(10:10 a.m.)

MR. SAUNDERS, PRESIDING CHAIRMAN: Good morning. Just a couple of preliminary items that I have and then we'll see if anyone else has any. There's been some discussion, I think, amongst counsel with respect to final argument and my understanding is that counsel prefers to do oral argument. Is that a fair assessment of the discussions?

MR. O'FLAHERTY: We don't prefer to do oral argument. We're fine with doing a written argument, if that's ...

MR. SAUNDERS, PRESIDING CHAIRMAN: You're fine with doing written argument.

MR. O'FLAHERTY: Sure, if that's what the Board wishes, yeah.

MR. SAUNDERS, PRESIDING CHAIRMAN: Let me just explain the reasons why we would prefer a written argument.

MR. WHALEN, Q.C.: We're prepared to do that.

MR. SAUNDERS, PRESIDING CHAIRMAN: You are?

MR. WHALEN, Q.C.: If you wish it. It's short time but we've ...

MR. SAUNDERS, PRESIDING CHAIRMAN: Well, we'll allow whatever time you need to do it, you know, being reasonable in terms of trying to get this matter concluded as quickly as possible, but we would prefer written argument. It speeds up the decision-making process and the summary of evidence for the Board, and usually lawyers are very, are more careful, I'll say, with their written argument than they are with oral argument and it's easier to do the summary of the evidence. So if that's okay, we can set dates and so on later on, we don't need to do that today. Fine. So what we'd normally do in cases like this is we'd ask for argument to be exchanged amongst counsel and then we'd set a time for oral response or reply and that's it I guess, yeah. So you do get a chance to come in and do your recitations, if you like, but the main body of the evidence will be summarized in your argument and then, as I say, we'd have oral response.

January 8th I think is okay with everyone for resumption of the hearing. I just wanted to confirm that, for nine o'clock on that date. As I see it, I'm assuming that we'll get through with Ms. Elliott today, we hope. I'm not sure we will but that will depend entirely on you gentlemen in terms of how focused you can remain, and see if we can accommodate that, and I think if we do that, then we don't have to bring Ms. Elliott back, I assume, in January, because that'll conclude the actuarial evidence. Following Ms. Elliott, I gather the Applicant will be calling Mr. Simpson.

MR. WHALEN, Q.C.: That's correct.

MR. SAUNDERS, PRESIDING CHAIRMAN: And that would be your only other witness.

MR. WHALEN, Q.C.: I believe so unless ...

MR. SAUNDERS, PRESIDING CHAIRMAN: As far as you know at this stage anyway.

MR. WHALEN, Q.C.: Yeah.

MR. SAUNDERS, PRESIDING CHAIRMAN: Following that I think then we'd move to the Consumer Advocate's case and you'd be prepared then to follow immediately after the Applicant is done.

MR. O'FLAHERTY: Yes, Mr. Chairman.

MR. SAUNDERS, PRESIDING CHAIRMAN: Okay, Mr. O'Flaherty. And then we have the, I'll call them the Board witnesses, which are the representatives of the industry, and we have to set aside a time for public participation days to give an opportunity to those parties who wanted to come forward and do oral presentations. I don't anticipate that would take much more than, from what we see in the record now, at least probably half a day at the very most. Oral representations by the public aren't normally long and so I'm thinking a half a day will do that. So these are the only items I had and since everyone is in agreement there's no need for me to discuss them any further. Does anyone else have any preliminary matters before we resume with Ms. Elliott?

(10:15 a.m.)

MR. STAMP, Q.C.: There is just one matter, Mr. Chairman. I provided the Clerk with a copy of a document today. It's the FA market share in Ontario and also the risk sharing pool volume in Ontario, which was asked, Mr. Powell, I think asked for that sometime ago. That's come off the ... actually we finally got it off the, I think it's the web page for Facility Association, so if anybody wanted to look a little deeper, they could probably check it there as well, but in any event, that's the information that we have for Ontario which I presume can be circulated by the Clerk when she has an opportunity.

MS. NEWMAN: In terms of labelling that, can we call that, would have been the last undertaking of Mr. ... okay, it's number, Undertaking No. 1.

EXHIBIT UNDERTAKING NO. 1 ENTERED

And along that lines I had, I believe, yesterday provided, circulated a copy of the revised Appendix A, page 222. We didn't record that because I'm told in terms of our usual procedure we normally, we would normally just replace the pages. I just want to raise that, if anybody has a problem with that. Normally what we do is strike out the other pages and mark this as a revised version, if that's alright with everybody.

MR. STAMP, Q.C.: Just the record shows we've tendered the documentation and it's available to everybody.

MR. O'FLAHERTY: That's fine, Mr. Chairman.

MR. SAUNDERS, PRESIDING CHAIRMAN: Thank you. Okay, anything else? If not, I guess, Mr. Stamp, are you ready to resume?

MR. STAMP, Q.C.: Yes, I am, Mr. Chairman, thank you. Mr. Chairman, just in terms of timing and so on, I don't have a lot left so I hope that maybe within an hour or so we can be through all of that.

MR. SAUNDERS, PRESIDING CHAIRMAN: It's our intention, by the way, before you begin, to break at around 11:30, depending on where we are.

MR. STAMP, Q.C.: That's fine.

MR. SAUNDERS, PRESIDING CHAIRMAN: And I understand we're not going beyond 1:30 because of problems with transportation and so on. So carry on, Mr. Stamp.

MR. STAMP, Q.C.: Thank you, Mr. Chairman. Ms. Elliott, I just want to turn to your report at page 25 in dealing with the commercial trend issue. We are still on the commercial bodily injury trend topic and we'll remain there for a while. Page 25.

MS. ELLIOTT: Yes.

