that MPI means 'slowly'.

As we understand it, part of MPI's rationale for the slow pace of the reduction of the cross-subsidization is that (1) it wants to avoid rate shock or avoid increasing base rates, and (2) it also wants to wait until after it has adopted the new GLM -- Generalized Linear Model -- before making any significant adjustments to the DSR.

The Taxi Coalition has a number of points to make in response, and those are set out in full detail in the brief, but we're going to highlight two (2) of them here.

The first is that the incremental approach is not in line with Board Directive 11.5 -- or 11.15. That directive is set out at page 21 of our written submission, and it says that:

> "In the 2023 GRA, the Corporation shall bring forward a DSR transition plan to manage the required increase in the base rate and year-to-year rate dislocation while moving the DSR vehicle discounts and driver premiums to actuarial targets in a timely manner."

And the key part of that phrase is "in a timely manner."

We say that taking incre -- incremental steps hardly meets the requirement of 'a timely manner', and certainly the proposal that's been put forward in this year's GRA is not going to move us there in a timely manner.

The second issue is the GLMs. MPI was cross-examined by PUB counsel on this issue, and that portion of that cross-examination has been included in our written submission at page 24.

And what -- Ms. Low responded in response to questions being asked by PUB counsel was that:

"There are two (2) issues that we [being MPI] are currently dealing with. First, we talked about the other -- we talked about the other day at the ratemaking panel, we are going to be running generalized linear models over the next couple of -- of days -- or couple of years, I should say.
So these are called GLM models. We're going to be putting DSR levels in there as a rating variable. That means what comes out of the model could be different than what we get right now with our minimum bias

model, so really hard to figure out
where we're going -- where we're
going to get to the point when we
don't know what the end point looks
like yet."

Then in a subsequent exchange with MPI counsel, Ms. Low further explained:

"Because the DSR is going to become
a rating variable, so it's not going
to be a product sitting on top of a
product, it's going to become a
factor within the rating so the
discount scale itself that's
indicated might change with the
GLMs."

Then she further added:

"The downside is is you can maybe
give a large decrease that you'll
have to take back."

But the Taxi Coalition notes that the current -- converse could be equally true: adjustments made today might also bring the DSR closer to the indicated rates under the GLM framework.

A further problem is that MPI has said that they don't intend to bring the DSR adjustment plan to the Board until 2025, which is still a number of years away. So if these two (2) issues are linked, the Taxi Coalition that says that MPI should accelerate the work to develop a preliminary GLM model.

The Taxi Coalition also notes that they already have the means available. This was canvassed with them at the last GRA, and it was noted that -- that GLM models are publicly available. And even if MPI does not want to source open software that's readily available, there's no reason why they can't move more quickly to bring about a new GLM software.

Certainly, when MPI wanted to engage McKinsey this year, it did that relatively quickly, as pointed out by counsel for the CAC. There's really no reason why MPI can't move as -- as quickly with the GLMs.

As it stands right now, MPI is still waiting to acquire the software to run GLMs a full year after it committed to transition to GLMs.

(BRIEF PAUSE)

MS. KAREN WITTMAN: So with respect to the DSR, the -- the Taxi Coalition says that the Board should find that MPI has not complied with Directive 11.15 and -- and should have concerns about MPI's corporate risk -- sorry, and that any concerns about MPI's corporate risk profile are not determinative or even relevant to compliance with this directive.

Further, MPI should be directed to accelerate its preliminary investigation into GLMs to the point where it can sufficiently and with confidence in the outcome -- sorry -- it can be sufficiently confident in the outcome of the GLMs that it can then proceed with addressing the PUB's concerns as articulated in Directive 11.15.

Given that software options are already available, MPI should be directed to begin this investigation without further delay and be prepared to present preliminary results in the 2024 GRA.

(BRIEF PAUSE)

MS. KAREN WITTMAN: This now brings us to the final issue which we wish to address, and that's the Capital Management Plan and the revisions that have been brought forward this year to the CMP.

The key changes to the CMP as explained during the course of the Hearing would appear to us are threefold. First, it involves a move to an MCT range instead of a single target with the lower threshold being at 100 percent MCT and an upper threshold of 120 percent MCT.

Second, the replacement of the capital release provision with a capital rebate. A rebate would be initiated when the MCT exceeds 120 percent and the amount of the rebate would be the amount required to reduce MCT to a hundred percent. The capital build, however, would remain unchanged.

The third key change is that financial decisions regarding capital rebates would be based on audited actual year-end financial results instead of on the basis of forecasted results, or at least this is how it was explained during the course of the Hearing.

The proposed changes are also reflected, at least to a degree, in the Budget Implementation and Tax Statutes Amendment Act, or BITSA, and the relevant portion of which is reproduced at page 28 of our brief.

(BRIEF PAUSE)

MS. KAREN WITTMAN: And we heard

during the course of the Hearing that MPI has a number of reasons for wanting to make changes to the CMP.

First, it says it wants to avoid continuous building or rebating as a result of constant changes in MCT, and it wants to avoid the cost of rebates for less than a hundred dollars.

Second, MPI wants to move to capital rebates rather than releases to avoid customer confusion and to avoid allowing a new ratepayer to benefit from the prior buildup of excess capital.

And third, MPI thinks that the new methodology is preferable because it will rely on actual audited year-end results rather than forecasts.

The Taxi Coalition has several points to make in response. First, MPI -- it -- it's apparent during the cross-examination that if MPI wanted to avoid the cost of rebates, it had other options to do that. It didn't have to mail out cheques. There's a number of different options which could be explored by MPI but which have not been.

Second, as far as customer confusion is concerned, it's clear that, if MPI wanted to avoid that, it could have made the invoices it sends out to customers much clearer.

Third, and perhaps most important, is

MPI has suggested that it wants to move to audited year-end results rather than forecasts. But if we look closely at what's been proposed, that's not actually what's about to happen. It starts with an audited year-end forecast, but then it still -- sorry, an audited year-end financial, but it still requires a examination of the forecasts in order to make a decision about whether there's going to be any kind of rebate.

(BRIEF PAUSE)

MS. KAREN WITTMAN: Not only is there a conflict in -- in that -- on that last point, but despite the fact that there was extensive cross-examination, as well as questions from Board members, it still isn't clear how the new CMP is going to work.

For example, it's not clear what the parameters within which a rebate will be brought -- sorry -- it's not clear what the parameters are within which MPI will feel it's required to bring a rebate before the Board.

It's not clear when MPI will be required to bring forward a rebate application.

And it's not clear how MPI's

forecasting will factor in to the decision-making process on whether it needs to bring forward a rebate.

In our brief, we go through a few of the examples of some of the contradictions that came out throughout this Hearing with respect to the new methodology. There's confusion not only -- or contradictions not only in the written materials, but also in the oral evidence.

There's confusion, for example, if we look at the rate -- the rate-making section -- Rate Stabilization Reserve section, I mean, page 14 which is reproduced at paragraph 101 of our written submission; that's on page 29.

(BRIEF PAUSE)

MS. KAREN WITTMAN: And we point out here that there's confusion in MPI's written materials on how the move to actuals is going to be based because it says it's going to be based on the current fiscal year period, which is defined as, you know, March 31st, 2023, but it's not clear how that would be implemented in practice.

At page 14 of the RSR chapter, for example, MPI states that -- in the second dash point underneath:

> "If the MCT is equal to or greater than 120 percent at the end of the forecasted current fiscal year-end, in other words, March 31st, 2023, then calculate the rebate amount so that the ending Basic MCT at the end of the forecasted current fiscal year [I think that should be] is equal to 100 percent.
>
> The rebate will be applied for issued pending finalized audit of year-end financial values."

But on the very next page, page 15 of the RSR chapter, MPI appears to provide a different approach which is contrary to this explanation. More specifically, on page 15, MPI says that:

> "The decision of whether to apply for a rebate would be based on the forecasted MCT ratio during the rating period."

Which, if we use this GRA as an example, would run from April 1st, 2023, to March 31st, 2025, rather than on the basis of the current fiscal year period.

There was also confusion or contradiction in the oral evidence over the time period for the applicable forecast. Ms. Low, for example, appeared to indicate that there would be an initial trigger of a potential rebate application where actual audited financial statements indicate that MCT exceeds 120 percent but a rebate would not be applied for if MCT is forecasted to dip below a hundred percent in the forecast period which, again, we understand from the materials that were filed that the forecast period means the rating period, which, in other words, is two (2) years out.

But if we look at the actual testimony and turn to the next page, paragraph 103, during Ms. Low's testimony and her examination by Mr. Scarfone, she referred to forecasts of five (5) years out for consideration of the rebates, which is the bolded section in -- in our brief, and then further on again to the forecast period, but the forecast period is a defined term in this year's GRA.

But then in contrast to Ms. Low's evidence, we have Mr. Giesbrecht's evidence which suggests that any MCT forecasting would be a much shorter term. Beginning -- exactly right there -- thank you, Ms. Schubert.

Beginning at paragraph 104 of our submission, he was asked specifically about that and said that it would be -- the forecasting would be based on audited actual year-end results. That's the first condition.

And then the second condition is that it is forecasted -- or MCT is forecasted to remain above a hundred percent throughout the rating period after the proposed rebate. And he's responded, "Yes, exactly." But then what he talked about was a three (3) month period. He said:

> "And so, we would have three (3) months of actual results where there could be adverse development, such as inflation and a requirement to transfer or increase the reserves as a result."

