MANITOBA PUBLIC UTILITIES BOARD

Re: MANITOBA PUBLIC INSURANCE CORPORATION (MPI)

2024/2025 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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APPEARANCES

Kathleen McCandless	)Board Counsel
Todd Andres	)
Steve Scarfone	)Manitoba Public
Anthony Guerra	)Insurance
Eric Wishnowski	)
Byron Williams (np)	) CAC (Manitoba)
Chris Klassen	)
Katrine Dilay (np)	)
Victoria Cloutis (Student)(np)	)
Anna Evans-Boudreau (Student)(np)	)
Karen Wittman	) Taxi Coalition
Sharna Nelko (np)	)
Charlotte Meek	) CMMG
Doug Houghton (np)	)

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--- Upon commencing at 9:02 a.m.

PANEL CHAIRPERSON: Good morning, everyone. We'll proceed now with closing submissions for the Coalition of Manitoba Motorcycle Groups. Ms. Meek...?

MS. CHARLOTTE MEEK: Good morning, Madam Chair. Thank you.

And I think you have before you a copy of CMMG's closing submissions which I'll request be marked as CMMG Exhibit 6 today.

--- EXHIBIT NO. CMMG-6: CMMG's Closing Submissions

FINAL SUBMISSIONS BY CMMG:

MS. CHARLOTTE MEEK: I'm going to start off talking a little bit about the rate-making process, as well as the Driver Safety Rating discounts.

The Corporation this year has been put in the unenviable position of complying with orders and directives of this Board arising from last year's Application while at the same time being bound by a government directive issued in April of this year.

The combination of these factors has

led to an unusual circumstance where the rate indication calls for a decrease, but the Corporation is seeking no change.

Despite the obligations of the Corporation to comply with the directives of government, as we are all aware the Public Utilities Board is not similarly obliged.

This Board is directed by the legislative framework which establishes rates for automobile insurance that are just and reasonable, and on that basis, the Board has historically directed the Corporation to file applications on the basis of accepted actuarial practice.

CMMG supports the continued use of accepted actuarial practice in rate-making and recommends approval of the rate indication requiring an overall required rate change of negative one point five (-1.5) as calculated in MPI Exhibit 50, Figure RMO-1.

Along with the rate indication, the Board directed the Corporation to implement just -- adjustments to the discount rates in the Driver Safety Rating Model. Specifically, this Board directed the Corporation to adjust all discounts by one-fourth of the way to the actuarially indicated rate rounded down to the nearest whole number.

During testimony, the Corporation confirmed that the discount rate being sought for DSR level plus 18 is 48 percent. The Corporation acknowledged that a DSR discount of 46 percent would align with the directive of the Board to adjust discounts by one-fourth.

By way of undertaking, the Corporation confirmed that where the more accurate discount of 46 percent was used for DSR level plus 18, it would adjust the impact from DSR changes in Figure RMO-1 from 5 percent to 4 percent.

The filed Application demonstrates that, while we are making progress towards more actuarially indicated discounts, many positive DSR levels continue to experience rates that are over 10 percent higher than their indicated rates.

As discussed throughout the hearing process, the Corporation has proposed a base rate increase to accommodate for the lost revenue from DSR level shifts. CMMG supports the DSR levels -- pardon me. CMMG supports moving the DSR levels towards actuarially indicated rates as quickly as possible.

In previous applications, we have seen a methodology that uses a negative rate indication and assigned that negative rate -- rate indication to DSR levels most in need of that change. CMMG recommends the methodology be employed in this year's Application in tandem with base rate increases.

And as a result, CMMG makes the following recommendations:

That the applied-for DSR discounts be approved by the Board with the following adjustments:

That the base rate increase be limited to addressing the impact from DSR shifts of 4 percent, and that the negative rate indication of 1.5 percent be assigned as follows: with 1 percent of that rate decrease to be assigned to DSR level plus 18 to allow a 48 percent discount, and the remaining .5 percent rate decrease be assigned to DSR levels 12 through 17.

During the Application, we reviewed some of the benchmarking exercises completed by the Corporation, and specifically for motorcycle rate comparisons.

While other jurisdictions do offer different options and have different models, the Corporation agreed that the purpose of the benchmarking exercise is to provide comparisons with our peers in other public jurisdictions and to examine if our pricing model is somewhat comparative and competitive.

The benchmarking exercise completed by the Corporation demonstrates that Winnipeg has the highest or second highest rates when compared to our peers in other public jurisdictions.

Further, Winnipeg and Brandon in rating territories 1 and 2, representing 96 percent of motorcycle registrations in Manitoba, have motorcycle rates which are the highest when compared with our peers in other public jurisdictions.

Upon examination of the benchmarking exercises completed for the motorcycle rates, it became clear that MPI's assertion that the Corporation provides some of the lowest rates in the country when compared to our other public jurisdiction peers is simply false.

The benchmarking exercise demonstrates we still have work to do for motorcycle premiums in Manitoba to become more comparable and competitive with other jurisdictions.

The Basic insurance model has been a contentious issue for CMMG for several years. The Corporation has acknowledged year after year that the primary driver model is a more actuarially sound model. This Board has raised concerns in previous hearings regarding the current registered owner model and has specifically questioned the Corporation's resistance to move to the primary driver model.

CMMG is concerned that, despite these previous findings of the Board and a specific direction that the Corporation move forward with a primary driver model, we continue to see delays.

The Corporation showed a time line for imple -- implementation of a transition to a new model which included various rounds of customer consultation. It is apparent to CMMG that the Corporation's commitment to this process is insincere.

The schedule suggests that customer engagement will commence in June of 2023 and conclude by September of 2023. When asked during the Information Request process for a copy of the engagement survey, the Corporation indicated it could not provide a copy as a result of the labour interruption which commenced on August 28th, two (2) months after the engagement was scheduled to commence.

The Corporation did provide a copy of a draft survey on September 12th but confirmed the survey was still in draft and not finalized.

The information provided suggests there are various factors impacting finalization of the survey ranging from the labour interruption to the possibility of stakeholder engagement and final approval at appropriate levels.

The Corporation is not committed to a transition. While MPI has indicated it is not expected that the slow rollout of the customer engagement survey will delay other stages of the time line, the lack of commitment to their own schedule leaves CMMG with serious doubts that progress will be advanced over the next year.

A major blockade which has now been identified by the Corporation is its position that it is unable to obtain driver data sufficient to create a pricing analysis of a primary driver model or variations of that.

The Corporation has asserted it does not have the jurisdiction to obtain the necessary information from customers and suggested that voluntary data collection would be insufficient to provide reliable data.

Despite this, the Corporation provided various alternative options for the collection of data, all of which were voluntary in nature.

In its closing submissions, the Corporation acknowledges that it may be able to leverage the authority held in subsection 6(2) of the Manitoba Public Insurance Corporation Act to obtain the data necessary to complete analysis.

Logistical challenges of this data method are then outlined, including time to complete the transaction or the concern that customers may not have the necessary information immediately available to them.

Further questions are then raised in their submission regarding what consequences may arise from the information obtained. But then the Corporation answers its own question, noting that data collection is for the purpose of conducting analysis only.

The Corporation has the authority to obtain data from insurers with the current legislative framework. The continued delays and excuses for why data cannot be collected is simply an attempt to avoid proceeding with the transition as directed by this Board.

From the Corporation's view, customers don't want this change and, therefore, it does not want to proceed.

MPI continues to set up roadblocks in this process and is not committed to proceeding with the transition in good faith. The Corporation has failed to comply with one (1) of the first stages in its execution plan, and CMMG expects to see continued deviation from the schedule provided.

Historically, the focus of the pricing examination of the rating system has been on vehicle discount levels. This year CMMG reviewed the licensing surcharges calculated in the actuarial review. It was acknowledged that the licensing surcharges currently applied to negative DSR levels were calculated on a policy basis rather than through an actuarial calculation.

The Corporation accepted that the actuarial calculation of surcharges is unreliable as a result of the Basic insurance model. The calculation cannot accommodate for the fact that an individual may be driving a vehicle that is registered to someone else.

While CMMG is not advocating for a change in surcharges, the requirement that surcharge rates be designed based on policy rather than actuarial calculation is indicative of a deeper issue. The registered owner model is inadequate, and no matter how many adjustments or modifications are made, it will continue to be inadequate.