MR. STAMP, Q.C.: And my question, I guess, I took from your evidence yesterday that you considered it to be very important that Mr. Pelly and Facility Association document and explain in a narrative way why they were doing what they were doing, and particularly in terms of outliers and how to treat them. I'm wondering about the note in the first full paragraph at page 25 where you talk about the worst winter in history which you conclude (unintelligible) the loss experience for the two half year accident periods, 2000.2 and 2001.1, and that's your explanation of course for treating these data points as outliers and excluding them from your review. I'm wondering why in the interest of providing as much information as possible to the Board you didn't explain to the Board in your report why this half year history deletion justified by the winter was not evident in the private passenger information.

MS. ELLIOTT: Can you clarify for me which coverage you're referring to here?

MR. STAMP, Q.C.: I'm referring to commercial bodily injury third party liability, bodily injury, and your explanation as to why you exclude those two data points is this, as you put it, worst winter in the document, and you've referred to it many times in your evidence as the famous winter. Why didn't you explain to the Board in the context of this report why they should not wonder why these events did not impact in the private passenger sector?

MS. ELLIOTT: Perhaps that might have been helpful to include that in the report. I didn't think of that when I was writing the report.

MR. STAMP, Q.C.: Okay. On the issue of the winter and on the issue, I guess, of the half year data, which is your preference, you've explained it, as I understand it, that it's important to, you consider it to be, improve the ability to understand the history, to have it broken into half yearly data points rather than yearly data points, and, if I am correct in my understanding, you suggest that it's the seasonal nature of the events that is better depicted in the half yearly data.

MS. ELLIOTT: Yes. We see a difference in those particular data points, yes.

MR. STAMP, Q.C.: But is it done for the seasonal nature? Is that what it's intended to reflect?

MS. ELLIOTT: When you have half accident year data, you have the opportunity to observe the seasonal nature of the data that you might be looking at.

MR. STAMP, Q.C.: But what is the basic reason for going to half year data? Is it to be able to demonstrate and study the seasonal aspects, the seasonal nature?

MS. ELLIOTT: As I'd indicated earlier I believe in my direct testimony, when you have half year data or you have annual data and you run the regression model using either half year data or annual data, you essentially get, if there are no exclusions in the data, you essentially get the same annual trend rate within the first decimal place typically. We ran some examples and we, I believe, described that earlier. So if I use annual data, the same data but annualized, of if I use half year data but no data exclusions, we would get a similar result. So looking at half year data allows us the opportunity to have more insight, I believe, into the data and then to exclude a half year data point as opposed to a full year data point if we think it is appropriate.

MR. STAMP, Q.C.: So you would maybe break it down into quarter years if it was available or monthly data points or daily if you could do that, minute by minute perhaps.

MS. ELLIOTT: I think you're talking about hypothetical.

MR. STAMP, Q.C.: Well, I'm thinking ...

MS. ELLIOTT: I've never had the opportunity to review it daily, quarterly. I've only had the opportunity to review it half year and annual, and I have done my analysis both ways and I get an equivalent answer both ways.

MR. STAMP, Q.C.: And to come back to the topic you've addressed in some detail, the seasonal nature, just explain to me what is the seasonal nature that you're talking about.

MS. ELLIOTT: The seasonal nature represents the difference in experience between a half year, the first half of the year and the second half of the year. It represents the difference in the data between those two elements.

MR. STAMP, Q.C.: So if there is a "nature," I presume that you would ordinarily expect to see that nature reflected ordinarily on an ongoing basis.

MS. ELLIOTT: I'm sorry, what do you mean?

MR. STAMP, Q.C.: Well, if you're looking at the nature of seasonal data, you break it down, you say it's to separate the seasonal nature of the first half of the year from the second half of the year.

MS. ELLIOTT: Correct.

MR. STAMP, Q.C.: Ordinarily you would expect to see a difference in the seasons. That's the nature of what you're looking for.

MS. ELLIOTT: The seasonal nature refers to that over a period of time that you would see a difference between, if a difference exists, between the first half and the second half.

MR. STAMP, Q.C.: What is ... perhaps you can tell me this. What is your expectation as between the first half and the second half?

MS. ELLIOTT: I don't have an expectation. I have to look at the data and see what the data says.

MR. STAMP, Q.C.: Well, in your evidence ... turn to page 22 of the transcript for the 18th.

MS. NEWMAN: The 18th?

MR. STAMP, Q.C.: Yes.

MS. ELLIOTT: Okay. I have every day but that, so if you give me a moment, please.

MR. STAMP, Q.C.: I'm looking at line 67, the bottom of the page. Do you have that, Ms. Elliott?

MS. ELLIOTT: Which page?

MR. STAMP, Q.C.: 22.

MS. ELLIOTT: 22.

MR. STAMP, Q.C.: At line 67 Ms. Newman is questioning you on direct examination. She says, "Now, Mr. Pelly had questioned the use of the seasonality, I believe, because of the T test standards, that he had an analysis to be done on those." You say, "Right. Mr. Pelly questioned the use of seasonality because it did not meet his T test standard in some cases. So, first, seasonality can be seen graphically, so while we use a T test to see the statistical significance, it does not take a statistician to see a graph going up and down and know that it is the seasonal nature of the first half versus the second half." But what is the seasonal nature of the first half versus the second half?

MR. SAUNDERS, PRESIDING CHAIRMAN: Mr. Stamp ...

MS. NEWMAN: I'm lost on the transcript actually. Are you in December 18th or ...

MR. STAMP, Q.C.: Yes, I am reading from the 18th.

MS. NEWMAN: Page?

MR. STAMP, Q.C.: The copy that came by email.

MS. NEWMAN: Oh, that's sometimes different than the hard copy.

MR. STAMP, Q.C.: Perhaps that fools it up.

MS. NEWMAN: It is, yeah.

MR. STAMP, Q.C.: Let me just try and locate it then.

MR. SAUNDERS, PRESIDING CHAIRMAN: I think what you're looking for is on page 23 of the hard copy.

MR. STAMP, Q.C.: Just after noon on the ...

MR. SAUNDERS, PRESIDING CHAIRMAN: Try the same location on page 23, Mr. Stamp. Is that what you're ... is that the one you're referring to? No?