He continues:

> "And so, if that were to take place, and now, even though the year end was above 120 percent, you may have a scenario where you fall below. And we would not want to rebate if we were now because of amounts that happened after year end that were

known or expected to happen in the
very short term that could impact
that outcome."

There's also inconsistencies in the parameters around -- not only in the parameters around forecasting, but also about whether MPI has sole discretion to determine when a rebate application will be brought. And whether it will be -- that decision will be dependent on whether MPI believes that MCT will fall below 100 percent.

In other words, MPI seems to be suggesting that not only is the rebate entirely within its discretion, but it also has discretion on how the rebate is calculated.

But MPI says that there are numerous factors within its control, which go into forecasting, that may have an ultimate impact on MCT. In other words, how the MCT itself is calculated is also discretionary.

(BRIEF PAUSE)

MS. KAREN WITTMAN: So the Taxi Coalition references that one (1) of the key issues with the proposed new CMP is the lack of clarity, lack of transparency, and accountability surrounding the approach to rebate applications.

The Taxi Coalition recommends that the Board should provide parameters or specifications with respect to the CMP specifically.

The Taxi Coalition makes three (3) recommendations: First, the Board should provide some direction with respect to Section 18(4)(d) of the new legislation. And that is set out, I believe, at page -- an earlier paragraph above. Page 28.

(BRIEF PAUSE)

MS. KAREN WITTMAN: So Section 18(4) states that:

"A rebate must not be paid from the Rate Stabilization Reserve unless..."

And then it's -- the legislation sets out (a), (b), (c) but we're most interested in (d). Just on the next page:

"...unless the rebate is not projected to reduce the reserves' MCT ratio to less than 100 percent."

This section refers to projection. It

does not define the time frame for this projection. But if we compare that to the very next section, which is 18(5), there the legislation does define the time frame. And it makes specific -- it makes reference to a specific time frame.

So in other words, when the legislature -- legislators wanted to refer to a specific time frame, they did. And by the mere -- the fact that they did not do so in 18(4)(d) suggests that that is not something that's been predetermined.

In other words, the Board still has jurisdiction on that issue or at least that would be the Taxi Coalition's submission.

(BRIEF PAUSE)

MS. KAREN WITTMAN: Second, Section 18(4) makes no reference to the timing of the rebate application. It does not, for example, specify that an application cannot be made to the Board until MPI makes an internal determination on projected MCT ratios. That was MPI's stated approach, but it's not in the legislation.

Ms. Low expressed that it would be MPI's intention not to apply for a rebate unless MPI internally determines that the MCT was not forecasted to be less than 100 percent within the forecasting period.

The result of that is, as we interpret it, that there's a possibility that MPI may never apply to the Board for a rebate if it internally forecasts MCT to be less than 100 percent two (2) years into the future.

But as confirmed by both Ms. -- sorry, Mr. Giesbrecht and Ms. Low, during cross-examination, all sorts of factors go into forecasting that may have an ultimate impact on MCT; such as portfolio composition and risk adjustments.

This forecasting, however, would not be subject to Board review because an application may never be brought.

Therefore, the Taxi Coalition says that in order to ensure transparency and accountability, it's recommended that MPI be required to report annually, as part of the GRA, on MCT ratios and MCT forecasting.

Third, and finally, the Taxi Coalition recommends that the Board direct MPI to apply for a rebate in any upcoming GRA when the MCT ratio exceeds 120 percent at the beginning of a fiscal year.

During the course of the GRA, the Board and -- and all parties could then examine whether the MCT was projected to fall below 100 percent MCT as part of the GRA process. This would encourage transparency and accountability, while also meeting the objectives of BITSA.

So those recommendations have been -- I see it's been pulled up on the screen right now -- have been included in the conclusion on the Capital Management Plan in our written brief, so I won't go through them again.

But I would like to say thank you very much to -- to the Board for the opportunity to present comments in this year's GRA. And also thank MPI for the ongoing collaboration outside of the GRA with the Taxi Coalition. It's very much appreciated.

And subject to any questions the Board may have, that concludes the Taxi Coalition's submissions.

THE PANEL CHAIRPERSON: Thank you, Ms. Wittman. Mr. Gabor...?

BOARD CHAIR GABOR: I have one (1) question and it relates to your last comment that we put a direction in that they seek a rebate.

MS. KAREN WITTMAN: If -- if MCT -- if

-- based on the audited financial statements, MCT exceeds 120 percent, that they be required to bring it before the Board. And then, at that point, the Board would be given the opportunity to examine the assumptions that relate to the forecasting models.

BOARD CHAIR GABOR: Okay. Does that contradict 18(4)(b)? 18(4)(b) says they apply.

Your -- your approach seems to remove that and create some automatic -- an automatic application once the levels are reached.

MS. KAREN WITTMAN: Well, it may, on its surface, appear to be a contradiction. But we think that in order to ensure transparency and accountability, which is required, and a goal for this process, that there has to be some kind of presentation on MCT before the Board.

The application for a rebate doesn't necessarily need to be -- to pay out money, but it should involve a review of how the MCT was calculated because right now that's a bit of a black box. And also, what forecasting went into it. It was --

BOARD CHAIR GABOR: Okay. So I don't have a problem in you saying, you know, we can consider -- issue a directive that they have to disclose what the MCT is and how they arrived at that.

But that's different than saying, once you hit those numbers you have an automatic application, isn't it?

MS. KAREN WITTMAN: Agreed. And -- and -- and that's essentially what we're -- we're ideally seeking, is that there be a reporting.

BOARD CHAIR GABOR: Yeah, I understand the transparency argument. Thank you.

THE PANEL CHAIRPERSON: Ms. Nemec...? Mr. Bass...?

BOARD MEMBER BASS: Just on your last comment where you said something about MCT being a black box. How do you consider it to be a black box?

MS. KAREN WITTMAN: Well, a black box in the sense that the -- the basis for the calculations and what's involved in the calculations is not really, from what we can tell, before the Board on a regular basis in any detail.

And there is -- you know, as PUB's counsel went through with MPI during cross-examination, there is a lot of judgment that goes into how the MCT is ultimately calculated, which can result in a significant swing. Upwards of, you know, in once case, $80 million in terms of -- of what -- what the actual MCT value is deemed to be.

How that's calculated and information about that should be in front of the Board.

BOARD MEMBER BASS: So that's sort of a second issue.

In terms of it being here -- and I agree with you, I haven't seen the calculation here. But when you look at the actual MCT calculation that OSFI requires of a federally regulated financial institutions, property and casualty insurers, it's a very detailed compilation of materials from the financial statements of an insurer.

So I don't understand -- like, if it were here, how that could be a black box.

MS. KAREN WITTMAN: That wouldn't be a black box if that was here. But it's our understanding it's not actually here.

BOARD MEMBER BASS: Okay.

MS. KAREN WITTMAN: So when I say it's a black box, I mean, if that information was available, that would be different. But right now, we don't -- we don't have it.

BOARD MEMBER BASS: Okay. Thanks.

THE PANEL CHAIRPERSON: Ms. Boulter...?

Thank you very much, Ms. Wittman. It's

2:30. We'll take a break now until a quarter to 3:00, please.

--- Upon recessing at 2:32 p.m.
--- Upon resuming at 2:48 p.m.

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

CLOSING COMMENTS BY IBAM:

MR. MICHAEL WEINSTEIN: Thank you, Madam Chair. I'd like to begin by thanking -- on behalf of IBAM, thanking the Board for the opportunity to intervene at this year's GRA. I'd also like to thank my co-counsel from PUB, from MPI and the other Interveners. I'd also like to thank the PUB staff and, particularly, to thank Ms. Schubert and Ms. Jassal.

With respect to my closing comments, I'd like to begin just for a moment by reflecting on the scope of IBAM's intervention in this year's GRA and IBAM's particular role as an Intervener.

In Board Order 85/'22, the Board approved IBAM's Intervener's status application on a limited basis, specifically with respect to the issues of broker commissions and the broker agreement.

And, more specifically, the Board ordered at page 17 as follows:

"The Board approves the application for Intervener status of IBAM on a limited basis. IBAM's Intervention will assist the Board -- in the Board's examination of broker commission expenses.

However, at this time, the Board does not require broader information about the nature and quality of the services provided by brokers in order to fulfil its mandate.

Accordingly, IBAM is granted approval to intervene only on the issues of broker commissions and the broker agreement. The Board expects, that given its limited grant of intervention, IBAM will organize its attendance at the public hearings in accordance with days on which broker commissions and the broker agreement are to be reviewed. And that IBAM's proposed budget will reflect this limited attendance."

In line with this mandate, we advised the Board during our opening statement that our intervention would concern the following areas:

The fact that the broker agreement contemplates reduced rates for Extension and creates two (2) different commission rates for in person or on line transactions.

The fact that Project Nova is delayed and brokers are working with MPI to negotiate to delay the launch of the two (2) commission rates for Basic. The results of such negotiations will then go to IBAM's members for ratification. And the fact that brokers did not contribute in any way to the delays to Project Nova.

And it -- it's respectfully submitted that the information IBAM sought to draw from MPI's witnesses will assist the Board in considering and analyzing issues related to broker commissions and the MPI/IBAM our broker agreement.

And we also advised the Board at the outset of the hearing, that IBAM's aim through its limited intervention, was to ensure that the Board has a full and proper understanding of the issues relating to broker commissions and broker agreements entered into with MPI.

