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

September 6, 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, Regulatory Analyst
Peter O'Flaherty, Q.C., Hearing Counsel

Parties (Alphabetical Order)
Atlantic Provinces Trial Lawyers Association
Ernest Gittens

Campaign to Protect Accident Victims
Colin Feltham
Jerome Kennedy

Consumer Advocate
Dennis Brown, Q.C.
Andrew Wadden

Insurance Bureau of Canada (IBC)
Amanda Dean
Kevin Stamp
Trevor Foster

Spinal Cord Injury NL
Thomas Fraize
Lara Fraize-Burry
Michael Burry

Presenters:
Paula Elliott, Oliver Wyman

(9:08 a.m.)
CHAIR:
Q. Good morning, everybody. It looks like all the same faces. I think the only acknowledgement I'll make this morning is to recognize Mr. Peter O'Flaherty, who will be acting as hearing counsel for this session. I don't think we need to do anything else on a preliminary matter. I guess, today we're just picking up where we left off, and when we finished on June 8th, Ms. Elliott had responded to questions from the Atlantic Provinces Trial Lawyers Association. I understand we're going right to the Campaign for continuation of questioning, and we'll turn it to you.
MR. FELTHAM:
Q. Good morning, Chair, Commissioners, thank you. Good morning, Ms. Elliott, welcome back.
MS. ELLIOTT:
A. Good morning.
MR. FELTHAM:
Q. I'm sure it's good to be back. So I think what we'll do is I'll start sort of at the

end, and ask you to go to page 28 of your report. I don't want to beat this to death too much, but I do think it's important that we do note this for the record, and what we're looking at here is sort of the disclaimer portion of your report and it notes what the limitations are. Yes?
MS. ELLIOTT:
A. Yes.
MR. FELTHAM:
Q. And this is quite similar to the same limitations disclaimer that we've seen in the other reports that you've reviewed up to this point, correct?
MS. ELLIOTT:
A. Yes.
MR. FELTHAM:
Q. And you note that, "For our review, we relied on data and information available from GISA and Board staff without an audit". So again no independent auditing on your part of what was reviewed?
MS. ELLIOTT:
A. That's correct.
MR. FELTHAM:

Q. Or by any other entity?
MS. ELLIOTT:
A. To the best of my knowledge, yes.
MR. FELTHAM:
Q. And you go on to also note that, "Reviewed the data for reasonableness and consistency", again not audited or otherwise verified the data, and then, "We have assumed that the data provided is both accurate and complete"?
MS. ELLIOTT:
A. That's correct, we're not auditors, yeah.
MR. FELTHAM:
Q. And no other auditors were engaged to review the data provided to you that you know of?
MS. ELLIOTT:
A. I can't speak fully to the process of GISA's review. I do know that they reviewed the data and had their own internal audits and checks, but I can't speak to that in a fulsome manner.
MR. FELTHAM:
Q. Okay. Speaking of GISA, I don't know if we can go to the GISA letter which should be on the website. That was provided to parties by

the Board dated August 24th, 2018.
MS. KEAN:
Q. GISA letter?
MR. FELTHAM:
Q. Yes.
MS. KEAN:
Q. And the date?
MR. FELTHAM:
Q. August 24, 2018. It's a letter from GISA to the Chair of the Board. Ms. Elliott, it's on the screen now. Have you ever seen this document before?
MS. ELLIOTT:
A. Yes.
MR. FELTHAM:
Q. When did you first see it?
MS. ELLIOTT:
A. I don't know the exact date, but within the last two weeks, I would think.
MR. FELTHAM:
Q. And do you know anything about what precipitated the issuance of this letter?
MS. ELLIOTT:
A. None whatsoever. I was just provided a copy.

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MR. FELTHAM:
Q. You were provided with the information, so you were aware that it existed, but you weren't involved in discussions with GISA for the production of the letter, or that sort of thing?
MS. ELLIOTT:
A. No.
MR. FELTHAM:
Q. No?
MS. ELLIOTT:
A. No, not – no, no.
MR. FELTHAM:
Q. Okay, if we could go back to the report document, please, and page 5. Thank you. So this is under the Methodology and Discussion section of your report, and it's here that you note your key assumptions, correct?
MS. ELLIOTT:
A. It's in reference to the information that's used to derive the calculations, yes.
MR. FELTHAM:
Q. Right, and these A, B, and C items under Methodology and Discussions, these are

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assumptions made by you in the preparation of this report?
MS. ELLIOTT:
A. It's simply referencing that we're going to look at loss amounts, expense amounts, and profit, yeah.
MR. FELTHAM:
Q. Okay, so were not key assumptions here in this process relating to the claim costs you indicated in A, the operating cost reported by the insurers in B, and the return on investment in C?
MS. ELLIOTT:
A. Yes, that's what we considered, yes.
MR. FELTHAM:
Q. Okay, and we don't see here in this particular section anything related to the return on equity, but this was also an assumed factor on your part, was it not, that the appropriate return on equity was 10 percent?
MS. ELLIOTT:
A. No, I – let me explain. In our report, we present three parts. Part I is a hindsight measurement of what the return was. Part II

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– so in that case, we don't assume 10 percent. We're trying to measure what it was. In Part II, we say what would the required premiums be if you targeted a 10 percent return in our Part II, and compare that to what the actual premium earned was, and then Part C is trying to – Part III, rather, is trying to forecast what 2017 would be. So in Part I, we're trying to measure the profit as opposed to saying it was 10, and what would the premiums be if you targeted 10 percent. So there's no need to state it here.
MR. FELTHAM:
Q. Okay, and if we look at page 2, and I'm getting at the Part B that you're referring to in your answer –
MS. ELLIOTT:
A. Uh-hm.
(9:15 a.m.)
MR. FELTHAM:
Q. At the bottom underneath Table 1, "We note that the Board of Commissioners, Public Utilities Board, guideline target profit level for private passenger automobile rate

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filings is an ROE of 10 percent". So that's what you're assessing your findings against, if you will, that's the benchmark that you're assessing results against as to what should be achieved?
MS. ELLIOTT:
A. Yes, so when rates are filed with the Board, the companies target 10 percent in their pricing model to determine what rate is indicated, and then now we're looking back in time and trying to estimate what was the ROE after-tax achieved, and then saying, well, 10 percent was the target upon which rates were set, but sometimes your losses are higher or lower than what are expected, and so your profit, of course, will be higher or lower accordingly. So this is a look back in time to see what the returns were.
MR. FELTHAM:
Q. Right, and in determining whether you have rate adequacy or insufficiency, we are measuring results against that 10 percent benchmark?
MS. ELLIOTT:

A. Not in this table, but in Part II, yes.
MR. FELTHAM:
Q. No, no, I'm sorry, it's not in the table.
MS. ELLIOTT:
A. Yes, yeah.
MR. FELTHAM:
Q. Just in the overall approach to the report and your analysis, that's what you're doing?
MS. ELLIOTT:
A. Yes, companies target a return when they set their rates, and then you can look back in time and say, well, gee, did I achieve that or not, and that's what we're doing here.
MR. FELTHAM:
Q. Right, and in this case, did we achieve an ROE of 10 percent or not?
MS. ELLIOTT:
A. Right.
MR. FELTHAM:
Q. And that 10 percent figure, that comes, as I understand it, from the Board's benchmark hearing ruling in, I think, 2005?
MS. ELLIOTT:
A. Economists would have determined that number.

MR. FELTHAM:
Q. Right, and you haven't done any determination – made any determination, engage in anything to determine whether or not 10 percent is a reasonable return on equity?
MS. ELLIOTT:
A. I'm not an economist. That's not what I do, no.
MR. FELTHAM:
Q. And you're not a cost of capital expert?
MS. ELLIOTT:
A. Not that either, no.
MR. FELTHAM:
Q. So you have any idea how the cost of equity capital today compares to what it would have been in 2005?
MS. ELLIOTT:
A. Well, the cost of capital and return on equity are often used interchangeably. A 10 percent guideline that the Board has equates to approximately, with the current tax rate, an investment rate assumption of 5.74 percent of premium as a loading provision in the rates. Alberta has a 7 percent

provision, a comparable provision, and Ontario is 5 percent. So it would be in the range of what other provinces are using.
MR. FELTHAM:
Q. My understanding, though, is that's – comparing to other provinces is not the manner in which an appropriate ROE should be set, you know, if we were engaged in that process?
MS. ELLIOTT:
A. I'm not stating that that's how you should determine it. What I'm stating is that in using that number, it was in the range of what is used and a reasonable number to use. I'm not saying that it's the right number nor the wrong number. I'm just stating that it is in the range of what is used in other provinces. So in my use of that number, it would not be unreasonable.
MR. FELTHAM:
Q. And no one asked you to examine whether the ROE should be 10 percent or not, or a benchmark?
MS. ELLIOTT:
A. That's correct.

MR. FELTHAM:
Q. Okay, but that determination should be made based on evidence and a hearing process?
MS. ELLIOTT:
A. By an economist.
MR. FELTHAM:
Q. Yes, by an economist.
MS. ELLIOTT:
A. Yeah.
MR. FELTHAM:
Q. So if the target ROE, which is what I'll call that, 10 percent, if it was not assumed, then it should have been different each year based on what evidence would tell us. Then that would make your premium adequacy estimates misleading, would it not?
MS. ELLIOTT:
A. Well, it certainly would not make what we've presented here in the table that is on the screen misleading because that's measuring what it was in hindsight, and furthermore, looking at Part II where we measure what was the actual earned premium and what was the required premium based on that 10 percent, it does not make that unreasonable or

inappropriate to review or misleading because it is a measurement of what was used for the rate filings. The assertion that the findings are misleading because we used 10 percent, I don't agree with, because that was the value that insurers were allowed to use in their rate applications.
MR. FELTHAM:
Q. But if those – if that target ought to have been something, say, less than 10 percent, or more than 10 percent, in reality, other than based on the assumed number from 2005, the degree to which there is inadequacy or perhaps rates were too high would change?
MS. ELLIOTT:
A. Well, sure, any number, if you substitute a different assumption and wish it was something else, of course, it would change, but we're not dealing with wishes and I wish it was something different. I was measuring what it was.
MR. FELTHAM:
Q. Based on that assumed 10 percent as the benchmark?
MS. ELLIOTT:

A. Based on a target of 10 percent, yes.
MR. FELTHAM:
Q. Yes, okay. Let's go back just one page to page 1, please. So the second paragraph here you note that, "Insurance industry profit levels can be estimated and measured in several ways". I guess, my question for you on that is how many ways are there and what are they?
MS. ELLIOTT:
A. Well, the two key ways are percent of premium referred to as POP, and return on equity, and then you can look at that pre-tax, after-tax. So that's our reference. That's the two common ways, and as an investor, you'd want to look at what's the return on equity if you're investing in a company, so that's a very typical way. Then the percent of premium is sort of a simplified way to look at it because consumers can understand if the percentage of premium – a profit as a percentage of premium is allowed is 5.74 percent, and they would know for every $100.00 of premium, there's $5.74 allowed for profit. So that's

kind of a simplified approach.
MR. FELTHAM:
Q. All right, so you say several ways there, and then you do note two, and what I take from what you're telling me is really primarily your view is there are two ways?
MS. ELLIOTT:
A. And pre-tax, after-tax, yes.
MR. FELTHAM:
Q. Okay. Back to page 2 of the report, please. So here you're reviewing estimated profit levels. You say, "We use the total of all premium actually charged by insurers in Newfoundland and Labrador for private passenger automobile insurance in each of accident years; 2007 to 2016. So that's the amount estimated for claims and all expenses in each of those years based on industry data as of June 30th, 2017, plus estimated investment income". So to estimate the profit levels then, you're using the total of all the premiums that are actually charged by insurers in Newfoundland for private passenger auto, and then you subtract from that an amount estimated for

claims and the expenses, and you say based on industry data plus the investment – estimated investment income. When you say "based on industry data", what you're saying is that you're accepting the expenses as reported by the insurers?
MS. ELLIOTT:
A. That's correct.
MR. FELTHAM:
Q. Okay. You've not examined the reasonableness of those expenses in any way?
MS. ELLIOTT:
A. Well, I would say I've examined the reasonableness of them. I am fully aware of what the expense ratio is in other provinces, and the numbers are typically in the range from 25 to 30 percent, or under 30, in that upper 20 percent range. So if the number was 40 percent, I would certainly look at that and say, gee, that's not reasonable, what's going on?
MR. FELTHAM:
Q. That's in terms of the ratio, expense ratio?
MS. ELLIOTT:
A. Yes, because that's –

MR. FELTHAM:
Q. But you haven't examined whether the expenses themselves –
MS. ELLIOTT:
A. Again I'm not an auditor. I do not audit data.
MR. FELTHAM:
Q. You've just accepted what's being provided and you work with those?
MS. ELLIOTT:
A. Yes, that's correct.
MR. FELTHAM:
Q. And if the expenses were determined to be overstated, that would affect your findings on profit levels?
MS. ELLIOTT:
A. Understated, overstated, either way, yeah.
MR. FELTHAM:
Q. Yes. I had some questions for you as well in relation to the written answers to interrogatories, and that's where I'd like to go next if I could. This would be the Oliver Wyman letter of July 6th, 2018, Responses to Interrogatories. Okay. So, I have the document and I'm interested in

going to page 6. So, this is – page 6 is in the area that contains your response to questions from the Insurance Bureau of Canada. It actually starts on page 5 though. And Answer 3 on page 6. So, this – well, I'll repeat the question, just so we have some context.