MR. STAMP, Q.C.: Yes, it is, at the top of the page, Mr. Chairman. Thank you.

MR. SAUNDERS, PRESIDING CHAIRMAN: Okay.

MR. STAMP, Q.C.: So line one at page 23 is the same reference ...

MR. SAUNDERS, PRESIDING CHAIRMAN: Yeah.

MR. STAMP, Q.C.: ... in the printed version. So reading from that again, Ms. Elliott, you'd follow along you'll see. Right, "Mr. Pelly questioned the use of seasonality because it did not meet his T test standard in some cases. So, first, seasonality can be seen graphically, so while we use a T test to see the statistical significance, it does not take a statistician to see a graph going up and down and know that it is the seasonal nature of the first half versus the second half." What I'd like you to explain to me is what do you mean by the seasonal nature of the first half versus the second half?

MS. ELLIOTT: Oh, I don't have an expectation which half will be higher or lower, but it's the fact that there'll be differences between the first half and the second half.

MR. STAMP, Q.C.: So they could be going any which way all the time.

MS. ELLIOTT: No, sir. Either all the first half will be higher than all the second half or vice versa. I thought you asked me what my expectation was. I don't have an expectation. I just look at the data and see what the data would tell me.

MR. STAMP, Q.C.: I'm going to turn to page 25, the question is on page 24, the ... well, I'll go to the question as well. Page 24, the bottom of the page, Ms. Newman asks you, Ms. Elliott, "Now, Ms. Elliott, we spoke a little bit already about the accident half year data. I think that you've highlighted for us" ...

(10:30 a.m.)

MR. WHALEN, Q.C.: Bottom of page 24.

MS. ELLIOTT: Bottom of 24 what ... okay.

MR. WHALEN, Q.C.: Line 76.

MS. ELLIOTT: Thank you.

MR. STAMP, Q.C.: Now, Ms. Elliott, we spoke a little bit already about the accident half year data. I think you've highlighted for us the effect, the exclusion of the data points, and I wanted to start first with asking you to please explain what is seasonality. Your answer is at the top of page 25. "When we review the data in our loss trend regression work, we're using half year data and seasonality comes out such that you have the first half year, first half of the year and we have the second half of the year, and seasonality would refer to perhaps the first half is always higher than the second half. Then when you go to a graph we'll get to shortly, you would see spikes in the graph as it goes up for one half and down for the second half," I mean, "up for one day and down for the second half, up for the first half, down for the second half, so its up and down nature due to differences in the experience between the first half of the year and the second half of the year, so this reference is known as seasonality in the data." Now, it sounds there as if your expectation is that it's up in the first half and down in the second half.

MS. ELLIOTT: I think I was saying perhaps, as stated here ... in fact I'd have to look at the data again to recall, but the seasonal nature would reflect differences from the first half to the second half.

MR. STAMP, Q.C.: So then it doesn't matter one year, the first year is up and the second half is down, the next year the ...

MS. ELLIOTT: No. May I clarify? Seasonality will say either all the first half or higher than all the second half, that's the inference, or vice versa.

MR. STAMP, Q.C.: Okay. And so intuitively what do you expect to see, this is Newfoundland, we're studying half year data, what do you expect to see?

MS. ELLIOTT: Well, I'll have to look and then I can tell you.

MR. STAMP, Q.C.: Well, no, I'm asking to tell me intuitively what do you expect.

MS. ELLIOTT: I don't come with a preconceived notion. I don't live in this province, I don't know, I have to look at the data. I don't ... I'm not assuming anything before I do my analysis.

MR. STAMP, Q.C.: In the winter that you spoke of, the famous winter, when were you here?

MS. ELLIOTT: I was here in, I believe it was late January, but I would have to check, but it was the beginning of 2001, the first quarter.

MR. STAMP, Q.C.: Alright. And that was the white-knuckled experience that you described for us. It was very frightening for driving.

MS. ELLIOTT: Correct.

MR. STAMP, Q.C.: Did you expect, even though you're not from here, to find the same type of circumstances evident in July?

MS. ELLIOTT: That wouldn't be my understanding.

MR. STAMP, Q.C.: No. So I guess are you looking at the seasonal nature with this kind of a view, you know, there's a winter and a summer in Newfoundland, although some may disagree with that, but there's a winter and a summer in theory, and that most of that winter, I guess, occurs in the first half of the year, so intuitively does that give you any indication where the data, what the nature of the data will be?

MS. NEWMAN: Mr. Chairman, I think the witness has already answered this question a couple of times. I don't know if we're going to assist our timing here if we keep getting the same question put to her repeatedly.

MR. STAMP, Q.C.: With the greatest respect, Mr. Chairman, this is cross-examination and I think a degree of latitude is appropriate. I'm surprised actually my learned friend would think that this is, that I'm beating this too much at this stage.

MR. SAUNDERS, PRESIDING CHAIRMAN: Carry on, Mr. Stamp.

MR. STAMP, Q.C.: I await your ruling.

MR. SAUNDERS, PRESIDING CHAIRMAN: We'll allow you to go a little further.

MS. ELLIOTT: When I start an analysis I do not start the analysis with a preconceived idea that either the first half is worse or better than the second half, the loss experience. I don't do that. I look at the data and if I have half year data we will incorporate a seasonality variable into the data. If I have annual data, I would not. In both cases, when I study half year data and then if I merge it into annual data points, I get essentially the same annual loss trend rate, so there ... I don't ... I'm afraid I'll tell you again I don't start with an expectation which half is higher than, the first half or the second half. You have to look at the data and then you would know.

MR. STAMP, Q.C.: But your expectation then is this, that in general the same half would ordinarily be high and the other half would ordinarily be low.

MS. ELLIOTT: Yes.

MR. STAMP, Q.C.: At least there is expected consistency in where that would be.

MS. ELLIOTT: Over the long term.

MR. STAMP, Q.C.: Over the long term, okay. Now then, what did you find as you looked at the half year data from a seasonal perspective, what did it depict to you about which way was going up and which way was going down?