So to summarize, IBAM's participation in this year's GRA has been focused on ensuring that the Board has a comprehensive view -- that the Board has a comprehensive view when it comes to broker commissions and the broker agreement by cross-examining witnesses, asking relevant information requests and framing the evidence now in its closing arguments.

IBAM occupies a unique position in the GRA as an Intervener. As the Board has heard, brokers, broker commissions, the existing broker agreement and the negotiation of a revised or a future broker agreement, have all been raised and discussed at various points throughout the hearing.

Further, brokers are routinely a topic of discussion at MPI GRA's. And, we submit that no other Intervener is so routinely a topic of discussion as brokers are.

Brokers will play a significant part in Project Nova, which was a significant focus of this year's GRA.

As the online environment for -- pardon me, they'll play a significant role as the online environment for MPI customers is eventually rolled out.

In light of this, information relating to brokers is germane to a number of issues before the Board. For fifty-one (51) years brokerage has been the customer facing part of MPI and they account for 96 to 97 percent of all Autopac transactions.

This enables MPI to efficiently service customers in all parts of the province, and it provides brokers with unique insights as to the level of service required in the market.

And, as the Board heard, IBAM and brokers have been working with MPI respecting the manner by which online services will be presented to customers.

You've heard from MPI that it has consulted and will consult with brokers and IBAM before releasing various aspects of Project Nova, including with respect to release 3. We heard that on October 31st.

This is also shown in Section 3.5 of the MPI/IBAM agreement, which is found at part 4 of Nova, appendix 14.

Section 3.5 of that agreement sets out that the parties would create a broker/NOVA committee, whereby brokers will have the opportunity to provide input into the design and development of Project Nova and the journey of MPI customers navigating through the MPI website. This, we say, is prudent, given brokerages' knowledge of customer requirements, generally, and of their customers' histories and needs.

You further heard from MPI witnesses that IBAM has been working with MPI to negotiate revisions to the MPI/IBAM future services agreement, so as to line up the launch of online and in-person commission rates, with the launch of online services.

Without IBAM's participation, it is respectfully submitted that there is a risk that the Board would have before it an incomplete record.

From IBAM's perspective, this precise risk was realized last year, when IBAM did not participate as an Intervener. And following last year's GRA, Order 134-'21 characterized broker's roles and online transactions in a manner with which IBAM respectfully did not agree.

And IBAM brought a motion to vary or strike portions of that Order. The relief sought in that motion was partially granted by this Board, which ordered then in Order Number 20/'22 that the relevant passage in the Order be amended.

And I provide that context of last year's events because we say that that's important as we progress through the remainder of our closing statement.

Consistent with the scope of its Intervener status, IBAM kept its intervention limited by monitoring much of the GRA, but only making six (6) Information Requests, five (5) on the public record and one (1) in the confidential portion of this proceeding.

We also only asked questions during the expenses -- IFRS and Project Nova portions of the hearing and a very short series of questions of the undertaking panel.

Those questions and Information Requests were aimed at adducing and did adduce evidence before the Board that supports the following conclusions:

Even though Project Nova has been pushed back, MPI is still experiencing cost savings as compared to the commissions MPI would have paid under the previous broker agreement. And we see that on the November 3rd transcript at pages 2270 to 2273 and in MPI Exhibits 122 and 123.

And even though there are delays forecasted of approximately two (2) years that will increase broker commissions in the 2023/2024 year and the 2024/2025 year, these increases would not have happened had Nova been launched on time.

MPI has, in fact, confirmed that IBAM did not contribute to the delays and that the commission rates would have otherwise resulted in immediate savings to MPI and ratepayers. And this is found in the October 31st transcripts at pages 1940 and 1941.

As mentioned, IBAM continues to work with MPI to negotiate a revised or restated agreement that may include pushing back commission rate changes to the launch of NOVA. And this is confirmed in the October 19th transcript, at page 209 to 211 and in the October 20th transcript at page 43.

Further, if IBAM and MPI can reach an agreement on pushing back the date of the change in rates to the launch of release 3, the benefits to the business case would be significant, assuming a launch date of July 2024. And the numbers supporting that have been provided to you and are found at MPI Exhibits 122 and 123.

MPI testified that having a broker

mitigates risk for both customers and MPI. IBAM submits that the risk that is mitigated is the financial risk of being under insured and the manner by which brokers help to mitigate that risk is by providing oversight and professional advice over customers' transactions, including online transactions in the future. And this was confirmed on October 31st in the transcript at page 1957.

If Manitobans are not receiving advice or oversight on their insurance transactions, they may make choices that will result in being under insured or in paying more for insurance than they need to.

For example, yesterday we heard counsel for MPI talk about the fact that we are living in change -- in changing and uncertain times, and that this would be one (1) thing that all parties can agree on. And IBAM does agree.

And as the world around us changes too, so will people's coverages needs. As their insurance needs change, the need to -- for oversight over transactions and for advice are amplified.

We know, for example, that many people's requirements for coverage changed over the course of the COVID pandemic as people worked from home.

If some Manitobans were not receiving advice or oversight over their insurance transactions, they might not know to change their coverage to pleasure to save money, or even worse, they might change their coverage to pleasure on a misapprehension that they're driving habits qualify for them for that coverage when they, in fact, do not.

Now, as some people are working on flexible schedules, advice is again needed with regard to these life changes and results in insurance needs.

Lastly, it became clear in this GRA that IBAM needed to address the suggestion that purchasing Autopac online would be simple and we just -- be just a few clicks to the customer.

Although this was not originally an aim of IBAM's intervention, we submit the suggestion is relevant to Manitobans and had to be addressed. The importance of being adequately insured cannot be overstated, as the ramifications to Manitobans of being under insured, or being insured improperly, can be catastrophic.

As the landscape around us changes, so too do people's needs and we submit that to protect consumers and ensure they have the right coverage is more complex than the simple click of a box.

We note that the Consumers Association of Canada's presentation this morning described MPI's product as a simple product. However, proper context is needed.

Customers who choose to transact online, will be online for both Basic and Extension and will have important choices to make respecting their coverage.

The entire context of Mr. Herbelin's testimony on October 19th, is important in this regard. As Mr. Herbelin is clear, he does not consider the choices required for purchasing MPI products online as simple.

On October 19th, our learned friend, Mr. Williams, on behalf of the CAC, asked Mr. Herbelin questions directly concerning service delivery and queried whether the process of renewing Basic or Extension products from MPI is simple or complex.

While Mr. Herbelin conceded that the products may appear to be a simple product to ratepayers, he was clear that the process becomes more complicated as you look at the process and the details and that the product is composed of many different moving parts.

Importantly, he testified that customers don't really understand the choices they make in terms of deductibles and third-party liability 'cause they've not been exposed to these choices on a regular basis. For the record, that's found in the October 19th transcript, pages 243 to 245.

During our cross on the NOVA Panel, certain questions were read into the record. These questions are at the October 31 transcript, at pages 1,949 to 1,952.

MPI confirmed that the answer to these questions would be important to customers and to ensure that they understand the decisions they are making with -- with regard to their deductible, their level of third-party liability, and other decisions they make when transacting their insurance. And, again, this is found in the October 31 transcript, at pages 1,954 and 1,955.

We submit that these questions are representative of what customers bring into brokerages every day. It is also respectfully submitted that the vast majority of Manitobans do not know the answer to those questions.

And whether insurance is provided through a bricks and mortar storefront or through an on-line delivery channel, Manitobans benefit from having a broker as a resource to answer those questions or to take on their responsibility to review their on-line selections.

As mentioned earlier, MPI confirmed, on cross-examination, that customers don't understand the choices they are making with respect to their insurance because they aren't exposed to these choices every day.

And further confirmed that brokers play a role in consumer protection by explaining choices to customers, and those -- that's found in the October 19th transcript, at pages 244 to 245 and the October 31st transcript, at page 1,947.

MPI also confirmed, on cross-examination, that having a broker mitigates the risk for customers and for MPI with regard to a customer being under -- under insured. They also confirmed that by having professional oversight on those changes, including on-line transactions, there is a benefit to customers to provide advice on the impacts of changes and the circumstance in their insurance. And that's, again, found in the October 31st transcript, at pages 1,957 and 1,961.

MPI further confirmed, in an

undertaking, that it does not carry errors and omissions insurance for its employees, which is found at MPI Exhibit 98.

In sum, we submit that it is good business for MPI to reduce risks to customers, reduce risks to itself, and to use brokers to keep the model efficient by having brokers involved in providing professional oversight and advice to Manitobans.

And again, we respectfully submit that it is important to understand there is complexity to these transactions to ensure that the Board has the complete picture.

This morning, counsel for CAC argued that face-to-face interactions with brokers may be diminished when on-line launches. IBAM doesn't dispute this, however, the broker's involvement will not be diminished. Brokers will continue to serve their consumer protection function by doing background work on the oversight of on-line transactions, as well as by continuing to interact with customers, whether over the phone, virtually, or face to face, as they provide advice to their customers.

In our client's view, a reduction in face-to-face transactions serves as a convenience to customers who prefer virtual transactions, though the customer is still protected by what brokers will be doing in a non-face-to-face fashion for on-line transactions.

This represents a clear benefit to Manitobans. In the on-line environment, unlike in the traditional environment, a customer may initially bypass receiving advice from a broker or an employee, however, by requiring that a broker of record be selected for on-line renewals, Manitobans will be assured that they will enjoy the customer protection function offered by brokers, who will receive monthly reporting from MPI to provide advance notice for renewals. This will both ensure the continuance of coverage for MPI customers and will enable brokers to advise and service these customers.

