NEWFOUNDLAND AND LABRADOR
BOARD OF COMMISSIONERS OF PUBLIC UTILITIES
120 Torbay Road, P.O. Box 21040, St. John's, Newfoundland and Labrador, Canada, A1A 5B2

Hearing Transcript

2017 Automobile Insurance Review

June 8, 2018

PRESENT:

The Board:
Darlene Whalen, Chair and CEO
Dwanda Newman, Vice-Chair
James Oxford, Commissioner

Board Counsel/ Staff:
Jacqueline Glynn, Board Counsel
Ryan Oake, Board Staff

Parties (Alphabetical Order)

Atlantic Provinces Trial Lawyers Association
Ernest Gittens
Barry Mason, Q.C.

Campaign to Protect Accident Victims
Colin Feltham
Jerome Kennedy, Q.C.

Consumer Advocate
Dennis Browne, Q.C.
Andrew Wadden

Insurance Bureau of Canada (IBC)
Amanda Dean
Kevin Stamp, Q.C.
Terry Rowe, Q.C.
Trevor Foster

Spinal Cord Injury NL
Thomas Fraize, Q.C.
Lara Fraize-Burry
Michael Burry

Presenters
Paula Elliott, Oliver Wyman

(9:02 a.m.)

CHAIR:

Q. Good morning, everybody. I guess, I'll go straight to you, Ms. Glynn.

MS. GLYNN:

Q. Yes, Madam Chair, we do have one point of clarification that Ms. Elliott would like to make from her questions yesterday. We have brought up the transcript from yesterday, page 135, and it was in relation to a question from Mr. Fraize and where the cap amounts that she referred to in her report, where did they come from. Ms. Elliott, if you could provide that clarification, please.

MS. ELLIOTT:

A. Yes. Yesterday in response to the question, I referenced – I stated that the outline of the cap amounts and the deductible amounts were in the terms of reference. I incorrectly stated that they were, in fact, on the Board's website, but in the Board's letter which was dated August 11th, 2017, and I referenced that in my description in our report on the Closed Claim Study, there's

footnote 1, where we referenced that those amounts were from the Board's letter dated August 11th, 2017, which I misstated yesterday in my response.

MS. GLYNN:

Q. Thank you, Ms. Elliott. With that clarification, Ms. Elliott is ready to make her presentation on the Profitability Review for the Private Passenger Automobiles.

MS. ELLIOTT:

Q. Okay. I'm going to briefly go over the highlights of the Profit Study that we prepared for this hearing. Our study is broken into three parts, if you will. One is the review of the historic profit levels for private passenger automobile in the Province of Newfoundland over a ten year period ending 2016. We also do a review – the second part is our estimate of the required average premium in hindsight for the years, the accident years 2012 to 2016, each of those five years. We compare that to what the actual premium was that was earned by the company in each of those years by coverage, and our third part of the study

is an assessment of what the private passenger rate adequacy would be for the accident year of 2017. This report was prepared using industry-wide data for private passenger auto in the province as at to the end of June 30th, 2017. So we don't have the full – at the time of this study, we didn't have the complete 2017 year.

On page 6 of the pdf counting, or page 2 of the report, Table 1, this is the summary of the first part of the study looking back at the history of profit levels in the province for private passenger automobile, and first it's important to understand that each of the years are accident years, and we discussed what an accident year was earlier in the week, but to repeat myself for clarity here, it is a reflection of all the claims that occurred in that year regardless of when the claim is closed. It accounts for all the accidents, the events that occurred in that year, and, of course, accidents that would have occurred in 2016 would not, by any means, be all settled at the end of June 30th, 2017.

So for each of these accident years, we are looking at what were the premiums that were collected, what were the amounts of investment income earned in that year, what is the estimate of the losses that would be paid for those accidents that occurred in that year, and what are the operating expenses of running the insurance operation for private passenger auto, those expenses such as premium taxes and commissions.

Then we base our findings here of the profit level by accident year on two basis. One is the profit before tax as a percentage of the premium, and that's the POP. The other comparison was for a return on the amount of equity that is assigned on an after tax basis, and in this chart we're assuming that the return on equity is – that there would be $1.00 of equity or capital for every $2.00 of premium that is earned.

You may wonder what is this equity, but the other day we looked at taxi experience for 2012, and approximately there were 6 million dollars in losses, and 2 million dollars in premiums. So there's this 4 million dollar gap, and that's what the equity would be used for. When there are losses well in excess of the premiums that are earned, something has to be used to pay those claims and that's where the equity has to step up and do that if there's not sufficient premium.

So profit levels are often measured, as any business, as a return on equity and that's one of the purposes of the equity in the insurance company is to stand behind the policy holders if the premiums aren't sufficient to pay those claims.

The components that we look at when we are determining this, there's three parts. For any rate setting and looking at the premiums, those are the losses that are paid or expected to be paid. They are the operating expenses for the company and then a provision for profit. So that's what makes up the premium. In this case, we're looking at what were the premiums paid, how much investment income was earned, a positive, if you will, and then what are the losses that would be paid or expected to be

paid, and what are the expenses, and what's left over there is the profit and that's what we're measuring. Under the POP, that's the percentage of the premium for each of those years, and then return on equity as a percentage of the equity that is notionally allocated.

In coming up with the estimate of the loss ratios, I'm going to go to Table 3 and 4 in the report. Again these are by accident year, these are the loss ratios that we have estimated based upon our review using the data through to the first half of 2017 for the prior ten years, and more recently we see an increase in the more recent five years, an increasing loss ratio. We also in Table 4 below compare it to GISA's published estimate of the loss ratios. GISA's data that was available for this exhibit is based on the date through to the end of December, 2016, whereas the data that we had when we were completing this report was more recent, an additional six months of information, and the loss ratios are fairly similar until we get to 2016, and

I attribute this difference mainly due to the fact that in our review when we prepared this report, we had the more recent data available to us, whereas GISA hadn't published a new exhibit at the time of the preparation of this report we're discussing.

At Table 5, these are the operating expenses. So this is the expenses for private passenger auto in Newfoundland. This is the information that is required to be reported by the companies, by the insurers, to GISA, and it's compiled. These are the expense ratios. The more recent five years it's a slightly lower loss ratio than the prior periods. These expense ratios would include the brokers' commissions, premium taxes which are now 5 percent in the province, and the operating expenses of running an operation here in the province, so the salaries that are paid, the rents that are paid. These are the expenses associated with running the operation, they are not associated with any claims handling costs.

Table 6 is the investment income

assumptions. The investment income rates, these are pre-tax investment income rates. They have been declining since 2007 at a high of 6.1 over the ten year period. These investment income rates, return on investment rates, these are based on the published rates that insurers earn for their entire country-wide operation. The reason for that is each insurer will have an investment division, so all the investments that they have are managed and they would earn return on investment rate on all that pool of investments. We use that rate that is earned for the entire company, so the insurer is not earmarking investments, that these investments are for personal property in Alberta, and these investments are for personal property in BC, it's just one big pool of investments. This is the rate that they earn on their total investment portfolio pre-tax. That's how our tables are created. They are summary tables of the profit.

I'm going to move over to Part 2 of our report, which starts on page 23 of the pdf

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accounting.
MS. KEAN:
Q. Page 19 in the paper copy.
MASON, Q.C.:
Q. Thank you.
MS. ELLIOTT:
Q. In Table 11 in this worksheet page, we present our estimate of what the required average premium would be in hindsight looking at the information that's available as at June 30th, 2017. We compare that to what the actual premium was and then what the dollar difference is, and in each of the last five years our estimate of the required premium was lower than what the actual – I'm sorry, was higher than what the actual average premium was that was charged. In making our calculations, we use our estimate of the losses, as we had discussed earlier here this morning. We use the expense ratios, as I showed you the table earlier here. We assume 10 percent after tax return on equity as the provision for profit, and we assume a premium to surplus ratio of 2 to 1. So for every dollar of premium, there is

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one dollar of equity or surplus capital. Those terms are used interchangeably. We assume an investment rate pre-tax of 2.8 percent, and based on our calculations this is the estimate that we derived.
(9:15 a.m.)
MS. ELLIOTT:
Q. Just to speak to Table 12 quickly on page 21, we talked about the operating expenses, so this is the chart to just show the breakout by component. The commissions is a large component, and premium taxes, general expenses, that's really a catchall for all the rent and salaries that are paid to the staff that are working on the private passenger auto policies.
I'm going to go to Part 3, the premium rate level adequacy for 2017. So here what we had, we were able to use – we used the three prior fiscal accident years ending June 30th, 2017, and projected those costs forward to an average date of July 1st, 2017, and calculated what we believed, based on those losses that we're projecting, based on an assumption for the expense ratios, and

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investment income, what we thought he loss ratio would be for those three years, and then again calculate similar to Part 1 what we believed the resulting after tax return on equity would be for 2017, and we estimated would be -9 percent. So that's the conclusion of my presentation.
MS. GLYNN:
Q. Thank you, Ms. Elliott. Ms. Elliott's available for questions.
CHAIR:
Q. I understand, Mr. Gittens, you're going to go first.
GITTENS, Q.C.:
Q. Mr. Mason will be going first. Thank you, Commissioner.
CHAIR:
Q. Okay.
MASON, Q.C.:
Q. Madam Chair, thank you for the opportunity to cross-examine today. Ms. Elliott, you were retained by the Board to provide a fair, independent and thorough review of the profitability of auto insurers in this province. Is that correct?

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MS. ELLIOTT:
A. Yes.
MASON, Q.C.:
Q. In fact, the retainment letter that I looked at said that you were to review and assess historic profit levels realized by auto insurers in Newfoundland. That's what you understood your role was today? Is that correct?
MS. ELLIOTT:
A. Correct.
MASON, Q.C.:
Q. Right. And so, as you were reviewing the profitability of auto insurers in Newfoundland, you sought out to – or sought evidence that both proved and disproved the adequacy of rates in this province and the profitability of insurers in this province? Is that right?
MS. ELLIOTT:
A. Well, we measured what we believe in hindsight the profit was for various accident – for the ten-year accident history that we had.
MASON, Q.C.:

Q. Right. But you did a little bit more than that, did you not? Did you not look at these figures and say “well, these seem reasonable. Those don’t seem reasonable” in terms of let’s say operating expenses and other data that’s contained within the materials that we have before us?
MS. ELLIOTT:
A. Well, the operating expenses that we’ve stated are those that are – the data for expenses are each company is required to report them through to GISA. IBC compiles that and publishes that. So, we use that. The only exception to that that we made was in looking forward for 2017 with the change in the premium tax rate from four percent to five -
MASON, Q.C.:
Q. You increased it by .5 percent, I think. Is that correct?
MS. ELLIOTT:
A. Yes.
MASON, Q.C.:
Q. Yeah, I looked at that.
MS. ELLIOTT:

A. That would be an assumption that we made; that that would be – should be not applied.
MASON, Q.C.:
Q. We’ll get into the operating expenses in a minute, but in terms of the operating expenses, while I’ve got you on that topic, what you did was you just reviewed the information that was provided by GISA. You didn’t dig into it for reasonableness. Is that what you’re telling me?
MS. ELLIOTT:
A. Well, we look at the history of the – well, we do look at it for reasonableness.
MASON, Q.C.:
Q. Okay.
MS. ELLIOTT:
A. Don’t – but to be fair, if the reported expense ratio was 25 percent one year and 45 percent the next year that would cause me to investigate it. But they were all in the range that would be expected and comparable to other provinces.
MASON, Q.C.:
Q. But did you see your role today – I want to go back to your role. Did you see your role

today as a bit of a watchdog? I mean, we have potential or future accident victims in this province that clearly have a target on their back in terms of the assessments that are being done. Did you feel it was your duty today or your obligation today to be a bit of a watchdog to make sure that the numbers that are being provided by GISA and the IBC are accurate and fair?
MS. ELLIOTT:
A. Yes, and let me – I mean, I have been reviewing automobile insurance for a long time, so I’m able to look at some numbers and – not always, I’m human, but I do have a sense of a reasonable range of what numbers should be. And if you’re asking me is the number 24.3 correct versus 24.2, no, you know, my ability to finesse that out and understand which one might be right or wrong, no. But within a range of reasonableness, yes, I can look at the numbers and say “yeah, that passes the -
MASON, Q.C.:
Q. And just to answer my question, the reason that you would look at the reasonableness,

if there was a significant difference in operating expenses, for an example, is that you see your role today as a bit of a watchdog to make sure that we are accurately assessing the premiums and return on equity and profitability of insurers in this province, right?
MS. ELLIOTT:
A. I don’t use the term “watchdog”. I don’t consider myself a watchdog. I guess that’s another role or profession that I’m not. I’m retained as an actuary to review the data and to provide cost estimates. You know, they -- in my view, I want to make sure that I’m using information that’s accurate and reasonable and I want to present findings that I believe are accurate and reasonable, but I don’t view myself as a watchdog in any manner whatsoever.
MASON, Q.C.:
Q. Okay. Well, we don’t have to go deeper than that. If you don’t feel that that was your position today or responsibility, that’s fine. But what you have said, I just want to be clear, is that if you saw trends or

data, for example, operating expenses that were completely out of whack with previous years, that's something you would raise with this Board to say "look, there's something funny going on here that needs to be investigated", right?
MS. ELLIOTT:
A. Well, not necessarily the Board because the Board does not provide the data to us, but if the data was provided to us that we felt was not right, then we would reach out to the people providing the data, which would be GISA or IBC.
MASON, Q.C.:
Q. So, you'd dig into it and then you would report to the Board what was going on? Is that fair?
MS. ELLIOTT:
A. I would keep the Board apprised that I found an issue with data and that I'm working with whichever party to resolve it.
MASON, Q.C.:
Q. Yeah, but you'd put it in your report as well. If this was something that was significant, you'd put it in your report so

we could all review it, not just the Board, correct?
MS. ELLIOTT:
A. Well, I guess if the data was resolved and fixed then it would depend upon the item, whether or not I put it in my report or not.
MASON, Q.C.:
Q. All right. You've mentioned that you've been involved in doing automobile insurance reviews for many years. Is that right?
MS. ELLIOTT:
A. Yes.
MASON, Q.C.:
Q. All right. And in fact, I've seen your reports before in different jurisdictions on closed claim studies. You've done a number of those. Is that correct?
MS. ELLIOTT:
A. Correct.
MASON, Q.C.:
Q. Right. Now, what I haven't seen in the past is I haven't seen you doing rate adequacy review hearings before. For example, in 2002, when Nova Scotia had a rate review hearing, it was Mr. Zubulake, not yourself,

that was there. Is that correct?
MS. ELLIOTT:
A. I believe I was there with -
MASON, Q.C.:
Q. You didn't testify though, did you?
MS. ELLIOTT:
A. I did not testify, no.
MASON, Q.C.:
Q. And it was Mr. Zubulake that produced the reports that were associated with that hearing? Is that correct?
MS. ELLIOTT:
A. No, I would have been involved in all those reports. We would have worked together.
MASON, Q.C.:
Q. You did? Okay.
MS. ELLIOTT:
A. Um-hm.
MASON, Q.C.:
Q. But Mr. Zubulake was the lead on those, I take it, was he?
MS. ELLIOTT:
A. He was my boss, yes.
MASON, Q.C.:
Q. Right. And in 2008 when the constitutional

challenge took place in Nova Scotia, it was Mr. Zubulake that testified, not yourself, on the adequacy of rates in the province? Isn't that correct?
MS. ELLIOTT:
A. That's correct, and I was also involved in those reports.
MASON, Q.C.:
Q. All right, good. And in 2005 in Alberta, when they were doing a review on the adequacy of rates, it was Mr. Zubulake that testified in that jurisdiction, not yourself, correct?
MS. ELLIOTT:
A. And I was again involved in those reports.
MASON, Q.C.:
Q. But you didn't testify, did you?
MS. ELLIOTT:
A. That's correct.
MASON, Q.C.:
Q. And in 2010 when Nova Scotia carried out a utility review board hearing on the adequacy of rates in light of the new cap that was being brought in place, it was Mr. Zubulake that testified, not yourself, correct?