"Ms. Elliott, an intervener has requested that you estimate industry return on equity (ROE) ratio to expense percentages in Newfoundland and Labrador. These percentages include 18.2, 20.2 and 24.4. Could you please comment on why you used the General Insurance Statistical Agency's published expense ratios and the reasonableness of your selection relative to these three requested percentages above?"

So, I gather what IBC is asking there is in relation to the question that CAPLA APTLA had asked, where they asked you to substitute some expense ratios and redo some calculations, okay.

So, your response here below indicates "the suggested expense provisions" which are the 18.2 percent and so on, "are not based

on the most recent actual expense information requested by each individual insurer in Newfoundland and Labrador, which was the expense information we relied on." So, and again, so, you're using the expense ratios based on the information that the insurers provided?
(9:30 a.m.)
MS. ELLIOTT:
A. Yes. We're using the GISA information, yes.
MR. FELTHAM:
Q. Which comes from the insurers to GISA?
MS. ELLIOTT:
A. That's correct.
MR. FELTHAM:
Q. Okay. And then you go on to say, at the last paragraph under 3, "testing and estimating what the profit level might have been if the expense provision were different would be appropriate if changes to the expense provision were under consideration. The terms of reference did not outline this consideration." So, your view, I'll just paraphrase here, is that examining the expense provisions and, I guess, whether

those are reasonable and that sort of stuff, is not something that is part – ought to be part of this review based on terms of reference?
MS. ELLIOTT:
A. We were asked to look at what the historical profits were. So, using the actual expense ratio provided by GISA as opposed to an expense ratio that would be hypothetical was not – we weren't asked to use a hypothetical expense ratio; that is the expense ratio could be reduced to X, whatever that X would be, what would be the profits. So, that wasn't something that we did or were asked to do.
MR. FELTHAM:
Q. Okay. I'd like to refer you to a couple of points in the Terms of Reference, if I could discuss those with you. I apologize for all the document jumping, but if we could bring up the Terms of Reference, please? Sorry, there it is. Quicker than I thought. Okay.

So, under Phase II, you'll note is says "Phase II will review the existing private passenger automobile insurance products and

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assess and recommend possible options to contain costs." So, as a starting point, I would suggest to you that's fairly broad. And then if we go to the very bottom, the last point under II, it indicates "to report any other cost savings or other improvements on any aspect of automobile insurance offered in this province". So, you know, again, that's a big broad catchall, I would suggest, in terms of anything that can be done to reduce costs.

MS. ELLIOTT:

A. It would be very broad. It could be improving, you know, roads to make them safer. I mean, there are many aspects of that. Our report was not that broad.

MR. FELTHAM:

Q. And in your view, there was no need to go into the expense provision and determine whether any changes could be made or ought to be made in that regard? Obviously changes there would mean changes in cost.

MS. ELLIOTT:

A. In terms of the expenses, again repeating myself, we were looking at the hindsight,

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what they were in the measurements that we did, not what if they were a certain number. In looking forward to expenses, I'm certainly in favour of anything that makes the expense provision in rates lower, so that that reduction in expense cost translates to lower premiums for consumers. It's a very positive thing.

There are three main parts to expenses: the commissions that are paid to brokers; the contingent commission that is paid to brokers, that component of commissions; the premium tax rate that's five percent; and then the general operating expenses, the rent, the salaries. To conduct such a study, and we're dealing with numerous companies, so to drive out lower rates, lower costs, that's a different review and that was not something that we undertook or stated that we would undertake.

MR. FELTHAM:

Q. Well, I mean, I follow what you're telling me, but you know, with respect, I'm not sure it's a different review.

MS. ELLIOTT:

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A. Well, with respect, I would have to go to Intact or Aviva and find out, you know, what their operation is and spend months and months reviewing their operation, as to how to lower perhaps their general expense ratio from 10 to 9.5 and you know, there are numerous companies in the province and that wasn't the exercise that I certainly understood or was directed to undertake, to go to advise all the large companies how to reduce their costs.

MR. FELTHAM:

Q. Okay. No, fair enough. And instead, we accept what's provided by the insurers as expenses in various -

MS. ELLIOTT:

A. Knowing they're in very similar range in other provinces, yes.

MR. FELTHAM:

Q. Be that as it may, we're still relying on what they provide to you as the expense figures?

MS. ELLIOTT:

A. Yes. I can't make up a number, so I have to use what's given to me by the people that

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collect the data.

MR. FELTHAM:

Q. Okay. So, switch gears a little bit here. When you – in making your calculations in your report of auto insurance company profit in Newfoundland and Labrador, you didn't exclude any companies from your analysis? You would have included data from all the companies who are underwriting auto policies here? Is that correct?

MS. ELLIOTT:

A. That's correct, yes.

MR. FELTHAM:

Q. And did you consider whether it might be reasonable to exclude some of the companies for any reason?

MS. ELLIOTT:

A. Well, I think, you know, you can go in and make exclusions and say gee, if we excluded all the companies that made high profits, then we'd have a different number and if we excluded all the people that had low profits, then we'd have a different number, and perhaps that would be informative, but we chose not to make any decision to exclude people or companies rather because we were trying to frame the answer in a different way or manner. I think we were – not I think, I know we were presenting an estimate for the industry, including all insurers, be that what it may, you know, make money, lose money, and not trying to exclude anybody to frame a different answer, just provide the facts as they are.

MR. FELTHAM:
Q. So, the answer is no, you didn't think it was reasonable to exclude any companies?

MS. ELLIOTT:
A. I see no reason to exclude any companies if we're trying to measure what the results were in the past.

MR. FELTHAM:
Q. But more than trying to measure what results were in the past, we're also trying to determine what's appropriate for the future as part of this, are we not?

MS. ELLIOTT:
A. I don't think measuring what the results were for the past of the profits, loss experience, all the different reasons that

drive the results, excluding anything doesn't assist you in any manner.

MR. FELTHAM:
Q. What if a company or companies had negative ROEs, perhaps even significantly negative ROEs, for the entire past period? That doesn't change your view?

MS. ELLIOTT:
A. It is what it is. I mean, they lost money and so they lost money. To exclude them is just to exclude them and make the number higher. I don't see the benefit of saying "oh, I wish we could exclude these companies because they lost money" and then the number will be higher. I don't – you can do that, but if you're trying to look back and say what were the profits, that's what you want to know. If you want to exclude some companies, go ahead and do that, but I don't see the appropriateness of just cherry picking who you want to exclude.

MR. FELTHAM:
Q. But if an auto insurance company is underwriting in the province and are consistently losing money, and if we include

them in the analysis with this sort of aggregate approach that you've taken, doesn't the auto insurance consumer kind of wind up subsidizing the business operation of that company?

A. Nobody's subsidizing anything. We're looking back at what the results were. They are what they are. If you want to exclude somebody then you're just saying well, these are the results if I exclude the guys that have a low profit level. That's all you know now. We're just measuring it. Moving forward and how that will benefit consumers in the future with whatever the Government decides to do here, that's how you're going to benefit consumers. Looking back and making artificial measurements of the past results because you exclude the low people, the low insurers, I'm not sure what that achieves. You can do it, but you're just giving hypothetical results of what the profits would have been if we exclude the low ROE insurers.

MR. FELTHAM:
Q. Let's take a bank for example. Some of

them, most of them, are in the insurance business, auto insurance business in particular, and I guess other types of insurance, but we're talking about auto. The business model of the bank -

MS. ELLIOTT:
A. I'm sorry, which bank are you referring to here in the Province?

MR. FELTHAM:
Q. Well, we can talk about TD Bank.

MS. ELLIOTT:
A. Okay.

MR. FELTHAM:
Q. Doesn't matter. You know, if they're in the province with a business model that's not designed to make money on insurance product, you know, they may be here to say "look, we're going to sell insurance, but it's really part of a bigger plan for us. We're going to get customers there. We don't mind losing money and having negative ROEs." That might be like a loss leader type of product to them and that's their prerogative. But is it fair then to effectively have the auto insurance consumer

subsidize that type of business model?
MS. ELLIOTT:
A. Well, you're asking me to make an assumption that they are providing insurance as a loss leader.
MR. FELTHAM:
Q. I am.
MS. ELLIOTT:
A. And I'm not prepared to make that assumption when I present my results of what the history is of the profits in the province.
MR. FELTHAM:
Q. But if that were the case?
MS. ELLIOTT:
A. Well, again, that's an if. It's a hypo – you're hypothesizing and I'm not prepared to present results on a hypothesis. I'm only prepared, which I did, to present results on the actual data that was available, not to say well, what if I exclude the companies without low negative ROE. You can do that calculation, but that's not what I chose to do because I don't know why their ROE was negative.
MR. FELTHAM:

Q. Okay. But you understand that by including a company with a consistently negative ROE from the past results, we do just – we get those past results and we get the numbers, but -
MS. ELLIOTT:
A. And what if that company had -
MR. FELTHAM:
Q. Just let me finish, please. And but, it's not only the past because we are looking at that past history to determine whether or not rates have been adequate in Newfoundland and Labrador, and that's with a view to the future.
MS. ELLIOTT:
A. I beg to differ. We presented the results including all companies. We were not asked to draw a line in the sand and exclude those companies that had an ROE below a certain number and to make, you know, some judgment call and hypothesize that. And I'm not sure if you're presenting factual information for me to consider here what TD's results are in other provinces, what their ROE is, and whether they should be excluded in any

hindsight review of their profits. But no, our choice was to include all companies. The results are what they are. They do operate here and so, we didn't draw some line, artificial line to say well, we're going to exclude those companies that have an ROE less than what we think should be if you wanted to stay around in the province.
MR. FELTHAM:
Q. Okay. Move on from that one. I'd like to go back to the answers in interrogatories, which I think we're not on that document. I'd like to speak with you about commission expenses. And if we go to page one, please, and these are your interrogatory responses to the Atlantic Provinces Trial Lawyers questions. And I'm not going to read this, but if we go down to the last paragraph under number one, you indicate that the Newfoundland and Labrador 2016 average commission ratio was 12.2 percent and the premium tax rate, five percent. Is that correct?
MS. ELLIOTT:
A. Yes, yeah.

MR. FELTHAM:
Q. Okay. And again, other than you mentioned comparing things for other provinces, you took no other means to determine reasonableness of the commission, average commission ratio? Is that correct?
(9:45 a.m.)
MS. ELLIOTT:
A. Well, no, I know what the commission ratio are, the commission rate paid to brokers. So, it's 12 and a half percent, plus a contingent commission. So, I would certainly say that I would know what's reasonable and what's not.
MR. FELTHAM:
Q. And whether that rate is appropriate in the particular sales model that exists in Newfoundland and Labrador, you didn't do any analysis with respect to that?
MS. ELLIOTT:
A. I'm sorry, what is your question? I'm not following.
MR. FELTHAM:
Q. The 12.2 percent, you accepted it without doing any analysis as to whether that 12.2

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percent is appropriate in the context -
MS. ELLIOTT:
A. I certainly -
MR. FELTHAM:
Q. - of the sales models in this province?
MS. ELLIOTT:
A. I certainly know what's appropriate or not for a commission rate. I know the rate is 12.5 percent for brokers and it's a lower cost if you're a direct writer. I'm certainly aware of what those numbers are and -
MR. FELTHAM:
Q. How do you know that's a reasonable rate?
MS. ELLIOTT:
A. I'm sorry, in what context are you saying – the rate that's charged or what we pay brokers or whether that is -
MR. FELTHAM:
Q. The 12.2 percent.
MS. ELLIOTT:
A. Well -
MR. FELTHAM:
Q. The ratio.
MS. ELLIOTT:

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A. I'm sorry, what is your definition of reasonable? So, we can answer this effectively here.
MR. FELTHAM:
Q. Whether that's an appropriate commission ratio in the context of this province.
MS. ELLIOTT:
A. Yes, I believe it is an appropriate and reasonable number. It's in line with what brokers are paid.
MR. FELTHAM:
Q. Okay. Did you do any examination of how automobile insurance is sold in Newfoundland and Labrador?
MS. ELLIOTT:
A. Well, I do know how it's sold, yes.
MR. FELTHAM:
Q. Okay. How did you – what did you do to determine that?
MS. ELLIOTT:
A. Well, I know there's a mix. I know which companies are operating in the province, which companies are broker based and which companies are direct writers. I'm aware of that.

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MR. FELTHAM:
Q. Okay. And the Campaign asked you some questions as well on this in the interrogatories and if we go to page nine. Questions actually are repeated at number five there. So, those are the questions and I'm not going to go through each one, but the answers are actually on – start on the next page. I want to take you to Answer A. So, the question here was – just, I guess, I should repeat that.

Okay. "How did you estimate your general expense ratios for the industry? A. What has happened to commissions over time?" And, you note in the second sentence or third sentence, sorry, "as supported by GISA, the commissions, excluding contingent commissions, as a percentage of premiums in Newfoundland and Labrador for 2013 to 2016, the most recent report from GISA, were 11.3 percent, 11.8 percent, 12.2 percent and 12.1 percent respectively."

And then you refer to the contingent commission. So, can you help me out with that? Can you explain the concept of

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contingent commission versus the other commission?
MS. ELLIOTT:
A. Um-hm. Well, the brokers are paid a standard commission rate of 12.5 percent per uniform, and then, contingent commission is contingent, depends upon the broker's performance and each company has a different arrangement that they would have with the broker. So, and the amount of this contingent commission that's paid to a broker would vary by things such as their growth in premium volume, the level of their premium volume, and their loss ratio results.
MR. FELTHAM:
Q. So, more based on achievements in a larger book of business context versus individual sales?
MS. ELLIOTT:
A. It can be growth level of volume of premium and results, yeah.
MR. FELTHAM:
Q. Okay. And you also note in the same paragraph, and sentence—the last sentence

that there's been a shift in commissions. You say, "These shifts in commissions imply"—well, let me back up a sentence I suppose. "Hence, most recently, the commission rate excluding contingent commissions has increased from 2013 to 2016, and the contingent commissions have decreased from 2013 to 2016."