To conclude, Project Nova will fundamentally change the means by which many Manitobans purchase their insurance. Whereas the 96 percent of Basic revenue currently is delivered directly through broker offices, where the broker reviews the transactions for appropriateness and provides advice to the customers, Manitobans will now have the option to purchase their insurance over the internet.

However, as you heard from MPI, itself,

while the Autopac product may appear simple, it is not. Customers do not understand the ramifications of the choices before them and by brokers providing oversight and advice to customers, they're mitigating financial risk, for both customers and MPI, serving the consumer protection function, and providing a service to customers that MPI and Manitobans rely on brokerages to provide.

As mentioned earlier, IBAM did not call evidence at this GRA, which was due to the scope of its int -- intervention, including due to Board Order Number 85/'22 which, as mentioned, stipulated that the Board did not require broader information about the nature and quality of the services provided by brokers in order to fulfil its mandate.

The precise steps that a broker will take for its oversight and advisory role for on-line transaction has not, yet, been entirely determined, as between MPI and IBM -- IBAM and, therefore, may be better addressed in a later GRA. But, what we do know, so far, is set out in Section 3.7.2 of the MPI-IBAM Agreement. In quoting from that Agreement. It says:

"MPI will develop monthly reporting for brokers, which provide advance notice for renewals, i.e., expiry lists. This procedure will ensure the continuance of coverage for MPI customers and will enable brokers to advise and service these MPI customers."

Although this provision does not set out the specific steps each broker will perform for on-line transactions, it contemplates the oversight and advisory functions brokers will continue to provide to customers transacting on line.

You've heard from MPI, during this GRA, that the specifics of on-line functionality or services are not yet known and won't be made available until after the discovery stage for release 3.

Brokers and MPI continue to work together, in good faith, as partners to cement the details of the steps to be taken by brokers, and these details will be available to the Board in later GRAs.

Although there are delays to Project Nova, which have reduced the savings in the NOVA business case, Manitobans will still be saving ninety-six point one one million dollars ($96.11 million) under the existing broker agreement, even if it were left unchanged.

This morning, CAC argued that uncertainty in broker negotiations is a risk to Project Nova. Respectfully, our client disagrees. The broker agreement is currently in place and, even with the delays, would result in substantial savings to MPI, through the NOVA business case.

But as you've now heard, numerous times, brokers have been proactive in coming back to the table to negotiate, to move commission rate changes back to line up with the release of on-line customer capabilities, which would increase the savings to MPI through the NOVA business case.

Simply put, the negotiations that are ongoing are, certainly, not a risk to Project Nova and can only be a benefit.

There are over a billion dollars in policies in Manitoba, all owned by unique individuals with unique needs. Brokers' oversight and advice helps Manitobans by ensuring that customers are not under or over insured. This also helps MPI because it mitigates risk to MPI.

And brokers provide a time-consuming advisory service which keeps those demands from loading on to MPI's operations and customer service employees and, more importantly, ensures that professionals, who have access to third-party Extension products, are the ones giving that customer advice.

MPI has been regularly able to claim Manitoba's rates as among the lowest in the country, in part, because of their low cost of distribution through the broker channel, and IBAM expects that this will continue in the future, as on-line services launch, while still ensuring that consumer protection is in place for all Manitobans.

You've heard that Manitobans want on-line services. You've also heard, throughout this year's GRA, that there have been problems with various parts of Project Nova, including the launch of on-line delivery.

As the customer-facing partner to MPI, brokers are committed to serving customers across Manitoba and will continue to work in good faith with MPI to be a part of the solution.

Subject to any questions from the Board, those are my closing remarks. Thank you.

THE PANEL CHAIRPERSON: Thank you. Mr. Gabor...? Ms. Nemec...? Mr. Bass...?   Ms. Boulter...?

BOARD MEMBER BOULTER: Yeah, hi. I

have a question. You mentioned errors and omi -- you mentioned errors and omissions but, in the future, where there's no broker-client interface on an on-line transaction and people will be selecting a broker, what recourse would that person have to errors and omissions if they hadn't had the -- the interface part of it?

MR. MICHAEL WEINSTEIN: Yeah. Well, I -- I will start by saying that we still, of course, know we need to work out the full details of what that interface is like, but, what IBAM submits is that by having a broker of record with oversight, that that, you know, has the ability to put in play that the -- the broker, who carries errors and omissions liability, has an oversight role that there may be some recourse to the client that way, that they wouldn't have, if there was no broker of record designated.

BOARD MEMBER BOULTER: Are you proposing, then, that the brokers would, like, if they've had fifty (50) transactions done on line that day, they would go in and revisit that or question their clients or anything like that?

I don't mean to belabour this or anything. And I know it's kind of late in the game to be asking these questions but when you were talking about errors and omissions, I -- I was sort of perturbed by that.

MR. MICHAEL WEINSTEIN: No and -- the -- there's no problem with asking the question. The -- I think that, number one, I'd point to the fact that -- that the current IBAM/MPI agreement contemplates advance notices for renewal, to give the brokers notice of what is up and coming, so they will have advanced notice of those renewals.

And I think, with respect to the balance, the details, we'll have to see what the -- ultimately, you know, what -- what the details of -- of, you know, how ultimately online rolls out as we get through dis -- pre-discovery and discovery on release 3.

(BRIEF PAUSE)

THE PANEL CHAIRPERSON: Thank you, Mr. Weinstein. Mr. Monnin...?

CLOSING SUBMISSIONS BY BIKE WINNIPEG:

MR. CHRISTIAN MONNIN: Good afternoon. Thank you, Madam Chair. On behalf of Bike Winnipeg

I'd like to thank you for the opportunity to participate in the General Rate Application and for the opportunity to be making closing submissions.

I -- I don't have a slide deck today, but I will, however, attempt to structure my submissions as follows: first, I'll begin with an overview of Bike Winnipeg's intentions and goals that lead it to intervene in this year's General Rate Application.

I'll then address key issues or con -- and considerations that Bike Winnipeg believes warrant particular attention by the Board. Those will be broken down as follows: the concept -- concepts, rather, of Vision Zero, and social costs; Manitoba public concerns budget increase to the road safety budget; the importance of maintaining road safety as an aspect of the General Rate Application as a going forward basis.

The Road Safety Technical Conference, the pros, the cons, and some recommendations on how to move forward with that process. Bike Winnipeg's concerns regarding the ability to properly address road safety issues within the context of this particular General Rate Application, and then some concluding remarks and recommendations.

With respect to the first issue, the intentions and goals regarding the intervention. Bike Winnipeg intervened in the 2023 General Rate Application to build upon its participation, and contributions in previous General Rate applications where it dealt with issues related to road safety.

To repeat a little bit of our open submissions, in particular, Bike Winnipeg sought to intervene in this General Rate Application to build upon its recent participation in the Road Safety Technical conference which was held in June of '22; and to assist this Board to ensuring the optimum size of MPI's road safety budget, whether it's sufficient to enable a significant reduction of injuries to vulnerable road users in the short and long-term; ensuring MPI's road safety budget is efficient to meet Manitoba Public Insurance's mandate to ensure an adequate standard of driver knowledge and safety.

Ensuring the quality and clarity of Manitoba Public Insurance's data collection, analysis and accessibility regarding collisions involving vulnerable road users; ensuring the effectiveness of the Manitoba Public Insurance road safety initiatives; and assisting the Board in understanding considering the issues and matters flowing from and addressed within the Road Safety Technical Conference, and the filing that flowed from the Second Round of Information Requests, which led to the report from the Road -- the Road Safety Technical Conference.

On this last point, Bike Winnipeg would add that from a larger perspective it's seeking to assist the Board in ensuring that the Road Safety Technical Conference lives up to its promise and becomes an efficient and effective tool for the Board, and the participants, as it assesses MPI's Road Safety Program within the context of future General Rate Applications.

Moving to the issues of -- of the Vision Zero and social costs, the Board may recall that Bike Winnipeg first began its participation in these General Rate Applications as a presenter.

That involvement then involved -- evolved, rather, with Bike Winnipeg as an Intervener. One (1) thing that has remained steadfast and constant throughout is Bike Winnipeg's strong advocacy for the adoption of Vision Zero, a Vision Zero approach to road safety.

An additional constant has been Bike Winnipeg's strong advocacy to estimate the social costs of collisions in order to have a better metric for evaluating financial allocations to road safety programming.

While it seemed that in previous General Rate Applications both of these key important aspects of road safety were being adopted by Manitoba Public Insurance, in this particular General Rate Application, we would suggest it leads to the conclusion that while injuries and fatalities are often mentioned as a primary concern, the concepts of Vision Zero and social costs are not prominent.

Concerning the Road to Zero initiative on page 4 of its safety strategy in the second paragraph, Manitoba Public Insurance reports that:

> "In spite of several successful initiatives, the overall Road to Zero Plan was not able to achieve its goal with the trend of traffic fatalities plateauing over the years from 2017 to 2020."

The fact that this plan plateaued over the years, that it was in effect, was acknowledged by Manitoba Public Insurance during cross-examination, for the record page 1480, lines 20 to 22, and that this plan has taken Manitoba Public Insurance as far as it can.

Manitoba Public Insurance has noted that there are now two (2) Road Safety Plans. There is a Provincial Road Safety Plan, which was developed by a number of different members drawn from different departments in the government.