MS. ELLIOTT:
A. I did testify.
MASON, Q.C.:
Q. You did testify at that hearing?
MS. ELLIOTT:
A. I did.
MASON, Q.C.:
Q. All right. Was it Mr. Zubulake that testified with respect to rate adequacy?
MS. ELLIOTT:
A. We were a panel on that.
MASON, Q.C.:
Q. You were a panel, were you?
MS. ELLIOTT:
A. We were together on that specifically.
MASON, Q.C.:
Q. Was Mr. Zubulake the lead in that review from Oliver Wyman's perspective?
MS. ELLIOTT:
A. Well, we were a panel. I think we both responded. I can't recall exactly which – what each of us said at that hearing, but I definitely recall being at that hearing and sitting side by side and testifying.
MASON, Q.C.:

Q. And I notice that Mr. Zubulake co-authored the report that's provided to this Board for today. Is that correct?
MS. ELLIOTT:
A. That's correct.
MASON, Q.C.:
Q. And he's not here because he's retired? Is that my understanding is correct?
MS. ELLIOTT:
A. He just retired, yes.
MASON, Q.C.:
Q. I take it that you – you have great respect for Mr. Zubulake and his opinions with respect to rate adequacy applications that he's done in the past? Is that fair?
MS. ELLIOTT:
A. I have great respect for all of Mr. Zubulake's work.
MASON, Q.C.:
Q. Right. He was a bit of a mentor to you, was he not, as you were working through these various projects from 2000 forward in Canada on rate adequacy?
MS. ELLIOTT:
A. Well, we worked together for 20 years.

MASON, Q.C.:
Q. Right.
MS. ELLIOTT:
A. Every report that has been produced, we have both – in Canada over the 20-year period, we have worked on jointly. All the work product prepared by Oliver Wyman is peer reviewed. So, yes, we've worked together. He's a well-admired actuary and it was an honour to work with him.
MASON, Q.C.:
Q. Right. He was your boss?
MS. ELLIOTT:
A. He was my boss.
MASON, Q.C.:
Q. Okay, thank you. Now, I've reviewed this, your report on rate adequacy in this province and the one thing that I'm surprised I didn't see in your report is particularly with respect to the historical data of rate adequacy in this province was any kind of discussion or description of insurance cycles in Canada.
MS. ELLIOTT:
A. Well, we're looking at the profitability of

the results over the last ten years that has been presented. So, the reader can look at the Table 1, for example, and see the change in the profit level over that ten-year period.
MASON, Q.C.:
Q. So, let me dig into that a little bit so we know what we're talking about, okay?
MS. ELLIOTT:
A. Sure.
MASON, Q.C.:
Q. So, in insurance cycles, as I understand it, there are hard cycles or hard markets and soft markets. You understand that, correct?
MS. ELLIOTT:
A. Well, yes, a hard market is when it's more difficult to – premiums tend to be higher and more difficult to get insurance.
MASON, Q.C.:
Q. And in hard markets, you see improving profitability for insurers during hard markets, correct? As you're exiting a hard market going into a soft market, you see improving profitability for insurers, correct?

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MS. ELLIOTT:
A. Well, it depends upon the situation, but if there's a change in the amount of premium being charged, such that there's more sufficient premium to pay for the losses and allow for expenses and a provision for profit, as that increases the amount of premium being charged, then you would expect that the reasonable provision for profit, if it was not there previously, would now begin to increase.
MASON, Q.C.:
Q. Yeah, but Oliver Wyman's looked at insurance cycles throughout Canada over the past 50 years, has talked about the kind of ups and downs of profitability of insurers throughout the country, correct?
MS. ELLIOTT:
A. Right. So, when there is insufficient premium, when the premium starts to increase to be sufficient to pay for the losses and expenses, then the amount of profit would start to perhaps go from negative to positive.
MASON, Q.C.:

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Q. Right. And so, there's times during the cycle that the insurers are quite profitable and other times when they're less profitable, correct?
MS. ELLIOTT:
A. Over – yes, well, in some areas, yes. It depends on how things are managed.
MASON, Q.C.:
Q. And as you're presenting evidence to this Board, you want to capture the entire cycle so the people of this province can review and see how profitable auto insurers have been through a full cycle, right?
MS. ELLIOTT:
A. Well, we've presented ten years of profit, so -
MASON, Q.C.:
Q. Well, wait a sec. You want to show the whole picture, do you not, about both very high profitability of insurers, auto insurers in this province, as well as the period of time that they're not quite as profitable?
MS. ELLIOTT:
A. Well, it wasn't my intent to go back to 1980

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and review -
MASON, Q.C.:
Q. Right.
MS. ELLIOTT:
A. - what the profit levels were at that time.
MASON, Q.C.:
Q. No, I got you on that.
MS. ELLIOTT:
A. Yeah.
MASON, Q.C.:
Q. But, in terms of the profitability, you wouldn't deliberately exclude, would you, from this Board evidence of high profitability during a cycle that would skew someone's view of how profitable auto insurers have been in this province, would you?
MS. ELLIOTT:
A. No, I would not do that.
MASON, Q.C.:
Q. No. Okay. And you'd agree with me, and I believe if we look at your report – and perhaps we'll go to that. There have been, over the last few years in this province, based on your analysis – just give me a

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minute, I'll pull up the page for you. I'm looking at page two of your report and this is the return on equity that you've calculated for auto insurers in Newfoundland from 2007 to 2016.
(9:30 a.m.)
MS. ELLIOTT:
A. Yes.
MASON, Q.C.:
Q. And as I understand your report, your view is that from 2007 to 2011 that auto insurers were achieving a reasonable rate of return as determined by some boards in this country, a ten percent return on equity. Is that right?
MS. ELLIOTT:
A. Correct.
MASON, Q.C.:
Q. Yeah. And if we are back in 2011, you would say, if you were before this Board, "look, doesn't look like there's a problem here. Looks like the industry is profitable. It's achieving a reasonable rate of return at ten percent return on equity", correct?
MS. ELLIOTT:

A. 2012 and prior look reasonable, yes, yeah.
MASON, Q.C.:
Q. Sure. And so, the issue that you have as you're presenting in terms of rate adequacy in this province is from 2012 to 2016 where we see lower periods of – or lower amounts of return on equity. The insurers aren't quite as profitable. Is that correct?
MS. ELLIOTT:
A. Right. So, we have a mixture of some years that were good and it's moving to years that are not so good.
MASON, Q.C.:
Q. Right. And we see from 2007 to 2011, return on equity ranging from 7 to 16 percent, yes?
MS. ELLIOTT:
A. Yes.
MASON, Q.C.:
Q. And was that the high part of a cycle, the most profitable period of the cycle for Newfoundland from 2007 to 2012?
MS. ELLIOTT:
A. Well, I think we're – over this period of time, the ten years that have been reviewed, the 16 percent is the high point over that

ten years.
MASON, Q.C.:
Q. No, I got you on that, but is that – you were going to look at – you wouldn't just focus on the lower portion of the cycle, the lower return on equity part of the cycle. You're going to look at the full cycle and does this represent the full cycle to you?
MS. ELLIOTT:
A. This represents a very sufficient period of time to see that the insurance companies in one particular year have exceeded the target of ten percent.
MASON, Q.C.:
Q. Right.
MS. ELLIOTT:
A. Other years and certainly 2007, 2009, exceeded the ten percent. So, years that were below that, and then—but still positive and years that were negative. So, it's a good snapshot that they do not make consistently a target ten percent year in and year out.
MASON, Q.C.:
Q. Right.

MS. ELLIOTT:
A. Yeah.
MASON, Q.C.:
Q. And from your perspective, in terms of reasonableness and so on, it's not up to an insurer, it's not up to this Board looking at it that the insurers have to make ten percent each year. The idea is that they would make on average ten percent return on equity each year, right?
MS. ELLIOTT:
A. The idea is that the ten percent after tax return on equity is a provision that is allowed in their rate application.
MASON, Q.C.:
Q. Yes, I've got you on that, but in terms of the adequacy of rates and the adequacy of profitability, as we sit here today, you're not suggesting that an insurer should have a basement, each year they have to make a ten percent return on equity? They may be years they make 8, there may be years they make 12, and that would suggest that there's reasonable profitability for the auto insurers during that time? Correct?

MS. ELLIOTT:
A. Right, it would -
MASON, Q.C.:
Q. Yes.
MS. ELLIOTT:
A. It would be exceptional to be able to actually achieve the exact number that was targeted.
MASON, Q.C.:
Q. Right, okay. So, in 2008 you said you were involved in the, at least the background of the constitutional challenge that took place in Nova Scotia, were involved in some of the data that was prepared that was filed as part of that constitutional challenge. Is that correct?
MS. ELLIOTT:
A. Yes.
MASON, Q.C.:
Q. Okay. So, I have—this was an exhibit that was provided a few days ago which is titled "Nova Scotia Automobile Insurance Discussion Document."
MS. GLYNN:
Q. We'll mark this as Exhibit 5.

MASON, Q.C.:
Q. That's actually the Board's decision. It should be "Nova Scotia Automobile Insurance Discussion Document: The Executive Summary."
MS. GLYNN:
Q. Is this the correct document?
MASON, Q.C.:
Q. That's the correct one.
MS. GLYNN:
Q. Okay.
MASON, Q.C.:
Q. Thank you.
MS. GLYNN:
Q. And we'll mark this as Exhibit 5.
EXHIBIT ENTERED AT HEARING AND MARKED AS EXHIBIT NO. 5
MASON, Q.C.:
Q. So, this was—was this a report that you were involved in, the--in preparing for part of the constitutional challenge?
MS. ELLIOTT:
A. Yes.
MASON, Q.C.:
Q. All right. And so, if we look at page 16, Ms. Elliott, this is loss ratios for the four Atlantic Provinces from 2002 to 2007.

Do you see that?
MS. ELLIOTT:
A. Yes, yeah.
MASON, Q.C.:
Q. Okay. And we see in Nova Scotia—just so we're clear on this, when you have a 75 percent loss ratio, an insurer has a 75 percent loss ratio, that equates to approximately a ten percent return on equity, correct?
MS. ELLIOTT:
A. In that range would be typical.
MASON, Q.C.:
Q. Right, okay.
MS. ELLIOTT:
A. Yeah.
MASON, Q.C.:
Q. And so, in Nova Scotia we see some very healthy robust profits that are being made by auto insurers, both before the cap comes in place and after the cap comes in place. Fifty-five percent loss ratio in 2003. Do you see that?
MS. ELLIOTT:
A. Um-hm.

MASON, Q.C.:
Q. And that translated, based on this report, we know the cap came in on November 1st, 2003. So, we know most of the profits in Nova Scotia were earned before the cap came in place, is that correct? In 2003.
MS. ELLIOTT:
A. Yeah, well –
MASON, Q.C.:
Q. That's a fair assumption, is it not?
MS. ELLIOTT:
A. Right. In 2003, as a result of the drop in frequency, the loss ration dropped materially.
MASON, Q.C.:
Q. Right, right.
MS. ELLIOTT:
A. Yes.
MASON, Q.C.:
Q. And so, did--as we'll get into this, we talk about reserves. The reserves came down significant—subsequently when we review them, correct? In Nova Scotia.
MS. ELLIOTT:
A. I don't have that in front of me to –

MASON, Q.C.:
Q. Okay. We'll look at that in a minute, okay?
MS. ELLIOTT:
A. Okay. Um-hm.
MASON, Q.C.:
Q. That's a separate topic.
MS. ELLIOTT:
A. Yeah.
MASON, Q.C.:
Q. My point simply is in 2003 in Nova Scotia where we see a 55 percent loss ratio, those profits were earned primarily before the cap came in place on November 1st, 2003, correct? That's a fair assessment?
MS. ELLIOTT:
A. Yes.
MASON, Q.C.:
Q. Yes.
MS. ELLIOTT:
A. That's true.
MASON, Q.C.:
Q. And we know in 2003 at a 55 percent loss ratio, if you go to page 12 of that report, we see 2003. We see a startling return-on-equity figure of 32.9 percent?

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MS. ELLIOTT:
A. Yes.
MASON, Q.C.:
Q. A scandalous amount of profit that's being made by the auto insurance industry in Nova Scotia before the cap came in place, correct?
MS. ELLIOTT:
A. I agree, that's very high. Yeah.
MASON, Q.C.:
Q. Very high. Have you seen that? I know we've seen that in New Brunswick as well, a very high loss ratios, because we see in New Brunswick after their cap came in place, 47 percent in 2004. Sorry, if we go back to page 16 of the documentation. If you look in the column under New Brunswick, we see, sorry, 2004, 42 percent loss ratio. We're probably talking, what, a return on equity in excess of 40 percent?
MS. ELLIOTT:
A. You know, the 42 percent loss ratio is 2004 is, well, very low.
MASON, Q.C.:
Q. Right.

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MS. ELLIOTT:
A. And so, as a result, they had very high profits in those years, yeah.
MASON, Q.C.:
Q. Yes. And we didn't see a real significant corresponding reduction in premiums in those provinces, did we, during that timeframe?
MS. ELLIOTT:
A. Well, with loss ratios that low, the subsequent year it was not causing the loss ratio to increase. Correct.
MASON, Q.C.:
Q. I'm sorry, I didn't follow that.
MS. ELLIOTT:
A. Well, if the loss ratio is to increase, that could be a result of two things; either reduction in premium or an increase in losses.
MASON, Q.C.:
Q. All right. Well, let's use Nova Scotia as an example in terms of the premium reduction because we see, if we go through Nova Scotia on the document we're looking at right now, we see 55 percent loss ratio in 2003, 54 percent in 2004, 53 percent in 2005. I

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mean, these are very significant profits that are being earned by auto insurers in the province during that timeframe, correct?
MS. ELLIOTT:
A. Yes, those loss ratios, and we discussed this yesterday, in terms of--there was an unanticipated drop in the frequency rate. We have the graph provided by IBC, and myself, Oliver Wyman, in our report, there was a very steep drop in 2002 in the frequency rate –
MASON, Q.C.:
Q. Right.
MS. ELLIOTT:
A. - in Nova Scotia and New Brunswick, and also, following their introduction of the reform that wasn't anticipated. And we talked about, you know, it's hard to explain why the frequency rate dropped before the reforms very steeply, and after the reforms. And as a result of that, not being anticipated, this massive drop, the premiums didn't—that were set in 2002 that would be paid in 2003, the—you know, the rate setting is prior to that.

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MASON, Q.C.:
Q. Right.
MS. ELLIOTT:
A. It didn't anticipate this massive drop in frequency either before the introduction of the reform, as well as after the introduction of reform, and a continual decline in the frequency rate.
MASON, Q.C.:
Q. Yes.
MS. ELLIOTT:
A. And as a result of that, the loss ratios plummeted.
MASON, Q.C.:
Q. Right.
MS. ELLIOTT:
A. And it was unexpected.
MASON, Q.C.:
Q. So, really what was happening was the reserves that were being held by insurers in 2002, 2003, 2004, et cetera, were too high, correct?
MS. ELLIOTT:
A. No, each accident year we're looking at here, specifically what the estimate is for

that accident year, and much of this drop in the loss ratio is due to a situation where the premiums were higher than required, for course.