MS. ELLIOTT: Okay. Let me show you on the screen here. This might be helpful. What I have here is, and this exhibit has been provided to you already, this is a loss cost experience. In this particular case we see the period that we're talking about, the winter of 2000/2001, the jump.

MS. NEWMAN: This will be page seven, I believe, of the package of charts and graphs that were provided by Ms. Elliott in direct testimony. I believe we're in number three.

MS. ELLIOTT: Now, in terms of the seasonal nature of data when we spoke about, and this is all half year points along the bottom axis, so the first point is the first half of the year, second half of the year for 1994, etcetera. I hope you follow that on the graph. And this particular graph that we can look at in the middle is the claim severity and it has the amounts along the Y axis. And when I refer to values going up one half, here we go, we go here up and then we go back down, and we go up and we go back down, that would be the seasonal nature that I was referring to.

MR. STAMP, Q.C.: Okay. And my question then is what is the data displaying about which way is up, because you expect it to be on average up in the same half each time in general, up in the same half and down in the same half all the time.

MS. ELLIOTT: Over an extended period of time you would expect to see that.

MR. STAMP, Q.C.: And have you looked at this over an extended period of time?

MS. ELLIOTT: In this particular case we have from 1994 to 2001 shown on the screen.

MR. STAMP, Q.C.: Does that constitute an extended period of time?

MS. ELLIOTT: We could go back further.

MR. STAMP, Q.C.: No, but that, does that constitute an extended period of time?

MS. ELLIOTT: I think in this case it's reasonable to look at this.

MR. STAMP, Q.C.: Okay. Then, now that we've got an extended period of time, which way does the data work?

MS. ELLIOTT: In this case we have a seasonality T test statistic of the 5.87, which is shown in this particular case a strong seasonality, and it has a factor, sorry, a seasonality factor of 31, 1.312, and if we go ... I've flipped to the prior page in your exhibits. In this particular case it's saying that the second half of the year has the seasonality where we've given it the one factor, here we've given it no (phonetic) seasonality for the first half, and that's ...

MR. STAMP, Q.C.: I'm sorry, you've given it what?

MS. ELLIOTT: We're assuming that the seasonality applies for the second half of the year, that it would be higher than the first half of the year.

MR. STAMP, Q.C.: So loss costs are expected to be higher in the second half of the year ...

MS. ELLIOTT: This is what we're ...

MR. STAMP, Q.C.: ... and lower in the first half of the year.

MS. ELLIOTT: What I'm referring to here, the statistics I just spoke to you about were the severity statistics, so here you see for 1994, the first half, you have 36,000, the severity for the second half is 49,000. Then we see 1995, the first half, 39,000, we jump up. Here's a data point that was excluded. There was an extreme value. So this is the pattern that we see going up and down on the severity.

MR. STAMP, Q.C.: So I want to make sure I understand what your evidence is though, Ms. Elliott. I don't want to be confused and I don't want to misinterpret you. Are you saying that you have attributed the seasonality in your review of this data to the second half of the year?

MS. ELLIOTT: Yes.

MR. STAMP, Q.C.: And you've done that on every occasion.

MS. ELLIOTT: In this particular regression model?

MR. STAMP, Q.C.: Yes. So all of the trend discussion that we'll be having here on bodily injury, whether for private passenger or whether for third, whether for commercial, bodily injury third party liability, you've taken this approach, the seasonality is expressed in the second half of the year.

MS. ELLIOTT: I'm afraid I can't answer that. As I said, we run the regression model and we, if the regression model indicates that the seasonality for that particular coverage is in the first half of the year, then that would be the case versus the second half, so I ...

MR. STAMP, Q.C.: Well, for sure for commercial, seasonality is in the second half, is it?

MS. ELLIOTT: According to the regression model, we can see here, as I said, the T test is very strong when you look at its particular coverage. It's a very strong T test.

MR. STAMP, Q.C.: I don't want ... you don't need to explain to me why. I just need to understand what you've decided.

MS. ELLIOTT: It's showing the differences in the nature from the first half to the second half.

MR. STAMP, Q.C.: That's what I'm trying to get at.

MS. ELLIOTT: Seasonality is a terminology used for the ... there may be other nuances that I'm not aware of within that data, but differences between the first half and the second half is commonly labelled as seasonality.

MR. STAMP, Q.C.: And when you apply the phrase or the word "seasonality" to this data, when you attach the seasonality to one half year, that's the half year that you expect costs to be higher, loss costs will be higher for the half that you give seasonality to.

MS. ELLIOTT: Right. You would expect a difference between one half versus the other half.

MR. STAMP, Q.C.: Okay. So for sure in the commercial trend review you have given seasonality to the second half of the year.

MS. ELLIOTT: That's what we just looked at.

MR. STAMP, Q.C.: Is that the answer? Yes?

MS. ELLIOTT: Yes.

MR. STAMP, Q.C.: Okay. And therefore on average the loss costs should be higher in the second half than the first half.

MS. ELLIOTT: For the coverage that we're looking at?

MR. STAMP, Q.C.: Bodily injury third party liability commercial.

MS. ELLIOTT: That's what the data would indicate.

MR. STAMP, Q.C.: Now, can you take us to the same chart on private passenger, just to confirm the point that we've been talking about? Is it best to go to the 2003 benchmark, Ms. Elliott? So for the Board's assistance, we ought to look at, I think, Appendix B of the 2003 benchmark, Tab 8, page one.

MS. NEWMAN: I believe also there might have been a chart in the package of material, I'm not sure, but I've just been advised. It looks like it was broken out ... on page eight and nine, if that would be more helpful.

MR. STAMP, Q.C.: Now, I want to take ... I'll go to page one. Page one, there's two page ones. One is the numerical data and the second page one is the three graphs, Mr. Chairman. Do you have that, Ms. Elliott?

MS. ELLIOTT: Yes.