MS. ELLIOTT:
A. Um-hm.
MR. FELTHAM:
Q. "These shifts in commissions imply that there may be a shift towards the use of broker-based companies." And the sentence carries on. Did you examine the ownership arrangement of insurance brokerages in the province?
MS. ELLIOTT:
Q. Intact has increased its market share in the province, and it is a broker-based company, and that may be driving it, yeah.
MR. FELTHAM:
Q. Yes, because you say, "A shift towards the used of broker-based companies."
MS. ELLIOTT:

A. Um-hm, um-hm.
MR. FELTHAM:
Q. So, and Intact, I think in their submission actually, they say they operate three brands in the province?
MS. ELLIOTT:
A. Um-hm.
MR. FELTHAM:
Q. Their own brands. Excuse me. And two of those are Anthony Insurance and Macdonald Chisholm Trask Insurance?
MS. ELLIOTT:
A. Yeah, I'm sorry, they're brokers that you're referring to; not brands.
MR. FELTHAM:
Q. No, I say Intact referred to them as brands in their submission. That's not—I'm not saying that's what they are. They're brokers, I agree with you.
MS. ELLIOTT:
A. The Intact Financial Corporation, Intact Group, would have Novex Insurance as a brand insurer, yeah.
MR. FELTHAM:
Q. Okay. Well, in any event, Intact notes

they're operating Anthony Insurance and Macdonald Chisholm Trask, insurance brokers. You're aware of that?
MS. ELLIOTT:
A. They would be an ownership arrangement which is different than a company arrangement.
MR. FELTHAM:
Q. Okay, but they're a part of Intact's operation according to Intact.
MS. ELLIOTT:
A. That broker does not come (unintelligible) the set of rates. We're dealing with insurance companies here.
MR. FELTHAM:
Q. No, no, I'm not suggesting that they do. I'm just saying Intact has told us in its submission, "These are entities that we operate."
MS. ELLIOTT:
A. Yeah.
MR. FELTHAM:
Q. Okay?
MS. ELLIOTT:
A. Um-hm, they're not insurance companies.
MR. FELTHAM:

Q. No, they're not. I understand, but the commissions that those brokers, Anthony Insurance, Macdonald Chisholm Trask, are charging, the 12½ percent, plus whatever contingent commissions, they're ultimately staying now under the Intact umbrella, are they not?
MS. ELLIOTT:
A. Well, yes, they would roll through the Intact data that's reported to GISA that we're using, yeah.
MR. FELTHAM:
Q. And then, I mean there's other examples. So, you know, Johnson Insurance, locally.
MS. ELLIOTT:
A. I'm sorry, examples of what?
MR. FELTHAM:
Q. I'm going to give them to you.
MS. ELLIOTT:
A. Oh.
MR. FELTHAM:
Q. Johnson Insurance in this province sells insurance, a brokerage, and they're owned by Royal Sun Alliance. Are you aware of that?
MS. ELLIOTT:

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A. I'm not sure who owns which broker.
MR. FELTHAM:
Q. Okay, fine.
MS. ELLIOTT:
A. Yeah.
MR. FELTHAM:
Q. And you mentioned that--well, I mean there appears to be a shift in brokerages being acquired by insurance companies. Are you—do you have any knowledge of that or awareness of it?
MS. ELLIOTT:
A. Yes. Yes, I do. Um-hm.
MR. FELTHAM:
Q. And then, you mentioned the shift toward insurers selling their product through brokerages versus direct selling?
MS. ELLIOTT:
A. Yeah. Who owns a broker has nothing to do with the set of—like the commission rate. That's independent. It's who puts capital in a broker. Whether the broker owns the-- self-owned, owner-operated or somebody else that investing it in it like an insurance company.

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MR. FELTHAM:
Q. Yes, and I want to talk to you about that because I had trouble understanding that, why it makes no difference. And I note that in your—on page 10, the same page here of your answers, and you—because we asked you question.
MS. ELLIOTT:
A. Um-hm.
MR. FELTHAM:
Q. And you say in C, "The acquisition of brokers by insurers does not dictate or require a change in the commission compensation structure," and I struggle with that because, and this may be a simplistic view of it, but in my mind once the insurer acquires the brokerage that sells its product, it's effectively direct selling, but it's still collecting the commission that it would be paying to a broker if it didn't own the broker.
MS. ELLIOTT:
A. It's not direct selling. It's a broker relationship. If the broker comes in—the consumer, sorry, the consumer comes in and

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sits down in front of the broker, and describes what their needs are, and the broker provides that service, and there's a 12½ percent commission paid for that, that's –
MR. FELTHAM:
Q. But Co-operators sells their product directly.
MS. ELLIOTT:
A. I know.
MR. FELTHAM:
Q. You go into their office, you tell them what their needs are, they tell you what they're going to charge.
MS. ELLIOTT:
A. It's a different model. It's a different model.
MR. FELTHAM:
Q. No, I appreciate it's a different model.
MS. ELLIOTT:
A. Um-hm.
MR. FELTHAM:
Q. But Co-operators collects the premium, and it stays in Co-operators. Here, Anthony Insurance collects the premium, it's in

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Intact Insurance, but they're collecting a commission as well. And that commission ultimately finds its way into commission expenses which finds its way back into rates?
MS. ELLIOTT:
A. Yes, if brokers are paid 12½ percent, a broker owner-operator may decide to get other investors and they may find it advantageous to get Intact to be an investor, and maybe Intact owns half of the brokerage, 75 percent, 25 percent, whatever. It does not change the operation of that brokerage. Clearly, it may funnel more volume through to Intact. I understand that, but it does not mean that because you have a different ownership of a brokerage that they're still not getting compensated by 12½ percent. You're making the assumption that they are, and you have evidence to present to say that.
MR. FELTHAM:
Q. But here's how I look at it. Is it really an expense to the insurer anymore? You know, if you have an independent broker and

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I understand that, you know, Aviva or whoever is going to have to pay a commission to that broker if it sells a policy.

MS. ELLIOTT:
A. Yeah, um-hm.
MR. FELTHAM:
Q. That money, that commission paid, is an expense to the insurer. It does not go back to the insurer in any way. It stays with that little brokerage, but if Aviva—well, let's not take Aviva because I don't know which one they own, but let's take Intact again. Intact pays a commission to Anthony Insurance for a policy that it sells.
MS. ELLIOTT:
A. Um-hm.
MR. FELTHAM:
Q. That money is really staying in Intact Insurance effectively?
MS. ELLIOTT:
A. Well, it depends on what their percentage of ownership is of that brokerage.
MR. FELTHAM:
Q. Okay.
MS. ELLIOTT:

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A. Whether it's a 100 percent owner or whatever.
MR. FELTHAM:
Q. Okay. It could—that could matter.
MS. ELLIOTT:
A. Sure.
MR. FELTHAM:
Q. Yes.
MS. ELLIOTT:
A. But just because you have a new owner, if somebody invested capital in a brokerage, that doesn't change the operation and the operating model for that brokerage.
MR. FELTHAM:
Q. Not even if it is the insurer that pays the commission –
MS. ELLIOTT:
A. We don't –
MR. FELTHAM:
Q. - and is the owner?
MS. ELLIOTT:
A. Well, let's just put that aside that somebody invested money and that allows that broker—maybe he is planning on retiring and this is his way to get the money out of the

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brokerage, whatever the reason he's chosen to do this, somebody has put capital in to get ownership of a brokerage. That does not necessitate that they have to change their operating model of that brokerage. And secondly, the data that is reported to GISA is the commission amounts that are paid, and these are the data that we use. So, we're kind of going around in circles. How does the operating business model for a brokerage change? And there's always different brokers out there. Be that what they may, how they change, regardless this is the commission amounts that are reported to GISA that are paid.
MR. FELTHAM:
Q. No, I totally appreciate that, that they are still reported commissions and claimed as an expense by the insurers as part of their expense. And it makes its way into what the expense ratio ultimately is and so on.
MS. ELLIOTT:
A. Um-hm.
MR. FELTHAM:
Q. And then, ultimately, what rates are

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required to achieve rate adequacy?
MS. ELLIOTT:
A. Um-hm.
MR. FELTHAM:
Q. The problem I have is that while it's being claimed as an expense by an insurer--let's say for a moment that Anthony Insurance is wholly owned by Intact, that they own all of it. They've paid a commission.
MS. ELLIOTT:
A. Um-hm.
MR. FELTHAM:
Q. Which ultimately is not really an expense.
MS. ELLIOTT:
A. No, no, no.
MR. FELTHAM:
Q. It's staying within their operation.
MS. ELLIOTT:
A. No, no, no, no. No, they paid a commission. And at the end of the day, the Anthony agency has all different costs, its salary, its rent, and they collect this revenue and its commission, 12½ percent. They collect all that. That's their revenue in. They have salaries, rent to pay out, and at the

end of it that brokerage has a profit. And if Intact owns it, 100 percent, they're getting the profit of the brokerage.
MR. FELTHAM:
Q. Okay.
MS. ELLIOTT:
A. Yeah, that's how that works.
MR. FELTHAM:
Q. But the commission finds its way, at the full rate, into the expenses?
MS. ELLIOTT:
A. If that's their model that they're working under, yes.
MR. FELTHAM:
Q. Sorry, just see where I'm going next here. The Answers to Interrogatories Document, and over to page 6. And so, this time we are back into answers to IBC questions. And if we do down to answer 5, our question 5, answer 5, and we have the IBC asking you a question on question another intervener asked you, and it says, "Ms. Elliott the intervener asked you to calculate the 2017 premium deficiency based on a higher investment return such as six percent.

Could you please comment on why you use 2.9 percent and the reasonableness of using a return as high as 6 percent?" And your response was, "We use 2.9 percent as this is the average investment rate, ROI, earned by insurers in 2014 to 2016 based on the financial data that the insurers provided to the Office of the Superintendent of Insurance." And you go on to comment that in your view that's—that average of the recent past is the reasonable estimate to use.
MS. ELLIOTT:
A. That was basis for the 2.9.
MR. FELTHAM:
Q. Yes.
MS. ELLIOTT:
A. Um-hm.
MR. FELTHAM:
Q. And you say that picking that period, 2014 to 2016, is the appropriate period to choose?
MS. ELLIOTT:
A. Well, it's what, in doing the calculations, we found appropriate and reasonable in the

circumstance to use, yes.
MR. FELTHAM:
Q. Yes, okay. So, the 2.9 percent--maybe to help here, if we look at, in the report, Table 6 which is on page 8 in the actual report documents. I just want to make sure the source that the 2.9 percent comes from that I'm clear on that.
MS. ELLIOTT:
A. Um-hm.
MR. FELTHAM:
Q. Okay, so we have the table there. So, your 2.9 percent figure in the answers there comes out of this table, 2014, 2015, 2016 pre-tax investment income rate?
MS. ELLIOTT:
A. Um-hm.
MR. FELTHAM:
Q. And you average those three, I assume, yes? That's the level of math.
MS. ELLIOTT:
A. Yeah, that's pretty much it. Yeah.
(10:00 a.m.)
MR. FELTHAM:
Q. Okay, and you're—and did you give any

consideration to using a greater period of time to do—come up with that the appropriate average should be?
MS. ELLIOTT:
A. Well, we're trying to –
MR. FELTHAM:
Q. Three years just seems like a really short period to me, that's all.
MS. ELLIOTT:
A. Well, we want 2017 to reflect what we think is happening, and the more recent timeframe would reflect what would be happening given what's going on in the markets. So, going back to 2002, that might be—I don't know what the number might be. Ten percent. That wouldn't be reasonable to assume that you'd get ten percent in 2017. So, it was the view that the more recent timeframe is indicative of what will happen in the subsequent year.
MR. FELTHAM:
Q. So, but in order to get more representative average of a history period, wouldn't it make sense to include more years that just three?

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MS. ELLIOTT:
A. I'm not trying to—just say, what do we think will happen in 2017?
MR. FELTHAM:
Q. And your view, we should base that off the three previous years?
MS. ELLIOTT:
A. Yeah, and that's what we did, right. Right, it's—I don't believe interest rates and the returns for the company, and I know for a fact what they are now in 2017, and they're in that 2½ to 3 percent range. We know what the Government of Canada bonds are.
MR. FELTHAM:
Q. Yes. And do you recall when Mr. Mason was asking you questions and you know—because he spent some time talking about the time periods used for various things as well. The notion of cycles, do you recall that?
MS. ELLIOTT:
A. Sure. Well, you're not –
MR. FELTHAM:
Q. Vaguely at least?
MS. ELLIOTT:
A. Vaguely at least.