MASON, Q.C.:
Q. Right.
MS. ELLIOTT:
A. And they were set on a basis of a frequency being here.
MASON, Q.C.:
Q. Right.
MS. ELLIOTT:
A. But in fact, it was down there.
MASON, Q.C.:
Q. Okay, all right. Let me get back to my point here. The initial point is that with loss ratios of 55 percent, 54 percent, 53 percent and 56 percent in Nova Scotia from 2003 to 2006, in terms of profit over and above 10 percent return on equity, we're talking hundreds of millions of dollars, aren't we?
MS. ELLIOTT:
A. In Nova Scotia –
MASON, Q.C.:

Q. In Nova Scotia, yes.
MS. ELLIOTT:
A. - and New Brunswick, I don't know the dollar amount, but it would be well in excess of a ten percent target as we refer to it.
MASON, Q.C.:
Q. Right.
MS. ELLIOTT:
A. Yes.
MASON, Q.C.:
Q. It could be in the hundreds of millions of dollars, couldn't it? Over and above the ten percent return on equity.
MS. ELLIOTT:
A. Likely.
MASON, Q.C.:
Q. Yes.
MS. ELLIOTT:
A. Yeah.
MASON, Q.C.:
Q. And so, if we go to page 7 of this report, this is the report that you worked on with Mr. Zubulake. And you'll see in the top paragraph, "As a result of the freeze, the mandated 20 percent rate level reduction,

the Board's review and approval of automobile insurance rates charged in the province, at the end of 2004 following an average premium increase of 23.5 percent in '02," and this is the part that I want you to focus on, "premiums rose on average by 4.1 percent in 2003." So, premiums went up in 2003 when insurers were sitting on a 32.9 percent return on equity?
MS. ELLIOTT:
A. Well, the—in terms of the premiums increasing in 2003 –
MASON, Q.C.:
Q. Right.
MS. ELLIOTT:
A. - those calculations were premiums that will be sold.
MASON, Q.C.:
Q. I've got you.
MS. ELLIOTT:
A. They're done in 2002 using data from 2001.
MASON, Q.C.:
Q. I bet, sure.
MS. ELLIOTT:
A. And with that, the information regarding the

massive drop in frequency when we look at the chart from IBC –
MASON, Q.C.:
Q. We'll come to that.
MS. ELLIOTT:
A. - that information was not available.
MASON, Q.C.:
Q. Right, okay.
MS. ELLIOTT:
A. Yeah.
MASON, Q.C.:
Q. So, then it says they declined by 3.4 percent in 2004. Do you see that?
MS. ELLIOTT:
A. Um-hm.
MASON, Q.C.:
Q. And we know from the returns on equity in Nova Scotia that the return in equity in Nova Scotia was over, was 30. I think it was 30 percent in 2004. And rates went down by 3.4 percent. Then, in 2005, declined by 6.2 percent, and declined by 2.3 percent in '06, and declined by .7 percent in 2007. I aggregated that to 8.5 percent over that five-year period, an 8.5 percent reduction

in premiums over that five-year period. So, what we see is we see auto insurers in Nova Scotia over that timeframe making hundreds of millions of dollars in excess profits, over and above the reasonable rate of return, a ten percent return in equity, and reducing premiums by 8.5 percent over a five-year period?

MS. ELLIOTT:
A. Um-hm.
MASON, Q.C.:
Q. Is that accurate?
MS. ELLIOTT:
A. Yes, what you're stating would be accurate, yes.
MASON, Q.C.:
Q. Well, okay. So, if I understand the deal in Nova Scotia, accident victims (unintelligible) a cap was imposed on them, auto insurers made hundreds of millions of dollars in excess of the ten percent return on equity, and consumers received an 8.5 percent reduction in premiums over that timeframe. That was the deal?
MS. ELLIOTT:

A. I'm not sure if I'd reference it as a deal.
MASON, Q.C.:
Q. All right.
MS. ELLIOTT:
A. But that's what occurred.
MASON, Q.C.:
Q. Okay. Let's go to Newfoundland and Labrador. Look at page 16 of the—of this chart. And this was data, Ms. Elliott, that you had presumably on your company server at Oliver Wyman as you were preparing for this hearing for today, correct? This data from Newfoundland and Labrador.
MS. ELLIOTT:
A. Yes, sorry. Let me catch up with you there.
MASON, Q.C.:
Q. It's page 16.
MS. ELLIOTT:
A. Yeah, okay. Um-hm.
MASON, Q.C.:
Q. Do you have that?
MS. ELLIOTT:
A. Um-hm.
MASON, Q.C.:
Q. This was data that you had at your company

offices, presumably on your company server, showing the profitability of auto insurers in Newfoundland from 2002 to 2007?
MS. ELLIOTT:
A. These are the loss ratios.
MASON, Q.C.:
Q. Right, got you on that.
MS. ELLIOTT:
A. Yeah, um-hm.
MASON, Q.C.:
Q. And we'll talk about returns on equity in a minute, but with a click of the mouse, this data could have been brought into this hearing, correct?
MS. ELLIOTT:
A. Well, it is actually. It's right here now.
MASON, Q.C.:
Q. Oh, it's here now, but you—it was the Trial Lawyers Association that had to bring it here; not the independent watchdog as I would call you, Ms. Zubulake (sic.), who is supposed to be providing this information to the Board.
MS. ELLIOTT:
A. My name is Ms. Elliott.

MASON, Q.C.:
Q. Sorry, Ms. Elliott.
MS. ELLIOTT:
A. And I'm not a watchdog.
(9:45 a.m.)
MASON, Q.C.:
Q. Okay, fair enough, but in terms of doing an independent and thorough review, why didn't you provide this documentation?
MS. ELLIOTT:
A. Well, I think that what we have provided gives a good snapshot to the Board.
MASON, Q.C.:
Q. Yes.
MS. ELLIOTT:
A. That companies have earned higher than your target provision that is allowed in this province, the after-tax ten percent ROE. The fact that they would have earned higher returns in the past and have subsequently managed the process through the rate filing process such that those returns have not been in the last ten years in excess of the 30 percent and whatnot that you have quoted, they have now a snapshot of what has

occurred in the last ten years.
MASON, Q.C.:
Q. Right.
MS. ELLIOTT:
A. To look back and say that the companies made profits that would have been higher than that in 2003 and ’04 and ’05 and ’06, that is water under the bridge.
MASON, Q.C.:
Q. Oh, okay.
MS. ELLIOTT:
A. Yeah. Yeah, that –
MASON, Q.C.:
Q. I’m going to have to stop you there.
MS. ELLIOTT:
A. They have earned those—that has occurred. The claims occurred, the premiums were collected, and that was what was achieved in that timeframe. It’s—you know, the information is available. I do not believe that we have misled the Board or the public in any manner whatsoever with presenting the results for ten years. We do indicate in our report that the results that have been achieved are not intended to mean that the

same results would have been achieved in any prior period. It’s a reflection of ten years.
MASON, Q.C.:
Q. Here’s my problem, I have to tell you. I asked you, “Are you going”—or “Was it your mandate to do a thorough review of auto insurance in this province, and you said, “Yes.” I said that you would want to get a full picture of a full cycle so that you could establish the profitability of auto insurers in Newfoundland.
MS. ELLIOTT:
A. Um-hm.
MASON, Q.C.:
Q. I believe you said yes to that?
MS. ELLIOTT:
Q. Um-hm.
MASON, Q.C.;
Q. This data, let’s go through it, okay, because we’ve got a 72 percent loss ratio in Newfoundland and Labrador in 2002. We discussed previously that a 75 percent loss ratio would equate to approximately a 10 percent return on equity. I’d suggest to you

that in 2002 automobile insurers were making maybe 11 percent return on equity, that would be a fair estimate based on the 72 percent loss ratio, correct?
MS. ELLIOTT:
A. That’s in the ballpark, yeah.
MASON, Q.C.:
Q. Right, sure. In 2003, we see a loss ratio of 63 percent. Do you have a guess for me on what the return on equity is for Newfoundland in 2003 at a 63 percent loss ratio?
MS. ELLIOTT:
A. Likely higher than 10 percent.
MASON, Q.C.:
Q. Well we know that, thank you, that’s not terribly helpful, but do you have an idea what the number is?
MS. ELLIOTT:
A. Not off the top of my head.
MASON, Q.C.:
Q. Could it be 20 percent?
MS. ELLIOTT:
A. I haven’t done the math, I’m not doing it on the spot right now.

MASON, Q.C.:
Q. Right. And a 58 percent loss ratio in 2004, do you see that?
MS. ELLIOTT:
A. Yes.
MASON, Q.C.:
Q. All right, so we know a 55 percent loss ratio in Nova Scotia equated to a 32.9 percent return on equity. Is it fair to say that a 58 percent loss ratio in Newfoundland would equate to a 30 percent return on equity?
MS. ELLIOTT:
A. Likely they would be similar, there are differences in tax rates, differences in operating expenses, but likely similar and definitely higher than 10 percent.
MASON, Q.C.:
Q. Right, and the same with 2005 and 2006, 66 percent loss ratios, 67 percent loss ratios, much higher than a 10 percent return on equity, correct?
MS. ELLIOTT:
A. Depending upon the expense ratios, but yeah.
MASON, Q.C.:

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Q. We'll look at those in a minute too. So as we look through these figures, these would be record profits. If we were looking at the chart that you presented in—that you chose to present from 2007 to 2016, these profit figures would far exceed what the profits that were earned between 2007 and 2016, correct?
MS. ELLIOTT:
A. Well, that is correct, but you know, we do appreciate that insurance companies don't go back and say "I made these profits for this particular year, the losses were less than anticipated for the premiums that were charged", and use those past, rate making is prospective, so we want to use the loss experience for the past to help predict the future, but companies, like, they don't go back to their historical profits that have been achieved.
MASON, Q.C.:
Q. I know the companies don't.
MS. ELLIOTT:
A. Right, and use those going forward, yeah.
MASON, Q.C.:

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Q. But my question is why didn't you look at these figures and present it to this Board today?
MS. ELLIOTT:
A. Well, we chose to present 10 years. My intention was not to, in any manner, we felt that and we still do, believe that the 10 years was a good snapshot to look at what's happened and not go back to a longer period.
MASON, Q.C.:
Q. Let me ask you a similar question to what I threw out about Nova Scotia from 2003 to 2007, I said over and above the 10 percent return on equity, we're probably talking hundreds of millions of dollars in profit. I see a similar trend in Newfoundland. Are we talking a hundred, a hundred and fifty million dollars in Newfoundland in profit that was earned between 2002 and 2006, to what was being earned in Nova Scotia?
MS. ELLIOTT:
A. If you know the number that we've stated as Oliver Wyman in this report, you can point us to it, but I don't have that at my fingertips. In this exhibit, we have

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presented six years of data and in this that you have on our screen here and discussing, in the report that we presented for this hearing, we presented 10 years of data, so, you know, we presented more data than in this exhibit that we're discussing here, you know, and definitely the loss ratios were lower over this period going from 2007 to 2002, that's a statement of fact, yeah.
MASON, Q.C.:
Q. Well I got you on that, but I mean, you're our expert here that is trying to help us to figure out what's going on in Newfoundland and so what I'm asking you is can you give me an estimate of what, in terms of money that was earned by auto insurers in Newfoundland between 2002 and 2006, because that's the period that was not included in your report, how much money was earned by auto insurers during that timeframe over and above the 10 percent reasonable rate of return that's been established by this Board and some others?
MS. ELLIOTT:
A. Yes, I mean, I don't have the number in

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front of me and I'm not prepared to stop the hearing to do an hour's calculation for you. So I don't have it, I don't have the number in front of me.
MASON, Q.C.:
Q. All right, well let me ask you this because you did say in Nova Scotia it was likely in excess of a hundred million dollars, correct? The over and above the 10 percent return on equity, it was likely in excess of a hundred million dollars, right?
MS. ELLIOTT:
A. Uh-hm.
MASON, Q.C.:
Q. And so we can assume, without you doing your calculation for an hour, we can assume that there were similar results in Newfoundland, in terms of profit that would be over and above that 10 percent return, correct?
MS. ELLIOTT:
A. We know that it would be over 10 percent return on equity, I don't know the dollar amount.
MASON, Q.C.:
Q. No, sorry, in terms of the profits that were

earned by auto insurers in Newfoundland over and above the 10 percent return on equity, we can assume, can we not, that the numbers would be similar to Nova Scotia, it would be in excess of a hundred –

MS. ELLIOTT:

A. I don't know what the numbers are, I don't have it in front of me and I'm not prepared to give you a number that I'm not able to calculate on the spot, so we're in agreement with these loss ratios that are presented. The return would be over 10 percent, you know, point stop. After that, if you want a dollar amount, I'm unprepared, unable to do it on the spot for you here.

MASON, Q.C.:

Q. All right. Where did that money go?

MS. ELLIOTT:

A. Where did the money go?

MASON, Q.C.:

Q. Yeah, in Newfoundland, where did that money, over and above the 10 percent return on equity, where did it go?

MS. ELLIOTT:

A. The insurance companies would retain any of the earnings.

MASON, Q.C.:

Q. Right, they put it in their back pocket, right?

MS. ELLIOTT:

A. Well, front, back, I'm not sure about that.

MASON, Q.C.:

Q. Yeah, okay, fair enough. And so they get to keep their money over and above the 10 percent return on equity from 2002 to 2006, yet accident victims in 2017 have to give up their rights when there may be, they may be and we're going to talk about this in a minute, may be making less than a 10 percent return on equity, is that your evidence today?

MS. ELLIOTT:

A. Well, my evidence today is regarding the profit levels that have been achieved over the last 10 years, which is a—that's what our report is a presentation of.

MASON, Q.C.:

Q. Ms. Elliott, I must say, I'm troubled that this information wasn't provided to the Board because it provides a full picture of the cycle in Newfoundland in terms of auto insurance profitability, and my question is, is the reason that this was not provided because Oliver Wyman is owned by Marsh & McLennan, one of the world's largest –

MS. ELLIOTT:

A. No, -

MASON, Q.C.:

Q. Just a second, let me finish my question, one of the world's largest reinsurers that relies on insurance companies, like Intact and Aviva, for business?

MS. ELLIOTT:

A. Marsh & McLennan is not a reinsurer, to begin with, and my report was presented with integrity to present the data, the experience for the last 10 years, there was definitely no intention to misrepresent anything to the Board or to the public. It was provided to show the experience and the profits over the last 10 years. That was that. No intention to mislead or hide any information.

MASON, Q.C.:

Q. All right. Marsh & McLennan is—sorry, Oliver Wyman is a subsidiary of Marsh & McLennan, is that correct?

MS. ELLIOTT:

A. We're a separate operating company within the –

MASON, Q.C.:

Q. Got you on that. You're the child of the parent company, is that fair?

MS. ELLIOTT:

A. That's a terminology you can use, sure.

MASON, Q.C.:

Q. All right, and you said that Marsh & McLennan is not a reinsurer, perhaps I misspoke on that, they're into insurance broking, insurance program management services, is that correct?

MS. ELLIOTT:

A. That's correct.

MASON, Q.C.:

Q. So they deal with companies like Intact and Aviva and other insurers that operate out of this province across the country and across the world, right?