MR. STAMP, Q.C.: And just tell us, will you please, just to confirm, where is the seasonality in private passenger? Oh, sorry, you ...

MR. SAUNDERS, PRESIDING CHAIRMAN: No, carry on.

MR. STAMP, Q.C.: Where is the seasonality in private passenger trend?

MS. ELLIOTT: We're seeing it in the second half of the year.

MR. STAMP, Q.C.: Same place.

MS. ELLIOTT: Correct.

(10:45 a.m.)

MR. STAMP, Q.C.: Okay. Just before I go on to the next, continue on with this, I want to just clarify one thing you said a few moments ago. Your evidence is that when studying trending with comparable data on either a yearly basis or a half yearly basis, the trend is always substantially equivalent, is that your evidence?

MS. ELLIOTT: Yes.

MR. STAMP, Q.C.: Now then, having determined that seasonality in your trend expects higher loss costs in the second half of the year, which I presume July to December is what we're looking at, and lower loss cost in the period January to June, is that what you expect, is that what your regression is telling you?

MS. ELLIOTT: Yes.

MR. STAMP, Q.C.: Okay. Now, what I'd like to know is intuitively why that would make sense.

MS. ELLIOTT: Why the second half would appear to be higher than the first half?

MR. STAMP, Q.C.: Yeah.

MS. ELLIOTT: You know, again I'm not a resident of this province. As I said, when I start the analysis I really don't have a viewpoint which half will be different, the first half or the second half. Perhaps if I lived here I would know, but I'm afraid I don't. I don't experience all the driving conditions throughout a 12-month period.

MR. STAMP, Q.C.: When talking about excluding data, you said that you need to have an intuitive basis for it as well. Don't you need to have an intuitive basis for concluding that your regression is working in seasonality?

MS. ELLIOTT: Well, when you have the data split ... let me reiterate. When you put the data together into annual points versus half year points, without any data exclusions, you get a very similar result, not identical but similar. What we did here, we took the data in half year points. It allowed us to observe any points that we thought were unusual and what impact would they have on the loss trend regression analysis, in particular for commercial auto BI there are two data points where we saw how high they were and without the exclusion of those two points the annual loss trend rate is quite different, and with the inclusion of those points, that was the perspective. We speculate ... they're so high due to the winter, the severe, the famous winter. Do I truly know that's why? I don't count each and every claim to add up all the losses to know why those points are so high, but what I do know is if I keep those points in the regression analysis, the loss trend rate is much higher.

MR. STAMP, Q.C.: But just coming back now to the intuitive sort of basis for this, because the rest of us do live here and we have three months, if we're fortunate, of winter in the first half of the year, and if we're not fortunate we may have six months of it, but certainly three. We probably have one month of winter in the last half of the year, so with the winter conditions, and you've spent so much time talking about winter conditions and how they can drive up loss costs, that it seems intuitively you would expect just the opposite.

MS. ELLIOTT: Well, maybe it's all the visitors from Ontario that are coming to this lovely province and we drive like mad people and cause the accidents here or are involved or create havoc. I don't know why the data would be higher in the second half than the first half, and perhaps, as I said, if I lived here I would have a better understanding, the various months throughout the year and what happens, but I have, I can't tell you, sir, I don't know.

MR. STAMP, Q.C.: But don't you look into this, Ms. Elliott, if this is an important criteria for you?

MS. ELLIOTT: Yes, we ...

MR. STAMP, Q.C.: If you really want to count seasonality into this, don't you think you ought to look at the weather patterns, the temperatures, precipitation, you know, what happens through the year in general to give you some comfort that your seasonality process makes any intuitive sense?

MS. ELLIOTT: I'm simply an actuary, sir, I'm not a weather person.

MR. STAMP, Q.C.: No, I realize that, but, I mean, you look at, you go outside for unemployment insurance data to help you decide whether what you're looking at in the automobile insurance sector makes sense, you look at all kinds of data.

MS. ELLIOTT: Yes, sir, and this is the data that I looked at. This is the data on the screen. You can see the claim severity going up and down, up and down. I don't proclaim to be a statistician, I'm an actuary. I try to look at the data. If I could give you an answer, I would, but I can't, I don't live here, I don't know, I can't tell you. I would really like to answer and move on, but I don't know the answer.

MR. STAMP, Q.C.: But you've testified you don't need to be a statistician. You can look at the graph and we can see the seasonality. It's evident to anybody looking at it that it's there, and I'm just wondering, you know, not being an actuary, not being a weatherman, just being a person who looks at the 12 months of weather we have here, and wonders how you conclude that seasonality will appear in the second half of the year and wondering as well why you don't bother to look into it any more deeply than that to find out if there's any justification intuitively for what you've observed in the data, broken down half yearly.

MS. ELLIOTT: I have no more to say on this point. I really have no more to say that I think would add any value. I see the graph going up and down, we can see statistically it's a very strong T test for this particular segment, the severity going up and down, there's a seasonal nature.

MR. STAMP, Q.C.: Ms. Elliott, just to follow then in this, with this pattern, if you look at the data that you have, and we'll look at 2003 benchmark and look at the commercial information, so that would appear at Appendix C, I think at Tab 7, page one, if we start with, for example, 1992, okay, we see ... can you see 1992 there on the chart?

MS. ELLIOTT: Uh hum.

MR. STAMP, Q.C.: And you have it broken into two half years.

MS. ELLIOTT: Yes.

MR. STAMP, Q.C.: Which of the data points is higher, the first half ... is it going up in the first half or going down in the first half in this case?

MS. ELLIOTT: I just need a piece of paper to keep my rows straight. 1992, the first half is much higher than the second half for the loss cost.

MR. STAMP, Q.C.: So in 1992 the events, the loss cost didn't respond to your regression. Instead of going down in the first half it went up and instead of going up in the first half it went down, is that correct?

MS. ELLIOTT: That's correct.

MR. STAMP, Q.C.: In 1993 you expected it to go down in the first half, according to your regression?