CMMG makes the following recommendations: That the Corporation be directed to immediately commence data collection sufficient to proceed with a pricing analysis of the Basic insurance model and that the Corporation file an update in the 2025 GRA regarding data collection and preliminary results of same.

In this year's Application, the Corporation has brought forward a revised plan for the management of capital reserves.

CMMG acknowledged that capital reserve levels have now been set pursuant to recent changes to the Manitoba Public Insurance Act.

CMMG is concerned with what it sees as the erosion of the jurisdiction of this Board regarding the Basic portfolio.

There are ongoing concerns with the issue of the Driver and Vehicle Administration, or DVA, which has historically been supported by the Extension fund.

The Corporation has repeatedly confirmed its ability to draw funds from the Extension line of business. Coupled with evidence that the DVA program has no plan or arrangement to ensure adequate funding, we can expect to see further transfers made from DVA appropriating a benefit due to Basic customers.

CMMG is also concerned that the legislative changes coupled with the Capital Management Plan proposed, to not create an automatic requirement that the Corporation must file a rebate in the event that the legislative capital levels are reached. This essentially requires ratepayers to trust that the Corporation will bring forward an application at the appropriate time.

In this Hearing, we have seen how this trust has already been eroded. Despite indicated capital levels at the time of the rate update suggesting that the Corporation's MCT level will reach 135 percent at fiscal year end, the Corporation has indicated it will not be proceeding with the rebate application.

This is justified in part on reasoning -- based on reasoning that any rebate should be based on audited financial results.

It was acknowledged during examination that the Corporation applied for special rebate applications during the COVID-19 pandemic based on unaudited financial results, but the process resulted in the MCT dropping below the hundred percent threshold.

Notably though, the special rebate applications involved some actual results, as well as future forecast based on how long the Corporation anticipated reduced collision frequency to continue. It was a result of this attempt to forecast the length and continued implications that caused the dip below the MCT target.

Where no application for rebate is brought at this time, ratepayers would be forced to wait until next year's -- next year's application, resulting in money not being returned for at least another year. This delay is not reasonable.

While the Corporation has outlined concerns that rebating now may bring the MCT level to below the required hundred percent MCT, it was confirmed during examination that no legislative requirement -- that there is no legislative requirement that the rebate be an amount sufficient to bring the MCT down to exactly 100 percent.

It is possible to rebate -- it is possible to provide a rebate that returns funds to customers quickly while also ensuring that MCT hundred percent threshold is not breached.

CMMG makes the following

recommendations:

That the Corporation be directed to bring a rebate application to bring the MCT level down 110 percent MCT.

That the Capital Management Plan proposed by the Corporation not be approved by the PUB in this year.

The Corporation has had a change of heart on various investment strategies over the last several years. The Corporation has historically excluded real return bonds from the Basic Claims Portfolio, but is now taking steps to introduce this asset class to hedge the inherent inflation risks in the liability that have become so apparent in recent years.

Similarly, the Corporation has historically avoided the use of financial leverage to acquire certain assets.

In this year's Application, however, MPI has proposed a novel bond overlay strategy. The first step in this strategy requires financial leverage to finance the purchase of real return bonds, with a second step which offsets the borrowing.

To get there, this strategy has MPI's ultimate desired economic effect to hedge inflation risk, but avoid reducing its provincial bond exposure.

The Addenda representatives suggested this process creates a net neutral position where there is no substantial net leverage to the portfolio and asserted that, as a result, this is not a leverage strategy.

Mr. Bunston clarified, on cross-examination, that the strategy uses long and short leverage, the result of which is a net leverage that is close to zero (0).

Or simply stated, MPI has used complicated financial engineering to achieve its stated objective, at least as it relates to mitigating inflation risk and to better match its portfolio to its liabilities.

CMMG suggests to the Board today that, by definition, this is a leverage strategy. What we have seen is the Corporation shifting their position on real return bonds and leverage a hundred and eighty (180) degrees.

And while generally a change in perspective due to the presentation of contrary evidence is commendable, CMMG suggests to the Board that the use of hindsight is not a good investment strategy.

Manitobans incur a cost for MPI's poor investment decisions. And we continue to see this lack of foresight in the Corporation's position on equities.

Over the last several years we've seen the Corporation take a staunch position against the inclusion of equities in the Basic claims portfolio.

The Corporation has provided various reasons for this position, including that it does not align with the policy statement for the Basic portfolio; that equities, as an asset class, are too volatile; and that the capital adequacy requirements to include equities would require a major increase in funding.

The arguments used by the Corporation to reject equities, are in some cases similar or identical to those arguments used in the past, to justify excluding real return bonds and leverage.

In recent years, we have examined Efficient Frontiers of various asset mixes provided in the Asset Liability Management study.

Last year and this year, the Corporation confirmed that an optimal asset mix, or in other words, an asset mix that falls on the Efficient Frontier, can include a small amount of equities with little to no impact on the risk portfolio.

Both last year and this year the Corporation has provided Minimum Capital Test calculations, which suggest that the inclusion of other asset classes, including equities, would require significantly higher capital in the reserve fund.

This has also been cited as a factor of the Corporation's decision not to include equities in the Basic claims portfolio.

Yet the MCT calculation has been acknowledged by the Corporation to provide capital charges for some asset classes that are outsized, to lack details sufficient to recognize the varying risks of different asset classes and to lack consideration of correlations across asset classes.

These factors suggest that the MCT calculation produces an artificially inflated capital requirement where a more diversity -- diversified portfolio is considered.

The evidence before the Board demonstrates that the Corporation stated lacks -- the Corporation stated concerns lacked foundation, as they relate to the constraint that prohibits the inclusion of equities in the Basic portfolio.

And during MPI's closing submissions,

you -- you heard the Corporation suggest that my client wants to include equities to help motorcyclists with long-tailed liabilities.

And I'd like to be clear, the inclusion of equities would be to the benefit of the entire Basic claims portfolio. Again, the Corporation here is stuck on focusing on what an asset class does in isolation.

What my client is attempting to do is advocate for a more diversified portfolio that would address the concerns raised by the Corporation while concurrently drawing the benefits of modest incremental returns.

And modest incremental returns is a direct quote from the stated objective of the Basic claims portfolio.

My client respectfully submits that, contrary to the Corporation's assertion, the inclusion of equities in Basic does not conflict with the stated objective of the Basic portfolio.

CMMG makes the following recommendations in this regard:

The finding that the Corporation decision to include equities from the Basic claims portfolios is not supported by the evidence presented;

And that the PUB make a finding that the inclusion of equities in the Basic claims portfolio is not in conflict with the -- with the stated objectives of the Basic claims portfolio.

CMMG wants to thank the Corporation for their work this year in providing the Application to us. We appreciate the limitations that they've experienced, due to the ongoing labour interruption and, on behalf of my clients, I want to thank the Board for the opportunity to provide closing submissions today and, subject to any questions, that concludes our -- my closing remarks.

PANEL CHAIRPERSON: Thank you, Ms. Meek. Mr. Gabor...? Ms. Boulter...? Ms. Nemec...? Mr. Bass...? Thank you. Ms. Wittman...?

FINAL SUBMISSIONS BY TAXI COALITION:

MS. KAREN WITTMAN: Thank you. Good morning. The Board should have before it a copy of our written submission, which we should like to mark now as Exhibit -- Taxi Exhibit Number 11.

--- EXHIBIT NO. TC-11: Taxi Coalition's final submissions

CONTINUED BY TAXI COALITION:

MS. KAREN WITTMAN: And, as the Board will note in the written submission, the Taxi Coalition has identified four (4) chief areas of concern in this year's GRA.

They are:

1. The proposed new Vehicle for Hire framework;

2. Minimum credibility standards for rate-making;

3. The proposed fleet rebate allocation; and,

4. The Capital Management Plan.

The Taxi Coalition proposes to address each of these areas in turn and will seek Directives from the Board with respect to each of these areas in order to ensure a fair and reasonable approach to rate-making, along with just and reasonable rates.

So, turning to the first issue, which is the proposed new Vehicle for Hire framework, the issue, as far as the Taxi Coalition is concerned, is whether MPI's proposed Vehicle for Hire framework requires revision prior to approval, in order to ensure that it is fair and reasonable for all Vehicle for Hire stakeholders.