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MR. FELTHAM:
Q. Yes, okay.
MS. ELLIOTT:
A. Yeah.
MR. FELTHAM:
Q. I don't recall it much better than that, but—and again, I'll put this to you. It seems to me that if we take a very narrow window, we're not really capturing those longer cycles in the market.
MS. ELLIOTT:
A. This is no cycle in the market. We're trying to estimate what the ROI will be in 2017. Simply that. I'm fully aware of what the Government of Canada bonds are, and I know they're not five percent. I don't need to have a long-term interest rate to forecast what 2017 will be. We already know like doing this work. So, I know it's going to be in that 2½ to 3 percent range. I don't if it'll be 2.5 or 2.9 or what exactly the number will be, but I'm pretty certain it's going to be in that range. And the data is out now, and I know that I was right with the number that I used, what was

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actually earned in 2017.
MR. FELTHAM:
Q. No, I understand that there's a hindsight piece to it now, but in any event, your view is the three-years is the appropriate period. So, we can move on from that. If we go to page 8 of the answers, and this is Answers to Campaign Interrogatories. And under number 1 were asking you questions here about how pre-tax investment returns you used were calculated. And your response under number 1 was, "Pre-tax investment returns, ROI, used by Oliver Wyman are based on"—"are based," I guess it should be "on ROI values calculated by each insurer and reported to the OSFI annually." So, you know, I mean it's sort of obvious here, but it's not your calculations. You're relying on data from the insurers, what they provided?
MS. ELLIOTT:
A. Yes, so OSFI. This data is audited by Ernst and Youngs and the PWCs of the world, and the ROI is stated in the financial documents, and that's what we use for each

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insurer. Yeah.
MR. FELTHAM:
Q. Right, okay. And then, you go on to say, the same paragraph, "These ROI amounts are company-wide values. They're not line of business or province specific because investments held by insurers are not line of business or province specific." So, they're comingling all of that there?
MS. ELLIOTT:
A. They have a big pot of investments.
MR. FELTHAM:
Q. Yes.
MS. ELLIOTT:
A. Yeah.
MR. FELTHAM:
Q. Yes, sure. And then, the next paragraph, "Each insurer is required to report amongst other financial data, its investment income that it allocates to each province for the automobile line of business to GISA. This is a notional allocation process completed by each insurer." So, the insurer, they have to report the investment income that it allocates. I get that, but the method or

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the manner of allocation, all of that is within the domain of the insurer, correct? How it allocates?

MS. ELLIOTT:

A. Yeah, I didn't use that number, but yes, that's correct. Um-hm.

MR. FELTHAM:

Q. Sorry?

MS. ELLIOTT:

A. I did not use that number that is allocated notionally by the company.

MR. FELTHAM:

Q. Okay.

MS. ELLIOTT:

A. I did not use that. We use a number that's reported to OSFI, the federal regulator of the ROI that is audited by PWCs and Ernst and Young, et cetera. We did not use the dollar amount that is notionally allocated by companies in their GISA reporting. We did not use that.

MR. FELTHAM:

Q. Okay. Perhaps I misunderstood. So, you did not use the numbers that would have involved notional allocation process by the insurers?

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MS. ELLIOTT:

A. No.

MR. FELTHAM:

Q. Okay. I think I misunderstood. Okay, and staying with the Answers to Interrogatories still, I'd like to go to page 2, please. And just to set the stage if you will, there's really a series of questions and answers here that all arise from hypotheticals I guess that Mr. Mason had given you, changing inputs for UL and ALAE and other items I guess, and asking you to recalculate with certain assumptions. Is that correct?

MS. ELLIOTT:

A. Yes, different expense ratios and, I don't have it in front of me, but –

MR. FELTHAM:

Q. Primarily it was, I think ratios and UL and ALAE changes.

MS. ELLIOTT:

A. I think it was ROI changes, not ULAE, but anyway, yeah.

MR. FELTHAM:

Q. No, no, he definitely asked you to consider

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a different UL and ALAE, if you recall he took you back and said, look, 2014, you should use that year.

MS. ELLIOTT:

A. I don't have it in front of me, but okay, yeah.

MR. FELTHAM:

Q. Okay, all right, well I'll ask you the question and we'll go through, okay. So we can look at Question 4, I'm not going to go through each one of these, but 4 we can work on. And he said, the question was, "If the UL and ALAE is $354.37 per car and the operating expenses are reduced by 6.2 percent, as noted above, what is the return on equity for auto insurers in 2017? And just to help us remember the figures that, that $354.37 UL and ALAE come from your schedule of documents to your report.

MS. ELLIOTT:

A. Uh-hm, yes.

MR. FELTHAM:

Q. If we go to Appendix A, page 3 of 5, so then if we look across, we've got the Ultimate Loss & ALE Cost/Car column, very top one,

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bodily injury, $354.37, and this is for accident year 2014.

MS. ELLIOTT:

A. Correct, yes.

MR. FELTHAM:

Q. As of June 30th, 2017, so as we know it now.

MS. ELLIOTT:

A. Right.

MR. FELTHAM:

Q. Not now, but June 30th, last year.

MS. ELLIOTT:

A. Then, yes.

MR. FELTHAM:

Q. But that's important in terms of what I'm going to talk to you about. And can you maybe just explain for us again what that figure, that category of Ultimate Loss & ALAE Cost/Per, $354.37 is?

MS. ELLIOTT:

A. That's the amount of losses and allocated loss adjustment expenses that are estimated will ultimately be paid when all the claims are settled and closed for the claims that occurred in the accident year, 2014, what that cost will be per vehicle, the claim's

component, yeah.
MR. FELTHAM:
Q. And that figure, whatever it is, and the operating expenses, they have to come out of, from the premiums collected and the investment returns in order to figure out what's left over for profits?
MS. ELLIOTT:
A. Yes, you take the losses, add up all the operating costs and taxes, commissions.
MR. FELTHAM:
Q. Yes. And I believe the figure that you were using was $406.00, instead of $354.37, do you recall that?
MS. ELLIOTT:
A. What we use is an average of the last three years, yeah.
MR. FELTHAM:
Q. And maybe what we will do is go back to, I think we can leave that chart and go back to page 2 of the answers, and we can actually just review the question so we have the full context. Okay, so again, "If the UL and ALAE is $354.37 per car and the operating expenses are reduced by 6.2 percent, as

noted above, what is the return on equity for auto insurers in 2017?" And your response was, "Similar to Question No. 1 above, it's unclear if the request to apply an expense ratio of 23 percent or 18.2 percent, we therefore provide our response with both hypothetical expense ratios for the sensitivity test." And under the next page, the second bullet, "The accident year 2017 estimate of the UL and ALAE cost per vehicle presented in our report is approximately $406.00, and the expense provision is 26.2 percent." So that's where I was, the $406.00, that's where you affirm that's the number you were using?
MS. ELLIOTT:
A. Uh-hm.
MR. FELTHAM:
Q. "Using a hypothetical estimate of the UL & ALAE for accident year 2017 of $354.37, instead of $406.00 and an expense ratio of 18.2 percent, instead of 26.2 percent, and no other changes and assumptions, increases the 2017 accident year ROE estimate from –9 percent to +8.7 percent." And then you go

on to say you don't agree with the hypothetical, but there it is. And I gather what this arose from, what Mr. Mason had been asking you about that kind of gave rise to these calculations was, the concern he was raising, I'll ask if you remember or agree with me, the concern over the reliability of the UL and ALAE cost per vehicle figure due to the fact that reserves might be overstated or out of line in the sort of more recent year, versus what they might look like more historically, do you remember that?
(10:15 a.m.)
MS. ELLIOTT:
A. Well, these are estimates, so in terms of the 2017 year at the point of doing these calculations, we only have the first half of the year available, so we're trying to estimate, it's not even a matter of case reserves being too high or too low, they weren't available for the second half, so we were really trying to say what will 2017 be and we only know the first six months of the claim was not how the weather was in the

second half in 2017 and what claims resulted in the second half, that we're dealing with only six months of data doing this calculation. In terms, you know, that's an estimate looking forward to say what do I think 2017 will be, given what I know in the other years that have occurred. This is a little separate issue from case reserves being too high or too low because we're trying to forecast forward for a year that hasn't even occurred yet and we don't have data for the second half.
MR. FELTHAM:
Q. The case reserves, though, and the supplemental reserve, they're included in that figure, well in 2014 it was $354.37?
MS. ELLIOTT:
A. Yes, so we're using the prior three years, averaging that and trying to forecast that forward for 2017. So it is an estimate that we are providing and it's dependent upon the GISA data that's reported to us, the case reserve, et cetera, yeah.
MR. FELTHAM:
Q. And that figure of $406.00 is overstated

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because reserves are overstated, the result is that the actual experience, as it turns out, might be a lot different than the calculation as it comes out with $406.00 unit.

MS. ELLIOTT:
A. Yeah, that's the nature of the beast, you know, it's an estimate, it could be too low or it could be too high, either way, yeah.

MR. FELTHAM:
Q. And we can't see, looking at your Appendix A, what component of that is made up from reserves, we can't—there's nothing to tell us –

MS. ELLIOTT:
A. Not in the way that we presented it, I mean, if I was asked for that, yes, but it's not presented that way.

MR. FELTHAM:
Q. And I'll talk to you about that because I think what he was concerned about was that the result that the, you know, if the actual payout for the costs for the ultimate loss and the ALAE costs, were a lot less than what was reserved, then the insurer could

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end up with actually a much higher ROE than was anticipated?

MS. ELLIOTT:
A. Yeah, and we won't know 2017 for a number of years, so, yeah.

MR. FELTHAM:
Q. And do you recall him giving the example from 2002 in Nova Scotia where in that case he suggested that the estimated ROE in hearing process was in the negative, but it actually turned out to be, in reality, once time went by, the ROE turned out to be something like 10 percent.

MS. ELLIOTT:
A. Well I think, you know, to make sure the understanding of that point is clear, in Nova Scotia looking forward, you know, the ROE did become quite high in the province. When the reforms were introduced there was an estimate that the severity amount for each claim, the costs for each claim, would reduce as a result of the reforms, but it hadn't been anticipated that there would be a very steep decline in the frequency rate that wasn't built into the costing model at

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that time, and the frequency rate did decline, coincident with the introduction of the reforms and that was not built into the rates that were set in that province and then as a result, in hindsight, the rates were too high and therefore, the ROE was beyond the, much higher than the targets, so that's what happened there.

MR. FELTHAM:
Q. Okay, and I gather that was Mr. Mason was suggesting was that look, we should use a lower figure than $406.00 because that's very current, we should use a figure something like for the 2014, it's matured, right, more time has gone by, we know now whether the reserves, you know, that were paid out, we have more of a real number, if you will, then one that's made up of reserves.

MS. ELLIOTT:
A. Well certainly looking at 2014, I agree it's more mature than 2016, sure, but I don't think it's reasonable to take 2014 and not project it forward for what the cost level would be in 2017 because we know that claim

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costs increase each year, inflation, CPI or whatever measurement of loss trend would be positive, so to take 2014 and say that value, $354 would be unchanged in 2017 or in 2018, 2019, that it would never change, that's not realistic.

MR. FELTHAM:
Q. And just accounting for those items that you mentioned, would that get us to $406.00 in that range? Would they be that significant?

MS. ELLIOTT:
A. Well our view was to take three most recent year which reflects different experience, it can be more claims in one year, less in another, so we don't know what 2017 will be. It kind of gives you an average of results, if we believe or we've estimated as best we can the claims costs for each of those three years and we think they're all reasonable estimate and then take an average of that, which are all projected out to 2017.

MR. FELTHAM:
Q. And I guess the, we'll call it the downside, if you will, of using those—that more recent time period is that you do have this issue

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with respect to more uncertainty around accuracy of reserves and whether that ends up being what the true experience is for claims?
MS. ELLIOTT:
A. Yeah, it's a trade-off.
MR. FELTHAM:
Q. Yeah, okay. So you mentioned before and I was going to ask you about this, so I'm glad you brought it up, but you weren't asked to do an analysis with respect to the reserves, you mentioned –
MS. ELLIOTT:
A. No, we looked at the estimate of the ultimate losses and what the reserves that are carried and what they should ultimately be, we just didn't present out findings, broken down in any little gritty detail.
MR. FELTHAM:
Q. Okay, because I father there is an analysis you can do to sort of break out the actual amount paid versus the case reserves historically?
MS. ELLIOTT:
A. Uh-hm, yes.

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MR. FELTHAM:
Q. And my understanding is this is called a paid to incur ratio and average incurred loss, does that make sense?
MS. ELLIOTT:
A. Yeah, we look at it, yeah.
MR. FELTHAM:
Q. Okay, and has that been done here?
MS. ELLIOTT:
A. Have I done that one?
MR. FELTHAM:
Q. Yes.
MS. ELLIOTT:
A. Yes.
MR. FELTHAM:
Q. Okay, and has it been produced for the Board or any of the Intervenors?
MS. ELLIOTT:
A. No, I have not produced those exhibits, but in terms of our analysis of estimating what the ultimate losses are, we go through a number of steps to develop those estimates and not all our working papers are included in the new list, XL files and they're not all included in this.

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MR. FELTHAM:
Q. But doing that, well maybe you can explain what it is—can you explain for us what a paid to incur ratio and average incurred loss?
MS. ELLIOTT:
A. Well average incurred loss is really just the claim amount and the severity and you're looking at how that changes over time, and then the ratio of paid to incurred, again you want to look at is there a change over time in that relationship, is it increasing, is there more being paid with respect to the amount that's incurred, or is it less, so we look at those patterns.
MR. FELTHAM:
Q. In the patterns and what might that help us see, in terms of the patterns?
MS. ELLIOTT:
A. If the paid to incurred ratio is decreasing, that would be an indication that the case reserves are stronger and vice versa.
MR. FELTHAM:
Q. So if the company's reserve setting practice had changed, for example, and now reserves

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were being increased, compared to the past, they were putting larger reserves on files, that analysis would allow us to see that?
MS. ELLIOTT:
A. And we look at the components and we look at the components to see if the loss development factors are changing, so that's all part of the review, yeah.
MR. FELTHAM:
Q. So that type of analysis, the paid to incurred and the average incurred loss, that hasn't been performed here?
MS. ELLIOTT:
A. No, I did not say that, I said that we complete many different steps, including that as part of our XL models, which are massive files, and they're not all produced, they're internal working papers, but yeah, to get to the estimate of the ultimate loss amount, we look at all those components.
MR. FELTHAM:
Q. And do you know here today whether, because you spoke of the patterns, whether any patterns emerged here with respect to, you know, historical change in reserve setting?