And then there is the Manitoba Insurance new Road Safety Strategy. This new Road Safety Strategy Plan does not seek to meet the goal of zero traffic fatalities, rather it seeks a reduction.

When pressed about this on cross-examination, it was stated that:

> "This is a five (5) year plan and that getting to zero is just not going to happen."

Page 1481, lines 13 to 14. Bike Winnipeg submits that while we all must be realistic, recognizing that getting to zero would likely not occur in five (5) years, what is of concern is the appearance that the commitment to Vision Zero approach is at best wavering.

That wavering commitment can also been seen on page 14 of part 9, loss prevention, lines 20 to 22 where Manitoba Public Insurance provides that:

> "The success of the Road Safety Strategy will be evaluated based on

> whether it's able to achieve the goal of downward trends for the rates of fatalities, and serious injuries in Manitoba from 2022 to 2025 that exceed the rates of the national average."

Regarding social costs, it's fair to say that Manitoba Public Insurance's position as it relates to social costs is far less nuanced. The Manitoba Public Insurance Road Safety panel's evidence on this point was, indeed, we would suggest, categorical. Page 1368, lines 19 to 22, provide as follows:

> "When I wear my road safety hat my priority is a lot different. Claims cost, social costs, they don't matter to me at all. They're not my priority. I'm not focussed on those."

That position, we would suggest, was stated more than once upon cross-examination of the Road Safety panel.

It was also MPI's evidence that the loss prevention analysis team at Manitoba Public Insurance is not mandate, nor qualified to do a social cost analysis of road collisions and road safety programs.

Bike Winnipeg has concerns that what was previously seen to be commitments to these two (2) fundamental concepts, is on the one hand being diluted, and on the other hand abandoned.

On the budget increase, we heard during the Road Safety Panel's presentation that Manitoba Public Insurance was proposing to make $2 million available for new initiatives that have not yet been determined.

As was noted by Mr. Doell in his presentation, page 1392, lines 13 to 18:

> "So, in the end what we came up with is the budget that we see here. So, as you'll note, we're going to be spending an extra $2 million in '23/'24 and that's really in line with the data-driven approach that we've been sharing with you this morning."

Quite simply, while this is admittedly something that came as somewhat of a surprise during the evidence portion of the Road Safety Panel, this is indeed welcome news. And Bike Winnipeg looks forward to working with Manitoba Public Insurance to ensure that those funds are effectively spent on Road Safety programming, in particular, Road Safety Education.

I'd like to spend some time with the panel on -- on Bike Winnipeg's views on why road safety ought to remain firmly within the realm of the General Rate Application.

Bike Winnipeg's participation in these General Rate Applications has always been focussed on seeking improvements to the efficiency and effectiveness of Manitoba Public Insurance road safety and road safety education programs.

However, we recognize that the manner in which road safety is -- is addressed and considered within the context of General Rate Applications has indeed changed. Bike Winnipeg understands. Bike Winnipeg appreciates that the Board has made the conscious decision to pursue the bulk of the road safety discussions outside the confines of the General Rate Application main hearing.

As noted during our opening submissions, Bike Winnipeg maintains the view that the Road Safety Technical Conference is a useful tool to address road safety issues.

But, at the same time, it remains just

that, a tool and by no means is it a panacea to the universe of the road safety issues that this Board is tasked to consider and to address.

Also stated during its opening submissions, Bike Winnipeg is not wavering from its support for the concept of the Road Safety Technical Conference, not at all.

Nor is it wavering from its commitment to continue to work collabora -- collaboratively with Manitoba Public Insurance on the issues of road safety.

However, Bike Winnipeg is of the view that these issues must be effectively integrated in the General Rate Application to ensure that road safety remains part of the formal regulatory process to establish, to monitor, and enforce standards in the public interest as only this Board can do within the context of a General Rate Application.

Manitoba Public Insurance is embarking on a new five (5) year road safety strategy that is purportedly keeping with its commitment to data-driven decision making; that uses data as a foundation for identifying and targeting solutions for road safety issues.

We've also heard that the first phase,

the data collection phase, is at or near complete, and that a new dashboard would be rolled out early in the new year.

Given that Manitoba Public Insurance is embarking on a new road safety strategy with a commitment to data-driven decision making, it remains imperative that this Board ensures the adequacy of its new road safety programs, in particular, as it relates to fatal and severe injuries.

And given that Manitoba Public Insurance is embarking on a new five (5) year road safety strategy, it's imperative that the Board ensures the quality and clarity of Manitoba Public Insurance data collection analysis regarding collisions, in particular, those involving vulnerable road users.

As well, as we've all been made aware, Manitoba Public Insurance has advised that it's increasing its road safety budget by $2 million in '23 and '24. Importantly, we heard evidence that that amount is not earmarked for any particular program. We are excited at the prospect that this could help the development of good, new road safety initiatives.

This welcome last-minute budget increment underscores the fact that it remains imperative that this Board maintains the responsibility to determine the optimum size of the road safety budget which would be sufficient to enable a sufficient reduction of road safety fatalities and serious injuries.

On the issue of the road -- the Road Safety Technical Conference, while Bike Winnipeg maintains that road safety ought to remain a part of the General Rate Application process, it participated in the Road Safety Technical Conference in good faith with desire and the goal that the conference provide the airing of technical issues.

In that regard, Bike Winnipeg prepared diligently for the June 2022 Road Safety Technical Conference, where Mr. Feaver, who is here with me today and Mr. Cohoe, C-O-H-O-E for the record, presented Bike Winnipeg's positions and arguments which can be summarized as follows:

Identifying inconsistencies in Manitoba Public Insurance data analysis, proposed methodologies to get a better understanding of driver knowledge gaps, and presenting ideas for more effective communications to educate existing drivers on road safety issues.

Bike Winnipeg provided a summary of its

key points to all parties after the Road Safety Technical Conference. To amplify the key concerns that were raised by Bike Winnipeg at -- at the Road Safety Technical Conference, I'd like to make a few comments in that regard.

During the conference, Bike Winnipeg raised these following concerns: As the lead authority in Manitoba responsible for training all drivers to operate vehicles safely on our roadways, Manitoba Public Insurance has not taken sufficient measures to understand the gaps in knowledge, attitudes, and driving behaviour among drivers of all ages in Manitoba.

This is a key first step in developing training programs to maintain a high standard of road safety training. From Bike Winnipeg's perspective, much of Manitoba Public Insurance messaging communications is soft. Drivers need more than a nudge; they need to be told what to do.

Madam Chair, we would submit this is consistent with the line of questioning you had with Mr. Sarginson regarding the total penalties for a distracted driving conviction where the following exchanges of note at page 1615, lines 3 to 17:

"Question: My question then is,

given that the -- given that the penalties for dis -- distracted driving are pretty substantial, I have never seen a campaign that informs the public on how substantial those penalties are. And would that help to be a deterrent effect for people in using their cell phones when they're driving if they knew exactly what penalties they could be subjected to if they were convicted?

Answer: I don't think that there are. I don't think that we specifically say what the penalties are in some of our anti-distracted driving campaigns."

Using media advertising to achieve behaviour change is difficult. Given that this message -- messaging is about safely operating a vehicle, more effective methodologies must be used. MPI must develop more effective means for communicating with drivers in Manitoba.

Another key point raised by Bike Winnipeg at the Road Technical Conference (sic) was regard -- related to urban and rural incident data. These should be analysed and displayed separately. Collision conditions are entirely different in rural and urban areas, resulting in different causes of injury.

Rural injuries typically occur at speeds beyond the limits of the vehicle to protect its occupants. In urban environments, collisions resulting in injured vulnerable road users are much more common.

We look forward to rolling -- to the rolling out of the new dashboard which we understand will address some of these concerns. It is important that all discussion of programs to reduce fatalities and serious injuries talk about rural and urban environments separately.

My Friend from CMMG raised concerns about the large vehicle study which we adopt and rely upon, and we thank her for those comments.

But what can be taken away from -- from the summary report of the -- the Technical Conference? And that's a key consideration today and -- and for a going-forward basis.

Bike Winnipeg submits that the summary report on the Road Safety Technical Conference provides the reader, and provides to this Board, a high level overview of that full-day meeting. A reading of the summary report provides the reader with the understanding that Manitoba Public Insurance met with a set of stakeholders, described their road safety plans, and heard comments.

The summary report does not, in Bike Winnipeg's submissions, meaningfully identify where there was a consensus regarding Manitoba Public Insurance's proposed analysis and methodologies and whether existed a legitimate -- or legitimate disagreements, rather, or lack of consensus.

The Road Safety Technical Conference gave the participants knowledge of Manitoba Public Insurance's road safety plans and issues, but it did not necessarily facilitate resolving issues between these parties.

And so certain recommendations regarding the Road Safety Technical Conference are as follows: The road safety process should go beyond sharing information to resolving issues over the effectiveness and analysis and programming.

Bike Winnipeg cautions that, as the process is presently framed, Manitoba Public Insurance can choose to heed or choose to ignore road safety advice provided in the Road Safety Technical Conference process; that is why it remains important that the Board ensure oversight and more rigour in this process.

In short, Manitoba Public Insurance has shown itself to be far more responsive to Board directions. In that regard, Bike Winnipeg submits that the Board and all stakeholders would benefit from a Road Safety Technical Conference process that provides an independent, and detailed summary of important road safety issues where there wasn't consensus, in light of valid suggestions, valid concerns.