For the 2024 GRA, MP -- MPI proposes a new Vehicle for Hire framework to replace its existing Vehicle for Hire insurance model.

Previously, the Vehicle for Hire framework was premised on a time ban model, which offered Vehicle for Hire operators the option of registering for up to four (4) time bans, which corresponded to certain hours of the day. Premiums charged reflected the number of time bans selected by the Vehicle for Hire operator.

MPI acknowledged, in past GRAs, as well as the current GRA, that the time ban model required revision, and MPI committed to completing a robust review of the Vehicle for Hire framework and development of a new framework.

MPI was also directed by the -- the Board, pursuant to PUB Order 4/'23, to file a revised Vehicle for Hire framework, which would include an explanation of the proposed blanket policy, ensure that the blanket policy would not involve cross-subsidization, and ensure that the technology necessary to participate in the blanket policy would be available to all Vehicle for Hire operators.

The new Vehicle for Hire framework proposed by MPI would eliminate the existing time ban model and replace it with two (2) Vehicle for Hire insurance products: one, a transportation network or TNC blanket policy; and, two, full-time Vehicle for Hire insurance.

Under the proposed TNC blanket policy, time will be separated into four (4) periods.

Periods where a TNC driver is travelling to pick up a passenger and periods where a TNC driver is transporting a passenger to a destination are referred to as the ride-sharing periods. When the TNC driver is operating in a ride-sharing period, the TNC dispatcher will provide insurance coverage for the TNC driver.

Non-ride-sharing periods will be covered by the TNC driver's registered owner Basic policy, which must be maintained by the driver.

Under the blanket policy, TNC drivers are permitted to spend as much time or as little time as they want in the non-ride-sharing capacity, meaning that they are permitted to -- to operate on a part-time basis, should they so choose. In other words, and while not described as such, the proposed TNC blanket policy includes a part-time option for TNC drivers.

In order to participate in the blanket

policy, the TNC dispatcher will be required to provide an annual estimate of kilometres driven by its TNC drivers during the ride-sharing period. MPI will, then, assess the premium to be paid by the TNC -- TNC under the blanket policy.

Initially, the blanket policy premium will be calculated by multiplying the estimated number of kilometres that TNC drivers are expected to drive by a per-kilometre rate.

At the policy year end, MPI will finalize the premium based on a reconciliation of, (1), the actual kilometres travelled, and (2), the actual claims experience. MPI will then use a rebate surcharge scale to determine whether a rebate or a surcharge is required, and if so, the amount of the rebate or surcharge.

At the end of the policy year, MPI will collect any outstanding premium or issue a refund if there is a surplus. In other words, MPI will effectively perform a true-up, so to speak, of the TNC experience on an annual basis.

As part of its GRA Application, MPI has set out a method or formula for calculating the per-kilometre rate which MPI would like the Board to approve, but not the actual per-kilometre rate.

The method for calculating the per-kilometre rate involves dividing the revenue required from the TNC blanket policy for the rating year by the expected annual kilometres in the ride-sharing period -- also known as period P2 and P3 -- using the formula set out in part 7 of the Application, RC Appendix 11, page 4.

The projection of annual kilometres is based on historical kilo -- kilometre data supplied by TNCs. MPI has indicated that, at its stand -- as it stands, it is unable to provide information regarding the annual kilometres driven by TNCs as part of its determination of pricing as certain TNCs have claimed that the information is proprietary and confidential.

MPI has further indicated that the TNCs have refused to share the information on the public record. The TNCs also refused to share the information through the confidential process with the Interveners.

As a result, MPI seeks a directive that will allow it to restrict the sharing of third-party confidential data with registered Interveners in future General Rate Applications.

With respect to the full-time insurance issue, when the time ban model is removed, MPI proposes transitioning all Vehicle For Hire stakeholders to a full-time model. Those Vehicle For Hire stakeholders currently operating on a less-than-full-time basis will, therefore, be required to register for full-time insurance, and Information Request TC/MPI-1-19 provides insight on how many policies would be impacted by the decommissioning of the time ban model.

They are twenty-two (22) of a hundred and ninety-seven (197) accessible Vehicle For Hire policies, thirteen (13) of eighty-two (82) lim -- limo Vehicle For Hire policies, a hundred and thirty-seven (137) of fourteen hundred and ninety-two (1,492) policies, and five (5) of five hundred and sixty-seven (567) taxi Vehicle For Hire policies.

MPI was asked during cross-examination how the decommissioning of the time ban model would add value to customers. The response was simply that the pro -- product is largely ineffective because it was only used by a small number of customers.

Although MPI has initiated a telematics project to help assist in -- it in developing a part-time model for taxi Vehicle For Hire, the telematics project has stalled.

There has been a delay in all key

milestones for target delivery of the telematics project, including re-tendering the RFP, device installation, data gathering, final reporting, and project wrap-up.

While initially targeted to be completed by January of 2025, there is now no new target delivery date.

And if the new Vehicle For Hire framework is approved, MPI expects to begin implementation after Release 3 of Program NOVA is complete. Although a target date of April 2025 has been set, MPI has indicated that that date is now uncertain.

The issues therefore, from the Taxi Coalition's perspective, are two (2). One is whether the proposed new Vehicle For Hire framework is fair and reasonable and takes into consideration all of the interests of the stakeholders, including taxi Vehicle For Hire; and second, whether the directive sought by MPI to restrict access to the sharing of specific third-party confidential data with registered Interveners in future -- future General Rate Applications should be accepted by the Board.

It's the Taxi Coalition's position that the proposed new Vehicle For Hire framework fails to properly take into consideration the interests of all stakeholders, including the taxi Vehicle For Hire, for two (2) reasons -- or at least two (2) reasons.

First, MPI was directed to ensure that the TNC blanket policy could be made available to all Vehicle For Hire stakeholders. Notwithstanding this direction, and despite MPI's assertion to the contrary, it is clear from a review of the TNC blanket policy proposed by MPI that the TNC blanket policy is specifically designed for TNCs and cannot, at least as it stands now, be used for other Vehicle For Hire stakeholders.

More specifically, the starting point for calculation of premiums under the TNC blanket policy is based on expected revenue from passenger Vehicle For Hire less the expected revenue from all purpose under the current rate model.

Although all Vehicle For Hire stakeholders groups are ostensibly eligible to participate in the blanket policy, provided they meet the minim -- minimum technological and reporting requirements, not all Vehicle For Hire stakeholders fall within the passenger Vehicle For Hire insurance use. Some Vehicle For Hire stakeholders fall within the taxi Vehicle For Hire, limo Vehicle For Hire, and accessible Vehicle For Hire insurance uses.

The per-kilometre formula, however, as it stands, does not work for taxi Vehicle For Hire, and MPI has not set out in its formula or Application how the TNC blanket policy would work for any Vehicle For Hire stakeholder other than a TNC.

The fact that the formula for the calculation of the TNC blanket policy premiums is only available to, or workable for, TNCs and not other vehicle stakeholders was acknowledged during the cross-examination.

It is therefore the TC's -- the Taxi Coalition's position that, prior to approving the proposed TNC blanket policy, MPI should be directed to put forward versions of its blanket policy that could be adopted by Vehicle For Hire stakeholders other than TNCs.

Aside from the fact that the TNC blanket policy is only able to be made available to TNC dispatchers and their drivers and not all Vehicle For Hire stakeholders, there is a second issue with the proposed new Vehicle For Hire framework that is of concern to the Taxi Coalition, and that is the absence of a part-time option.

The Taxi Coalition acknowledges that

the numbers of taxi Vehicle For Hire who have taken advantage of a part-time option is low. In large part, however, this is a reflection of the way in which the time ban model operates, and it is in its inherent inflexibility.

The fact that the time ban model is unworkable for most Vehicle For Hire stakeholders is abundantly apparent from MPI's own stakeholder consultations. This does not mean, however, that there is not a significant portion of Vehicle For Hire stakeholders, including taxi Vehicle For Hire, limo, and accessible Vehicle For Hire who would appreciate a part-time option.

Although providing part-time Vehicle For Hire services remains an option for TNC drivers under the new Vehicle For Hire framework as they will be able to take advantage of the blanket policy, given that no blanket policy is available for taxi Vehicle For Hire, coupled with the decommissioning of the time ban model, means that part-time options will no longer be an option for taxis.