MS. ELLIOTT:
A. No, there were no patterns that were evident here using this June 30th, data that there was anything unusual, and remember, this is a mix of all the companies' data together, and growth of one insurer in a marketplace, decline of another, so we're dealing with aggregated industry data, which is different that if you're an individual insurance company looking at your own data.
MR. FELTHAM:
Q. Okay, but that analysis is something that can be done, I guess you just haven't provided it, as part of the report. Is that something that can be done and provided to us?
MS. ELLIOTT:
A. Those exhibits of ratios of paid to incurred, they're all available through the GISA files as well.
MR. FELTHAM:
Q. But it takes something to get it from the GISA files into a format where we can actually see –
MS. ELLIOTT:

A. It's out in PDF, you can read it.
MR. FELTHAM:
Q. And is that what's referred to as the paid to incurred ratio and average incurred loss, the actual calculations and –
MS. ELLIOTT:
A. It's a GISA exhibit, yeah.
MR. FELTHAM:
Q. And what GISA exhibit specifically?
MS. ELLIOTT:
A. I think it's 7001.
MR. FELTHAM:
Q. And just to be clear, your recollection is that looking historically back—and I'm not talking about just three years, but going back further in time, there were no patterns that emerged that caused you to consider there were changes in reserve settings such that reserves appeared to be larger than in the past, in recent years?
MS. ELLIOTT:
A. No, not in the—no.
MR. FELTHAM:
Q. Now I was asking those questions because I gather from my understanding was that in

2002 that analysis was provided to the regulator in Nova Scotia, and so I was somewhat surprised, I guess, that we didn't see a similar analysis here, that's the basis for my questions. So getting back to your answer though, based on what Mr. Mason asked you to do and using a 354.37 ultimate loss and ALAE figure and expense ratio of 18.2 percent, versus the one you used in your report of 26.2, just those changes actually took the 2017 accident year ROE estimate from a negative of almost a full 10 percent, right around to a positive of 8.7 percent.
MS. ELLIOTT:
A. Yes.
MR. FELTHAM:
Q. Which is actually fairly close to the 10 percent benchmark even.
MS. ELLIOTT:
A. That's right, yes.
MR. FELTHAM:
Q. Okay, those are all my questions, thank you.
CHAIR:
Q. Thank you. Mr. Fraize?

FRAIZE, Q.C.:
Q. My chance now?
CHAIR:
Q. Yes.
FRAIZE, Q.C.:
Q. I just have a couple of questions. Under questioning from my learned colleague, there was a discussion about companies that made high profits and companies that made low profits, so in our insurance market there are companies that are doing better than others?
MS. ELLIOTT:
A. Yes, that would be correct, yes.
FRAIZE, Q.C.:
Q. Pardon me?
MS. ELLIOTT:
A. Yes.
FRAIZE, Q.C.:
Q. Okay, and basically you said no companies were excluded, so they were all put into the pot, so to speak? You looked at all the companies, those that made money, more money than others and those that made less money, is that correct?

MS. ELLIOTT:
A. We were looking at the aggregated data, yes.
FRAIZE, Q.C.:
Q. Did you take a look at why some companies were more profitable than others?
MS. ELLIOTT:
A. No, well, the expense ratio for companies is in a relatively narrow band, what differentiates profit typically between companies, whether they make more or lose money, would be their loss experience, so they could have had, you know, a large loss, million-dollar loss, something, so the driver of whether you make money or lose money is typically by claims experience, higher loss ratios.
FRAIZE, Q.C.:
Q. The reason why I'm asking that, there seems to be a tendency in just some articles I read that the, especially in the United States, the expenses for insurance companies are going down, in terms of pulling out their insurance policies, part of it, they're booking their insurance through the Internet; in other words, you can direct,

you call in and you provide your driver's abstract and bingo, you got a price. They seem to be able to control or reduce their costs.
MS. ELLIOTT:
A. Uh-hm.
FRAIZE, Q.C.:
Q. Have you looked at how the companies operate in this province to see if they should be reducing their costs in a comparable way?
MS. ELLIOTT:
A. Well, I think what you're referring to is the direct writers who are not even necessarily calling in, you're doing it, applying for your insurance online, you enter in the appropriate information, but different companies have different business models, you know, there are broker-based companies and some consumers to deal directly with a broker, and other people like to do their business online, in a self-directed manner, so both models exist and consumers have the option to go to the direct online model and insurance companies with a direct model would have a lower

operating cost because they don't have the 12.5 percent commission rate that a broker-based company has. So in the province consumers have the choice, which, where they want to go to and they do so accordingly.
(10:30 a.m.)
FRAIZE, Q.C.:
Q. Do you also agree that the insurance companies are moving towards call centres? For instance, even the adjustors, some of the adjustors on accidents in this province, you're dealing with someone from Nova Scotia, New Brunswick, PEI?
MS. ELLIOTT:
A. Well you have two points there. The claims operation, the handling and the management of claims, a call centre is pretty typical. To do that, you call in your claim and it's handled. With respect to companies, some entities, larger companies, the group will have five, six, two, three, whatever number of individual insurance companies and within that group they could have different models for distributing their product. So Intact could have a company that's a broker-based

company and they could have a company that's a direct writer, so Intact would have a Belair insurance, which is direct, online, and they would have, Intact Insurance, or Nordic—or Novex where you use a broker, so –
FRAIZE, Q.C.:
Q. So more profitable insurance companies, you made a reference that some may have had major losses, but is it not also true that some of these companies have a model which is far more efficient in putting out the insurance product?
MS. ELLIOTT:
A. It's a different model, so consumers –
FRAIZE, Q.C.:
Q. Some have a more profitable model?
MS. ELLIOTT:
A. I wouldn't say it's a lower cost model and that's built into their pricing, so if one company has an expense ratio of 22 percent and another company has an expense ratio of 28 percent, those differences would be built into their premium. So the one with the 22 percent cost structure, that's how their rates are set and the one with the 28

percent cost structure, that's in those rates, so that doesn't make the profit different, it just makes the premium lower on a 22 percent expense cost basis.

FRAIZE, Q.C.:

Q. If an insurance company was able to reduce the bricks and mortar, the buildings they have, that reduces cost, correct?

MS. ELLIOTT:

A. Which should reduce the premium.

FRAIZE, Q.C.:

Q. Like the banks now are reducing a number of branches to reduce their costs and some of the insurance companies are able to manoeuvre such that they have call centres, so I'm just saying that some of the insurance companies have a better model of operations and consequently their costs are lower; hence they have higher profits?

MS. ELLIOTT:

A. No, I disagree. Yes, you can have a different structure to operate such that your expenses are lower and the lower expense cost would be used in the pricing model that lowers the premium, but that does

not drive higher profits because they lower expense ratio was used to set the premiums, which were then lower as well.

FRAIZE, Q.C.:

Q. So one of the things we're talking about is lower premiums, correct? So if they have a more efficient cost model, the premiums go down?

MS. ELLIOTT:

A. Yes, if your expenses are lower, all else being equal your premiums would be lower.

FRAIZE, Q.C.:

Q. As far as I know we still have insurance competition in this province? They compete against each other?

MS. ELLIOTT:

A. Correct.

FRAIZE, Q.C.:

Q. Okay. No further questions.

CHAIR:

Q. Mr. Stamp.

STAMP, Q.C.:

Q. Yes, thank you, Madam Chair. Ms. Elliott, I'd like to focus on a couple of issues associated with a report that's been

provided by the Campaign authored by Dr. Lazar, if I'm saying his name right, and Prisman. And, of course, when you did your material, did your reports, I guess the latest back in March or so, I'm not sure of the exact dates, you didn't have the benefit of this document, of course.

MS. ELLIOTT:

A. It wasn't provided at that time.

STAMP, Q.C.:

Q. No, of course. Have you looked at it since this all started?

MS. ELLIOTT:

A. I did look at the report when it was provided, yes.

STAMP, Q.C.:

Q. The reason I think we should speak about it a little bit is that you're going to be finished here and leave and then Dr. Lazar and Dr.—well I don't know if Dr. Prisman is coming or not, but anyway, somebody is coming and they're going to, and they're suggesting, of course, to some extent that the results that you've created or generated, the information you've provided

is not accurate, not reliable for some reason and so you should look at, the Board should look at what they have said as being the more appropriate approach. So I want to just ask you a few questions about some of that, if I can.

MS. ELLIOTT:

A. Okay.

STAMP, Q.C.:

Q. Particularly, for example, if we can start with the issue of ROI and I don't know if you can get up this report of Lazar and Prisman, okay, at page 30 if I can bring you to that, thank you, that's it. And so, these are, there's a series of six bullets, do you see those, Ms. Elliott? One of those is the fifth bullet, they say "we've done this"--I guess this is the authors of this report saying "we've done this using the following assumptions", what they describe in the paragraph above that if more reasonable assumptions are used, that's what they say and how they characterize it, and they say "an expected investment income return on equity of 6 percent." Now I don't know if that means, if that means ROI or ROE, do you know what they're referring to there?

MS. ELLIOTT:
A. I believe they're referring to ROI, but it's not framed the way I would have framed it.

STAMP, Q.C.:
Q. Sure. I think it is possibly referring to ROI but there's a bit of confusion, I agree. In any event, staying with that thought then on that point, being a reference to ROI, if you could just—if we could just turn back to the Table 7 in that same report? It's at page 13 of the report, if that helps. Okay, there's enough of the year report that I can see what I need to do. So, Ms. Elliott, look, I want to draw your attention to the line which is one, two, three, four, five, I think from the bottom, so you got pre-tax, pre-tax, pre-tax, premiums and equity, investment income and equity, so I'm looking at that line there, do you see it?

MS. ELLIOTT:
A. Um-hm, yes.

STAMP, Q.C.:

Q. And so it's a division, of course, to get that number apparently, but from 2012 – 2016, the authors of this report come up with investment income to equity, is that ROI? Is that what they're thinking about?

MS. ELLIOTT:
A. No, this is not—ROI is Return On your Investments which is a ratio of your investment income divided by your invested assets. What's presented her in this row is the investment income divided by the equity and the equity does not equal the invested assets.

STAMP, Q.C.:
Q. Right. I'm trying—this is what I'm trying to understand actually. Those rates that we have here ranging from 15.08 percent in 2012 to 6.74 percent in 2016 and just before I go to the next chart, are they arrived at in, let's say, 2016, is the $13,217,000.00 divided by $196,000,000.00, is that the two numbers above there?

MS. ELLIOTT:
A. It's a little confusing, but the investment income divided by equity is just the ratio

of the two numbers above, yes.

STAMP, Q.C.:
Q. Right, so all they've not is taken net investment income which is two lines above that, right?

MS. ELLIOTT:
A. Um-hm.

STAMP, Q.C.:
Q. $13,217,000.00?

MS. ELLIOTT:
A. Yes.

STAMP, Q.C.:
Q. And divided it by $196,045,000.00.

MS. ELLIOTT:
A. Right.

STAMP, Q.C.:
Q. And they get that number and that's the number they—whatever that number means, that's how they get it.

MS. ELLIOTT:
A. I think so, I'm not positive.

STAMP, Q.C.:
Q. Well, I did the arithmetic, so I'm assuming—of course, they do say that it's, in the reference, they do say it's 5 divided by 6.

MS. ELLIOTT:
A. Yes, that's how they calculate that number.

STAMP, Q.C.:
Q. Right.

MS. ELLIOTT:
A. Yes, that's correct.

STAMP, Q.C.:
Q. I'm not asking you to explain, at this point, what that is. I'm just asking, this is what they—the two numbers they show, the two lines above it being the actual net investment income and then the allocated equity and then a percentage that they create by dividing. Now, if I just go back to your report and it's too bad we got to back, but we can't—without getting it up again. Your report, at page 8 of your report and it's Table 6. Do you have that?

MS. ELLIOTT:
A. Um-hm.

STAMP, Q.C.:
Q. I'm sorry, yes, you do. So, 2016 you have, I guess, developed a series of investment rates including 2016 at 2.4 percent?