MS. ELLIOTT:

A. Yeah, it's completely a separate operation

from the work that Oliver Wyman, the actuaries, do.
MASON, Q.C.:
Q. No, that wasn't my question, but that's what they do, don't they?
MS. ELLIOTT:
A. Well that was my answer. Yes, that's correct.
MASON, Q.C.:
Q. Right, okay. So Marsh & McLennan relies on insurance companies in this province for business, correct?
MS. ELLIOTT:
A. Yes, that's correct.
MASON, Q.C.:
Q. So, I asked you at the beginning of this year that your role was to provide independent and thorough review of automobile insurance in this province, can you tell me why you didn't disclose that little nugget to us?
MS. ELLIOTT:
A. I'm sorry, which little nugget?
MASON, Q.C.:
Q. Sorry, that Oliver Wyman is owned by Marsh &

McLennan who does business with the auto insurers that you're reviewing today?
MS. ELLIOTT:
A. I think that's publicly available, it's very clear in our report with our logo that we're part of the Marsh & McLennan Group, that is no secret to anybody, certainly any of my arrangements that I have with my clients across the country, our clients are fully aware of the Marsh & McLennan operation. As an actuary, myself, and Ted, who is now retired, Ted Zubulake, we do not do any work for insurance companies, any work for the Insurance Bureau of Canada, GISA, any entity, all our clients are regulators across Canada. We keep a very, you know, distant operation that is strictly focussed on automobile regulation and do not do any work at all, in any manner, for insurance companies.
MASON, Q.C.:
Q. I'll get to that, but we have—just so I'm clear on this, we have the subsidiary of a parent company doing an investigation, right, or a review, an independent thorough

review of insurers that have a profitable relationship with the parent company. I just want to make sure I got it correct.
MS. ELLIOTT:
Q. Well, I think what should be correct and that you should get correct is that I have been doing this work for Oliver Wyman for more than 20 years. My integrity has never been questioned in terms of presenting bias in any manner in our reports. We prepare the reports as thoroughly, completely and accurately and independently as we believe possible and appropriate. And I have no relationship whatsoever with any company, insurance companies or any concern of what Marsh & McLennan might be doing for any of its clients.
MASON, Q.C.:
Q. I'm going to get to that.
MS. ELLIOTT:
Q. Completely independent.
MASON, Q.C.:
Q. But that's not an answer to my question.
MS. ELLIOTT:
Q. Well, I hope that thorough enough to, for

all the parties to understand that my work is independent and I do not do anything, present any reports, I am not influenced in any manner whatsoever by any operation that's ongoing in Marsh & McLennan.
MASON, Q.C.:
Q. Ms. Elliott, this is going to be long day because I just want an answer to my question. The question I put to you was simply this, we have the subsidiary of a parent company doing a fair independent and thorough investigation of insurers that have a profitable relationship with the parent company. That's what I just want to understand. Do you agree with that?
MS. ELLIOTT:
Q. Well, the profits that Oliver Wyman would make, like any subsidiary, roll up to the parent company.
MASON, Q.C.:
Q. Alright, so there we go, okay. So, we've got money that's going from Oliver Wyman to the parent company. The parent company has a relationship with the insurance companies. And now we have the subsidiary company

investigating, doing a thorough and independent investigation for the people of this province of the insurance companies that deal with the parent.

MS. ELLIOTT:

Q. Yes, and that would be the same situation as you raised earlier for all the various reports and testifying at various hearings that you've been in attendance with with Mr. Zubulake and myself in the Atlantic provinces and in other provinces in this country. The same issue has arisen questioning whether we're independent. I believe that's it's been established that through the quality of our work and what we do, that we are independent.

(10:00 a.m.)

MASON, Q.C.:

Q. So maybe what we should have is we should have Donald Jr. investigating the Russians with respect to the collusion arguments with Donald, Sr., maybe that's the same thing.

CHAIR:

Q. Mr. Mason, Mr. Mason, please

MASON, Q.C.:

Q. Let me talk to you about operating expenses. This is one of the critical factors that goes into pricing and premiums and return on equities, are the operating expenses that are being charged by auto insurers in this province, correct?

MS. ELLIOTT:

Q. Yes.

MASON, Q.C.:

Q. And you described earlier that operating expenses are comprised of broker conditions that are paid and premium taxes that are paid, you described that. And there are other operating expenses you mentioned as well, correct?

MS. ELLIOTT:

Q. Correct.

MASON, Q.C.:

Q. Right. And you mentioned that the cost of doing business, so the cost to pay salaries, for rent, cost of doing business within the province is something that's included within those operating expenses, is that correct?

MS. ELLIOTT:

Q. Right.

MASON, Q.C.:

Q. Right. And so in terms of company executives, their salaries would be included within the operating expenses, is that right?

MS. ELLIOTT:

Q. Yes, there would be an overhead, head office overhead might be a terminology for that for all the IT, actuaries, accountants, yes.

MASON, Q.C.:

Q. And that would include any bonuses that are paid to executives based on the profitability of insurance throughout the country, is that right? That would be part of the expenses that are paid by premium holders of this province –

MS. ELLIOTT:

Q. Yeah.

MASON, Q.C.:

Q. - as part of the operating expenses, right?

MS. ELLIOTT:

Q. Yes, that would be allocated across all lines of business, yes, all provinces.

MASON, Q.C.:

Q. And it would include as well monies that are

paid by the insurance companies of this province, by the premium holders who pay the insurance companies of this province monies to the IBC, to lobby on their behalf, correct?

MS. ELLIOTT:

Q. Yes, there's—that would be included as a cost, that's correct.

MASON, Q.C.:

Q. And any bonuses that are paid to Mr. Forgeron, for example, if he's successful in getting a cap on pain and suffering awards in this province, that would be the kind of expense that auto insurers in this province as part of their operating expenses.

MS. ELLIOTT:

Q. I'm not familiar with IBC –

STAMP, Q.C.:

Q. Madam Chair, this is getting very boring, I must say.

FRAIZE, Q.C.:

Q. I don't find it boring.

STAMP, Q.C.:

Q. The issue that we're focussed on here is consultative process to try and understand what these expenses would be. It doesn't have to throw rocks. That's not what we are here for; this is not a cross examination. Ms. Elliott is not even sworn. I think that the approach to take is to try and understand the background. We know that there is a connection between Oliver Wyman and Mercer, whatever the name of that firm is, but the world knows that.

MASON, Q.C.:

Q. So, Madam Chair, if I may speak to that, there's been no independent review of the expenses, operating expenses by Ms. Elliott as I think we're going to establish here in a minute. What comprises those operating expenses, I think, is highly relevant. It's one of the critical factors in determining what are appropriate terms of rates in this province? What is the appropriate terms of a return on equity? It's part of the calculation.

CHAIR:

Q. Does anyone else want to weigh in on this?

KENNEDY, Q.C.:

Q. Yes, I do, Madam Chair. Although we're not

in a courtroom, one of the issues you have to look at in examining weight or how you're going to look at an expert's evidence is the level of independence or the potential for bias. Although we're not in a courtroom right now—we could be. So, therefore we have to lay, at some future point, so we have to lay the record that is necessary to show that an expert is not independent but is potentially biased. So, we've spent the week trying to outline the problems with the report and the lack of independence. The points being made by Mr. Mason go to that independence. You may say it's an information hearing and people may refer to her as Paula, but for the rate payers of this province, for the victim of accidents, they're very interested in hearing all of this. So, I would suggest to you that this is very relevant information. The witness, again, the body language of the witness is not going to show up on the transcript. She's very defensive. She's—in fact, some of the questions, her answers to Mr. Mason, I would suggest that let's take a break and

do your calculations. This is important and relevant evidence and I would suggest that he should be allowed to continue.

FRAIZE, Q.C.:

Q. Also, I have to reiterate, our function here, as an Intervenor, we want to hear this information because the victims are the ones paying the price for this cap or deductible. And the profits generated by the insurance companies in relation to the return is very relevant to us. If you're taking away rights from someone, they need the chance to hear what is going on. So, I think we have to keep proceeding the way we are, otherwise we're not going to get a true picture and that would be unfair to the victims.

CHAIR:

Q. Mr. Browne, do you have anything you wish to add to this?

BROWNE, Q.C.:

Q. No, I don't. In terms of the questioning and some of the questioning, suspicion and innuendo can only go so far. If there's hard evidence to bring forward to undermine or to reject or suggest that the evidence

should be rejected, please bring it forward. Dropping suspicion on the character of the expert witness, I don't think is appropriate unless you have facts to back it up. That's my comment.

CHAIR:

Q. Thank you. We were going to take a short break. We're going to take our break now, 15 minutes.

(BREAK 10:06 a.m.)

(RESUME – 10:27 a.m.)

CHAIR:

Q. Okay, before we continue I do have one issue. It appears to us that there has been issue of independence raised with respect to Ms. Elliott and while we've allowed the issue to be canvassed, I'm not prepared to let that proceed. And if there's anything else that the Atlantic Provinces Trial Lawyers Association would like to raise with respect to that, it will have to be done in the way of a formal motion with supporting documentation evidence and we'll deal with it.

MR. GITTENS:

Q. We understand that to be ruling on your behalf, Madam Commissioner?
CHAIR:
Q. I'm just saying that any further examination of the issue of independence of our consultant will have to be done by way of formal motion with supporting evidence and documentation please.
MR. GITTENS:
Q. So, you are ruling that if we want to make any further issues on the independence that we make a formal application, do I understand that to be your -
CHAIR:
Q. Yes.
MR. GITTENS:
Q. Thank you. I'm wondering if we may have five minutes please because we have to decide what we are going to do about that ruling.
CHAIR:
Q. Are you going to continue with your questioning? We only have –
MR. GITTENS:
Q. Yes, we'd like to continue with the questioning, but we are asking for five minutes break so I can consult with a number of the other counsel to decide what we want to do about the ruling you have just made.

STAMP, Q.C.:
Q. We're going to break, Madam Chair if I might say, in an hour and a half anyway, I think the questioning should continue on the merits of the matters and let the discussion that my friend wants to have occur at 12:00.
CHAIR:
Q. I agree. There will be sufficient time. Do you have further questions on other areas for Ms. Elliott?
MR. GITTENS:
Q. Yes, we do.
CHAIR:
Q. Okay, well, could you continue with the questioning and then you can take up your discussions with other parties after.
MR. GITTENS:
Q. Very well, thank you.
MASON, Q.C.:
Q. Thank you, Madam Chair. Ms. Elliott, let's turn to page 7 of your report on profitability of insures in Newfoundland, under operating expenses. And I just want to be clear that—and I read in the first sentence, "we use the average industry operating expenses cost as reported by IBC and GISA". Yes?

MS. ELLIOTT:
Q. That's correct.
MASON, Q.C.:
Q. Alright. And so you've done no independent review of the operating expenses that have been supplied by the IBC to GISA, is that correct?
MS. ELLIOTT:
Q. That's correct.
MASON, Q.C.:
Q. Yes. And it's your understanding that when IBC submits that data to GISA, GISA accepts the data. It doesn't so any kind of independent review of the operating expenses either, does it?
(10:30 a.m.)
MS. ELLIOTT:
Q. The expense information that is provided to IBC would be for each province, the information is submitted and those expenses reconciled tot the financial statement reports that are audited by an independent auditor for each company. So, there is that, if you will, check and balance to the total amounts that they would all sum and aggregate and be correct. And that then each are allocated to each province.

MASON, Q.C.:
Q. Right. So, but I guess my question wasn't clear, let me be clear. GISA doesn't do any type of independent review as to the appropriateness of the operating expenses, is that correct?
MS. ELLIOTT:
Q. No, it's my understanding that GISA uses IBC as its service provider to do a check and validation of all the data that is collected and compiled by them.
MASON, Q.C.:
Q. Okay. So, I'm not sure I understand what that means. Does GISA go out and actually inspect the company's books that have provided the data to the IBC to make sure that the operating expenses are appropriate?

MS. ELLIOTT:
Q. Well, there is a reconciliation of the data that is submitted by the individual companies that it reconciles. So, they would submit information for each province, so for automobile insurance and that information is then reconciled and signed off by their auditor that it is accurate and correct.
MASON, Q.C.:
Q. But that's the company's auditor that does that, correct, not GISA's auditor?
MS. ELLIOTT:
Q. Well, no, that would be the independent, say Ernst and Young or PWC or whoever they hire.
MASON, Q.C.:
Q. Right. So, it's a fairly simple question because I think the answer is pretty clear, that GISA does not do their own independent audit of the operating expenses. It relies on the data provided by the company, provided to the IBC which may be audited independently by some other company, but GISA itself doesn't do any type of independent audit of that data, correct?

MS. ELLIOTT:
Q. GISA doesn't—GISA is the general insurance statistical agency and they contract through to IBC to manage the collection of the validation of data.
MASON, Q.C.:
Q. Right. And again, the IBC is the lobby group for the insurers who is receiving this data from the insurers, correct?
MS. ELLIOTT:
Q. That is one arm of IBC, yes, that's correct.
MASON, Q.C.:
Q. Okay. So, if we look at the operating expenses at page seven of your report, we see from 2007 to 2012, operating expenses are an expense ratio. And the expense ratio is a percentage, some kind of derivation of a percentage of the premium, correct?
MS. ELLIOTT:
Q. Yes, it's those aggregate costs divided by premium.
MASON, Q.C.:
Q. And we see 29.7 percent in '07 up to 2012, 28.1 percent. And I added those up and average it and it worked out to an average

of 29.2 percent for operating expenses through that timeframe.
MS. ELLIOTT:
Q. Um-hm.
MASON, Q.C.:
Q. My math may be off a little bit, I'm not an actuary, but it looks essentially correct, yes?
MS. ELLIOTT:
Q. Yes, sure, yeah.
MASON, Q.C.:
Q. And I ended up between 2013 and 2016 because the expense ratio dropped and I understand why it dropped--2e'll talk about that in a second—but it dropped on average to 24.4 percent over that timeframe.
MS. ELLIOTT:
Q. Um-hm.
MASON, Q.C.:
Q. So, a difference of about 4.8 almost 5 percent, the expense ratio from 2007 to 2012 versus 2013 to 2016. And I believe in your report you say that the expense ratio dropped because of the way the insurance companies—I don't know if it's GISA or the

insurance companies or the IBC started reporting that data. They did it—rather than net expense, net premium, they went to direct expense, direct premium, is that right?
MS. ELLIOTT:
Q. Right. There was a change from a voluntary reporting of expense information, a survey approach to a required mandatory reporting.
MASON, Q.C.:
Q. Right.
MS. ELLIOTT:
Q. And that transition happened in that timeframe, 2012/2013.
MASON, Q.C.:
Q. And that's what you say led to that drop, was from 29.2 to 24.4 on average was that change in reporting data, is that correct?
MS. ELLIOTT:
Q. We could, yes, attributed to that, yes.
MASON, Q.C.:
Q. Okay, thank you. Now, I've heard through newspaper articles and so on from Mr. Forgeron, his position and that the IBC's position that Newfoundlanders pay the

highest auto insurance premiums in the country.

MS. ELLIOTT:

Q. Well, not in the country, but maybe in the Atlantic area.

MASON, Q.C.:

Q. Okay. So, I don't know if that's an empty sound bite on his part or not, but let's say he's right. Let's say that the highest premiums, auto insurance premiums are paid in Newfoundland. Would you agree with me that if a province has the highest premium where the expense ratio is based on a percentage of the premium, that in terms of operating expenses, you would expect the expense ratio to be lower in areas where the premium is higher?

MS. ELLIOTT:

Q. Yes, that's correct.

MASON, Q.C.:

Q. Makes sense, right, because –

MS. ELLIOTT:

Q. But I will—we should clarify that Ontario does have higher premiums than Newfoundland, is not the highest.

MASON, Q.C.:

Q. Okay, alright, well thank you for that. Thank you for that as well about the premium. So, if the premium is higher, the expense ratio should be a little bit lower because if we had, for example, if Newfoundland, I'm paying $1,000.00 premium and there's a 30 percent operating expense, $300.00 goes towards operating expenses. If I'm in Nova Scotia and I pay $500.00 and we have the same operating expense at 30 percent, they only get $150.00, right. So, you would expect in Newfoundland that the percentage would be a little lower, right.