I'd like to spend some time on -- on the concerns with Bike Winnipeg's ability to deal with -- with road safety issues in the context of this General Rate Application. It would be along the lines of -- of a complete and -- and timely record concerned.

Bike Winnipeg appreciates the -- the significant amount of work that such an endeavour of a General Rate Application entails. And it does not mean to seek to -- to minimize the efforts that were taken upon by all, and in particular Manitoba Public Insurance.

In addition, Bike Winnipeg recognizes that there are disparate views regarding how much or how little the issue of road safety ought to be considered in the context of a General Rate Application.

However, as it relates to road safety, Bike Winnipeg submits that in this General Rate Application, a full consideration of Manitoba Public Insurance's road safety program and budget was in a sense restricted.

The new road safety strategy was not provided until the First Round Information Request by our Friends at CAC. The Road Safety Technical Conference was not (INDISCERNIBLE) until a Second Round IR on behalf of Bike Winnipeg. And finally, some very key and important things were coming out, as we noted, with the panel in real time, a significant one being the increase of the budget of $2 million.

Under the heading of 'General Conclusions', Bike Winnipeg recognizes that, on account of the COVID pandemic, the Board's bi-annual review of road safety was delayed by a year. Add to this fact that MPI has a new road safety strategy, and an increased purportedly more nimble budget, Bike Winnipeg submits that the June 2022 Road Safety

Technical Conference must be followed up with a further such meeting as soon as practicable with interested par -- participants.

The next meeting must be led by an independent chair. We believe that Dr. Hall is knowledgeable and well-versed in the issues and the process. And we take no issue with Dr. Hall continuing on who was mandated to report and clarify where there is an agreement or legitimate disagreement on important road safety issues that are relevant to this Board's duties within the context of a General Rate Application.

And with all deference to my friends at MPI, it is more than just how much is spent, it's how you get to the analysis of where to spend and when to spend.

And Manitoba Public Insurance must complete the commitments and actions set out in the current summary report in advance of this next meeting. That next meeting should occur in a timely manner that would allow a meaningful review of the road safety budget and programming, we would submit, at next year's General Rate Application.

As we heard our friends from CAC in their submissions, that road safety took a backseat, we don't dispute that. And there are some catch-up that ought to be done.

Bike Winnipeg welcomes the Board's initiative to establish the second road safety technical conference and facilitate an exchange of information about road safety plans that led to a better understanding but not entirely so far did it lead to better collaboration. It led to some collaboration.

We heard again from our friends at the CMMG about maybe some gaps in the collaboration, in particular, regarding the large vehicle study.

Bike Winnipeg recommends that the Board seek to proceed with a follow-up road safety technical conference process to achieve consensus on the analysis of the available data and the most effective means of changing driver behaviour.

Bike Winnipeg welcomes Manitoba Public Insurance's focus on reducing fatalities and serious injuries rather than loss prevention. Bike Winnipeg is of the view that the loss prevention should be removed from the language used in road safety and that social costing should be used to quantify progress on this objective.

Social costing is a tool that's been

developed by economists for situations such as this and would facilitate balancing the impact of fatalities and serious injuries against the cost of avoiding them.

Bike Winnipeg is concerned that the Manitoba Public Insurance -- Public Insurance's past programs and expenditures have been insufficient to make Manitoba roads safer for all users. Fatality and major injury numbers decline as motor vehicles are increasingly effective in protecting their occupants; but vulnerable road users are suffering from less safe roads.

We also welcome the establishment of the $2 million increase in the budget to develop and test new road safety programs. An initial step, in the urgent task of developing approved road safety training for all drivers.

The Board might be inclined to ask what is an optimal budget? The optimal budget will achieve the goal of reducing fatalities and serious injuries in rural and urban -- urban environments at a rate significantly faster than other jurisdictions year after year.

It is not just the amount of money, it's how effectively it is used. The Board has seen how training new drivers is a tough task. Changing the behaviours of existing drivers is an even more difficult task.

Bike Winnipeg welcomes Manitoba Public Insurance's initiatives to improve road safety data analysis and to make that information available to others. However, Manitoba Public Insurance must go beyond sharing data, it must use data to manage effective road safety training for all drivers, new and experienced.

And Manitoba Public Insurance must be responsive to outside input on their data analysis and programming methodologies.

Subject to any questions from the Board, those are our submissions for today. Again, thank you for your -- for the courtesy of being able to participate in the process.

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

BOARD CHAIR GABOR: Mr. Monnin, I just want to ask one (1) specific question. I -- I hope I get the -- the evidence right.

I believe that Mr. Triggs said that he didn't think that we needed a technical conference that was run -- or overseen by the PUB; that, in fact, what should happen is there should be more of a collaborative relationship directly with MPI and the different stakeholders, that it be on a regular basis.

I'm just wondering if you could comment on that.

MR. CHRISTIAN MONNIN: I think collaboration is obviously the preferred route, but the comment that we made previously in our submissions is that it's a non-binding -- let me amplify that -- it's a non-binding process. It's -- it's outside of -- of the regulatory process.

And within the confines of that, they can take or leave what's being suggested. They could take or leave what we would like to collaborate with. A perfect example about that is -- is the large vehicle study.

And -- and we think that rigour and oversight of -- of the Board is required. And, obviously, it's to the benefit of all to take out -- the technical aspects away from a General Rate Application, but something has to come forward to this Board that's useful.

And you can only collaborate so far. And eventually, at one point, this Board needs to make decisions and this Board needs to make directives to

MPI to make sure that they're meeting their mandate, and that their budgets are efficiently being spent on road safety issues.

And so, the concern about trying to push the matter to being even more collaboratively -- or more collaborative, I think dilutes the oversight responsibilities of this Board, and that's our concern.

BOARD CHAIR GABOR: Thank you.

THE PANEL CHAIRPERSON: Ms. Nemec...? Mr. Bass...? Ms. Boulter...?

Thank you, Mr. Monnin.

MR. CHRISTIAN MONNIN: Thank you, Madam Chair.

THE PANEL CHAIRPERSON: Mr. Scarfone...?

MR. STEVE SCARFONE: Thank you, Madam Chair. Just before I begin, I'll read into the record what I said I would yesterday concerning that motion that the Corporation brought.

THE PANEL CHAIRPERSON: Yes. Thank you.

MR. STEVE SCARFONE: So, yesterday, MPIC moved before this Board to have four (4) additional documents added to the confidential record, three (3) of which were observation logs from PricewaterhouseCoopers dated June 1st, June 30th, and September 28th, 2022, along with the document that was generated by MPIC that was, essentially, a benefits re-baselining with the new NOVA budget.

That particular motion was not opposed by the Interveners and was granted by this Board and so those documents are now added to the confidential module.

THE PANEL CHAIRPERSON: Yes. Thank you.

REPLY BY MPI:

MR. STEVE SCARFONE: Thank you. So, the Corporation will now make some brief comments in reply. I note that it's 3:37. It's been a long afternoon, a long day. I've told Board counsel that we'll be done by four o'clock, so if the Board can have just a little bit more patience with -- with the lawyers.

I will start by -- by saying that it would be tempting to immediately turn to the smoke and mirrors' comment and address that, but I see that Mr. Williams, or Dr. Williams, is no longer with us. And I'm confident he was talking about Mr. Guerra anyways in his -- his part of that cross.

But if I could sum up the CAC's hundred and twenty-one (121) slide presentation, I think their main objection to the Corporation's Application are found in the increased full-time equivalents, along with how the Corporation sets its rates. And -- and he pointed to his expert witness.

I would say on the expenditure side, in reply, that clear evidence, MPI submits, was adduced at this Hearing concerning those expenditures. And I would encourage the Board, if necessary, to review all the transcripts, to refresh your memories concerning many challenges now being faced by my client on NOVA, the people risk, the operations. And you heard a lot of evidence from MPIC on those fronts.

So, at the end of the day, what does it mean for this Board? Well, it means: Are the proposed expenditure -- expenditures reasonable in all the circumstances; that's the issue?

Dr. Williams would say no. MPIC would say yes. But that is no doubt the issue, are those expenditures reasonable?

Kristen, if you could pull up that portion of the transcript that I directed you to, please. And if you can go to 192.

(BRIEF PAUSE)

MR. STEVE SCARFONE: Yeah. So, this -- on the FTE count, you heard evidence about two hundred and eighty-three (283) FTEs, $36 million.

We don't want to leave the Board with this impression with -- that when MPIC leaves this hearing room, that we're going out to hire two hundred and eighty-three (283) new people. I'm concerned that that's the impression that was left with this Board following the presentation by Dr. Williams.

And the transcript that's before you was Mr. Herbelin on day 1, and there was foreshadowing there, and it was in response to a question from Board counsel regarding the increase to staffing levels.

And you'll see there right in the middle of the page at line 18, we found ourselves in a position where we didn't have sufficient capacity to serve the Manitobans. Struggling in the past month or so to being able to pick up the phone, answer questions, address the needs of Manitobans and he speaks to the significant delays. And then, further down -- so we have to address that.

And this is part of the increase that is in our budget for next year. This is the important part.

But in fact, we've not waited for the next fiscal year to start. We needed to start hiring on that front to make sure that we can provide the services that Manitobans need and want and deserve. And he makes that same point with respect to NOVA.

And so, this isn't -- these are over-budgeted positions. Some of them. And we heard that later from Mr. Giesbrecht, the next day, when he introduced the two-eighty-three (283).