MS. ELLIOTT:

A. Yes.
STAMP, Q.C.:
Q. And what I'm assuming the authors of this other report are saying is that they're comparing your 2.4 percent and saying it's not reasonable, it should be 6.74 percent.
MS. ELLIOTT:
A. That's my understanding.
STAMP, Q.C.:
Q. And so we have, in their report, that Table 7 that we just looked at a few minutes ago ranging from 15.08 percent in 2012—so, it would be all in the right hand column for our purposes of comparison—they have 15.08, you have 4. They have 10.93 for 2013; you have 2.8. They have 13 percent for 2014; you have 3.9. They have 14.44 for 2015; where as you have 2.3. They have 2016 at 6.4 percent; whereas you have 2.4 percent. So, what I'd like to know from you is, is the manner in which they have created a number which I presume they are referring to as ROI, is that how it's calculated, the way that they've done it? I mean, it seems like a very simple way and of course, it's

fundamentally different from yours.
MS. ELLIOTT:
A. Right. No, because the return on investment rate are your investment income including the realized capital gains and losses, that's included in the number that we present and it's taken as a ratio of the average at the beginning of the year and the end of the year of your investment assets that you have. So, all your investments, your bonds and your stocks and everything else. And these are the actual return on investment rates that are reported in the, what's referred to as P&C-1, the financial statement that is audited and each company is required to file this annually with the federal regulatory OSFI. So, our numbers are different. What Lazar has presented is a ratio of the investment income as he has extracted it from the GISA exhibit divided by equity and equity in invested assets are not the same thing.
(10:45 a.m.)
STAMP, Q.C.:
Q. Right. So, does it make any sense, in your

opinion, to have done an ROI calculation the way this was done in Table 7?
MS. ELLIOTT:
A. No, because it's not an ROI. They are not the invested assets; it's equity. They are two different things.
STAMP, Q.C.:
Q. Right. So, even though he does this calculation, we can see the calculation, and he describes the result and you get the answer from the division as and ROI, it's not an ROI.
MS. ELLIOTT:
A. No, because we know that companies, insurance companies are required to invest conservatively. Most of their investments, a large proportion are in government grade bonds. And we know that government grade bonds are risk free with a very low interest rate. And so, if you see this measurement as presented by Lazar, you know, double digit, 15 percent, we know that that would be a red flag because we know that government bonds that companies invest in are not 15 percent. So, it's a different,

it's something else. It's not an ROI.
STAMP, Q.C.:
Q. Whoever does this and gets those rates, I want them to be looking after my money.
MS. ELLIOTT:
A. Yes, me too, yes.
STAMP, Q.C.:
Q. If you can just turn, Ms. Elliott, to page 15 of yours, that is and it's Table 9. Do you see that? It's page 15, sorry.
MS. ELLIOTT:
A. Yes.
STAMP, Q.C.:
Q. I'm sorry, I misspoke. It's the Lazar Report. I apologize for that. Page 15, thank you. Table 9. Thank you. So, this is where they are saying, they're comparing the GISA pre-tax, what they call GISA pre-tax investment returns and those of Oliver Wyman. Now, I know yours came from the table at page 6 that we looked at a moment ago. And this is what he has described as investment income rates. So, he uses these rates, his rate that he's developed the way we just described it and you commented on to

justify his comment, in the paragraph below, that it appears that Oliver Wyman has consistently underestimated its potential ROIs. That's what he—he makes those comparisons and says Oliver Wyman is consistently underestimated ROI because for 2012 it should have been over 15 percent. Do you see any merit in that suggestion?
MS. ELLIOTT:
A. No, I don't agree that companies achieved an ROI of 15.1 percent in 2012, no.
STAMP, Q.C.:
Q. Okay. If I can turn to the next, page 16, in the same Dr. Lazar report. Sorry, I just want to go back for a moment, just a moment, please. At page 20, I just want to go back for a moment, at page 20 of that report, I don't know if you can speak to this, at page 20, towards the bottom of the page, the paragraph that begins with "this discussions", do you have that?
MS. ELLIOTT:
A. Um-hm.
STAMP, Q.C.:
Q. If you could just take a moment to read that

please, to yourself there.
MS. ELLIOTT:
A. Yes.
STAMP, Q.C.:
Q. So you see there, Ms. Elliott, that the authors say that in Ontario the regulatory, FSCO, has been using an ROI assumption of 6 percent to set premiums. Now, my understanding is that that is not the case.
MS. ELLIOTT:
A. That's my understanding too. That's not the case.
STAMP, Q.C.:
Q. I just want to make sure that we're clear. Is that an accurate statement to your knowledge?
MS. ELLIOTT:
A. It's not accurate, no.
STAMP, Q.C.:
Q. Okay. That's fine, thank you. I'll just come over to page 16 of the same report and to Table 10. This is on the issue of, I guess, general expenses or operating expenses.
MS. ELLIOTT:

A. Um-hm.
STAMP, Q.C.:
Q. And the operating expense ratio maybe. At the top of the page 16 they say, "now we turn to the operating expense ratios", okay? And at Table 10 they list 2012 – 2016, Oliver Wyman general expense ratios and what they call GISA expense ratios. Now, can you just—I know if you go to your report at Table 12 at page 21—I don't know if you need to go there to look at it—would you like to see that for a moment? I can bring it up; I have it -
MS. ELLIOTT:
A. Sure.
STAMP, Q.C.:
Q. Oliver Wyman report at page 21, please. And you'll see the 8.2 and 7.2, 8.5, 7.7, 9.1 are general expenses ratios.
STAMP, Q.C.:
Q. Right, so this table presents a commissions including contingent, premium taxes and then the general expenses, 3 components to derive the total expense ratio.
STAMP, Q.C.:

Q. Right and can you tell us where you obtained the general expense percentages?
MS. ELLIOTT:
A. Yes, this is from a GISA report 9502 that is specific to private passenger expenses for each province.
STAMP, Q.C.:
Q. Right. And so do I understand it's the industry expense report?
MS. ELLIOTT:
A. Yes, it's the industry expense report of the mandatory reporting by insurers.
STAMP, Q.C.:
Q. Right and in that report you're able to generate from the data right in the report itself.
MS. ELLIOTT:
A. Might I just—the numbers presented I don't need to calculate anything.
STAMP, Q.C.:
Q. It's right there.
MS. ELLIOTT:
A. Yes.
STAMP, Q.C.:
Q. And so now the suggestion is offered that,

so they attribute this to an Oliver Wyman data, but it's actually GISA data.
MS. ELLIOTT:
A. Yes.
STAMP, Q.C.:
Q. So, in the right hand column at Table 10 of the Lazar report—if you can just pop that back up again, thank you. So, they show two columns for those years, GISA and Oliver Wyman. The Oliver Wyman, they seem to imply, I guess, that is somehow you made these numbers up, but they are right out of GISA.
MS. ELLIOTT:
A. Correct.
STAMP, Q.C.:
Q. And they suggest that the column that they use, GISA numbers, they pull that out of, I guess, the same report maybe.
MS. ELLIOTT:
A. No, they pulled that out of 9501. What they're presenting is a subset of the general expenses. So, they're both from GIS, but one is a subset of the general expenses, the column labelled OW, which is

GISA 9502 is all general expenses.
STAMP, Q.C.:
Q. Right. And is that report you're referring to called the Industry Profit and Loss Report?
MS. ELLIOTT:
A. Under the column GISA is, yeah.
STAMP, Q.C.:
Q. Right. Okay. And so they've essentially jumped from one GISA report with the expenses that they show attributed to Oliver Wyman, they're actually GISA, jumped to a different report.
MS. ELLIOTT:
A. Right, they have used the profit and expense report which presents a subset of the general expenses and didn't use the total general expenses which is available in the report that we use that is specific to private passenger expenses only.
STAMP, Q.C.:
Q. So, can you offer any explanation why the authors would have left the expense report, the industry expense report that has the data right in it and gone off to a different

report to take a different set of expense percentages?
MS. ELLIOTT:
A. I have no idea why, I don't know.
STAMP, Q.C.:
Q. Does that make any sense?
MS. ELLIOTT:
A. No, I don't agree with their number. They're missing a component of the general expenses.
STAMP, Q.C.:
Q. So, you're not comparing apples and apples.
MS. ELLIOTT:
A. Right.
STAMP, Q.C.:
Q. Can I just turn to page 7 of the Oliver Wyman report please? The bottom of the page please. Do you see the paragraph, Ms. Elliott, beginning "since 2012"?
MS. ELLIOTT:
A. Yes, um-hm.
STAMP, Q.C.:
Q. It says, "since 2012 the expense costs and premiums for private passenger automobile insurance in each province are report to

GISA by each insurer. GISA complies this information and presents it in an expense report that GISA prepares and releases for each province". Is that the expense report that you're referring to?
MS. ELLIOTT:
A. Yes.
STAMP, Q.C.:
Q. And so that's the one that is, you named the report and so on, but it's the Industry Expense report where you took the percentages right out of their presentation.
MS. ELLIOTT:
A. Correct.
STAMP, Q.C.:
Q. So, you used a phrase a little earlier this morning, "cherry picked". Would it be fair to say that the authors of this report "cherry picked" an expense from a different GISA report material that is only a subset, as you say, of the total expenses?
MS. ELLIOTT:
A. Well, the reference earlier was deciding to exclude the high and the low. I'm going to assume that the author misunderstood the

data. I don't know why or what was provided to Dr. Lazar, but perhaps did not have the complete information that would be required to present the expense information.

STAMP, Q.C.:
Q. Okay. Can I go back to the table 7 of the Lazar report please? And the third item in that table, Ms. Elliott, is claims ratio, do you see that?
MS. ELLIOTT:
A. Um-hm.
STAMP, Q.C.:
Q. Which is simply net premium earned and I guess, dividing net claims and adjusted by net premium earned, is that right?
MS. ELLIOTT:
A. Correct.
STAMP, Q.C.:
Q. So, there's ratios there for 2012 it's 79.13; 80.40; 94.22. I'm looking at some of that industry and profit of loss report, are those percentages right out of that same report, do you know, can you tell that?
MS. ELLIOTT:
A. I'm sorry, what was your question?

STAMP, Q.C.:
Q. Okay. I'm looking at a page, page 25, it's not something that I have here that you have. I'm sure you have it, but not here perhaps. It's the Industry Profit and Loss Report at page 25, it's the report you're referring to.
MS. ELLIOTT:
A. Yes, okay.
STAMP, Q.C.:
Q. And I'm looking at a line on that report that is described as "Net Claims and Adjustment Expenses" and it gives an amount and a ratio for each year. And the ratio it gives for 2012 is 79.1; for 2013 it's 80.4; for 2014 it's 94.2; for 2015 it's 92.1; and for 2016 it's 74.4.
MS. ELLIOTT:
A. Correct.
STAMP, Q.C.:
Q. Those are the same numbers in Professor Lazar's table 7.
MS. ELLIOTT:
A. Correct.
STAMP, Q.C.:

Q. So, he has this expense report. He's obviously pulled numbers out of it. I'm sorry, I misspoke, I said expense report. It's the Industry Profit and Loss Report.
MS. ELLIOTT:
A. Right.
STAMP, Q.C.:
Q. That's where it comes from.
MS. ELLIOTT:
A. Yes.
STAMP, Q.C.:
Q. My apologies, I misspoke. That's what he has those numbers and that's where he got those percentages that were incorrectly applied.
(11:00 a.m.)
MS. ELLIOTT:
A. Right, he picks up the ratio of the general expenses from this report, yes.
STAMP, Q.C.:
Q. Which you characterize as a subset of the expenses.
MS. ELLIOTT:
A. Of the total general expenses, yes, everything excluding commission and premium

taxes we put in the bucket of general expenses.
STAMP, Q.C.:
Q. Right. Which is shown in the Industry expense report.
MS. ELLIOTT:
A. Correct.
STAMP, Q.C.:
Q. Thank you.
CHAIR:
Q. Mr. Stamp, might this be a good time to break.
STAMP, Q.C.:
Q. Yes, that's fine, Chair. Thank you.
(BREAK – 11:01 a.m.)
(RESUME – 11:34 a.m.)
CHAIR:
Q. Back to you, Mr. Stamp.
STAMP, Q.C.:
Q. Thank you, Madam Chair. Ms. Elliott, I'm going to ask if we can see the Lazar Report at page 11, please. If I can catch the paragraph above the table. Yeah, that's it, that's fine there. So, Ms. Elliott, you see there that the table, sorry, Table 5, and

that material is in your own report and I guess the table--maybe it's the exact same table, but in any event, you'll see that in the paragraph above that, the authors say that Oliver Wyman did disaggregate the operating expenses into three categories and describes those categories, and the breakdown is presented in Table 5. What I'm--in looking at the Industry Expense Report that we've mentioned a couple of times earlier, I believe from looking at that report that all those expenses are broken down the exact same way the table has it in that GISA Expense Report.

MS. ELLIOTT:
A. Correct, those numbers are from the -
STAMP, Q.C.:
Q. So, it wasn't the case that Oliver Wyman broke the numbers down as we have in this table, the GISA numbers are broken down that way?
MS. ELLIOTT:
A. That's correct, yes.
STAMP, Q.C.:
Q. In other words, you didn't have to do

anything to create this table?
MS. ELLIOTT:
A. Correct.
STAMP, Q.C:
Q. In your chart, it was just taken directly from the GISA Industry Expense Report?
MS. ELLIOTT:
A. It's all clearly laid out. It's just taking the numbers from the chart and putting them into a table in our report.
STAMP, Q.C.:
Q. So, it wasn't that Oliver Wyman disaggregated, it was that GISA had done this?
MS. ELLIOTT:
A. Uh-hm, yeah.
STAMP, Q.C.:
Q. Thank you. I just have one other topic to cover with you for a moment and that is in the general discussion on loss ratios and maybe I--we have the Lazar report here, so I could just maybe go to table 8, which is at page 15 of that report. Do you recognize that table, Ms. Elliott?
MS. ELLIOTT:

A. May I just--pardon me, go back to the prior question, I want to make sure I'm accurate?
STAMP, Q.C.:
Q. Yes.
MS. ELLIOTT:
A. GISA, in their exhibit does provide commissions and contingent commissions and those are presented in our report as a total. And so, we provided our report using the GISA data in the three categories; commissions, taxes and general expenses. Taking the data which all adds up to the total percentage expenses.
STAMP, Q.C.:
Q. Right.
MS. ELLIOTT:
A. Yeah.
STAMP, Q.C.:
Q. Yeah, I think they had the expenses broken into other acquisition and general expenses?
MS. ELLIOTT:
A. Right. So, just to be 100 percent correct, that's -
STAMP, Q.C.:
Q. Thank you for that clarification. So, Ms.