MS. ELLIOTT:

Q. Right, um-hm.

MASON, Q.C.:

Q. Okay, thank you. Now, in your report at page 7 you say under "discussion", you say, "while the commission expense ratio is specific for private passenger automobile and the premium tax rate is the same rate for all automobile risks, the reported costs under the other expense category are not specific to private passenger automobiles,

but include commercial automobiles as well. As such, due to the more complex nature of some commercial automobile risks, the IBC total expense ratios may be slightly overstated for private passenger automobiles". Do you see that?

MS. ELLIOTT:

Q. Um-hm.

MASON, Q.C.:

Q. And if we look –

MS. ELLIOTT:

Q. Just for clarification, that's for the first five years.

MASON, Q.C.:

Q. Oh, is it the first—that's not—that doesn't continue to this day?

MS. ELLIOTT:

Q. No.

MASON, Q.C.:

Q. Okay, all right. Because I didn't see an adjustment for that in your figures when you were calculating what was an appropriate—or what was the return on equity of 2016 in Newfoundland.

MS. ELLIOTT:

A. Oh, the top of the next paragraph –

MASON, Q.C.:

Q. Right.

MS. ELLIOTT:

A. - we reference that it's specific to private passenger.

MASON, Q.C.:

Q. All right, okay, that's fair. Thank you. Now, Mr. Zubulake testified in Alberta in 2005 at their rate review hearing. Were you a part of that process in Alberta in 2005?

MS. ELLIOTT:

A. I might have been in attendance at the meeting. I did not testify, and I would have been—participated in the writing of the report.

MASON, Q.C.:

Q. Right. And I guess in terms of expense ratios and operating expenses, you would anticipate that the expense ratio would be higher all things being equal, will be higher in provinces where the cost of living is a little higher than where it's lower. Yes?

MS. ELLIOTT:

A. In general. I mean there's some things—it varies of course, the expense ratio.

MASON, Q.C.:

Q. Right.

MS. ELLIOTT:

A. The premium tax rate is higher in Newfoundland than it is in Alberta.

MASON, Q.C.:

Q. Right.

MS. ELLIOTT:

A. And the commission rate for brokers is standard at 12½ percent, plus a contingent profit commission that they're allowed. So, those parts are a big component of the expense ratio.

MASON, Q.C.:

Q. Right. So, the commission expenses that you're talking about, the broker commissions that are being paid, those are the same across the country, is that right or –

MS. ELLIOTT:

A. Well, that would be a standard for a broker.

MASON, Q.C.:

Q. Right, yes.

MS. ELLIOTT:

A. A 12½ percent rate, yes.

MASON, Q.C.:

Q. Got you.

MS. ELLIOTT:

A. And I get the premium tax is tax—each province, it varies a little bit, but in terms of operating expenses, you would think that if I'm in downtown Toronto, trying to operate an insurance company, and my costs might be greater than if I'm in Gander, Newfoundland. Yes?

MS. ELLIOTT:

A. Yes, presumably that would be the case.

MASON, Q.C.:

Q. Right.

MS. ELLIOTT:

A. Yeah.

MASON, Q.C.:

Q. And I would think, look--you may have looked at this, but in terms of in 2005, the cost of living in Alberta would have been higher than it was in Newfoundland during that timeframe. Is that a fair statement?

MS. ELLIOTT:

A. I guess so. I don't—I assume, yes.

MASON, Q.C.:

Q. Okay.

MS. ELLIOTT:

A. That's fair to say.

MASON, Q.C.:

Q. All right.

MS. ELLIOTT:

A. But I don't know specifically.

MASON, Q.C.:

Q. So, Mr. Zubulake, who I know you have great respect for, was your boss for a period of time, testified—and I'm going to pull up the Annual Industry Wide Adjustment Rates Basic Coverage for Alberta, July 27th, 2005. That's it.

MS. GLYNN:

Q. And we mark it.

MASON, Q.C.:

Q. Thank you.

MS. GLYNN:

Q. We'll mark that as Exhibit 6.

EXHIBIT ENTERED AT HEARING AND MARKED AS EXHIBIT NO. 6

MASON, Q.C.:

Q. Thank you. And if we go to page--this is the decision of the Board back in 2005. If

you go to page 18, thank you, and if we look under 4.4.1, there was a discussion of the issue of expense provision. Do you see that?

MS. ELLIOTT:

A. Um-hm.

MASON, Q.C.:

Q. And Mercer was who Mr. Zubulake worked for at that particular time, I believe. Is that correct?

MS. ELLIOTT:

A. Yes.

MASON, Q.C.:

Q. Okay, and –

MS. ELLIOTT:

A. The same entity, but different name.

MASON, Q.C.:

Q. Right, go you. Mercer selected an expense provision of 23 percent, and you'll see that's in the second line. As we go down a couple of paragraphs, "Several presenters expressed the view that the expense provision selected by Mercer may be too low." So, they were arguing that it should be about 27 or even 28 percent. And the

Board, if we look at page 20 of this decision, and I'm happy if you want to review this, but page 20 of the decision, the bottom paragraph says, "The Board finds that Mercer's selection of a 23 percent expense provision to be reasonable."

MS. ELLIOTT:

A. Um-hm.

MASON, Q.C.:

Q. "And encourages the IBC the industry statistical agent be in a position to provide the Board and its actuary with more timely and complete expense information in the future." So, we know that in Alberta, the—Mr. Zubulake and the Board, where the cost of living is likely higher, concluded that a 23 percent expense ratio is appropriate. Now if we compare that to the chart we looked at in your report at page 7, the average was 29.2 percent and we're comparing apples and apples, because they were both under the regime at that time.

MS. ELLIOTT:

A. Um-hm, um-hm.

MASON, Q.C.:

Q. Net expenses that made for the—and direct expense made a difference in 2012, but we've got an average of 29.2 percent during that timeframe for 2007 to 2012 in Newfoundland, yet we have Mercer, Mr. Zubulake, your company, saying that 23 percent is the appropriate expense ratio?

MS. ELLIOTT:

A. Um-hm. Well, that, you know, clearly is the statement that was made, but in terms of Newfoundland, you know, another component is with a larger volume of premium, there are a larger base to spread the costs over. So, some of the differences that occur between the provinces is due to the volume of premium over the fixed expense of the salaries that are paid for the staff, the rent that they're paying, is the volume of premium that they are working with. There are fewer vehicles in Newfoundland than there would be in the Alberta. In Alberta they have a larger volume of premium that they're underwriting and handling, and that may contribute to a lower expense ratio as well.

MASON, Q.C.:

Q. So, is that the reason you did not advise this Board when you were looking at these expense ratios from 2007 to 2012 that it was much higher than the data that you looked at in a province where the cost of living is much higher or is higher at 23 percent?

MS. ELLIOTT:

A. Um-hm.

MASON, Q.C.:

Q. Is that the reason why you didn't advise the Board of that difference?

MS. ELLIOTT:

A. No, we're reporting on a presenting what the operating expense ratios were in hindsight, reported by the companies presenting that. This is the information that's reported by GISA. And as we discussed earlier, for the years 2012 and prior, it was under a different reporting structure where it was voluntary. Not all companies were reporting, and then there was a change as well to be mandatory and a different basis in the calculation. So, it wasn't my view that the information reported was flawed by

what was reported to the companies and then compiled and reported by IBC through the GISA, that it was incorrect or flawed. There was a change, but it wasn't my understanding that it was incorrect.

MASON, Q.C.:

Q. Right, because that's a pretty big difference in terms of the –

MS. ELLIOTT:

A. Well, we –

MASON, Q.C.:

Q. Let me finish this, my question.

MS. ELLIOTT:

A. Um-hm.

MASON, Q.C.:

Q. For an expense ratio to be 23 percent at one province and 29.2 percent in the Province of Newfoundland, it's a big difference.

MS. ELLIOTT:

A. Well, it doesn't make the percentages of the expense ratio incorrect. It just makes them different.

MASON, Q.C.:

Q. Right, but does it make it reasonable I guess is the question.

MS. ELLIOTT:
A. No, it's not so much—we're not measuring—our report here is a hindsight look at the profit based on the reported data.
MASON, Q.C.:
Q. Right.
MS. ELLIOTT:
A. You may suggest that you find it high, but it is the amount that was reported, and we believe it to be correct. The issue of whether the expense ratio that's currently in the, sort of 25 percent range, whether that's reasonable or not, and are there alternatives suggested as to how to lower that expense ratio?
MASON, Q.C.:
Q. Yes.
MS. ELLIOTT:
A. That's a different discussion.
MASON, Q.C.:
Q. Right.
MS. ELLIOTT:
A. We're just presenting and reporting what it was.
MASON, Q.C.:

Q. Yes. I just would have thought because you presented across the country in different jurisdictions, so that we have an independent and thorough investigation, that you might raise with this Board and the parties here that, look, in other jurisdictions, the expense ratios are much lower than they are here, but you didn't feel that that was within your mandate or not necessary to do, is that right?
MS. ELLIOTT:
A. Well, I think there are components that cause the expense ratios to be different in different provinces. And certainly, the premium tax rate is one; the percentage of companies that operating in the province as either direct writers with lower commission acquisition costs versus broker-based companies, that can make a difference. So, and then, after that we're left with the cost of salaries and rent in the province.
MASON, Q.C.:
Q. Right, got you.
MS. ELLIOTT:
A. So, we're not—this is a hindsight review of

what the profit was, and we've presented what the expense ratios were.
MASON, Q.C.:
Q. Right. And you've mentioned a few things there. In terms of the premium tax, you say that makes a difference, but in terms of the 29.2 percent average that I've suggested, the premium tax makes up a very, very small part of that percentage. It's around three percent, isn't it?
MS. ELLIOTT:
A. No, it's four actually.
MASON, Q.C.:
Q. Four, okay. All right, four out of 29. It's a small part of—we know that the commissions as you've testified are generally the same right across the country. So, we're left with the operating expenses, the cost of the companies that operate in different jurisdictions, is really the factor that would make a difference between a 23 percent expense ratio in Alberta and a 29.2 percent expense ratio in Newfoundland, correct?
MS. ELLIOTT:

A. And currently the expense ratio in 2015, we've got 23.9. 2016, 25.7. So, these are the most recent expense -
MASON, Q.C.:
Q. But that's because of the change though. I mean, I don't mean to interrupt you, but that's – the reason they came in significantly, as you testified just a few minutes ago, was because the way it was reported change.
MS. ELLIOTT:
A. It's more – it's private passenger specific.
MASON, Q.C.:
Q. Right, I got you. And it's direct versus net premium. That's what made the difference in terms of it going from 29.2 on average to 24.4 percent on average, right?
MS. ELLIOTT:
A. That contributes to the difference, yes.
MASON, Q.C.:
Q. Well, I think that's what you said in your report.
MS. ELLIOTT:
A. Yes, yes, yes. I said it.
MASON, Q.C.:

Q. Yeah. So, it's not fair to compare a 23 percent return in Alberta in 2005 to an expense ratio in Newfoundland where the criteria of how it's measured have changed.
MS. ELLIOTT:
A. Well, I think that -- you're suggesting the comparison to Alberta. We could make comparisons to Ontario, Nova Scotia, New Brunswick as well. But, their expense ratios in those provinces, each of the provinces, the data all adds up together to make the total, which has been reconciled and data that is reviewed and signed off by an independent auditor. The fact that the costs are lower for this particular year that you're referring to, although I know it's higher now in Alberta than 23 percent, the fact that there is a difference is just a fact that there is a difference. It doesn't make the data that was reported at the time for those years wrong. It's just what they were. We're reporting on what it was and it has lowered since 2007. It's a lower expense ratio. So, albeit the number that was used in a prior report going back

several years is lower, that's just a statement of fact. But other provinces would have other numbers that would be higher.
MASON, Q.C.:
Q. I'm not going to badger you on this. I just want to make sure I've got it right though because the difference between Alberta and Newfoundland, when we're looking at 2005, the 23 percent expense ratio, and the figures between 2007 and 2012, before – in Newfoundland before they started reporting them differently, the expense ratio comprised of the premium tax rate, which is you said is around four percent in Newfoundland and maybe a little lower than that in Alberta. That's not the major component of a 29.4 percent expense ratio, of course. The broker fees are the same. They're 12 and a half percent. So, we're down to operating expenses as being the driver that makes a difference between Alberta and Newfoundland.
MS. ELLIOTT:
A. Yes.

MASON, Q.C.:
Q. Right. Would you agree with me on it?
MS. ELLIOTT:
A. And there's also a component for brokers for their contingent commission, which can be an additional two to three percentage points.
MASON, Q.C.:
Q. All right. But even if you add that two to three percent in, the different really is the operating expenses in Newfoundland versus the operating expenses in Alberta?
MS. ELLIOTT:
A. Right, and the smaller volume of business in the province may contribute to some extent to the higher.
MASON, Q.C.:
Q. Maybe. But that may be offset as well by the fact that the cost of living in Alberta is higher than it is in Newfoundland, correct?
MS. ELLIOTT:
A. Well, it's really a matter of the salaries that are paid to the people in Newfoundland versus Alberta.
MASON, Q.C.:

Q. Right.
MS. ELLIOTT:
A. I'm not sure about those differences amongst the provinces.
MASON, Q.C.:
Q. So, this Board, looking at this particular issue, they say "well, gosh, you know what, why do we not have operating expenses at 23 percent?" Make a ruling like they did in Alberta and say 23 percent was appropriate. How do they find out – how do they examine the reasonableness of those operating expenses if not through you?
MS. ELLIOTT:
A. Well, in terms of this report, this is a presentation of what the aggregated expenses are for private passenger for this review, albeit there was a merger or mixture with some commercial information, commercial auto for the older years due to the reporting structure. Individual companies, when they submit their rate application for the rates that they charge in this province, they need to provide support for their expense ratios and

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they would provide typically at least three years of history of what those expenses are and we would review that and look at what the values are, see what their contingent commission provision might be, their expectation, what provision they have in there, and then if it is supported, the provision in that, we would make that statement to the Board. So, these numbers here are the aggregated that's been reported.

MASON, Q.C.:
Q. I get you, yeah.
MS. ELLIOTT:
A. Which is not the same as what each individual company submits to the Board for review.
MASON, Q.C.:
Q. So, I think I follow you. So, what you're saying is when they make a rate application, individual insurer, that's the time where an individual could come in and question those operating expenses if they wanted to?
MS. ELLIOTT:
A. Yes, it can be questioned.

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MASON, Q.C.:
Q. Right. But today we can't do that because we have aggregate data, correct?
MS. ELLIOTT:
A. Yes, it is aggregated for the industry.
MASON, Q.C.:
Q. So, let me ask you this. You were involved in 2005 in the Newfoundland review of automobile insurance rates? Is that correct?
MS. ELLIOTT:
A. Yes.
MASON, Q.C.:
Q. Yeah. And at that time, and I'm not sure if this is in evidence, but it's a decision of the Board. The Board found that the expense ratio of 25 percent was appropriate. Do you recall that?
MS. ELLIOTT:
A. Well, not off the top of my head, but – I don't have the decision in front of me.
MASON, Q.C.:
Q. I have a copy of the decision. I thought where this was a document of the Board that it may be available, but -

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CHAIR:
Q. It may be.
MASON, Q.C.:
Q. Okay. I didn't know if it was on the -
MS. GLYNN:
Q. If you can tell us which document it is, we might be able to find it.
MASON, Q.C.:
Q. All right. So, it's the decision, order of the Board, Order No. A.I.1 (2005).
MS. GLYNN:
Q. It was 1, right, A -
MASON, Q.C.:
Q. Oh, sorry, yes. A -
MS. GLYNN:
Q. 1 (2005)?
MASON, Q.C.:
Q. A.I.1
MS. GLYNN:
Q. Thank you.
MASON, Q.C.:
Q. Thank you.
MS. GLYNN:
Q. We'll mark that as Exhibit 7.
MASON, Q.C.:

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Q. Okay. And I'm looking at page 18 of this decision.
MS. GLYNN:
Q. I will note, Mr. Mason, that Ms. Elliott was not provided with this document, so she may need to take some time to review.
MASON, Q.C.:
Q. Oh yeah, sure, that's fine. So, if you can look at page 18 of the decision. There we go. If you can just scroll down a bit, it says "after review, the Board finds" – in bold print, do you see that, Ms. Elliott?
MS. ELLIOTT:
A. Um-hm.
MASON, Q.C.:
Q. "The Board finds that an expense ratio of 25 percent for the Total Operating Expense Ratio is reasonable for use in the 2005 benchmark analysis", right?
MS. ELLIOTT:
A. Um-hm.
MASON, Q.C.:
Q. So, we didn't use – in your report, you didn't use a 23 percent rate that was recommended by your company in Alberta and

you didn't use the 25 percent rate that was recommended – or not recommended, but ordered by this Board in 2005, and I didn't see any reference in your report, in your analysis, of different rates that could have been imposed or used. I'm wondering why that is.