As the time line for completion of the telematics project has been significantly delayed, and there is therefore no part-time option for taxi Vehicle For Hire on the horizon, the Taxi Coalition submits that MPI should be directed to delay decommissioning the time ban model until such time as it has developed a part-time option for taxi Vehicle For Hire and is ready to implement the new TNC blanket policy.

In addition, MPI should be directed to consult with other Vehicle For Hire stakeholders prior to decommissioning the model to canvass the desirability of part-time options for them.

The second issue with respect to Vehicle For Hire from the Taxi Coalition's perspective is the directive sought by MPI for the -- from the Board that certain information received from TNCs and used to set the initial per-kilometre rate under the blanket policy be kept confidential and not disclosed to Interveners nor the public generally.

The Taxi Coalition is opposed to the proposed directive. Not only does it contravene the general principles of accountability and transparency that govern regulatory proceedings, but it is effectively a preemptive effort to seek a decision from the PUB on a confidentiality motion that has not yet been filed. The Taxi Coalition submits that this is improper and should not be allowed.

Leaving aside the fact that the -- no

motion has been filed, and although the Board has the ability to set rates relying on confidential filings, the Taxi Coalition submits that it should avoid doing so wherever possible in order to maintain a regulary -- regulatory process that's transparent and accountable, and to ensure public confidence in the system.

The Taxi Coalition further submits that the Board should refrain from -- from setting rates on confidential filings, in this case, as the request by MPI to treat third-party data at issue does not meet the requirements of the test for confidential information set out in rule 13 of the Board's rules of practice and procedure.

The entire text of rule 13 has been set out in our written submission, and I won't go through that now.

The effect of rule 13(1) is to create a presumption that documents that are filed with the Board will be placed on the public record. The presumption is consistent with and reflects the general public policy goal of maintaining regulatory processes that are transparent and accountable.

Despite the presumption that all proceedings before the Board are public, the Board maintains discretion to receive information in confidence where it considers it appropriate to do so in the public interest and where the requirements of rule 13(2) are met.

Generally speaking, where a party seeks to provide information to the Board in confidence, the onus will rest on the party seeking to deny public access to the information to establish that extraordinary circumstances exist to justify a departure from the fundamental goal of a transparent and accountable regulatory process.

In this case, the information over which confidentiality is claimed is third-party information about historical kilometre data supplied to TNCs in Manitoba.

Neither MPI nor the proprietor of the information, however, has placed on the public record how the information qualifies as proprietary and meets the test set out in rule 13.

More specifically, neither MPI nor the third party has provided an explanation as to how the data would reveal the third party's market share to potential competitors, establish how a competitor would use the information to compete, establish how supplying this information would significantly harm its competitive position, or establish how supplying this information would result in undue financial loss to it or undue financial gain to a competitor.

The Taxi Coalition recognizes that MPI is in a difficult position in that it's being asked to communicate and advance a position taken on behalf of a third party; that said, treating this information as confidential is not consistent with the public nature of the GRA and the expectation of transparency and accountability.

In seeking this directive, MPI, or more accurately, the third party, is effectively seeking to circumvent the Board's well established CSI process and avoid a motion. This ought not to be allowed.

One (1) of the arguments raised by MPI in support of maintaining confidentiality over the TNC data was the experience in other jurisdictions; notably, British Columbia and Saskatchewan, both of which, it was suggested, accepted third-party TNC data on a confidential basis in order to set TNC blanket policy premium rates.

A review of the applications for blanket policies filed in both BC and Saskatchewan, however, reveal that the initial TNC blanket policy rates were based on taxi kilometre rate -- rates data, not data from third-party TNCs.

In British Columbia, these taxi-based initial TNC blanket policy rates were set for a ten (10) year period in prescribed rate tables. In Saskatchewan as of 2021, the rate initially set in December of 2018 based on taxi data remained unchanged. Consequently, other jurisdictions can offer little guidance on how TNC claims over confidential -- confidentiality of data have been handled.

What is clear, however, is that other jurisdictions relied on tax data, and that data was not subject to any confidentiality filings.

In other words, despite the fact that the information about the taxi market share was made publically available during the introduction of a new blanket policy that was designed to compete directly with taxis, any concerns taxis may -- may have raised over the sharing of their data does not appear to have been accepted in those jurisdictions.

The Taxi Coalition therefore recommends the following:

Prior to approving the proposed TNC blanket policy MPI should be directed to put forward versions of its blanket policy that could be adopted by Vehicle for Hire stakeholders other than TNCs.

MPI should be directed to delay decommissioning the time ban model until such time as it has developed a part-time option for taxi Vehicle for Hire.

MPI should be directed to consult with other Vehicle for Hire stakeholders prior to decommissioning the time ban model to canvass the desirability of a part-time options for them.

And finally, the Board should not grant MPI's request for a directive restricting the sharing of third-party -- party data used to calculate the per kilometre rate for the TNC blanket policy.

At a minimum, that information should be shared on an unredacted basis with registered Interveners.

The second issue that the Taxi Coalition has identified is the minimum credibility standards for rate-making. And the issue here is whether MPI should be directed to increase its judgmentally selected -- selected minimum credibility standard of 10 percent.

As part of its rate-making methodology, MPI calculates new relativities for all distinct vehicle groups. The new relativities are derived from weighted credibility averages of actual or raw relativities and current relativities for different rating variables.

Actual or raw relativity is reflective of the indicated relativity being what is indicated to be charged to that vehicle group in the future, recognizing the most current and actual loss experience in addition to historical experience.

Current relativity, on the other hand, is more reflective of past or existing loss experience.

The purpose of doing a weighting between the raw and current relativities is to ensure that excessive weight or credibility is not given to the most current or indicated experience without giving some weight to historical experience.

This weighting militates against large fluctuations that can occur in the raw relativities or, in other words, rate volatility, and is particularly important or more pronounced where the individual groups such as small insurance uses are too small to be statistically reliable.

In MPI's new relativities' calculation, the credibility assigned to each raw relativity is subject to a minimum 10 percent credibility. And 90 percent credibility is then assigned to the current relativity.

Raw relativities for smaller groups or small insurance uses are frequently assigned the minimum 10 percent credibility. Examples of small insurance uses include passenger Vehicle for Hire in the private passenger major class and taxi Vehicle for Hire in the public major class.

Where an unnecessarily low minimum credibility standard is used, the result is that the raw relativity is given minimal weight. In other words, the actual or most recent driving experience is given minimal weight.

The effect of a lower minimum credibility standard for small insurance uses is that the most recent driving experience of customers in those small insurance uses is only minimally reflected in the rates they pay, and their historical experience is given the most weight.

For a higher minimum credibility standard to be assigned, rates paid by customers in these smaller insurance uses would more accurately reflect their actual most recent driving experience.

It was confirmed during cross-examination of MPI that the decision to assign the minimum credibility of 10 percent was judgmental; in other words, it was a subjective decision of MPI.

And it was further confirmed on cross-examination that MPI is uncertain how or why the minimum credibility of 10 percent was assigned.

MPI further confirmed on cross that it would be open to it to select a higher minimum credibility standard and that this could be done while still ensuring that enough weight is given to historical experience, i.e., current relatively, to minimize rate volatility.

In contrast, to the approach to credibility for small insurance uses, in the proposed TNC blanket policy there will be a annual reconciliation of actual claims experience and a rebate surcharge scale based on that reconciliation.

As a result, MPI will effectively be giving 100 percent credibility to the most current passenger Vehicle for Hire driver experience.

The Taxi Coalition says that the issue to be addressed is whether MPI should be directed to increase its judgmentally selected minimum credibility standard of 10 percent in its new relativities calculation.

In some context, MPI has recognized the

importance of incentivizing safe driving. This is evident, for example, in the Fleet Rebate Program and the DSR scale. It is also being introduced by MPI in the proposed TNC blanket policy which, as noted above, was -- is being given almost 100 percent credibility.

In contrast, under the current rate model, the raw relativities for small insurance uses, such as taxi Vehicle for Hire and passenger Vehicle for Hire, remain subject to the minimum credibility standard of 10 percent.

Were a higher minimum credibility to be assigned to small insurance uses, rates by these customers would more accurately reflect the actual most recent driving experience. This, it is submitted, would assist in incentivizing safer driver -- driving for these customers.