And you also heard that from Ms. Low, where she went to great lengths to talk about the augmentation of her department, and the new actuaries that are in it. These are the issues that the Corporation is dealing with.

So just to be clear, the two-eighty-three (283) is not tomorrow. The two-eighty-three (283) is happening now. And -- and that's an important point that we wanted to clarify with the Board.

So again, the Corporation has, for too long, denied its operations adequate resources; that was the evidence.

Are the expenditures reasonable when viewed not in isolation by way of a PowerPoint presentation this morning; but rather, through the evidence, the rate application, and the viva voce evidence that you heard from numerous witnesses. That's what this Board has to consider and turn its mind to in determining whether the expenditures are reasonable.

And you heard that evidence, approximately 11 percent increase. And -- and I asked Mr. Giesbrecht, How are you doing that and coming here at minus point-one (.1)? And he didn't make any excuses. He said, Look, claims are down. This is a good time to do it. Claims are down. That's how we're doing it. Everybody in this room knows that. When claims are down, it allows my client more opportunities to do the things it needs to do.

The Corporation cannot operate on a skeleton crew, quite frankly, to service Manitobans.

There's not much to say in reply to the NOVA evidence, in my view. There was a suggestion by the CAC that there will likely be an increase to the budget because there's been no pre-discovery or discovery of releases 3 and 4.

I don't think that the Corporation has said there will not be. But certainly, the evidence here was that the budget now is designed to see this thing through the end. That's the evidence that was left with this Board.

So the CAC can speculate as to a possible increase, but that's all it is, it's speculation at this point.

One (1) of the recommendations on NOVA was that this Board consider directing to our Board of Directors that it contained costs within the 2022 re-baseline.

It reminds me somewhat of the directive last year where the CAC asked this Board to direct Mr. Herbelin to go negotiate a gov -- deal with government to settle that DVA funding issue. It's the same kind of directive.

The Corporation doesn't need a directive to know that (a) it has to stay within its re-baseline budget for NOVA, or, that it needs to find a funding solution for NOVA -- for DVA. The Corporation is well aware of that. Mr. Herbelin knows of these things.

On investments, I'll borrow a term that's in the CAC slide deck and that is, Through the cruel prism of hindsight. I like that turn of phrase.

And what I mean by that is most of the criticism that was directed at MPIC dealt with inflation and -- and whether the Corporation could have done more to protect itself against what we're dealing with now, back in 2018.

And Mr. Williams says, Well, MPIC -- well, now they recognize that inflation is a risk, which suggests we didn't turn our mind to it in 2018.

Well, his own evidence was that Mr. Bunston says, That's the first thing we do, is we pick a benchmark. We look at our liabilities, we pick a benchmark. He had an option. They went with the nominal. Now they're going with a combination of the real and the nominal.

But in 2018, was inflation a real risk? The evidence before you, no. So they didn't go with the real liability benchmark.

And you'll recall that Mr. Williams put to Mr. Bunston, Well, you remember those twelve (12) recommendations -- or eighteen (18) of them, I think, Mr. Viola made, right? And -- and he reminded him of the colourful hockey analogy that he made in suggesting that certain recommendations be adopted, including inflation protection.

But I don't recall carrying that hockey analogy a bit further. I don't recall Mr. Viola saying, And very soon, they're all going to playing in front of empty buildings for the next year because there's a big pandemic that's about to hit. Nobody foresaw that.

And so, the 2018 strategy didn't have inflation protection; not like what the Corporation is now doing. And that, again, is viewed through the cruel prism of hindsight.

And it might be a good time also to remind this Board what it said after that rate application. When it comes to the Corporation's overall investment strategy, the Board recognizes that its oversight role does not extend to directing the Corporation as to the particulars of its portfolio management.

And, indeed, it found, after considerable and detailed information concerning the asset liability management and the decisions that the Corporation was making, that MPIC had selected from a range of reasonable options for its portfolios.

That was in 2018. The options that we selected were reasonable, according to this Board. Well, fast forward to today, and then looking back, it doesn't make those selections unreasonable now, does it? Of course not. They were reasonable at the time. So that's an important point to remember.

And there's criticism about the asset mixes. And we've said repeatedly that equities and levered bonds, leverage strategies, we're a Crown Corporation. Those do not fall within our mandate and that mandate being risk management, rate stability.

And so Ms. Meek would say, Well, wait a minute, they keep saying it doesn't fit the risk profile, but there's no evidence of that. Sure there is. Take a look at the risk appetite statement. It's filed. Take a look at the investment policy statement. It's filed.

All of that is consistent with what our Board of Directors does. It shies away from those growth assets. And it will continue to do that.

Acknowledging it was a bad year, as Mr. Williams says, for those bonds. Bad year.

The one (1) other point on the inflation, I would say in predicting inflation because Mr. Williams says, Well, it's not about predicting inflation, it's about protecting yourself against risk.

Well, I've spoke to that. But there's no free lunch. No person, no industry is immune from the strains of inflation. So by having real return bonds put in our portfolio four (4) years ago, doesn't mean we're just, Oh, MPI is protected from the effects of inflation completely because they purchased real return bonds. The first thing to remember about those bonds -- we heard evidence from that four (4) years ago -- those returns are puny. There's no returns on those bonds.

So that was a factor in deciding not to pick the real return -- or the real liability benchmark and purchase that kind of protection. That was a factor.

So, there are considerations. But yes, the constraints are still there. No to equities. No to leverage.

And the effects of inflation, notwithstanding that the investment portfolio might not be protected, are -- are felt, as we heard, right across the Corporation. In operating expenses, in wages, in claims, particularly in the PIPP claims. All of that still happens. All of that indexation still happens to those PIPP claims whether we have real return bonds in the portfolio or not.

On the claims incurred front, the quote that Mr. Williams made reference to a couple times was a little ounce of conservatism, Ms. Low's words, a little ounce of conservatism, right in line with the

Corporation's mandate, risk management, rate stability, that little ounce of conservatism, and it's there with investments, it's there with claim -- ratemaking and forecasting.

Mr. Sahasrabuddhe, so the second part, that's basically the -- the expense side of the CAC. Mr. Sahasrabuddhe, he took aim at our coverages. And you heard Mr. Williams say, well, only where they differed materially did he bring it to this Board's attention.

But we'd note with no parameters in the report of how that was determined. What was his materiality test? We don't have that.

So, it wasn't just the rodents that didn't meet the Oliver Wyman materiality test, some of the other coverages didn't either, but we don't know what that test was. How did he measure that? And that's an important fact.

(BRIEF PAUSE)

MR. STEVE SCARFONE: We think, based on what I heard, was, well, he just eyeballed it based on that blue bar graph. And that was suggested this morning. That's -- that's the materiality test right there. You eyeball that blue bar graph and then you'll find out how Oliver Wyman determined what was material and what wasn't because he kept it from us.

(BRIEF PAUSE)

MR. STEVE SCARFONE: I'm just going through this. I don't think I need to reply on some of these points.

(BRIEF PAUSE)

MR. STEVE SCARFONE: The Board is aware that, you know, if the base rates of DSR increased by 5 percent, that would be a real problem for our customers.

(BRIEF PAUSE)

MR. STEVE SCARFONE: On the capital requirements and the -- and the new legislation and the -- and the Capital Management Plan, most of the concern it seems is that there's no obligation for MPIC to bring an application to issue rebates. And -- and maybe that's how this Board interprets the legislation. I don't know.

But what you also need to consider is the evidence of Mr. Giesbrecht where he said MPIC has no intention to hold monies beyond the 120 percent threshold; that's his evidence. The Corporation has no intention to do that.

(BRIEF PAUSE)

MR. STEVE SCARFONE: And then lastly, I just want to deal with the recommendations, or as I call them, the numbers that the CAC has put to this Board in contrast to what my client is seeking in terms of an overall rate indication.

So here are some of the numbers, the signal that Mr. Gabor made reference to. The signal was, well, how about a reduction in revenue requirement by 2 or 3 percent?

And on corporate operating expenses, well, they're up by 44 million, that's higher than inflation, so probably should have been 19 million for inflation only, so they're 25 million over the inflation adjustment for operating expenses.

And he's also saying there's some prudency opportunities here. Well, $5 million to MPI

2.0 special services, there's a prudency opportunity.

Another prudency opportunity is $2 million in loss prevention. My friend, Mr. Monnin, wouldn't like that too much.

But when you take all those numbers together, what does it mean to Mr. Williams? All of that, because we couldn't figure it out, but Mr. Williams says, well, what that means it between 5 or 6 percent to the rate indication. That's $60 million.

(BRIEF PAUSE)

MR. STEVE SCARFONE: $60 million less in revenue. And while a lot of that is attributable to FTEs, some of it's for claims, obviously.

So, we don't want to understate our revenue requirement to pay our claims. I think we can all agree on that. And a reduction like that that would impact the hiring of the FTEs that this Corporation has proposed, essentially, brings NOVA to a halt. NOVA stops moving with $60 million less in revenue.

And the -- the employees that you heard that are now teaming up with Ms. Low to help her carry out some of these actuarial functions, those employees might be gone.

The Corporation is making efforts that it requires to service Manitobans, and that's what this rate application is about. As Mr. Guerra said yesterday, not everything is right, but we're trying to fix it. And a negative 6 percent rate indication puts an end to all of that.

And that's -- Mr. Guerra has a few comments, I think, on -- on some of the other Intervener closing arguments.