MS. ELLIOTT:
A. We were presenting in this discussion the report, this part one, our understanding of what the actual expense costs were. So, albeit it could have been higher or lower than 25 percent, we were reporting what was provided to GISA and through IBC and published.

MASON, Q.C.:
Q. Sure. So, let me just take you through this. So, if the average back in the 2005-2006 range, if the average – if it was a 23 percent expense ratio or a 25 percent expense ratio versus the 29.2 percent expense ratio that we see from 2007 to 2012 in Newfoundland and Labrador, according to your chart, you would agree with me that if all of the factors were kept the same that

if we use a lower operating expense ratio or expense ratio, it's going to drive the return on equity up, correct?

MS. ELLIOTT:
A. Yes, if the expense ratio – if you were to assume that it was lower than it actually was, as provided, then there would be an increase in the return on equity, yes.

MASON, Q.C.:
Q. Right. So, if we say that – if we say that the appropriate expense ratio is 23 percent when we look at Alberta, if the Board said that, and you – and kind of transported that into today's world at 2016-2017, and we know that there's a different way that it's reported, and the difference constitutes a change of about 4.8 percent between before the change was made and after the change was made. So, if we say 23 percent is the expense ratio and we take 4.8 percent off of that, what is that, 18 – anyway, whatever the number is. If we use that as the expense ratio, are you able to calculate for me what the return on equity would be in Newfoundland based on all the other factors

being the same; claims costs being the same, premium being the same and so on? Are you able to calculate that figure for me?

MS. ELLIOTT:
A. Yes, not at – not right here, sitting here, but yes.

MASON, Q.C.:
Q. All right. I know in some other utility review board hearings, I've asked the witness as an undertaking to do that calculation for me and they've agreed to do that. Is that something you're prepared to do; to calculate what it would be in terms of the return equity, if we use the exact same premium and claims costs and so on, what it would be in terms of a return on equity at 23 percent versus the 29.7 percent or 29.2 percent that I quoted in this figure?

MS. ELLIOTT:
A. I'm prepared to complete any undertaking that the Board would request me to do.

MASON, Q.C.:
Q. And it would be helpful, I think, as well, I'll put one more out there, is if you run

it at 23 percent and also 25 percent that this Board had recommended in 2005 as an appropriate expense ratio.

CHAIR:
Q. Mr. Mason, could I just suggest though, just to be clear for the record, could you actually put that undertaking in writing following today?

MASON, Q.C.:
Q. I'm happy to do that, Madam Chair, sure.

CHAIR:
Q. That would be a bit easier, make sure we all understand what's being asked and what Ms. Elliot is being requested to answer.

MASON, Q.C.:
Q. And the reason that I'm asking that question, just so everybody is clear on it, if the expense ratio is lower and we keep all the other factors the same, the return on equity is going to improve for the insurers, right?

MS. ELLIOTT:
A. Yes. So, you're asking to – in how I would view it is test an assumption. If it was this, what would it have been?

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MASON, Q.C.:
Q. Correct.
MS. ELLIOTT:
A. But in fact, it wasn't, but we can test that.
MASON, Q.C.:
Q. All right. One of the other significant factors in determining rate adequacy are claims costs, yes?
MS. ELLIOTT:
A. Um-hm.
MASON, Q.C.:
Q. Sorry, you're nodding your head yes?
MS. ELLIOTT:
A. Yes, yes, yes, sorry.
MASON, Q.C.:
Q. Thank you. And the ultimate loss and allocated adjusting expenses, that's comprised of claims payouts and reserves? Is that correct?
MS. ELLIOTT:
A. Yes, for older years, the claims get closer to being completely settled and paid and closed, the files close. In more recent years, there are more estimates, referred to as reserve.

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MASON, Q.C.:
Q. Right. And the data that's provided by auto insurers in this province that goes to the IBC, and then in turn is sent by the IBC to GISA, is the data that you're relying upon in determining the loss ratios – or sorry, not the loss ratios, but the return on equity in your calculations here? Is that correct?
(11:00 a.m.)
MS. ELLIOTT:
A. Well, what we use is the paid amounts that are reported, of course.
MASON, Q.C.:
Q. Right.
MS. ELLIOTT:
A. All this is reported. The amounts that are set for each individual file, referred to as a case reserve.
MASON, Q.C.:
Q. Right.
MS. ELLIOTT:
A. So, each individual file would have a different estimate of what it will ultimately cost to close and settle that file. So, those amounts are reported and that's the data that we received and then we use that aggregated data of all the insurance companies together, the amounts paid and the amounts by each – the case adjuster that does the file, and we look at that aggregated data and we make estimates, is that an aggregate sufficient or insufficient for when all the claims are closed and settled for a particular accident year. And we would adjust that amount, those totals paid in the case reserve for any change in that amount for when the claim is filed, closed and settled. We refer to that as an IBNR, the actual reserve. So, we're looking at that, Oliver Wyman, and estimating that.

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MASON, Q.C.:
Q. So, what you're looking at when you're preparing your charts is you're looking at the case reserve that's being provided by the adjuster on the file?
MS. ELLIOTT:
A. Um-hm.

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MASON, Q.C.:
Q. And – but, you're not looking at the supplemental reserve that's being put on the aggregate data by the IBC before it goes to GISA?
MS. ELLIOTT:
A. There's no aggregated supplemental reserve that goes to GISA.
MASON, Q.C.:
Q. Is that the way it's always been?
MS. ELLIOTT:
A. Yes. The companies report for each individual claim file the amount paid on that file and the case reserve as set by the adjuster on that file.
MASON, Q.C.:
Q. All right. I'm going to take you through the constitutional challenge, part of the transcript between – a cross-examination between myself and Mr. Zubulake. I'm looking at page 10-010.
MS. GLYNN:
Q. Exhibit 5, Mr. Mason, the discussion document?
MASON, Q.C.:

Q. Thank you.
MS. GLYNN:
Q. Is this the correct document?
MASON, Q.C.:
Q. No, it would be the transcript from the cross-examination.
MS. KEAN:
Q. October 15, 2008?
MASON, Q.C.:
Q. That's it, yes. Thank you. And it's page -
MS. GLYNN:
Q. Okay. So, this is a new exhibit actually then. So, this would be marked as Exhibit 8.
MASON, Q.C.:
Q. Thank you. Looking at page 10-10. All right. So, there's a question, about a quarter of the way up, between Mr. Zubulake and myself.

"Okay. And as I understand your evidence, when this information was provided by the insurance companies to the IBC, the claims cost data that is, the IBC's actuary actually reviews the claims cost data? That's correct. Reviews, I call them

reserves? Yes, I didn't want to use that term", he said. I say "reserves. Okay. And I understand from your evidence the IBC's actuary can increase or reduce those reserves, correct? Well, to answer that question, let me just take a step back. All right. The companies report to – there are two types of reserves, as you put it. When a claim is reported to a company, it's assigned to a claim adjuster and that claim adjuster estimates what he thinks the company – he or she thinks the company is going to pay out on that claim and that's done for each and every claim that's reported to an insurance company by the policy holders."

That's what you've referred to so far in your evidence, yes?
MS. ELLIOTT:
A. Um-hm.
MASON, Q.C.:
Q. He said "that reserve is referred to a reserve – or it's referred to as the case reserve or the claim reserve." I believe you used similar language. And I said "yes.

We know actuaries know from the work that we do, that an aggregate, the claim reserve set out by individual claim adjusters tends to be too low, inadequate. It doesn't fully provide for the claims costs that the companies are going to actually have to pay out on those claims and so, what actuaries do is they actually calculate what we – what I'll call an actuarial reserve, a supplemental reserve that is an addition to the sum of all the claim reserves."

Now, I just want to stop there for a minute because I read your evidence, I believe it was Monday or Tuesday, and you were saying that the reserve sometimes comes down?
MS. ELLIOTT:
A. For some lines of business, yes.
MASON, Q.C.:
Q. Yeah. Have you ever seen that in Newfoundland where the actuarial reserve or the supplemental reserve has gone down for auto insurance in Newfoundland over let's say the last five years?
MS. ELLIOTT:

A. Well, certainly for some coverages. Collision would be a good example. For bodily injury that might happen out at the tail end, you know, ten years out, long periods of time. But for more recent years, it would be an addition and some of the older accident years, it could be, you know, slightly less than one.
MASON, Q.C.:
Q. Okay. So, just so I'm clear on this, I said the last five years, are you aware, in terms of bodily injury private passenger auto where the claims – sorry, the supplemental reserve has been reduced?
MS. ELLIOTT:
A. I don't – no, I don't remember that. It's possible, plausible, but it doesn't come to mind.
MASON, Q.C.:
Q. Because Mr. Zubulake certainly makes it sound like it seldom happens.
MS. ELLIOTT:
A. Yeah, right. It would be typically greater than one than less than one, but it's possible.

MASON, Q.C.:
Q. But again, in terms of Newfoundland and claims reserves or supplemental claims reserves, we've only seen increases in the supplemental claims reserves over the past five years, not decreases with respect to bodily injury claims? Is that right?
MS. ELLIOTT:
A. That would be typical, right. Typically, it would be an add-on for years, five years or less.
MASON, Q.C.:
Q. All right. And if we carry on, he says "and now to get to your question, what the companies report to IBC as their claim reserve, the case reserve estimates they do not report to IBC. They're supplemental actuarial reserves. It's the actuarial reserve estimate, that supplemental reserve with IBC, is what IBC's actuary estimates." Right?
MS. ELLIOTT:
A. Right. So, IBC makes their estimate.
MASON, Q.C.:
Q. Right.

MS. ELLIOTT:
A. And Oliver Wyman, we make our estimate.
MASON, Q.C.:
Q. I got you on that, okay. I'm just trying to get the flow of the data here because what happens is the case reserve is put on by the adjuster at the claims level.
MS. ELLIOTT:
A. Um-hm.
MASON, Q.C.:
Q. The IBC puts a supplemental reserve on the figures that comes before it that typically is always higher on bodily injury claims and that data goes off to GISA, right?
MS. ELLIOTT:
A. No, no. No, you have that wrong.
MASON, Q.C.:
Q. All right.
MS. ELLIOTT:
A. The data that goes to GISA is the amount that is paid on that individual claim file, paid for lost wages or whatever the item is, the amounts paid. The case – the adjuster that's working on that file, their estimate of what it will be when it ultimately all

closed and settled, that is the data that goes to IBC.
MASON, Q.C.:
Q. Right.
MS. ELLIOTT:
A. Then that aggregated data is looked at by IBC's actuary -
MASON, Q.C.:
Q. Right.
MS. ELLIOTT:
A. - independently, to evaluate what they think will ultimately be the total amount when all claims are settled and closed for that accident year. IBC's actuary does that independently. Oliver Wyman, myself, we also do that independently. So, we look at the amounts that have been paid. We look at the case reserve that's set on that individual file. We take that information and then we, Oliver Wyman, create this additional actuarial reserve, supplemental reserve.
MASON, Q.C.:
Q. Okay.
MS. ELLIOTT:

A. Separately from IBC.
MASON, Q.C.:
Q. But if we read what Mr. Zubulake -
MS. ELLIOTT:
A. I know what – I know what he said.
MASON, Q.C.:
Q. Okay, but -
MS. ELLIOTT:
A. And I'm telling you what he – this is what he was trying to express to you. Things have not changed since then. That is how it works.
MASON, Q.C.:
Q. Okay, thank you. He says "I've got you". As we carry on in this conversation or discussion I'm having with him, "I think I've got it. Okay", he says. "So, we've got the claim reserve that's set by an adjuster that historically is too low? Yeah. And then you've got the – is it the IBC's actuary that puts in the supplemental reserve? Only for the purposes of the reporting, the numbers that are reported to GISA."
MS. ELLIOTT:

A. In the exhibits that are published.
MASON, Q.C.:
Q. Right.
MS. ELLIOTT:
A. So, they produce an exhibit that would include IBC's estimate of this supplemental actuarial reserve, a bulk number. It's not case specific. It's not claimant specific.
MASON, Q.C.:
Q. Right.
MS. ELLIOTT:
A. IBC does that. They do their work. We take the data and do our own work independently from the IBC's actuary and we calculate our estimate of the sort of bulk supplemental reserve.
MASON, Q.C.:
Q. Yeah, I got you on that. And that's – but in terms if I went on GISA right now, looked at the GISA data, that would include the claims reserve put on by the adjuster and it would include the aggregate or supplemental reserve that's put on by the IBC's actuary, correct?
MS. ELLIOTT:

A. Well, we didn't use that, but -
MASON, Q.C.:
Q. Okay. Well, we'll talk about that in a minute. But that's what I would find on GISA, both the case reserve and the supplemental reserve, correct?
MS. ELLIOTT:
A. On?
MASON, Q.C.:
Q. On the data on GISA?
MS. ELLIOTT:
A. On a published report that indicates that it includes such provision, yes.
MASON, Q.C.:
Q. Right. And just to cement this issue in terms of reserves, supplemental reserve by the IBC's actuary going up, if we look at page 10-13, "I've got a question. Okay, then" – okay, we'll wait until it's pulled up here. About halfway down, "okay, and then it would go to the IBC's actuary who has rein to increase or in theory, decrease the reserves, right? In theory, but again, as I said, typically the reserves and aggregate are too low, so it is usually the

case, it's the reserves that's put up by the IBC actuary in this case tends to increase the numbers that are coming into GISA."
And so, I think I understand what you're saying. He's saying if I looked at the published data at GISA, it would include the claims reserve and the supplemental reserve by the IBC's actuary. But you did your own kind of review of the supplemental reserve before you prepared some of these documents? Is that correct?
MS. ELLIOTT:
A. We looked at the data that had been paid and the case reserves that are set and then did our own review of the supplemental reserve.
MASON, Q.C.:
Q. All right, okay. And when I look at your report, the attachments at the end of your report, there are two different documents that I see. I see Newfoundland and Labrador private passenger auto retrospective review?
MS. ELLIOTT:
A. Um-hm.
MASON, Q.C.:
Q. You see that?

MS. ELLIOTT:
A. Um-hm.
MASON, Q.C.:
Q. Is that the GISA data?
MS. ELLIOTT:
A. Well, the earned premiums and the cars, that would be provided to us by GISA.
MASON, Q.C.:
Q. And the ultimate loss is -
MS. ELLIOTT:
A. That would be our estimate.
MASON, Q.C.:
Q. That's yours.
MS. ELLIOTT:
A. Using the amounts that have been provided that are paid, the amounts that are set by the individual case adjuster, what their estimate is, and then our supplemental reserve would be applied to that.
MASON, Q.C.:
Q. Because then if I go through in subsequent pages, I see a retrospective review from 2000 – sorry, I see a prospective review.
MS. ELLIOTT:
A. Appendix B?