While the minimization of rate volatility is a legitimate policy goal for MPI, the Taxi Coalition submits, that it is possible to continue to minimize rate volatility through the use of weighted credibility averages in the new relativities' calculation, while increasing the minimum credibility standard.

If MPI selected, for example, a minimum credibility standard of 30 percent, this selection, as acknowledged by MPI during cross-examination, would allow 70 percent credibility to be assigned to current relativities in the new relativities' calculation.

The Taxi Coalition's position is that it is both possible and advisable for MPI to strike a balance between the promotion and incentivization of safe driving and militating against rate volatility.

Assigning a higher minimum credibility standard to small insurance uses would allow for actual driving experience to be more accurately reflected in rates paid, while still giving a significant of weight to current relativities or past/last experience.

The Taxi Coalition, therefore, recommends that the Board direct MPI to increase its judgmentally selected minimum credibility standard of 10 percent in its new relativities' calculation.

Alternately, the Taxi Coalition asks the Board to direct MPI to analyze its judgmental selection of 10 percent credibility and report to the Board in the 2025 GRA on whether its selection remains appropriate or whether it should be increased.

The third issue that has been identified by the Taxi Coalition is the fleet rebate re-allocation and whether the proposed fleet rebate re-allocation ought to be deferred.

Historically, MPI has evenly distributed the cost of the net fleet rebate across three (3) major classes: private passenger, commercial and public.

The net fleet rebate is distributed across these major classes and not others, as only customers in these major classes qualify for fleet policies.

In practice, this even distribution meant that the three (3) major classes all had the same value for the net fleet rebate, added to the rate indication as an expense.

And, in 2023, this resulted in a twenty dollars and ninety-three ($20.93) charge to all customers in these major classes.

As the fleet program has consistently been in a rebate situation, all vehicles in the same major classes fleet vehicles see a reduction in premiums. In other words, the non-fleet customers benefit from the fleet program, presuming it remains in a rebate situation, by paying lower premiums.

The even distribution implies that the result -- that the benefit of the fleet rebate is shared equally between all ratepayers within the three

(3) major classes.

All major classes, however, do not benefit to the same extent. Instead, and generally speaking, major classes with more fleet vehicles benefit more than other major classes with fewer fleet vehicles.

In order to combat the apparent disparity of cost/causation, during the 2023 GRA the PUB ordered MPI to file an analysis and proposal for modifications to the fleet program.

In the course of its analysis of the fleet program, MPI identified a number of deficiencies in areas that required redress.

Ultimately, MPI determined that the issues are complex and require a more in-depth review for which it requires additional time and resources. MPI, therefore, seeks to defer the full review until the 2025 GRA.

In the interim, and pending MPI's complete review, MPI is proposing to allocate the net fleet rebate based on the number of fleet vehicles in each of the three (3) major classes. Under MPI's proposed interim solution, customers in the three (3) major classes would incur the following costs for the net fleet rebate.

For Private Passenger it would be eleven dollars and fifty-two cents ($11.52), for Commercial it would be a hundred and thirty dollars and twenty-five cents ($130.25) and for Public it would be two hundred and forty-nine dollars and twenty-six cents ($249.26).

What this means is that MPI's interim solution will result in a per unit cost savings of nine dollars and forty-one cents ($9.41) for customers in the Private Passenger major class; a $100 -- one hundred and nine dollars and thirty-two cents ($109.32) per unit cost increase for the Commercial Major Class customers; and a two hundred and twenty-eight dollar and thirty-two percent (sic) ($228.32) unit cost increase for the Public Major Class customers, which, by the way, is the equivalent of a 1091 percent increase.

If MPI evenly distributed the cost of the net fleet rebate across the three (3) major classes as it did in the 2023 GRA, however, this even distribution would result in a twenty-one dollar and eighteen cents ($21.18) charge to all customers in the three (3) major classes, reflecting a nominal twenty-five cent ($0.25) increase in per unit cost from 2023.

The Taxi Coalition submits, therefore,

that the issue that ought to be considered is whether MPI's interim proposed fleet rebate reallocation, ought to be deferred pending completion of MPI's full review of the fleet rebate program.

And MPI takes -- or, sorry, and -- and the Taxi Coalition takes the position that it ought to be so deferred.

One of MPI's guiding principles or core values, as it relates to the Basic insurance model, is to keep insurance rates stable, predictable and affordable for Manitobans, to the extent possible.

This guiding principle and the goal of maintaining stable, predictable and affordable insurance rates has, in the past, informed both MPI's and the Board's approach to implementing change to various aspects of the Basic insurance model.

Although the DSR scale continues to depart from what is actuarially indicated, the charges that -- the changes that have been adopted to bring the DSR closer to actuarially indicated rates have been adopted on an incremental basis and, gradually over time, in order to avoid rate shock for customers.

The Taxi Coalition submits that this same principle ought to apply to the adjustments and revisions to the fleet rebate program and, to the extent possible, rate shock and dramatic fluctuations in rates ought to be avoided.

This is particularly the case where, as here, the entire fleet program is about to undergo revision and overhaul in the next GRA.

Were MPI to evenly distribute the cost of the net fleet rebate across the three (3) major classes as it did in the 2023 GRA, as we just reviewed, this would result in a nominal increase of twenty-five cents ($0.25) to customers per unit cost as compared to 2023.

On the other hand, if MPI's proposed interim solution were approved, the result, as we reviewed, would be a significant increase for the three (3) major classes, including an increase over 1000 percent for the Public Major Class customers. In other words, some customers would experience significant rate shock.

MPI has put forward this interim solution in an effort to address the cost/causation. It is, however, only an interim solution.

In addition, MPI has admitted that its proposal is not reflective of benefits actually received by customers in the three (3) major classes, as those benefits have yet to be quantified and this is now -- this has not yet been completed.

The Taxi Coalition submits that rather than adopting MPI's interim solution to the cost/ causation issue, which will result in considerable rate shock for the Commercial and Public major classes, the Board should direct MPI to refrain from making any changes to the fleet program until MPI has completed its full review.

The recommendation is, therefore, that the Board direct MPI to delay making any changes to the fleet program until after MPI has completed its full review.

This now leads us to the final issue, which is the Capital Management Plan and whether the Board should approve MPI's new proposed CMP.

MPI first presented and proposed its CMP in the 2020 GRA and at the time, one of the central features of the CMP was a commitment by MPI to transfer Extension surplus over 200 percent MCT to Basic.

Within the first year of CMP's two (2) year trial period, however, MPI departed from its commitment to transfer surplus Extension to Basic. In fact, MPI transferred a combined total of $117 million of retained earnings from Extension to DVA in the 2021

-- 2020/2021 and 2021/2022 fiscal years.

Although transfers to D of A -- D -- DVA were temporarily halted in March of 2022 at the direction of the provincial government pending a full review of the DVA program and its funding model, the future of DVA remains uncertain.

When asked about this issue, MPI confirmed that the provincial government's operational review of DVA is not complete and no end -- end date for the review has been identified.

In the mean time, given that DVA is not currently self-sufficient and no enhanced DVA funding is expected, it is likely that MPI will be required to transfer surplus Extension to DVA starting as early as the 2025 rate-setting period.

On November 4, 2022, the amendments to section 18 of the MPI Act received Royal assent.

Among other things, section 18 of the Act sets out the cap -- the capital reserve targets that MPI must establish and maintain for each of its lines of business, pre-requisites for the payment of a rebate from the Rate Stabilization revert -- Reserve, and how MPI is to deal with the Rate Stabilization Reserve deficiency.

Pursuant to the amendments to the

legislation, MPI has developed a new CMP, for which it seeks approval from the Board, as part of its 2024 GRA.

While the Taxi Coalition does not take specific issue with the proposed CMP, it does have significant concerns about whether, in practice, the CMP will operate as intended, given that one of its key features, surplus Extension transfers, continue to remain both discretionary and plagued by uncertainty.

Under the proposed CMP, surplus Extension transfers to Basic continue to be a central feature. In Step 1 of the proposed CMP, titled Capital Transfers from Extension, MPI is required to transfer to the Basic RSR all capital in the Extension reserve in excess of 200 percent MCT at each fiscal year end.

While this step appears to be in line with MPI's initial commitment, put forward in the 2020 GRA CMP proposal, MPI includes a caveat to this requirement. The caveat is this: Prior to the fiscal year end, MPI's Board of Directors retain discretion to transfer any excess funds from Extension to cover shortfalls in its other lines of business, including DVA.