MR. ANTHONY GUERRA: Thank you, Mr. Scarfone. Actually, I just want to limit my -- my response to one (1) item from the Taxi Coalition's closing. And it just became a little bit more confusing as to exactly what the directive that the Taxi Coalition would have this Board order after the oral submissions, but I -- I'm cognizant of what was in the written closing.

So, I'm going to address more so what's in their written closing just to make sure that it's adequately responded to.

And so, the written closing asks two (2) questions, first of all, what are the parameters within which a rebate will be brought and then how will MPI's forecasting factor in?

The -- the importance of relying upon an audited MPI MCT calculation cannot be understated. There was some discussion in the transcripts, I believe it was, Mr. Giesbrecht who highlighted the importance of having an audited MCT statement and for reference, that's at pages 2,130 to 2,133 of the transcripts.

And basically, all that -- what that transcript section talks about is the difference -- there was a difference, a material difference, in MCT -- excuse me -- the MCT calculations after the audit was complete.

So, it's important to have accurate numbers for the end of the fiscal year. What if MPI has that evidence by June or July, I believe was the evidence, when that audited calculation would be in hand. So what if MPI has that information that at the beginning of the fiscal year, so now we're talking about April of a -- of a given year, that the MCT is higher than 120 percent. So what -- what happens at that point?

Well, there's a three (3) year gap, right. So, there's the -- sorry, three (3) year -- there's a three (3) month gap. There's the April, there's the May, there's a June, and maybe there's even a July between when MPI has -- starts its fiscal year and when it gets its audited MCT calculation.

What if something happens in the meantime? What if there's a significant event like inflation or a pandemic or a war in Europe, or whatever the case is, fill in the gap here, something that comes to the attention of MPI that now suggests that applying for a rebate no longer makes financial sense?

What is MPI to do in that situation? Is it to rely upon what information comes from the audited MCT calculations and say, well, that's what the start of the fiscal year was, and so we have to act blindly now going into the future and say, well, we have to ignore everything that's happening now because back in April we had an MCT that was 120 percent. That cannot be how we read this legislation.

And so, what -- what we're basically talking about is -- is the time period between when MPI starts its fiscal year and when it brings its General Rate Application.

If something comes about in that time to suggest that this needs to go in a different direction, well, of course, MPI's going to make the decision not to bring a rebate application.

Also, I would submit that, if MPI had in its -- in its possession or didn't have in its possession material to suggest that a rate application was not warranted, but in the course of bringing a rebate application came into such possession that it could be in its power to rescind an application or abandon an application because it no longer makes financial sense or -- or fiscally prudent to the Corporation.

And so that discretion on the part of MPI is important because what we've seen here is instances where there is that lack of discretion. You know, weird things can happen. And we saw that with the last Capital Management Plan.

And so, we would submit that in drafting Bill 45, the Legislature provided MPI with -- with a tool to address potential unexpected events rather that could then question whether or not a rebate was important.

The Taxi Coalition wants the PUB to read into Section 18 the ability to require MPI to bring a rebate application. And we would submit that that simply cannot be found within the Act. Section 18(4) talks about there being no rebates unless four (4) conditions are met. The first one being MCT has to be above 120 percent.

Two, MPI has to apply for a rebate.

Three, and the PUB has to approve the rebate application.

And four, the rebate must not result in projected revenue being below 100 percent MCT. And so, all of these conditions have to be met before rebate can be issued.

Can the PUB require MPI to bring a rebate application that it doesn't believe is fiscally prudent? How would that work practically? When does that direction get issued? Does it get issued with the order from, let's say, for example, this rate application in December?

What if the audited MCT in June of that next year, what if it doesn't meet the 120 percent threshold? Would we have to, at that point, file a review and variance application? Would it be with the same time as the GRA filing? What if MPI ignores the directive?

There's all these concerns that arise from what happens if there was a direction to that effect. Would the directive simply be a blank notice that MPI must file an application if its audited MCT calculation is above the 120 percent mark?

If we go with that for moment. Let's say that's the -- that's the requirement. Then what happens next?

MPI would file what it believes to be a fiscally imprudent application for a rebate. It would then spend the entirety of that process arguing against its own application, the relief that "it applied for." Presenting evidence to support that the MCT would actually fall below the 100 percent requirement if the rebate was issued.

This would put MPI in an impossible position and it wouldn't' be an application by MPI. It would be, in effect, an absurdity.

And I would ask Ms. Schubert, if you could just pull up quote from the Rizzo -- N. Rizzo Shoes (phonetic) decision of the Supreme Court of Canada.

And at Section 27, the Supreme Court has a -- a helpful identification of what the -- the principle of statutory interpretation means in terms of producing absurd consequences. It says:

"It's a well-established principle of statutory interpretation that the Legislature did not intend to produce absurd consequence.

According to Cote supra, the interpretation can be considered absurd if it leads to ridiculous or frivolous consequences, if it is extremely unreasonable, or inequitable, if it is illogical or incoherent, or if it isn't compatible with other provisions or with the object of the legislative enactment."

Sullivan (phonetic) echoes these comments, noting that the label of absurdity can be attached to interpretations which defeat the purpose of the statute or render some aspect of it pointless or futile.

And I think that's important for this Board to consider in terms of thinking about what that type of direction -- if it is thinking about that type of directive, what that might actually mean for -- for MPI in this process going forward.

So then, the question might become: Then what can be done to hold MPI accountable for its decision regarding rebates or for not applying for rebates?

And so, the Taxi Coalition makes two

(2) recommendations -- or at least -- sorry, one (1) recommendation that I think MPI would agree with and, that is, MPI should report annually on MCT ratios in its MCT forecast. MPI already does this and submits that this is a reasonable request.

And in the PUB rate application process, rather, the question is: Can MPI be asked why it didn't bring a rate -- a rebate application? And can it -- can their existing process test its reasons by asking it to produce information to that effect?

We would suggest that that is, in fact, entirely what this could look like. If there was no rebate application by MPI, Interveners, PUB counsel could ask questions about why that was not the case, and to provide its calculations or supporting information to suggest that that was a fiscally prudent decision not to apply for a rebate.

And this Board can publically embarrass MPI if it chose not to apply for a rebate application and couldn't justify its reasons for not doing so.

In terms of the timing of the rebate application, the recommendation by the Taxi Coalition at paragraph 112 of its closing, the PUB can't require MPI to make an application for a rebate. So the timing of the application part is a bit difficult to understand.

I would also suggest that there might be a situation where MPI actually wants to apply for a rebate. And so, the question at that point is: Should there be time limits in terms of its application to do so? Should MPI be precluded from seeking a rebate simply because it brings its application in October versus July?

I would just caution, perhaps, this Board in -- in saying that a rebate application should be brought by a certain time or a decision upon which the Corporation would make in order to present a rebate application should be made by a certain time. That -- that could backfire on everybody in ways that we -- we don't want.

And also, finally, on the timing of the MCT projection, the -- the issue there is: Should we rely upon information at a point in time? Or should we rely upon information that is the best, kind of, available at the time?

And we do that all the time. We file an October update. And the October update does update our MCT projections in some cases.

So we would submit by -- by shoe -- shoehorning MPI into a specific point in time, we could be completely missing the boat on -- on current events that could be of material concern for -- for the fiscal health of the Corporation.

So in that regard, MPI would certainly not support any -- any time limits in terms of the projection, in terms of its fiscal -- fiscal forecast.

So subject to any questions, those are our -- our responses.

THE PANEL CHAIRPERSON: Thank you, Mr. Guerra. Mr. Gabor...? Ms. Nemec...? Mr. Bass...? Ms. Boulter...?

(BRIEF PAUSE)

THE PANEL CHAIRPERSON: This concludes the 2023 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. Herbelin, Mr. Giesbrecht, Ms. Low, Ms. Jatana, Mr. Parti, Mr. Gandhi, Mr. Mitra, Mr. Masud, Ms. Ostapowich, Mr. Bunston, Mr. Prystupa, Ms. Mann, Mr. Sarginson, Mr. Doell, Mr. Campbell, Mr. Ramirez, Mr. Dessler, Mr. Triggs, Mr. Scarfone, and

Mr. Guerra.

Also the many MPI representatives who provided back row support during these proceedings.

And the witnesses who appeared before the Board; Mr. Lloyd of Mercer, Dr. Hall, Mr. Iles of PwC, Mr. Sahasrabuddhe of Oliver Wyman.

The Interveners and their respective counsel: for CAC, Mr. Williams and Mr. Klassen; for CMMG, Ms. Meek; for the Taxi Coalition, Ms. Wittman and Ms. Nelko; for IBAM, Mr. Weinstein and Ms. Sokal; and for Bike Winnipeg, Mr. Monnin.

I'd like to thank the presenters who made their submissions this year.

And the people at the Public Utilities Board: the secretary of the Board, Dr. Christle; the assistant to the associate security of the Board, Ms. Dubois; our judicial hearing assistant, Ms. Schubert; our administrative officer, Ms. November 14, 2022Villegas; and our executive coordinator, Ms. Carriere.

Our court reporter, Digi-Tran, including Ms. Woodworth.

Our advisors, Mr. Cathcart and Mr. Mantketelow.

And our counsel, Ms. McCandless, Mr.

Watchman, and Ms. Moore.

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

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

And that concludes our Hearing. Thank you.

--- Upon recessing at 4:09 p.m.

Certified Correct,

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Wendy Woodworth, Ms.