Elliott, table 8 in the Lazar Report, I think you'll probably recognize it as the same table that you had in your own report. I believe it's at page 12 of your report.
MS. ELLIOTT:
A. Yes, um-hm.
STAMP, Q.C.:
Q. My question here is, and of course, the loss ratios that Oliver Wyman utilized are the direct accident year loss ratios that are listed here in the years '12 through '16?
MS. ELLIOTT:
A. Right, they're direct accident year loss ratios.
STAMP, Q.C.:
Q. Right, and in the column to the left is the FIIP & L calendar year loss ratios?
MS. ELLIOTT:
A. Right, and these are net of reinsurance calendar year loss ratios.
STAMP, Q.C.:
Q. Right, okay. Now, what I'm wondering is, because obviously the loss ratios you have used for your purposes are the accident year loss ratios.

MS. ELLIOTT:
A. Correct.
STAMP, Q.C.:
Q. Why is that done? Why are the loss ratios done by accident year?
MS. ELLIOTT:
A. The information that's provided where we do our analysis of estimating what the ultimate losses will be is provided by coverage on an accident year basis. And we also, as part of the review process wanted to review the coverage information that is only available by accident year and it would be the standard way to review pricing, review work is on an accident year basis. So, when companies submit rate applications, it's using accident year data and so this review was looking at a hindsight review of the return on equity that was achieved and measuring that again is the 10 percent target that would be allowed in rates and that is all done on an accident year basis. So, the detailed data is available by accident year. If you look at the calendar year data, it's done on a

higher level. So it's third party liability accident benefits and all other coverages combined, it doesn't have the same detail as the accident year data does. And also, the calendar year data is net of reinsurance arrangements whereas when we're looking at pricing, it is all before any financial reinsurance that's done kind of after the fact by the financial departments in insurance companies. So, for a variety of reasons, accident year data is used.
STAMP, Q.C.:
Q. And I take it then the choice is that you chose deliberately not to use calendar year, because it doesn't provide the same level of particulars that you want.
MS. ELLIOTT:
A. Right, because it's, you know, its net of reinsurance pricing is not done, net of reinsurance, it's done without any consideration of reinsurance.
STAMP, Q.C.:
Q. And when you say, "net of reinsurance", you mean that some of the insurers hand of some of their risks for some of their losses?

MS. ELLIOTT:
A. Right.
STAMP, Q.C.:
Q. And this calendar year is the loss after they've handed off some of it?
MS. ELLIOTT:
A. Right, the premium and the losses are adjusted per reinsurance.
STAMP, Q.C.:
Q. So, you'd have to look at several companies to figure out what the loss really was?
MS. ELLIOTT:
A. Yes, so it's -
STAMP, Q.C.:
Q. If you use calendar year?
MS. ELLIOTT:
A. Yeah.
STAMP, Q.C.:
Q. So, on that point then, if I come back to, I think it was at--certainly I believe that the authors of this report are suggesting that we ought to use, you ought to use, the Board ought to use FIIP & L loss ratios by the calendar year. That's what they appear to say you should use?

MS. ELLIOTT:
A. That's what they used, yes.
STAMP, Q.C.:
Q. Right, and for the reasons you just outlined, you observed that it's the accident year that's the critical measure?
MS. ELLIOTT:
A. There's just more information available by accident year, yes.
STAMP, Q.C.:
Q. So, when I come over to page 3 of the Lazar Report and I'm looking at that set of bullets that we looked at early on, you see the second bullet?
MS. ELLIOTT:
A. Uh-hm.
STAMP, Q.C.:
Q. They've made some assumptions, they've used now a claims ratio I guess for, I don't know if that's '16, I guess, yeah. For '16 and '17, the claims ratio is 79 percent and they say that's halfway between the GISA estimate for 2016 and the Oliver Wyman assumption for '17. So, I take it what they're saying is it's halfway between the 74 percent in table

number 8 for the calendar year and some other number?

MS. ELLIOTT:
A. I don't know, they didn't elaborate on the rationale for that. They've taken two numbers, averaged it and used that number.

STAMP, Q.C.:
Q. Right, but I mean, is it appropriate to take an average of loss ratio done by calendar year, which has the weaknesses that you've described and average it with a loss ratio done by the way you've described as being the correct way and say that the halfway, the average is the right one to use?

MS. ELLIOTT:
A. Yeah, it doesn't have a, like a precise meaning. So, if we looked at the chart that we were referencing on table 8, each has a definite meaning.

STAMP, Q.C.:
Q. Yes.

MS. ELLIOTT:
A. And then taking an average of the two is, I guess that's what it is, it's an average of the two. I don't have a definition for it

other than that. Why would you do it? I don't know why it was done here, no.

STAMP, Q.C.:
Q. I'm asking you, I guess to think about what the merit is of that approach, an averaging of these two approaches.

MS. ELLIOTT:
A. I don't know what the merit is of averaging of the two.

STAMP, Q.C.:
Q. Do you see any merits?

MS. ELLIOTT:
A. It's not what I would do. I don't see a merit in--what we were presenting in our report was a consistent use of accident year data with the full understanding of what an accident year means, without any influence of reinsurance. That changes over time, of course. So, they've taken an apple or an orange and if you will and average them together.

STAMP, Q.C.:
Q. Okay. Thank you, Ms. Elliott, those are all of my questions.

(11:45 a.m.)

CHAIR:
Q. Thank you, Mr. Stamp. Consumer Advocate?

MR. WADDEN:
Q. Good morning, Paula, welcome back.

MS. ELLIOTT:
A. Thank you.

MR. WADDEN:
Q. Just a couple of questions. Looking at your report and no particular page; you've discussed two measures of profitability, right?

MS. ELLIOTT:
A. Yes.

MR. WADDEN:
Q. The profitability as a percentage of premium on a pre-tax basis, the POP method and I guess what we easily say is the more commonly used standard after tax rate of return on equity, ROE, right?

MS. ELLIOTT:
A. Yeah.

MR. WADDEN:
Q. Mr. Feltham was asking you some questions surrounding reserves. I'm just trying, and I don't want to be repetitive, so I'm just

trying to get a better understanding I either one of those methods how you factor in reserves? I just don't have—maybe you could help me out here.

MS. ELLIOTT:
A. Okay, sure. What we're trying to measure is here, for a particular year, so these are the premiums that were earned in that year. These are--and subtract from that the losses that we estimate will be paid, ultimately be paid for claims that occurred in that year. We subtract out the expenses that are associated with that year, we take into consideration the investment income that would have been earned that year on the cash flows that you have.

MR. WADDEN:
Q. Yeah.

MS. ELLIOTT:
A. And the remainder is the profit and we measure it as a percentage of premium or as a percentage of equity and pre-tax or after tax. So, in terms of the component of the losses that we subtract out, we're subtracting out an estimate of what the

losses will ultimately be paid for each of those years, the claims that have occurred in that year.

So, on table 1, for accident year 2007, the bulk of the claims have been settled and closed. The estimates are of what's left to be paid, are pretty minimal, whereas for 2016, the estimate of what's left to be paid would be much more substantive, it would be the bulk of it. So, the companies report to GISA, and we're using GISA data, the amount that's been paid for that accident year, the case reserves that they estimate on each individual file and then on top of that we add in a provision, which is referred to as a bulk reserve or an actual reserve and that's our estimate, looking at hindsight out claims have settled and closed over time.

MR. WADDEN:
Q. Okay.
MS. ELLIOTT:
A. But will ultimately be paid.
MR. WADDEN:
Q. Right. So that's your way of accounting for

the fact that reserves are sort of moving targets, because they pop in, pop out, could go up, could go down, depending on the claim?
MS. ELLIOTT:
A. Right, and the coverage.
MR. WADDEN:
Q. All right. This may be stating the obvious, but obviously this report and every report you've done is based, in looking at auto insurance and if we accept--in looking at this particular report, if the Consumer Advocate accepts, I'm not 100 percent that we do, but if we do accept that profitability for the insurers has not been great, is not looking good in terms of the automobile line of business?
MS. ELLIOTT:
A. Right. Good years, bad years, more recently it's good.
MR. WADDEN:
Q. Right, okay. So, let's assume for the moment that we accept that. It goes without saying, I suppose, that this does not speak to their entire business as it were. I'm

sorry, and to be more specific, my point being that most insurers, not all, but most have a number of lines of business. I mean, some sell everything from home and auto, to pet insurance, to medical health benefits, things like that. But we're only looking here, in fairness to you at the auto line, correct?
MS. ELLIOTT:
A. Correct, yeah.
MR. WADDEN:
Q. So, if we accept that next year every insurer who sells auto in Newfoundland is going to lose money on that line of business; let's just say that for a moment, okay. It doesn't mean that on the whole their business is not profitable, right? I mean, because they could be doing quite well on the other lines.
MS. ELLIOTT:
A. Right. Each province, for different reasons, each line of business for different reasons could be worse or better.
MR. WADDEN:
Q. Right, and you could almost say, I suppose

that in that case the auto line is looked at in the insurance industry sometimes as a lost leader, much like, you know, milk in a convenience store.
MS. ELLIOTT:
A. I don't believe that insurance companies consider auto insurance as a lost leader, that's not my understanding, no.
MR. WADDEN:
Q. Okay, right. Fair enough.
MS. ELLIOTT:
A. And then it might, it's not my understanding.
MR. WADDEN:
Q. They certainly don't want it to be a lost leader, I get that. But I suppose in a given year, if they've not been profitable, it could be looked at as a lost leader if that's the one line of business where they're not doing well?
MS. ELLIOTT:
A. Possibly, but -
MR. WADDEN:
Q. Yeah, okay. I just want to go briefly to, I think it's page 9 of this particular report.

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And just sort of a point of clarification for our own sake. In paragraph 2 there, it says, "we assume there's an average delay in the receipt of premium of three months and take this delay into consideration of our calculations. We make no allowance for finance fee revenues collected by insurers." And of course, there's a foot note. "If we took into consideration finance fees collected by insurers, this will increase our estimates of profit level". My only question there is why not make that allowance; why not consider those fees?

MS. ELLIOTT:
A. Right. The reason for it is the reporting of the expense information. Many companies net out the revenue that they receive for--I think often it's a three percent of your premium is a charge for a monthly payment plan they refer to as finance fees. So, that amount is netted out from their general expenses that are reported. So, it's not available to us who's netted it out or how they've handled those finance fees. So, it's likely the majority has been netted

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out, so it is taken into account, but not in all cases nor do we know who's done what with that.

MR. WADDEN:
Q. And is there a way to find out?

MS. ELLIOTT:
A. Yes, and when companies submit rate application that is requested to identify their finance fees, revenues as a percentage of premium and that is taken into account specifically for each company in a rate application, but in terms of this aggregated data of industry expenses, it's buried within the general expense date for some companies.

MR. WADDEN:
Q. Okay. That's fine, Paula, thank you very much.

MS. ELLIOTT:
A. Thank you.

CHAIR:
Q. Thank you. Do we have any further questions, Mr. O'Flaherty?

O'FLAHERTY, Q.C.:
Q. No, questions.

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CHAIR:
Q. I guess we'll go back to you. We'll move to the next report.

O'FLAHERTY, Q.C.:
Q. Thank you, Madam Chair. At this stage, I understand Ms. Elliott is ready to make her presentation on the report entitled Other Coverages Review-Private Passenger Automobile.

CHAIR:
Q. Whenever you're ready, Ms. Elliott.

MS. ELLIOTT:
A. Okay. So, we were asked to review some other elements, specific coverages for private passenger automobile. A little lower down on this page are the four topics that were considered and these four are: consideration of the $200,000 minimum mandatory third party liability limit, which is currently 200,000, and the implications of increasing that limit; to look at the impact of offering direct compensation for physical damage. Number three was to review the uninsured automobile coverage in Newfoundland; and also to review the

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relationship between Section B accident benefits and the settlement of claims with regard to Section A benefits and whether accident benefits should be mandatory.

And going down a few pages into our report, on page five, looking at the most recent information that we had available at the time, which was 2016 data, a very small percentage vehicles are insured at the minimum $200,000 limit. It was just a little over one percent. All private passenger vehicles are insured at the minimum limit and the majority of policy holders are at 500,000 or higher.

We did note that, with respect to the Facility Association, which is often referred to as the insurer of last resort, it had 13 percent of its vehicles at the minimum limit of 200,000. So, a change to increase the minimum limit from 200,000 to 500,000 would affect more of the Facility Association drivers and a pretty small percentage, obviously one percent, of all drivers in the province if it was to be increased. And the increase in third party liability limit from 200 to 500,000 is 11 percent for FA and insurers, it ranges from an increase of 11 percent to 18 percent to go from 200 to 500,000 limit.

Our other finding was on -- the next item was on direct compensation. So, direct compensation right now, what is done in Nova Scotia and New Brunswick, it was introduced there, and third party liability currently consists of the bodily injury component and the property damage component.

So, with the introduction of DCPD that takes the property damage component of TPL and splits that further into two parts known as DCPD and PD-Tort. So, there's not a new coverage, if you will, introduced. It's really just a splitting of a current coverage. And in the pricing, we'd have to figure out how do we split that between the two components, because then they'll have a separate premium for DCPD and PD-Tort. And the rationale behind that is a more efficient way of claims handling. It's reduction in the claims handling costs because you won't have subrogation between

insurers. It's a way to reduce claims handling expenses. It doesn't add new costs to the system.

We do observe some changes with collision coverage, a change in the frequency rate and severity, but in aggregate, the total cost for collision don't change, just the number of claims and the average cost of those claims, we've observed that in the other provinces.