In other words, the decision is whether

-- whether to transfer excess funds from Extension will -- pardon me -- in other words, the decision as to whether excess funds from Extension will, in fact, be transferred to Basic RSR remains at the discretion of MPI's Board of Directors, provided they exercise that discretion prior to the fiscal year end.

In Step 2 of the proposed CMP, titled "Rebate Trigger," MPI will review the most recent year end audited MCT and take into account any transfers from Extension. If the RSR exceeds 120 percent MCT, a rebate will be triggered.

When Steps 1 and 2 are considered together, it's clear that whether or not a -- an Extension transfer occurs may have an impact on whether a rebate is triggered. Consequently, notwithstanding the requirement to transfer surplus from Extension to Basic, the discretion afforded to MPI's Board of Directors to transfer that surplus to another MPI line of business means that a rebate that would otherwise have occurred following an Extension transfer will not occur.

As for Step 3 of the proposed CMP, the capital build trigger, MPI states:

"After applying all assumed capital transfers from Extension, MPI, then, determines the need for a capital build provision. If the MCT is below 100 percent at the beginning of the current fiscal year, MPI will require a capital build and will apply for one with its GRA, unless assumed capital transfers from Extension can build capital to the 100 percent MCT target in less than five (5) years. In other words, the capital build trigger is largely based on an assumed or forecasted transfer from Extension."

The Taxi Coalition says that the issue to be addressed is whether MPI's proposed new CMP should be approved, as proposed, or whether further clarity, transparency, and accountability are required, particularly, in relation to the required and forecasted surplus Extension transfers, prior to Board approval.

The TC -- the Taxi Coalition appreciate -- appreciates that MPI has taken significant strides to improve the accountability, clarity, and transparency of its proposed CMP, however, due to the MPI Board of Directors' ongoing ability to effect an

Extension transfer prior to fiscal year end and, thereby, divert funds that might otherwise have been transferred to Basic, the Taxi Coalition remains concerned that the proposed CMP remains discretionary and uncertain and, as a result, vulnerable to significant forecasting inaccuracies.

One (1) area of uncertainty -- uncertainty stems from the fact that the circumstances under which the MPI Board of Directors will exercise its discretion to effect a transfer remains unclear.

While MPI notes that the MPI's Board of Directors may exercise its discretion to transfer excess funds out of Extension prior to fiscal year end to cover any subsequent or existing shortfalls to its other line of business, no insight is provided as to when or insight into -- to help us understand under what circumstances this discretion will be exercised. As such, predicting whether such a transfer will occur is difficult.

The uncertainty that stems from not knowing whether MPI's Board of Directors will effect a transfer from Extension is further compounded by the fact that MPI has no official policy in place for funding capital shortfalls for Extension and SRE.

In this year's GRA, MPI noted that, in

the event of a shortfall in these lines of business, there are several actions that MPI is empowered to take to mitigate the shortfalls. The difficulty, however, is that, in the absence of an official policy, it's unclear whether MPI will take these alternate actions to mitigate shortfalls or whether it will simply rely on transfers from Extension.

In addition to the discretionary nature of the Extension transfers, further concerns arise when the DVA Program and its funding model are considered. As noted, and in addition to MPI's historical practice -- practice of transferring excess Extension to DVA instead of Basic, the provincial government's operational review of DVA continues without an end date.

DVA is not self-sufficient and further government funding of DVA -- funding is not expected. What this means is that forecasted or assumed Extension transfers may not only never happen, depending on how MPI's Board of Directors exercises its discretion, but are also unlikely to happen, due to the current state of DVA and anticipated further need for funding. Hence, despite a current pause on transfers to DVA, such transfers appear to be inevitable in the future.

The inherent uncertainty and unpredictability set out -- that we've just run through is troubling for another reason, namely, that MPI's CMP forecasting is largely predicated on assumed transfers from Extension to Basic. Because the forecasting is based on an assumed transfer of Extension to Basic but the transfers from Extension to Basic are far from guaranteed and, in fact, are both unpredictable and uncertain, what this, effectively, means is that the forecasting is unreliable.

Further, if forecasted or assumed Extension transfers do not occur, Basic ratepayers could be put in an unfavourable position.

In previous rate applications, the Board has expressed concern about MPI's transfer of funds from Extension to its other lines of business and the reliability of MPI's assurances about future transfers from Extension to Basic.

Notwithstanding these concerns, the Board has found that its hands are tied and that it does not have the jurisdiction to direct MPI in the transfer of Extension excess capital.

The Taxi Coalition submits, however, that there remains an inextricable link between Extension and Basic, as Basic and Extension customers are substantially one and the same.

As a result of the inextricable link between Extension and Basic, the Taxi Coalition submits that the Board does, in fact, have at least a limited jurisdiction over Extension insofar as the proposed CMP is concerned. This is particularly so in the proposed CMP where MPI has, effectively, tied both the forecast and the build rebate together. Whether or not a build is triggered and MPI customers are required to pay more depends in no small part on whether forecasted transfers actually occur.

In addition, therefore, to supporting CAC's request for a rebate and its arguments in support thereof, the Taxi Coalition requests that the Board direct MPI to amend its CMP, such that, if there is a surplus in Extension, forecasted transfers to Basic must occur.

In the alternative, and consistent with Madam Justice Steel's decision in the MPIC versus Manitoba Public Utilities Board, issued in 2022, the Taxi Coalition requests that the Board issue information seeking Directives for the purpose of encouraging greater clarity, accountability, and transparency in the proposed CMP that will address the timing and status of the government's operational review of DVA and official policy for funding -- the funding of capital shortfalls for Extension and SRE and an update with respect to plans for mitigating diminished forecasting inaccuracy, based on uncertainty in the availability of Extension funds.

To recap, the recommendation that the Taxi Coalition is seeking with respect to CMP is that MPI be directed to amend its CMP, such that, if there is surplus in Extension or -- sorry -- if there is a surplus in Extension, forecasted transfers to Basic must occur.

In the alternative, the Taxi Coalition recommends that the following information seeking Directives be issued.

First, MPI shall seek a status update from the Provincial Government on its operational review of DVA, stressing the importance of self-sufficiency, its tie to the proposed CMP, and the potential impact of any further delay in the completion of the operational review on Basic.

Second, MPI shall put forward an official policy for funding capital shortfalls for Extension and SRE that provide -- and provide specific details on the several actions MPI is permitted to take to mitigate the shortfalls and under what circumstances MPI intends to take such action.

And third, MPI should provide an update to the Board in the 2025 GRA on if and/or how it intends to combat and mitigate its diminished forecasting accuracy due to the uncertainty in the use of excess Extension funds.

We have included in our written submission a summary of all of the recommendations that the Taxi Coalition is putting forward. The Taxi Coalition would like to thank MPI for providing all the information in this GRA under circumstances that were likely difficult.

And the Taxi Coalition would also like to thank the Board for allowing it to intervene in this year's Application. Subject to any questions that the Board might have, that concludes the Taxi Coalition's submission.

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

BOARD CHAIR GABOR: Ms. Wittman, could you go to -- sorry -- Ms. Schubert, can you go to paragraph 43 of their submission. It's page 11. Thank you.

Would the Taxicab Coalition be satisfied if MPI followed the -- the position taken by

BC, that they set a ten (10) year period and just simply use taxi per kilometre rates data?

MS. KAREN WITTMAN: It's certainly been the approach adopted in other jurisdictions, and it would likely be sufficient.

BOARD CHAIR GABOR: Okay. And I just noticed for the record -- I -- I think there's a typo in line 4, "ten (10) year period, 2019 to '28," rather than '18?

MS. KAREN WITTMAN: There is. The actual document says 2028.

BOARD CHAIR GABOR: Yeah.

MS. KAREN WITTMAN: My apologies.

BOARD CHAIR GABOR: Secondly, on the issue of, I guess, same section, to the recommendations under paragraph 45, the last one relates to the issue of the confidentiality. And you say at the last paragraph:

> "At a minimum, that information should be shared on an unredacted basis with registered Interveners."

Are you suggesting there that the information go on the public record for -- for parties, including Interveners, or are you suggesting that there be some sort of restricted disclosure so that the Interveners would see the information but that the information would never leave the hearing room?