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MASON, Q.C.:
Q. Yeah, the same – well, five pages in.
MS. ELLIOTT:
A. Um-hm.
MASON, Q.C.:
Q. And I thought when I was reviewing that that the retrospective was the GISA data and the prospective was your analysis.
MS. ELLIOTT:
A. No, no, the first Appendix A is in reference to our Part 2 of the report where we look at the most recent five years, 2012 to 2016, to look at what our estimate, Oliver Wyman's estimate, of the required premium by coverage compared to what the premiums charged actually were, and then in Appendix B, Part 3, we are trying to forecast what 2017 would be, but again it's Oliver Wyman's estimate of the reserves.
MASON, Q.C.:
Q. Got you. I think I follow you, okay. So you would agree with me that as claims cost and reserves go up, if we hold the other factors, equal premiums and operating expenses, as they go up the return on equity

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is going to go down, correct?
MS. ELLIOTT:
A. Yes, there's a – if it's underestimated what the losses will be and then in hindsight looking back if the losses are more than were expected for what the premium was charged, then it would be lower than what the profit provision included in those rates when they were set.
MASON, Q.C.:
Q. Thank you for that, and the opposite is true, that if the claims cost – well, not so much the claims cost because they've been paid out, but if the reserves, the supplemental reserve of the case reserve, is too high as history may show, we keep the other factors steady, premiums and operating expenses, then what's going to happen those claims costs are going to come down and the return on equity is going to be better, correct?
MS. ELLIOTT:
A. So the claims cost terminology, just to be clear, it includes all amounts, whether they're paid or reserved. It's an all

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encompassing terminology, but when rates are set, if in hindsight the losses are less than anticipated –
MASON, Q.C.:
Q. Right.
MS. ELLIOTT:
A. When those premiums were set, then there will be more allowed, if you will, that will flow into profit, and if they are higher than estimated when those premiums were set, then they will be less.
MASON, Q.C.:
Q. Got you, and in Nova Scotia, we know, and we can go through this documentation, we know that the estimates for the supplemental reserve and the case reserves were too high in 2002, 2001 and 2002, when Mr. Zubulake was testifying before the Utility Review Board, correct?
MS. ELLIOTT:
A. Yes, the premiums that were set were based on an estimate of losses that in hindsight showed to be too high. The ultimate loss ratios were less than initially anticipated.
(11:15 a.m.)

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MASON, Q.C.:
Q. And you'll remember, Ms. Elliott, back in 2001/2002 at the Nova Scotia Utility Review Board, that it was – I believe the trial lawyers, a coalition for injured workers, had made the argument that the premiums – sorry, not the premiums, the claims cost, sorry, reserves were too high at that time and the Board did not accept that evidence?
MS. ELLIOTT:
A. Yeah, and so I think it's – I do recall that, yes, and the issue is that the premiums that are set today if a rate filing comes in in 2018, that may apply to premiums that are being sold in 2019 into 2000, with the lapse, you know, of implementation time, and today the – only about a week ago, the full year, 2017, data is available. So often they are using data from 2016. There could be a year, a year and a half gap with the data. So there's quite a large window of time looking forward for rate setting using data that's older, so as a result the estimates sometimes are close and other times they're too high, and other times too

low.
MASON, Q.C.:
Q. Yeah, and Nova Scotia, it's fair to say that the estimates that were provided, because at the Utility Review Board, Mr. Zubulake was arguing that there was a requirement for another 10 to 20 percent rate increase in order to establish a fair rate of return for insurers in the province back in 2002?
MS. ELLIOTT:
A. Yes, and at that time, and I think the graph really tells – you know, a picture tells a thousand words, there was a very steep decline in the number of claims that were ultimately reported. It was not anticipated that the total losses, because there were so many fewer claims, would be the result, and so the premiums were, in hindsight, too high. It didn't anticipate the drop in the number of claims before the minor injury reform, and the continued drop in the number of claims after the reform, and then that continued drop in the frequency rate.
MASON, Q.C.:
Q. I've heard you talk about that, the

continuous drop in claims frequency is what you're getting at?
MS. ELLIOTT:
A. Uh-hm.
MASON, Q.C.:
Q. After the cap was brought in place in Nova Scotia in November of 2003?
MS. ELLIOTT:
A. Yes, Nova Scotia, New Brunswick, and other provinces, including Newfoundland, there's been a drop, a decline in frequency rate, yes.
MASON, Q.C.:
Q. When you talked about it yesterday, you talked about the sharp decline in claims cost, and as I – based on claims frequency, the sharp decline in claims frequency that continued to occur after the cap was placed in Nova Scotia on November 1st, 2003. I think that's what you were testifying to yesterday, is that right?
MS. ELLIOTT:
A. Yes, graphically it's there, yeah.
MASON, Q.C.:
Q. Can we pull that graph up from your report?

I believe it was at –
MS. GLYNN:
Q. Did you want the graph from her report or the graph that includes Newfoundland?
MASON, Q.C.:
Q. Her report, please. The graph I'm looking at is at page 22.
MS. GLYNN:
Q. I think we have it there on the screen now, Mr. Mason.
MASON, Q.C.:
Q. And this is an extremely difficult graph to read, I must tell you that I almost lost my eyesight last night trying to go through it, but if we look at this particular graph, it appears that in – if we're looking at Nova Scotia, what I'm looking at is Nova Scotia, and if we look at June, 2001 for Nova Scotia, it's the dark turquoise or blue line, we see a fairly significantly high claims frequency. It's around 8. Do you see that?
MS. ELLIOTT:
A. Uh-hm.
MASON, Q.C.:

Q. Are you able to make that out? All right. Then if we go to December of 2001, we see a decrease in Nova Scotia. It's about maybe 7.5.
MS. ELLIOTT:
A. Yeah.
MASON, Q.C.:
Q. Do you see that?
MS. ELLIOTT:
A. Uh-hm.
MASON, Q.C.:
Q. And then if we go to December, 2003 – June of 2002, we see a little uptake, not much. This is all pre-cap, right?
MS. ELLIOTT:
A. Yes.
MASON, Q.C.:
Q. Go to December, 2002, we see another drop. Do you see that?
MS. ELLIOTT:
A. Yes.
MASON, Q.C.:
Q. All right. In June, 2003, we see a significant drop. Do you see that?
MS. ELLIOTT:

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A. Uh-hm.
MASON, Q.C.:
Q. And then it appears that the number kind of levels out. It goes up a little bit in December, 2004, and then kind of peters out after that, consistent with what's going on in Newfoundland and New Brunswick at that particular point?
MS. ELLIOTT:
A. Uh-hm.
MASON, Q.C.:
Q. What I'd suggest to you is, based on this particular graph, we actually see an increase in claims frequency happening as early as 2001, and we see that it appears to me that the claims frequency has flattened out by December, 2003?
MS. ELLIOTT:
A. I don't believe the claims frequency flattened out. It continued to decline.
MASON, Q.C.:
Q. At a very slow level?
MS. ELLIOTT:
A. Well, the number in June, 2008, is significantly lower than it was in –

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MASON, Q.C.:
Q. Consistent with what was going on in the provinces, but, I guess, my point is this, you talked about the importance of the sharp decline that you missed in 2003. The sharp decline actually happened well in advance of the cap coming in place in November, 2003?
MS. ELLIOTT:
A. Oh, I agree, yes, it did.
MASON, Q.C.:
Q. In fact, if you look, I mean, it appears that sharp decrease, if not stopped, has slowed significantly by December, 2003, just one month after the cap came in place?
MS. ELLIOTT:
A. Well, there are many factors that affect it. I mean, we look at more than just one data point, and there is seasonality, it goes up and down just like prior to the – if we look at the page, if we could, the pie graph on page –
MASON, Q.C.:
Q. Well, let's just stay on this one for a minute, if we can, but do you agree with me that –

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MS. ELLIOTT:
A. Well, if I can explain my point on the other graph.
MASON, Q.C.:
Q. Okay, go ahead, sure.
MS. ELLIOTT:
A. So you can see that prior, to the left of the thick grey line, there was a period from the second half of '98, a period of somewhat flat, but up and down, but certainly a peak for both New Brunswick and Nova Scotia, and in both provinces there was a decline in the frequency rate prior to the effective date of the introduction of the reforms, but it's important to remember that those reforms were introduced based on data that was available in the 2001 period when those studies were being done. So at that time there wasn't the advantage of hindsight to see that a decrease in the frequency rate was coming that was not clear from the data prior to 2002. It declined before the reforms and continued to decline pretty steeply for both Nova Scotia and New Brunswick after the reforms, and has

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continued to decline since the reforms.
MASON, Q.C.:
Q. Yeah. The part that I'm focused on, just so we're clear on this, and maybe we just don't have an agreement and it's up to the Board to look at this graph, but it certainly appears to me that sharp decline you're talking about occurs almost exclusively before the cap comes in place in November, 2003, that sharp decline?
MS. ELLIOTT:
A. Well, it's a very sharp decline, I agree fully with you, before the reforms were introduced and it's more marked, the decline, after the reforms in New Brunswick, but both declined after the reforms.
MASON, Q.C.:
Q. All right. We'll leave that for a minute, okay. So in terms of the supplemental reserve that we talked about – we talked about the claim reserve and the supplemental reserve, and you performed your own analysis in determining what was an appropriate supplemental reserve in determining the data that's here before us today to contemplate

what are the claims payouts as we move forward, is that correct?

MS. ELLIOTT:

A. Yes.

MASON, Q.C.:

Q. All right, and as I understood your evidence I heard yesterday, you've estimated that claims payouts or claim severity, sorry, claim severity, is going to increase or has increased at 7 percent per year and it's going to continue to increase at 7 percent per year?

MS. ELLIOTT:

A. Well, our measurement is looking to the past, what has occurred, and barring any changes, we would expect that the past would predict the future, so, yes.

MASON, Q.C.:

Q. So how long have claims severity been increasing in this province at the rate of 7 percent per year?

MS. ELLIOTT:

A. Well, that's an average number, and the timeline is likely over a period since 2004, so I don't –

MASON, Q.C.:

Q. Since 2000.

MS. ELLIOTT:

A. The timeline would be at least over the last five years. I'd have to open our – I'd have to refresh the basis for the 7 percent, but it would be a number of years.

MASON, Q.C.:

Q. Okay.

MS. ELLIOTT:

A. There would be some years that it would be higher, lower, but it's been increasing.

MASON, Q.C.:

Q. And part of that 7 percent that you're looking at is the claims reserve that's going up?

MS. ELLIOTT:

A. Uh-hm.

MASON, Q.C.:

Q. And the supplemental reserve that's being put onto the file, is that correct, or put onto the aggregate data?

MS. ELLIOTT:

A. It would be what we applied to the data, yes, our estimate of what is -

MASON, Q.C.:

Q. Right, and that's how we arrive at a 7 percent increase in claim severity?

MS. ELLIOTT:

A. Yes, and we do look at excluding the most recent year because that data can be more volatile and subject to change as the reserves may change for the more recent years.

MASON, Q.C.:

Q. Right.

MS. ELLIOTT:

A. So we test it in many different ways. We also test, you know, looking at over a period of time how it– so many, many different ways in coming up with our 7 percent estimate.

MASON, Q.C.:

Q. So when you're looking at the 7 percent increase in claim severity, you exclude 2016, is that right?

MS. ELLIOTT:

A. We will test with and without that year, yes.

MASON, Q.C.:

Q. Did you exclude 2016 when you did your calculations for rate adequacy in this province, did you exclude the claims reserves and claims payouts for that particular year?

MS. ELLIOTT:

A. Well, we did look at – yes, effectively, we did because we looked at the data. In Appendix B, we looked at the data using the fiscal year ending June 30th, 2017, and then in Appendix B, sheet 2 of 3, June, 2015, ending June, 2016, and ending June, 2017, so we did go back in time and see what those results were for forecasting 2017, so excluding the most recent data, the answer is yes, yeah.

MASON, Q.C.:

Q. So a 7 percent increase in claim severity over the past several years?

MS. ELLIOTT:

A. Uh-hm.

MASON, Q.C.:

Q. And one thing I didn't see in here was the actual dollar amount. I saw cost per car, but I didn't see dollar amount. Why didn't

you provide that information?
MS. ELLIOTT:
A. I'm sorry, what did you –
MASON, Q.C.:
Q. When I look at your exhibits that are attached to your report, you put in cost per car under the ultimate loss and allocated expenses, adjustment expenses.
MS. ELLIOTT:
A. Uh-hm.
MASON, Q.C.:
Q. But you don't put in the actual dollar amounts, cost per car, is that right?
MS. ELLIOTT:
A. That is a dollar amount.
MASON, Q.C.:
Q. Okay, but, I guess, what I'd have to do is add up – or multiply the number of cars by the cost per car, is that right?
MS. ELLIOTT:
A. I don't understand your question.
MASON, Q.C.:
Q. Is it 100 million dollars that's being paid out that you've reserved in claims payouts for 2016/2017? Is it 200 million dollars,

the gross data?
MS. ELLIOTT:
A. Oh, I see what you're asking. We could show that information to you if you wanted to know.
MASON, Q.C.:
Q. Yeah, I'd like to see that, if I could, and can we get that information going back, of course your data, that you provided, did you look at GISA data as well?
MS. ELLIOTT:
A. Yeah, we could pull GISA data up for you.
MASON, Q.C.:
Q. Can you? And can we go back more than 5 years, can we go back 10 years like you've done for your reporting purposes?
MS. ELLIOTT:
A. I think so.
MASON, Q.C.:
Q. All right, I'd ask for that information if I could get it.
MS. ELLIOTT:
A. Yeah, I think Sarah should be able to –
MASON, Q.C.:
Q. I can put that in writing to the Board if

that would be –
MS. GLYNN:
Q. You want that provided as an undertaking? You don't need it brought up here today, is that correct, Mr. Mason?
MASON, Q.C.:
Q. Pardon me?
MR. GITTENS:
Q. I think (inaudible).
MS. GLYNN:
Q. I'm asking that you want that information as an undertaking to be provided, you don't need us to bring that –
MASON, Q.C.:
Q. Yes. Not today, yeah, I don't need it today, that's fine, thank you.
MS. GLYNN:
Q. Thank you.
CHAIR:
Q. And he's going to put that in writing.
MS. GLYNN:
Q. And you will put the undertaking in writing.
MASON, Q.C.:
Q. And this is really where the science is, is it not, Ms. Elliott, is trying to figure out

what those claims reserves are because if you've estimate too high, that is going to really blow out of the market here what the return on equity figures are at the end of the day, correct? It's going to blow up those numbers.
MS. ELLIOTT:
A. Right, and if we look at data that's three years old at this point, those numbers are much more mature, data that would be after 36 months, the estimates are much firmer, yeah.
MASON, Q.C.:
Q. Got you on that, okay. Now, the 7 percent increase in claims severity, that is an indication, from your perspective, that over a number of years claims costs are going up by that amount, bodily injury claims costs are going up by that amount, right?
MS. ELLIOTT:
A. Bodily injury, the amount per claim that's paid out which is offset by drops, the anticipated declining frequency are the two –
MASON, Q.C.:

Q. Got you, okay, frequency is also a factor.
MS. ELLIOTT:
A. Yes, and it's declining, yes.
MASON, Q.C.:
Q. Okay. Now, the claims payouts by an insurance adjuster that makes up, we're coming up with a case reserve and all that, that's based on precedent, based on court awards, correct?
(11:30 a.m.)
MS. ELLIOTT:
A. That would be my understanding that they are aware of amounts paid in other similar cases, yeah.
MASON, Q.C.:
Q. Right, so they're not paying somebody because they like their good looks, they pay them because they say, look, this is what the courts have awarded for pain and suffering damages and therefore, this is what we're going to offer you for your claim?
MS. ELLIOTT:
A. The bodily injury claim adjusters are the more senior staff, right, they would be

aware of court cases and what's being paid in prior settlements, either inside their company or outside their company.
MASON, Q.C.:
Q. I guess what I find interesting or difficult to comprehend is we know that the reserving practices are highly volatile because we saw what happened in Nova Scotia where insurers were over reserved indicated that there was a very low return on equity; in fact, a negative return on equity, that turned out to be a 10.8 percent return on equity in 2002 because of the changes with reserves. Is why, either you or you haven't made a recommendation to this Board, there isn't some type of analysis indicating that court awards have gone up in this province by 7 percent each year. Do you have any statistical evidence that would show that?
MS. ELLIOTT:
A. Well there are very few claim files that actually go to court in our Closed Claims Study where we had 1471 claimant files, there were, no event did it indicate that any of those claimants actually went to

court. They were settled between the parties. So we look at the past average cost from year to year for the payments that have been made or are expected to be made, and then use a regression analysis to determine what that average year to year change has been.
MASON, Q.C.:
Q. Right, and we'll look at that, I'm going to look at it in just a minute, but if the court awards-we have no statistical evidence that court awards have gone up in this province and you're indicating that claims payouts are going up by 7 percent in claims severity each year.
MS. ELLIOTT:
A. Uh-hm.
MASON, Q.C.:
Q. Don't we need statistical evidence that would indicate that there is some type of thing, something going on with the courts that's driving those awards up?
MS. ELLIOTT:
A. Well there could be many reasons that are driving the awards up, but if we go back and

look at amounts that are estimated for 2014 and 15 and look at the history of data, so we're not looking at the more recent years and look at the trend rate there, we do that work to support the estimate that we present as a severity trend rate of 7 percent.
MASON, Q.C.:
Q. Did you ask the IBC if they've done any statistical analysis throughout the country even to show that court awards have gone up by 7 percent in any jurisdiction each year?
MS. ELLIOTT:
A. I don't ask IBC for any analysis, no.
MASON, Q.C.:
Q. All right, and perhaps that's a question we'll ask them. So I do want to go back to your report and the exhibit that is attached in your report and I want to look at the first page of that exhibit which is marked "Accident Year 2016 as of June 30, 2017".
MS. ELLIOTT:
A. Okay, yes.
MASON, Q.C.:
Q. You have that? Okay, and if we look under the ultimate loss and allocated adjustment

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expenses and cost per car, do you see that?
MS. ELLIOTT:
A. Uh-hm.
MASON, Q.C.:
Q. And so this data would be, as you would say, less reliable because it's newer data, would have the reserve and the supplemental reserve where we're trying to estimate what claims are going to be costed out at, is that right?
MS. ELLIOTT:
A. I would say that it's, I describe it as less mature and more subject to change than an older accident year, yes.
MASON, Q.C.:
Q. Right. And we see the cost per car at $396.75, do you see that?
MS. ELLIOTT:
A. I do.
MASON, Q.C.:
Q. All right, so if we go one page further, this is accident year 2015 as of June 30, 2017.
MS. ELLIOTT:
A. Uh-hm.

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MASON, Q.C.:
Q. We see the ultimate loss and cost per car at $413.33?
MS. ELLIOTT:
A. Uh-hm.
MASON, Q.C.:
Q. So this would be a little more reliable, I take it, than the data that we looked at in the last page?
MS. ELLIOTT:
A. Well the year is a little bit older, more mature.
MASON, Q.C.:
Q. Right, okay. If we go to the next page, accident year 2014 as of June 30, 2017, now this figure presumably would be even more accurate, is that right, because more of the claims have settled at this point?
MS. ELLIOTT:
A. Yes, that's correct, yeah.
MASON, Q.C.:
Q. Right. And so, we see there a much lower ultimate loss cost payout, $354.37.
MS. ELLIOTT:
A. Uh-hm.

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MASON, Q.C.:
Q. If we look at the subsequent years, we see approximately a 12, 13 percent increase in the ultimate loss numbers which I suspect is largely due to increases in reserves and the supplemental reserve?
MS. ELLIOTT:
A. Well, I mean, if we go to the next year, accident year 2013, you will see that number goes up to 380, so this is Appendix 4, is higher, so –
MASON, Q.C.:
Q. Right. And the year before that, just for the record, is 368, right, so it's a lower number.
MS. ELLIOTT:
A. Yeah, so it goes up and down, it's not necessarily--and it's a product, as we said earlier, changes in claims frequency rate over time is affected, of course, the frequency rate by the weather in that winter, so the fact that 2014 may be lower than the 2015 and '16 here could be due to more reasons than just the case reserve estimates. It could be due to the frequency

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in that year as well.
MASON, Q.C.:
Q. But you looked at this and I take it that in 2015—sorry, get on the right page here, at 2015 and 2016, the increases that we see in a cost per car for ultimate loss during that timeframe is reserves going up and a supplemental reserve going up s that right?
MS. ELLIOTT:
A. It reflects the amounts that have been paid and the amounts that the case adjuster has set, yes, that's what that, there's no—it reflects the data that's reported by the company.
MASON, Q.C.:
Q. If the adjuster and you are too high on that number –
MS. ELLIOTT:
A. On which number?
MASON, Q.C.:
Q. Sorry, the subsequent years, at 411, 413, sorry, 413.33 and 396.75, if those numbers are too high because of the reserve and the supplemental reserve, and the number should be more like 2014 which is 354.37, that's

going to have a significant impact on the return of equity figure that you've put in your report, correct?
MS. ELLIOTT:
A. Well each year is independently, so the following year, accident year 2013, it was 380, higher than the more recent year, so there are certainly years that will be higher and lower and of course, as a result of how many accidents and the severity of the accidents that happen in that year.
MASON, Q.C.:
Q. Right.
MS. ELLIOTT:
A. So it's not unusual to see some differences from year to year, up and down, but we're looking at how are the average costs increasing for claims settlement over time and there are obviously bumps in that because of the type of claims that might occur that year, but this is not unusual.
MASON, Q.C.:
Q. Right, but if we look at the first year, which is I think 2012, it's 368 and then we go up in 2013, it's 380, and then it's down

at 350 in 2014.
MS. ELLIOTT:
A. Uh-hm.
MASON, Q.C.:
Q. It almost sounds like you're saying 350 is an outlier –
MS. ELLIOTT:
A. No, I'm not saying that.
MASON, Q.C.:
Q. You're not saying that, okay.
MS. ELLIOTT:
A. I'm not saying that, I'm just saying that's likely due to better weather that year or lower number of claims or possibly no large claims that year, but the change from year to year that we're observing here is not unusual, but I think it's fair, as you had said, I'm not disagreeing that the more recent years there's more uncertainty in that estimate, it's not as mature compared to the older years, so the 2012 and 2013, they're more mature years and those estimates are less likely to change, but they still may change.
MASON, Q.C.:

Q. Got you. If the number is used at 350, cost per car, that is going to significantly change—if we keep the other items steady, operating expenses, premium, and we just adjust in terms of your numbers the cost per car, the ultimate loss, at $350.00 versus your estimates that you've put forward, that's going to significantly drive up the return on equity, correct? That figure? If we say that the baseline for claims costs in this province are $350.00 per car, as we see in 2014, we keep your calculation for premiums steady, we keep your calculation for operating expenses steady, that is going to drive up that return on equity which you suggested is minus 9 percent, it's going to significantly improve the profitability of the insurers in this province, right?
MS. ELLIOTT:
A. Well I think what you're saying is what we presented in Table 1 in our report, you know, there are changes, these are the accident year, so for the year with the lower estimate of the ultimate losses, we have a positive –

MASON, Q.C.:
Q. Yeah, 6 percent return on equity, right?
MS. ELLIOTT:
A. Yes. And then for the years where it's higher, but we looked at each year individually, so—and clearly the data, the number of claims that occur and the types of claims that do occur are not the same each year.
MASON, Q.C.:
Q. Right, I'm just saying though if the claim reserve and the supplemental reserve is too high and it should be $350.00 per car, right, that's going to significantly change the return on equity at the end of the day, as you've mentioned, like in 2014 it's a 6 percent return on equity, not minus 9 percent return on equity.
MS. ELLIOTT:
A. Right, it works both ways. If it's too low, if it should be higher, the profit will be less. It works both ways, so yes, and when all of the claims are settled and closed and we look back and say was this number, you know, how did it change over time from this

initial estimate, it likely is going to be higher or lower than what's presented. The likelihood that it will be exactly as we presented here, is pretty slim. It's going to be higher or lower.

MASON, Q.C.:

Q. So if you get it wrong, like you did in Nova Scotia in 2002 and estimate reserves much higher than they actually should be, then we've got a problem today, correct?

MS. ELLIOTT:

A. Well, I think that's one of the issues that we presented to the Board for consideration is that there could be a change in frequency which, you know, clearly we've discussed it that the frequency rate has declined and it appears to be, the change in that frequency is attributed to—part of the change I the frequency is attributed to the reforms, that that needs to be taken into consideration, so I agree with you that looking back to see what happened in other provinces is important and that when the government or the Board makes a decision, that those changes that occurred in the frequency rate

that affected the profitability in the Nova Scotia, New Brunswick should be considered, yeah.

MASON, Q.C.:

Q. So if we—another undertaking I'm going to look for, I'm going to ask you to do, is that if we use a 23 percent operating expenses, the appropriate calculation I referred to earlier, and if we say that the cost per car on a go-forward basis is $350.00 per car, as set out in 2014, can you calculate, leaving all the other figures the same, return on investment and so on, all the other figures the same, can you calculate the return on equity for me under that scenario?

MS. ELLIOTT:

A. I can do any calculation that the Board would require in an undertaking to do. If you set it out specifically, we're happy to do that.

MASON, Q.C.:

Q. Right. Those are my questions, thank you.

CHAIR:

Q. Thank you, Mr. Mason.

MR. FELTHAM:

Q. Madam Chair, I'm looking at the clock. There is certainly no way that I can begin and be finished by noon.

CHAIR:

Q. I assumed as much.

MR. FELTHAM:

Q. Yeah, so let's make a request that Ms. Elliott be made available at some future point that's agreeable to continue the questions on the profit report and there's an additional report, of course, which hasn't been presented.

CHAIR:

Q. I think the process that's allowed provides for that certainly, so –

MR. FELTHAM:

Q. I just want to be clear, thank you.

CHAIR:

Q. Sure.

MR. FELTHAM:

Q. There is another issue and I raised it with Board counsel, I don't know if that's something we need to deal with today, is with respect to the presentation of Aviva.

Ms. Glynn, I don't know how you, if that's been raised with the Board at this point or where that sits.

MS. GLYNN:

Q. It has been raised with the Board and as indicated in my discussions this morning, we did not have a chance to discuss this morning as we were preparing for today's session, we will have discussions when we're finished here.

MR. FELTHAM:

Q. Okay, that's fine. Thank you.

CHAIR:

Q. And we'll communicate with you as soon as possible.

MR. FELTHAM:

Q. All right, thank you very much.

CHAIR:

Q. Certainly before the end of the day.

MR. FELTHAM:

Q. Thank you.

STAMP, Q.C.:

Q. Sorry, Madam Chair, I just want to know what the discussion is.

MS. GLYLNN:

Q. The Campaign has asked to ask questions of one of the public presenters and this is something that will be dealt with with all the parties once we finish here this morning. It wasn't something that we could deal with this morning. Anything further?

CHAIR:

Q. Is there anything else? No?

BROWNE, Q.C.:

Q. Just in the interest of efficiency, I was wondering if counsel who have similar issues or have a similar position would not get together and take different segments of the cross-examination to avoid repetition so that there is efficiency into the hearing because we are seeing, and if you review the transcripts, a lot of repetition, so it starts with counsel for the Campaign and then it goes to counsel for the trial lawyers and then it goes to counsel, the other counsel here, but the positions generally are all the same, so if the positions are the same, can't there be some direction here to make the hearing more efficient so we can use our time value,

really, that's my point.

CHAIR:

Q. That would be useful.

KENNEDY, Q.C.:

Q. Madam Chair, if I could make a comment, in fact one of the things that myself and Mr. Feltham had discussed, based on the procedure utilized by the Consumer Advocate, we were going to split up the questions among ourselves. I mean, they're asking, they have two counsel asking questions, so we see no reason why we can't do the same. So if you're going to talk about making the process more efficient, then they have two counsel asking questions, so we should be—we propose to do the same.

BROWNE, Q.C.:

Q. Just in fairness now, the questions we've asked and the time, we've been looking to efficiency because they've all been asked by the time they get to us; in fact, they've all been asked more than once by the time they get to us in many cases, so I don't think the problem is right here. It's my understanding that if you have two counsel

at least as long as the other counsel is not asking repetitive questions, as long as the other counsel is doing a different topic, that's what we've gone by, so in fairness in terms of the timing I invite the other parties to look at the transcripts and see how long we've been with our questions and do comparisons how long they've been.

KENNEDY, Q.C.:

Q. That's not the point, the point is that the Consumer Advocate has, is the one who have been having two counsel ask questions. No one else has done that and that does not add to the efficiency of the process. So we had proposed ourselves we are going to do the same thing.

STAMP, Q.C.:

Q. Madam Chair, if I could just –

BROWNE, Q.C.:

Q. Well, if that is a problem for counsel, we can come to grips with that, but I would ask that you would reciprocate and come to grips, that the counsel who have similar positions get together and take different aspects of it to make sure that the areas

are thoroughly canvassed, but to ensure that there is no repetition.

KENNEDY, Q.C.:

Q. Commissioner, we are here representing the Campaign, we have our specific clientele. We are not going to tell or suggest to Mr. Gittens or to Mr. Fraize or to Mr. Stamp how they should do things. The last I, if the Commission wants to give direction, fair enough, but I'm not sure that this should be an issue for the Consumer Advocate who is here representing the consumers of this province as to what questions we ask in relation to our particular clientele. I find that somewhat offensive.

BROWNE, Q.C.:

Q. I'm not talking about the questions you ask; I'm talking about the efficiency and approach. You can ask what you want as long as they're relevant, that is not my issue. My issue is a more efficient approach and something for counsel to probably consider in the interest of an efficient hearing.

CHAIR:

Q. I'll leave that to counsel. Mr. Stamp?

STAMP, Q.C.:
Q. Just a brief point, Madam Chair. My friend, the Consumer Advocate does raise a worth-while issue. One of the things that current counsel has asked for is undertakings, I guess he's going to ask for information, additional information to be presented one way or another and since Ms. Elliott will come back, I'm going to suggest that it might be appropriate if anybody else has additional questions arising already, that that be put to, at this time as well, because otherwise, we're into a delay all the way through.
CHAIR:
Q. The process that we've laid out allows for a written question.
STAMP, Q.C.:
Q. Sure.
CHAIR:
Q. My sense here was we were just starting that process in advance and just as well to get it started, so absolutely if there are questions arising as a result of the last three and a half days, put them forward and

we'll get them—the idea would be to get the responses back as soon as possible.
CHAIR:
Q. It's been a long week, I think we'll close it there. We'll see you on Monday.
STAMP, Q.C.:
Q. Thank you.
BROWNE, Q.C.:
Q. Thank you, Chair, Commissioners.
Upon concluding at 11:50 a.m.

CERTIFICATE

I, Judy Moss, hereby certify that the foregoing is a true and correct transcript of a 207 Automobile Insurance Review hearing heard on the 8th day of June, 2018 before the Board of Commissioners of Public Utilities, 120 Torbay Road, St. John's, Newfoundland and Labrador and was transcribed by me to the best of my ability by means of a sound apparatus.

Dated at St. John's, Newfoundland and Labrador this 8th day of June, 2018

Judy Moss

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