The uninsured auto, this is a recovery of the – when there is a vehicle involved in the accident for bodily injury or there's death or property damage and that other vehicle is either uninsured or unidentified. The number of claims in Newfoundland is much higher than the other Atlantic Provinces. When we look at our data, we don't know specifically why a claim occurred, what caused that claim or why it would be higher in Newfoundland, the uninsured auto coverage more claims in Newfoundland versus Nova Scotia and New Brunswick, but that is in fact the case it is. Then we have a chart within our report that outlines that.

We didn't – we tried to assess the relationship between accident benefit claim payments and bodily injury claim payments using the Closed Claim Study data, but through the collection process, there wasn't sufficient data available for that.

The other component that we were asked to review was whether many policy holders would be affected if the AB coverage was to become mandatory. But currently, approximately 95 percent of the policy holders do have accident benefit coverage. It's an optional coverage in this province, but the majority – the vast majority buy the coverage. So, changing to a mandatory basis would not affect many policy holders, very few, and the average premium currently is $72. And that's sort of an overview of this report.

O'FLAHERTY, Q.C.:

Q. Madam Chair, I understand from discussion with counsel that the ordinary order of questioning would now resume, which begins with the Campaign.

CHAIR:

Q. Okay, thank you. To you, Mr. Feltham.

(12:00 noon)

MR. FELTHAM:

Q. Thank you, Chair. I only just have a few questions, Ms. Elliott, on this report. The first thing, page two of the report – well, it doesn't matter whether we look at it or not, but you note four topics that are discussed.

MS. ELLIOTT:

A. Um-hm.

MR. FELTHAM:

Q. How were those four topics decided on? These are the four we're going to do versus not more or not less, whatever.

MS. ELLIOTT:

A. I'd have to go back to the Terms of Reference to refresh my memory on that.

MR. FELTHAM:

Q. Sure, we can certainly do that.

MS. ELLIOTT:

A. Sure.

MR. FELTHAM:

Q. If we can have the Terms of Reference brought up, please?

MS. ELLIOTT:
A. Phase II, the second bullet refers to the $200,000 limit. The third bullet refers to -- the last two bullets Section B and whether coverage should be mandatory. And then scroll down to the next page was the direct compensation and then Section D, the uninsured auto.
MR. FELTHAM:
Q. So, I guess, in terms of making the decision as to which topics to report on, that was your discretion?
MS. ELLIOTT:
A. We have an engagement letter and those were the topics that we felt we could provide.
MR. FELTHAM:
Q. So, I guess, you know, one of the things that I expected when this report would come out that I might see that I did not see was any analysis or examination of the, you know, comprehensive collision coverages in terms of the overall premium experience in the province historically, how that may have contributed to any increase in premiums over time, that subject area.

MS. ELLIOTT:
A. I believe we've provided that.
MR. FELTHAM:
Q. Where would I find that?
MS. ELLIOTT:
A. Well, if I could have a moment?
MR. FELTHAM:
Q. Sure.
MS. ELLIOTT:
A. In the profit and rate adequacy report in the appendix, we provide the coverage information, collision, comprehensive, specified perils, and we provide our estimate of what the required premium would be and what the premium earned is for each accident.
MR. FELTHAM:
Q. But is there any examination of these optional physical damages coverage, because they are optional -
MS. ELLIOTT:
A. Um-hm.
MR. FELTHAM:
Q. - in terms of whether people are purchasing more of those policies. Obviously, you

know, the premium being paid is tied to the optional coverages. If you buy those, you're paying more premium. So, that contributes to a greater overall premium being paid in the province for auto insurance.
MS. ELLIOTT:
A. Yes, right. So, when people buy a coverage that they didn't have before, their total premium would increase, yes.
MR. FELTHAM:
Q. And but there's been no examination by you of what's transpired in that regard over time in this province?
MS. ELLIOTT:
A. Well, in our report, the data is presented of the number of purchases, if you will, vehicles with the coverage in the last five years. That's provided, yes.
MR. FELTHAM:
Q. Okay. But not in a way that translates to how that relates to what the premiums being paid are?
MS. ELLIOTT:
A. We have the premium related to the

coverages, yes. It's available.
MR. FELTHAM:
Q. It's in the report?
MS. ELLIOTT:
A. It's in the report, yes.
MR. FELTHAM:
Q. In the profit report you say?
MS. ELLIOTT:
A. Yes, um-hm.
MR. FELTHAM:
Q. Next question I have relates to the direct compensation property damage. So, that's back to your Other Coverage Report at page two. And I want to take you to the last two sentences of the second paragraph under that heading, direct compensation property damage, and it says "there's no data to measure the reduction in claims handling costs with the introduction of DCPD in Nova Scotia or New Brunswick. However, for reasons that are not fully understood, in Nova Scotia there's been some evidence of an increase in the total DCPD and PD-Tort claims costs following the introduction of DCPD."

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So, I don't know if I understand this correctly, but what we know from the Nova Scotia and New Brunswick experience, what little we can say is we don't really know what has happened with claims handling costs in New Brunswick. Nova Scotia, it appears that the claims costs may have actually gone up. So, is it fair to state that from that, if we introduce that model in Newfoundland and Labrador, and I'm not saying it shouldn't be, I'm just trying to understand, we won't necessarily know, based on the Nova Scotia and New Brunswick experience, what'll happen with claims handling costs as it relates to that?

MS. ELLIOTT:
A. Right. So, we looked at the aggregated data. So, we know it's the same coverage. It's now just split into two sub-coverages.
MR. FELTHAM:
Q. Right.
MS. ELLIOTT:
A. With the intent of, all else being equal, that there should be a reduction in the claims handling costs, minor as it might be.

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So, that's what it's supposed to provide. As opposed to calling up the other company and back and forth and back and forth, you just deal with your own company. Easier for the consumer, easier for the insurance company, and because there's less of this back and forth, the process of settling that claim for the physical damage should be less expense.

MR. FELTHAM:
Q. And that's sort of logically you're saying, right?
MS. ELLIOTT:
A. Right.
MR. FELTHAM:
Q. Yeah, okay. But the data that's out there, I guess there's not a lot, whatever there is, doesn't necessarily match up with the logical expectation?
MS. ELLIOTT:
A. It's not refined enough that we could drill down to that level to really understand exactly. Consumers like it because they get to deal with their own insurer. It's an easier streamlined process of getting a

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claim handled.

MR. FELTHAM:
Q. But as far as claims costs, that aspect, the only thing we can say is that in Nova Scotia we saw some increase?
MS. ELLIOTT:
A. Yes, and that could be attributed to many different things. Maybe it was a bad winter and that went up. You know, we don't know why claims are submitted. We're just making that observation. So, it's a more streamlined, efficient way. You know, we're looking for efficiencies and improvements, it's a more streamlined, efficient way to handle claims settlement.
MR. FELTHAM:
Q. But whether it'll help claims costs, we don't know?
MS. ELLIOTT:
A. Not for sure, but that's -- in theory, that's the idea.
MR. FELTHAM:
Q. Okay. Going to page ten, and this relates to the uninsured automobile coverage, there was no recommendation made on how to

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decrease the number of uninsured drivers, thereby reducing the number of uninsured automobile claims.

MS. ELLIOTT:
A. Right.
MR. FELTHAM:
Q. Any consideration given to that? Was there any examination done with respect to other jurisdictions or something of that nature?
MS. ELLIOTT:
A. I think there has to be an understanding of what's driving the higher number of claims in the Province. And so, when you think about who's driving a vehicle without insurance, your immediate assumption – need to hypothesize – well, they can't afford to pay for insurance and that they need to drive somewhere. And so, then you have to extrapolate and try to understand, you know, what segment – where is this occurring and what can be done. It may be associated with those that either are unemployed, so they can't afford insurance, and I'm not sure that's really a policy issue over how to deal with drivers that are driving

uninsured. What we presented are the actual differences with the other provinces, but I think the next step would be some sort of policy of Government to address the issues that are causing or allowing drivers to drive without insurance.
MR. FELTHAM:
Q. Thank you. And over to the next page, page 11, in terms of accident benefits, and middle paragraph, you refer to, I guess, what I'll call the Section B Closed Claims Study. Is that fair?
MS. ELLIOTT:
A. Um-hm.
MR. FELTHAM:
Q. It says for the 235 claimants that have reported medical and rehabilitation costs, the average medical and rehab costs were just a little over $3,000 and for those, for the 234 claimants that had reported disability income costs, the average paid disability income costs were 462.
So, one of the changes that's being proposed or advocated is – by at least some entities is an increase in Section B

coverage limits from $25,000 where they presently stand to $50,000, and that may be quite valuable to someone who's able to access or needs to access a greater level of coverage beyond $25,000 but it seems to me that what these figures are telling us is that most folks have not accessed or been able to access beyond a few thousand dollars or a few hundred dollars in each of these benefit types.
So, I guess the question is: what value do you see to the consumer in doubling the Section B limit in reality, given these Closed Claim Study numbers?
MS. ELLIOTT:
A. Okay. Well, first of all, what we were trying to provide here was a fulsome answer of what was collected and not intended to say that this would be statistically accurate. It was just what was available and this was what was given and obviously 87 percent didn't report anything. So, pretty limited what we did have. In terms of – you know, it would be like, if you will, any limit over time. It may not meet the needs

of policy holders, so the $25,000 limit was set in 19 – I don't know when it was set, but say 1980, presumably and thought that was sufficient at the time. With inflation, policy holders, claimants, would not be getting the same level of coverage when they are involved in an accident and would have to call on AB coverage with the same limit today. So, for reasons that things increase over time that limits – you know, it's prudent to review it and see if that's appropriate.
MR. FELTHAM:
Q. And I'm not suggesting that, you know, it's our position that it shouldn't be $50,000. It's just, I guess, for most folks, based on these numbers, whether it's 25,000 or $50,000 or a million dollars, kind of irrelevant. They're only accessing or able to access, on average, $3,058 in medical and 462 in disability income.
MS. ELLIOTT:
A. Right. And that's for a very small segment where that information was provided. They certainly – that's not reflective of the

actual costs for those sub-coverages.
MR. FELTHAM:
Q. So, perhaps that's not very reliable in terms of what it tells us? Is that what you mean?
MS. ELLIOTT:
A. It simply tells you for those claimants, this is what their average is. If you wanted to look at what the average cost today is for medical, for AB and for disability income, that would be a different number.
(12:15 p.m.)
MR. FELTHAM:
Q. Thank you very much.
CHAIR:
Q. Thank you, Mr. Feltham.
GITTENS, Q.C.:
Q. No questions from APTLA in this regard.
FRAIZE, Q.C.:
Q. No questions.
STAMP, Q.C.:
Q. No questions.
CHAIR:
Q. Consumer Advocate.

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MR. WADDEN:
Q. Just going back to the point Colin was making about uninsured vehicles, and you know, these questions with respect to how to fix the problem of uninsured vehicles, the numbers on the roads, are probably more properly put to the Registrar of Motor Vehicles and people like that to speak to it more anecdotally. But that being said, given you've done work across the country, do you have any anecdotal comments or evidence with respect to uninsured vehicles on the road and what can or may be done to reduce that issue, reduce that problem rather?
MS. ELLIOTT:
A. First of all, not knowing the exact reason why it is higher in Newfoundland than other provinces, and if you can get to the bottom of why it's higher in the province, that will help solve. But hypothetically, if it is drivers that get insurance, they get their pink slip and then they cancel their policy for whatever reason, they are then driving with a slip that they can show. To

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the extent that when a cancellation occurs that there's some other link mechanism to get the plates off that car, perhaps that's a solution. But I think there are better people than myself that might dig into the reason and then find solutions with everybody involved working together. Because certainly having uninsured drivers on the road is not good for anybody. But I'm sure many people could come up with ideas.
MR. WADDEN:
Q. Yeah, no, and fair enough. Like I said, that's probably – I appreciate your comments and that may be something more properly answered by some of the Registrar of Motor Vehicles who sees on the ground what the causal link is.
I only had one other question. I don't think we need to go to the particular paragraph, but you referenced in here in terms of the number of vehicles in Facility, I think it's in excess of 10,000 and approximately 1400 of those vehicles, give or take, are vehicles that have about

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$200,000 in public liability coverage, right?
MS. ELLIOTT:
A. Um-hm.
MR. WADDEN:
Q. Any idea of the number of those that would be taxi cabs?
MS. ELLIOTT:
A. Oh, this is the private passenger -
MR. WADDEN:
Q. Oh, sorry. In the Taxi Cab Report, does that – I can't remember if that had a particular number in it. We know pretty much all of them were in Facility.
MS. ELLIOTT:
A. Yes.
MR. WADDEN:
Q. I'm just trying to figure out how many that is. Do you know?
MS. ELLIOTT:
A. Not off the top of my head. I'd have to look again to see.
MR. WADDEN:
Q. Right. Sorry about that. No, that's fine. Thank you, Paula.

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CHAIR:
Q. Thank you, Mr. Wadden. Any questions, Mr. O'Flaherty?
O'FLAHERTY, Q.C.:
Q. No questions. And that concludes Ms. Elliott's presentation, Madam Chair.
CHAIR:
Q. Thank you, Ms. Elliott.
MS. GLYNN:
Q. We will be back tomorrow morning, 9:00, with Dr. Misik.
CHAIR:
Q. Dr. Misik will be -
MS. GLYNN:
Q. I think I'm saying his name -
MR. FELTHAM:
Q. You are correct.
CHAIR:
Q. Thank you so much. Thank you, Ms. Elliott.
UPON CONCLUSION AT 12:20 P.M.

CERTIFICATE

I, Judy Moss, hereby certify that the foregoing is a true and correct transcript in the matter of the 2017 Automobile Insurance Review heard 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 6th day of September, 2018

Judy Moss

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