MS. KAREN WITTMAN: The general approach that the Taxi Coalition understands this Board and regulatory process -- processes generally take is for accountability and transparency. So we're, therefore, reluctant to see any information that's not made publically available.

That said, at a minimum, we think that the Interveners, or their counsel and their experts, at least, should be given access to this -- this data from the TNCs.

If restrictions have to be in place, that could be one (1) of them. Another restriction would be to prevent -- or would be to restrict the information only to counsel and only to experts and through a nondisclosure agreement and not to the actual clients if this continues to be an ongoing concern.

But the issue is, is -- that should be clear from looking at other jurisdictions is that taxi data's made available.

BOARD CHAIR GABOR: M-hm.

MS. KAREN WITTMAN: It's a lot of the

same market share. It doesn't really make sense that one (1) participant in that market can have their data restricted but others cannot.

BOARD CHAIR GABOR: Okay. In BC and Saskatchewan, though, they don't have to deal with it because they're using the taxi data as the basis of the information?

MS. KAREN WITTMAN: Correct.

BOARD CHAIR GABOR: Okay. Final question. Are you -- you know, on the issue of transfers at the end and the recommendations, are -- are you saying that the Board does have jurisdiction to stop the transfer from Extension to DVA?

MS. KAREN WITTMAN: At a minimum, the Board has the power to order information seeking directives to find out more about it. Right now, we don't know when those transfers will take place or if sure that they will take place or under what circumstances they should take place or will take place.

This Board has jurisdiction over Basic. Basic is affected by Extension. So, at a minimum, this Board should be allowed to get that information about when this is going to take place. There should be policies in place at MPI's Board of Directors that indicate when those transfers will take place.

And we echo some of the submissions from CAC that, because Basic and -- and Extension are so linked, that this Board does effectively have some jurisdiction over Extension as well, even though it doesn't officially have that -- that jurisdiction, it's implied from the fact that these two (2) are so linked.

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

PANEL CHAIRPERSON: Ms. Boulter...?

BOARD MEMBER BOULTER: I have no questions, but I had the same one as Mr. Gabor, so thank you.

PANEL CHAIRPERSON: Ms. Nemec...? Mr. Bass...? Thank you very much, Ms. Wittman.

We'll take the morning break now and then come back for the reply of MPI. 10:30 okay? Okay. Thank you.

--- Upon recessing at 10:12 a.m.

--- Upon resuming at 10:31 a.m.

PANEL CHAIRPERSON: Okay. Thank you. We'll now hear the reply of MPI to any issues raised in the closings of the Interveners that were unanticipated in your submission, Mr. Guerra.

REPLY SUBMISSIONS BY MR. ANTHONY GUERRA:

MR. ANTHONY GUERRA: Thank you, Madam Chair, and, yes, I'll keep my -- my comments very brief.

The first issue I want to talk about is something that was raised in the -- the comments by My Friends from the Consumers Association of Canada. So if we -- if we go back to the -- the transcript -- I -- I'm not going to ask that it be brought up on the screen, but I will just briefly review what was said by My Friends.

Ms. Dilay had said:

"So we heard this afternoon -- this morning and this afternoon from MPI is that MPI's estimates are within the range of reasonableness for claims forecasting and should be accepted by this Board. So it appears MPI's argument boils down to this: This is good enough. If it's reasonable, it's good enough. And in CAC (Manitoba)'s view, this is

absolutely not good enough.
The PUB role is to set just and reasonable rates. There's only one (1) rate to be set and so on -- and so, rather, in order to appropriately balance the interests of the Corporation and the interests of ratepayers, the best -- the most reasonable forecast should be selected. Nothing short of the best estimate should be used."

So, I just want to clarify 'cause I do think there is some misunderstanding of what MPI's position is. And -- and it's concerning because I don't want any Intervener or this Panel to think that when our teams prepare their claims forecasts, that they're just trying to get anything on paper, that they're not putting the time and effort into looking at what is a best estimate.

You hear from our teams that their forecasts are, in their opinion, a best estimate. And so what this Panel is being asked to consider is: What -- what is the best estimate? That's -- that's what we understand.

And so the question at the end of the

day is: Is it reasonable for MPI to say, This is the best estimate? That's -- that's the question.

And so what we've done in this -- in our closing is to -- to look at questions that this Panel should be asking itself. And so I've encouraged the Panel to do that, and I would encourage the Panel to -- to review the methodologies underlying these -- these different trend selections because it's very important to -- to look at this.

And, Ms. Schubert, if I can ask you to bring up Order 159/'18 from the 2029 (sic) GRA, and specifically, Ms. Schubert, if I can ask you to turn to page 35, please. Yeah, sorry. This is from the 2018 GRA, I suppose.

In any event, so the -- the middle paragraph, and this is in relation to interest rate forecasting, and I think there's some analogies to be made here.

And so back at this point, there was -- there was a discussion -- and perhaps I'll have this discussion again in the future -- about which interest rate forecast should we use. Should we use the naive forecast, should we use the -- the SIRF, the Standard Interest Rate Forecast, or should we use some kind of combination of the 50/50 forecast?

And we were wrestling back and forth with that, and MPI put forth the -- the proposal to use naive rate -- naive interest rate forecast for that year. And ultimately, the -- the PUB agreed to accept it.

And so if we go down -- this is the PUB looking through and talking about the different -- the different evidence that was there. And the final sentence I think is important. The Board in this case says:

> "It's prepared to err on the side of caution in determining the best estimate, especially when a Corporation has found it necessary to transfer funds from Extension to fund the Basic RSR in each of the four (4) previous years, which transfers were due, in part, to inaccurate interest rate forecasts."

And so why I think this is important for us to consider is we're doing some things very similar in this case. We -- we are -- we don't know what the future's going to bring, and so everyone's coming to the table saying, This is the best estimate. And the PUB doesn't know. It's -- it's just like everyone else. It's trying to do its best to figure out what -- what the future looks like.

And so what we're saying here is, if -- if there's a reason to -- to suggest that this is not a best estimate, then it's not reasonable for MPI to rely upon it. And the PUB needs to call MPI out if that's the case.

But if it's not the case, if you don't see anything here that suggests that it's unreasonable for MPI to say this is the best estimate, then I think we have to error on the side of caution because what happens in this case is we have MPI suggesting that the claims costs should be at a certain level, and we have an Intervener saying that, based upon its best estimate, the claims costs should be at a lower level.

And if we're wrong, now we have a premium deficiency just like we would have in the case of an interest rate estimate error. So that's the only point I want to make here.

We did hear from two (2) of Our Friends about seeking directions that MPI collect data for a pricing analyst -- excuse me, a pricing analysis for the Basic insurance model. And we do touch upon it in our closing. I would just stress for this Board's attention that, in each case, the Interveners are suggesting voluntary collection of data, right? No compulsion; voluntary collection of data.

And that will skew the results of the pricing analysis. It will -- it will skew the results of what model is ultimately being recommended, and it's certainly not something that MPI supports.

We heard from Our Friends at the Motorcycle Coalition that MPI should be directed to file a rebate application to bring the MCT level down to 110 percent.

We've already commented on some of the problems with bringing a partial rebate application, so an application that doesn't seek to rebate the MCT down to 100 percent -- or, sorry, the RSR down to 100 percent MCT, so I won't belabour that point.

But I will say -- and I think it bears repeating here -- is that there is nothing in the Manitoba Public Insurance Corporation Act that requires MPI to apply for a rebate. And our position would be that this Board does not have the jurisdiction to order MPI to apply for a rebate application it doesn't want to bring.

The Taxi Coalition has recommended that MPI be directed to amend its Capital Management Plan so that if there is a surplus in Extension, forecasted transfers to Basic must occur.

That's not the Capital Management Plan that MPI has proposed before you this year, and we would also take the position that this Board can either approve the Capital Management Plan as proposed. It can reject it like it did last year and ask that MPI bring back a -- a proposal for, in its view, a better Capital Management Plan.

But to amend the Capital Management Plan or to direct an amendment would again be without -- outside of the jurisdiction of this -- this Panel. In such a case, especially with a direction like this, we would probably see MPI just completely abandon a Capital Management Plan at all, and we don't want to see that. I think that's not good for MPI and it's -- it's certainly not good for this Board.

Subject to any questions, those are our replies.