MS. ELLIOTT: To be lower, yes.

MR. STAMP, Q.C.: And it went up, didn't it? I'm sorry, Ms. Elliott ...

MS. ELLIOTT: Are we talking about 1993?

MR. STAMP, Q.C.: Yes, first half of 1993. According to what you've told us, it should have gone down. Did it not go up?

MS. ELLIOTT: Well, the ... I have $428 ...

MR. STAMP, Q.C.: I'm sorry ...

MS. ELLIOTT: $428 is the loss cost.

MR. STAMP, Q.C.: Did it go up in the first half of '93?

MS. ELLIOTT: It went up in the second half of '93 from the first half.

MR. STAMP, Q.C.: No, I'm sorry, I want to look at the first half of '93, Ms. Elliott.

MS. ELLIOTT: Oh, okay.

MR. STAMP, Q.C.: That's point one. Did it go up in the first half?

MS. ELLIOTT: Go up from where, sir?

MR. STAMP, Q.C.: Did it ... you expected it to go down in the first half and up in the second half, that's what you've told us your regression anticipates in seasonality.

MS. ELLIOTT: Seasonality means that the first half ...

MR. STAMP, Q.C.: Goes which way?

MS. ELLIOTT: In this case the ...

MR. STAMP, Q.C.: Now, which way do you expect it?

MS. ELLIOTT: The second half is higher than the first half.

MR. STAMP, Q.C.: I'm sorry?

MS. ELLIOTT: The second half is higher than the first half.

MR. STAMP, Q.C.: Right, but you expect it to go up and down, you told us. That's the ... you can look at it, not being a statistician, you can see it go up and go down and go up and go down.

MS. ELLIOTT: You expect the second half to be higher than the first half.

MR. STAMP, Q.C.: Oh, you don't expect it to go up and down?

MS. ELLIOTT: I'm sorry ...

MR. STAMP, Q.C.: Do you expect it to go up and down, Ms. Elliott?

MS. ELLIOTT: I expect the second half to be higher than the first half.

MR. STAMP, Q.C.: Okay. So it doesn't necessarily ... but I understood you to say that the second half should go down, the second half should go up and the first half should go down, that was the up and down nature of seasonality.

MS. ELLIOTT: The relative relationship between them, is that ...

MR. STAMP, Q.C.: Okay. And in 1996 in your data, I'm at page ... with respect to the first half and second half, did it respond to your regression the way you expected? Was the first half up ... was the first half down and the second half up?

MS. ELLIOTT: No. That would be one example. As you may or may not understand, the seasonality is not a rule that will apply in every year in, year in and year out. There are certainly situations where that doesn't apply and that's where you get the advantage of looking at the data by half year points to see those situations as well.

MR. STAMP, Q.C.: Well, arguably what we see in this data when you break it down half yearly is a lot more noise, as Mr. Pelly had indicated was occurring.

MS. ELLIOTT: Yes, and as I have said this morning and previously, if you take the identical data and run the analysis, half year points, no data exclusions, merge that data into annual data points, you essentially get the same annual loss trend rate, so there is a very small amount of noise but not to lead you to the (inaudible) annual loss trend rate.

MR. STAMP, Q.C.: Could you just put back up for us the chart you had up last on the screen, the graphical chart? Thank you. And the graphs that you're showing here are for which ... is that bodily injury?

MS. ELLIOTT: Commercial bodily injury.

MR. STAMP, Q.C.: 2003?

MS. ELLIOTT: It's the most recent data from the AIX 2001.

MR. STAMP, Q.C.: Okay. I was looking for the benchmark one. Do you have that chart that you can put up for us? It's in, I know, Exhibit ...

MS. ELLIOTT: Yes, I'm sorry. One moment.

(11:00 a.m.)

MR. STAMP, Q.C.: Okay. Now, this is, so we can confirm for the record what we're looking at, Ms. Elliott, this is 2003 benchmark commercial third party liability bodily injury and that same chart, not in colour but it's reproduced at Appendix C, Tab 7, page two.

MS. ELLIOTT: Correct.

MR. STAMP, Q.C.: And again just to confirm, this is the same data that you used for commercial trend development in the Facility Association analysis, the exact same.

MS. ELLIOTT: Yes, we assume that an 8.4 percent annual trend rate, loss cost trend rate.

MR. STAMP, Q.C.: So this is the data that you use, it's the exact same data. It appears in the benchmark but it's the same data exactly that you used for commercial trend analysis on the Facility Association filing.

MS. ELLIOTT: Correct.

MR. STAMP, Q.C.: Now, I want to just come back to the chart, if you would, please. I'm just looking at the bottom of the first chart, which is loss cost. I want you to just confirm for me what I think has happened. It's 1994.1?

MS. ELLIOTT: The first point.

MR. STAMP, Q.C.: First point, is that right?

MS. ELLIOTT: Correct.

MR. STAMP, Q.C.: And then the second stroke on the horizontal axis is the next half year data point, is it?

MS. ELLIOTT: I believe so, yes.

MR. STAMP, Q.C.: So that would be '94.2?

MS. ELLIOTT: Yes.

MR. STAMP, Q.C.: And the second stroke being two away from the vertical, the main vertical line is '95.1?

MS. ELLIOTT: Yes.

MR. STAMP, Q.C.: And then the next one, the third one in, '95.2.

MS. ELLIOTT: And so on.

MR. STAMP, Q.C.: Well, okay, because the next one is '96.2. So I'm assuming, if I am right about what I've counted across, '96.1 is not there, but it may be one of the others is not there. They're not marked. Which one is missing?

MS. ELLIOTT: Well, I could help you out. Oh, I can't help you out. I'm sorry, I apologize. The ones that are excluded, if we go here, we have '96-1 is excluded and '98-1, this was the low data point that we excluded that we spoke on yesterday, and this is the higher data point that we excluded as well and then these two periods in here that we ...

MR. STAMP, Q.C.: And where is that, Ms. Elliott, for the record?