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

BOARD CHAIR GABOR: Mr. Guerra, it's deja vu all over again. Okay. So I just want to understand your first point because we had this discussion yesterday.

There seem to be two (2) options:

Option number 1 is that this Board should determine on the evidence at this hearing what is the best estimate; or

Option number 2 is that the Board should determine whether it's reasonable for MPI to say what's the best estimate.

Am I correct in, sort of those two (2) options?

MR. ANTHONY GUERRA: Yes, I think that's fair.

BOARD CHAIR GABOR: And your position is that it's option 2. We're not looking at what the best estimate is, based on the evidence, whoever is providing it, it is -- the test is simply, you're making a determination, MPI is making a determination of the best estimate.

There's no doubt that a lot of work has gone into it and the test that we should be applying is, were you reasonable in coming up with that -- that conclusion irrespective of what everybody else -- what the other evidence may be.

MR. ANTHONY GUERRA: I -- I would just add to that, that, because there is value in taking a look at what others might have to say, right. So, Mr. Sahasrabuddhe comes here and he says, you know, I think there's a better way of doing it, so I don't think MPI's best estimate is a best estimate and here are the reasons why.

And you might say to yourself, well, I -- I agree with that and so MPI is actually not presenting to us a best estimate. It may think it is, but we don't agree that that's the best estimate that MPI's put forward.

And so, what you're really saying to MPI is, although you believe you put forward a best estimate, you -- you haven't done so. Right, and -- and -- but I would suggest, if that's the -- that's the path that this Board wants to go down, then it would be incumbent upon this Board to explain in its reasons what it found unreasonable about the methodology used by MPI, so that, number 1, we have some basis to go back and maybe refine our -- our methodologies for -- for upcoming years, but also to understand exactly what was so unreasonable about that because we're applying for just and reasonable rates. We're -- we're applying for, what we think in the future, is going to be the amount to cover the cost of our claims. And if that is -- that is wrong in some way, well we know its going to be wrong, but by significant margins such that it becomes unreasonable, then it -- I think we need to know that that's the case.

BOARD CHAIR GABOR: But -- but, you know, we're -- we're -- we're passing in the night, because then your position is that even if we say we think this Intervener's evidence is more persuasive or better, that as long as we don't find MPI's evidence as being unreasonable.

So, we could say, MPI is reasonable, we just think this other evidence is better. Your position is that we must go with your evidence.

MR. ANTHONY GUERRA: So, let's -- let's step back here.

What we're saying is -- is MPI's position that this is the best estimate reasonable. Right. And -- and your response would either be to say, yes, we do. We find it's reasonable and, therefore, that will be baked into the rates or -- or no, it's not reasonable for it to say it's a best estimate, 'cause it's not. And we know for sure it's not and here are the reasons why we know it's not a best estimate.

BOARD CHAIR GABOR: Okay, I -- I don't -- I don't know if we'll -- well, yeah. Anyways --

MR. ANTHONY GUERRA: And that --

that's the problem, though, that's the problem, that we are all -- we are all just estimating futures --

BOARD CHAIR GABOR: Yeah, I mean -- I mean the situation is we look at a lot of different evidence.

MR. ANTHONY GUERRA: Right.

BOARD CHAIR GABOR: And if we're going on the basis of what is the best evidence, for us -- to assist us in making a decision, and then we -- then we introduce this, well, is it reasonable on what they did, which test are we applying? The reasonable test or the best evidence test? And that's -- that, in my mind's the issue.

MR. ANTHONY GUERRA: And I -- I appreciate that. At the end of the day, the question is: Is it reasonable for MPI to say this is the best estimate? And if you say no, then we just need to know the explanation for it.

Why is -- why is MPI's statements not reasonable --

BOARD CHAIR GABOR: It -- but it's -- I'm sorry --

MR. ANTHONY GUERRA: -- if it's not reasonable it would be --

BOARD CHAIR GABOR: -- I'm sorry,

yeah, yeah.

MR. ANTHONY GUERRA: -- and if -- and if you're saying it's not reasonable, it's because there's -- there's something MPI is relying upon that it just doesn't make sense.

BOARD CHAIR GABOR: So, in your mind, if we just -- if we say, we're choosing this other evidence and here is why. Not only do we have to say that, but we have to say that, in your mind, that's insufficient. What we have to say is -- you have to show why you think it's better and why we think MPI is unreasonable.

MR. ANTHONY GUERRA: Right.

BOARD CHAIR GABOR: Okay. Thank you.

PANEL CHAIRPERSON: Ms. Boulter...?

BOARD MEMBER BOULTER: Thank you very much. I'm just going to -- I was looking at the four (4) points that you've just made now and on the application for rebate, you are -- I just want to make sure I've got my notes then here -- you're arguing the PUB does not have the authority to direct you to apply for a rebate. Is -- I've got that clear?

MR. ANTHONY GUERRA: Correct.

BOARD MEMBER BOULTER: Okay. Thank you.

PANEL CHAIRPERSON: Ms. Nemec...?

BOARD MEMBER NEMEC: Just a clarification. I think I just missed you -- what you had said and it -- it was -- you were talking about the partial refund to perhaps 110 percent.

And -- and -- I just wanted to understand whether you said that was not possible, that wasn't -- maybe just go over sort of your final recommendation or comment on -- on that.

MR. ANTHONY GUERRA: Yes. So, we address it at page 37 of our closing submission. And I'll just read it for the record so that it's clear.

We say:

"A partial rebate, although not prohibited, under the legislation or the Capital Management Plan, is not something MPI would expect to occur. If, for example, Basic's MCT rose to 130 percent, rebating it down to 115 percent, would likely mean a second rebate application the following year, thereby increasing administrative costs, including the costs associated with mailing cheques and customers; moreover the use of audited financial information allows MPI to rebate down to exactly 100 percent, its target under the legislation."

MPI is prohibited by legislation from rebating capital where the MCT ratio is between 100 and 120 percent."

So, its not advisable for us to go somewhere between the hundred (100) and hundred and twenty (120) for a variety of reasons.

It's very costly. It's time consuming.

BOARD MEMBER NEMEC: But is it prohibited? Did you say it was prohibited from -- by the Act?

MR. ANTHONY GUERRA: No, the -- that -- us applying for a partial rebate is not prohibitive. We wouldn't do it for a variety of reasons.

BOARD MEMBER NEMEC: Okay. So --

MR. ANTHONY GUERRA: Our position though is that this Board can't force us to apply for a rebate whether it be a full or a partial rebate.

BOARD MEMBER NEMEC: Thank you. I understand your position.

MR. ANTHONY GUERRA: Thank you.

PANEL CHAIRPERSON: Thank you, Mr.

Guerra.

This concludes the 2024 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 Ms. Kacher, Mr. Kolaski, Ms. Low, Mr. Jatana, Mr. Mitra, Mr. Bunston, Mr. Campbell, Mr. Dessler, Ms. Edwards, Ms. Mann, Mr. Marion, Mr. Masud, Mr. Muir, Mr. Patton, Mr. Prystupa, Mr. Ramirez, Mr. Smithson, Ms. Zhou, Mr. Guerra, Mr. Scarfone and Mr. Wishnowski.

And the many representatives who provided back row support during these proceedings, including, of course, Mr. Meira.

The witnesses who appeared before the Board. Mr. Robert and Mr. Stilo of Addenda Capital. Mr. Sahasrabuddhe of Oliver Wyman, Mr. Greenlay.

The Interveners and their respective counsel for the Consumers Association of Canada, Manitoba Branch, Ms. Dilay and Mr. Klassen.

For the Coalition of Manitoba Motorcycle Groups, Ms. Meek.

And for the Taxi Coalition, Ms. Wittman

and Ms. Nelco.

The presenters who made submissions this year.

Secretary of the Board, Darren Christle, the Assistant Associate Secretary of the Board, Jennifer Dubois, our Judicial Hearing Assistant, Kristen Schubert and our Executive Coordinator Denise Carriere.

Our Court Reporter, Digi-Tran, including Wendy Woodworth.

Our Advisors Mr. Cathcart and Mr. Manktelow, Mr. Caron and Mr. Bridgelall.

And our Counsel Ms. McCandless and Mr. Andres.

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.

This concludes our hearing. Thank you.

--- Upon adjourning at 10:48 a.m.

Certified Correct,

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Wendy Woodworth, Ms.