MS. ELLIOTT: I'm sorry, yes, 2000-2, 2001-1.

MR. STAMP, Q.C.: Okay. So go back to your graph, please. So your graph on the left-hand side, loss cost, is actually a graph and a line that doesn't include all the data.

MS. ELLIOTT: It would exclude those points that are not in the regression.

MR. STAMP, Q.C.: So we can't even see those, the Board can't even look at that and see where the regression, where the actual data conflicts with the regression.

MS. ELLIOTT: The actual data ... that's one of the reasons why you exclude the points and we could provide that to the Board. If the Board would like that as an undertaking, I would be happy to provide that.

MR. STAMP, Q.C.: Well, actually I have that, I think, myself, but I'm going to actually show you, Ms. Elliott, everybody else of course, a chart of the half yearly data for 2003. That's 2003 benchmark for clarification. Now, Ms. Elliott ...

MR. SAUNDERS, PRESIDING CHAIRMAN: Are you going to mark this, Mr. Stamp?

MR. STAMP, Q.C.: Well, yes, I certainly can, Mr. Chairman. I was just going to give the witness a chance to look at it for a few minutes first if she needs that. Can you confirm, Ms. Elliott, that this graph is the same graph with the missing data points included?

MS. ELLIOTT: It looks like an approximation. I would need more time but I'll accept it as correct.

MR. STAMP, Q.C.: Did you want to take some time to do that? If necessary, by all means take the time.

MS. ELLIOTT: Yes, it looks close, yes.

MR. STAMP, Q.C.: Okay. So if we look at this chart now that you have before you ... if we could mark that now, Mr. Chairman, perhaps.

MS. NEWMAN: It would be Consent No. 1.

MR. SAUNDERS, PRESIDING CHAIRMAN: Consent 1.

MR. STAMP, Q.C.: I think it should go in as an exhibit by this witness, Mr. Chairman, rather than consent.

MS. NEWMAN: If the witness is prepared to adopt it as her testimony, that's fine or ... I'm not sure she ...

MS. ELLIOTT: I didn't create the exhibit.

MR. STAMP, Q.C.: Alright.

MR. SAUNDERS, PRESIDING CHAIRMAN: We'll file it as Consent 1.

EXHIBIT CONSENT 1 ENTERED

MR. STAMP, Q.C.: So when we look at this chart ... and would you put the chart back up on the screen, Ms. Elliott, please? So the chart on the left-side is loss cost. That's the one on the screen, is loss cost, 2003 benchmark, commercial bodily injury, is that correct?

MS. ELLIOTT: Correct.

MR. STAMP, Q.C.: And the chart in your hand is 2003 benchmark, commercial bodily injury.

MS. ELLIOTT: Correct.

MR. STAMP, Q.C.: And the only difference in the two charts is that the chart in your hand I've just given you, Consent No. 1, includes all of the actual data points for the half yearly data.

MS. ELLIOTT: Yes, that's what I've been told.

MR. STAMP, Q.C.: Well, but does it?

MS. ELLIOTT: Well, as I said, I have checked, I've taken a couple of moments. It looks like it is, sir.

MR. STAMP, Q.C.: Okay. So you're satisfied. I can tell you we've put this together that way. Just for clarification as well, Mr. Chairman, and I'm sure Ms. Elliott can confirm this, you'll see that there are hollow squares and solid squares in the Consent 1 chart, and what we've done in creating this chart, to show the same actual data points, is to identify by filling in the boxes the data points that are included in Ms. Elliott's benchmark analysis for trend, both for the benchmark and for Facility Association, because you use the same data, and the hollow boxes are the excluded ones, so her regression and analysis starts at 94.1 in this instance and goes to 2001.2, so the earlier period, they're all excluded of course because they weren't included in her analysis, and '96.1 is a hollow box, '98.1 is a hollow box, and 2000.2 and 2001.1 are both, are all hollow boxes as well. That's the explanation for the boxes. Would you agree, Ms. Elliott, that that's the data points that have been excluded and included?

MS. ELLIOTT: That would be correct.

MR. STAMP, Q.C.: So when we look at the, as I say, the chart on the screen, and it does appear in a, I guess, not quite as clear a version in our 2003 benchmark book, we see a fairly consistent up pattern on your chart on the screen, but a much more irregular chart on, in Consent No. 1. The data is ... there's more noise in the data, isn't there?

MS. ELLIOTT: Yes, and ...

MR. STAMP, Q.C.: More variation in the data.

MS. ELLIOTT: Right, and similarly we excluded, like FA, there's a large spike for 1993. That period of time was excluded by FA in its analysis. The difference is the other spike in the 2000-1 and the first half of 2001, we excluded that spike in the data. So if you were to look at 1994-1 and in your own mind take that point and draw a line out to the point to 2002-1, if you were to do that, draw a line from 1994-1, just rough, right out to 2002-, to the end, -1 there, you would see that's the pattern that we're looking at. That change is this 84. percent that we're recommending. That's why we excluded this spike up here for this famous winter that we're referring to, just like FA excluded the spike, the first spike that we see, that was excluded. FA did not exclude the second spike. That's the issue here.

MR. STAMP, Q.C.: But your data started in '94.1.

MS. ELLIOTT: Correct.

MR. STAMP, Q.C.: And you went from '94.1 to 2001.2. That's the data you relied upon.

MS. ELLIOTT: Right. We looked at that prior period just before there and we saw the spike and excluded it as FA did.

MR. STAMP, Q.C.: And we can see when we look at this Consent 1 document where the expected up and down doesn't match with the actual data as it occurs.

MS. ELLIOTT: As I said, sir, the up and down is the nature and the seasonal, the data, the first half versus the second half, what are the differences? As I said earlier, if you take the same data, you get this, and merge it into annual points, you will have a very similar annual loss trend rate.

MR. STAMP, Q.C.: Well, I want you to go now, if you would, just keeping that material before you, and if you would just look at DGP-3 *(sic)*, page two.

MS. ELLIOTT: Yes.

MR. STAMP, Q.C.: Do you recall, Ms. Elliott, when Mr. Pelly gave evidence that he was describing how a regression line is fitted to data?

MS. ELLIOTT: Yes, I know that he spoke on it.

MR. STAMP, Q.C.: Okay. And in page two he, I think, used this as an example. It's an actual data package. But he showed, I think, how the regression line matched so, you know, so well with the data history and that the data itself was fairly stable in this graph.

MS. ELLIOTT: The data line is stable?

MR. STAMP, Q.C.: Fairly consistent. We don't see why it swings.

MS. ELLIOTT: I would suggest that's a matter of opinion, but ...

MR. STAMP, Q.C.: Okay. Well, we can all look at the data. I want to ask you this, how many vehicles approximately, and very approximately, are represented at each data point on this chart?

MS. ELLIOTT: I believe we spoke on that yesterday. In terms of half year data we were talking approximately ...

MR. STAMP, Q.C.: No, on this chart here.

MS. ELLIOTT: 17,000 ...

MR. STAMP, Q.C.: It is private passenger, Ms. Elliott.

MS. ELLIOTT: Oh, I'm sorry, I have commercial in front of me. I'm sorry.

MR. STAMP, Q.C.: At page two.

MS. ELLIOTT: My page ...

MR. STAMP, Q.C.: That may be why you found it, the actual data go up and down.

MS. ELLIOTT: Yes. Okay.

MR. STAMP, Q.C.: Alright, we're on page two.

MS. ELLIOTT: Yeah.

MR. STAMP, Q.C.: And because we were looking at different pages, we should probably go back for a moment and just give you an opportunity to clarify that. What I was saying was this is the page that Mr. Pelly used to explain, you know, how relatively simple it was to fit a regression to this line because the line itself was fairly consistent.

MS. ELLIOTT: Correct.

MR. STAMP, Q.C.: Okay. So I realize now you were looking at the wrong page when you made the comment earlier. On this graph, can you just tell us the approximate number of vehicles represented at each data point, approximately?

MS. ELLIOTT: Well, I think there is a couple of hundred, 200 odd thousand.

MR. STAMP, Q.C.: Yes, okay. That's what I think it is, thank you. And if you'd just turn to the next page, the one you were looking at a moment ago, page three, this is the chart that Mr. Pelly explained was a little bit more challenging to fit and it fits with your own comments a few moments ago when we were on the wrong pages together, the data is more variable in this chart, is it not?

MS. ELLIOTT: Yes.

MR. STAMP, Q.C.: Okay. But I put it to you not so variable as the data line in Consent No. 1.

MS. ELLIOTT: I would agree that when you look at the data in Consent No. 1 that you see the movement up and down from half year to half year. I would agree that would be the case, yes.

MR. STAMP, Q.C.: Would you agree that looking at these two lines it's a little simpler to fit a line to the graph at page three than it is to fit a line to Consent 1?

(11:15 a.m.)

MS. ELLIOTT: May I have a moment to ... I think when you look at the data that you have, the annual data, and you look at the half year data, as I said we did both and I get the same result when I don't exclude any data, get the same answer. I think what you get to do when you have this half year data, you get to see those points, which I appreciate you've got this graph for us, you get to see those points for that, the famous winter. We see that ... we see the spike on the page for 2000-2 and the first half of 2001. We also see the spike back in 1984 as well. You get to see the point for 1998-1 where there's a drop down in the results. In that particular case, as I understand it, FA excluded 1998, the whole year ...

MR. STAMP, Q.C.: I don't think you're answering my question, Ms. Elliott. My question is this, is it easier to fit a line to the graph DPG-3, page three, or Consent 1?

MS. ELLIOTT: Well, I've done both.

MR. STAMP, Q.C.: Is it easier to fit a line to the first?

MS. ELLIOTT: Well, I just click my button to fit the line, so I don't know what you mean by easier.

MR. STAMP, Q.C.: So, you have no ... it's just as simple for you to find a line that matches the data in Consent 1, just as simple as it is to find one in page three of DPG-3.

MS. ELLIOTT: I would tell you what I do is pretty good, because I get to look at the half year data, I look at the annual data, and I can do both.

MR. STAMP, Q.C.: And how many vehicles are behind each data point approximately in Consent 1?

MS. ELLIOTT: Well, we're going ... it would be the same volume of data, the number of vehicles.

MR. STAMP, Q.C.: No. Behind each data point in Consent 1, approximately how many vehicles are there?

MS. ELLIOTT: We spoke on this yesterday, sir. We said about 8,000.

MR. STAMP, Q.C.: So you have about 8,000 vehicles behind each data point and ...

MS. ELLIOTT: Twice as many data points, yes.

MR. STAMP, Q.C.: You've already told us that it was necessary, and you agreed it was reasonable for Facility not to rely on Facility alone data because at the levels available it did not provide stability and credibility in the data.

MS. ELLIOTT: You have to work with what you have, sir.

MR. STAMP, Q.C.: Well, you don't have to work with half yearly data.

MS. ELLIOTT: I work with both. I've told you I have tested both.

MR. STAMP, Q.C.: But if you rely on the half yearly data, you are relying on a level and a volume which you found to be unacceptable as to providing credibility and stability in terms of the numbers.

MS. ELLIOTT: And look at what I get to see, look at the spike, look at the insight that I get by doing that.

MR. STAMP, Q.C.: Are you relying upon volumes of vehicles which you found to be unreliable for credibility and stability when you looked at trend generally?

MS. ELLIOTT: I'm relying upon the data that is available. I relied upon it on an annual basis and on a half year basis. If there was more data available, that would have been helpful.

MR. STAMP, Q.C.: Now, Mr. Pelly relied on whole year data. In the case of commercial it provided vehicles behind each data point in the magnitude of 17 or 18,000 vehicles.

MS. ELLIOTT: As did I in my review.

MR. STAMP, Q.C.: But at page 24 of your report you do say that, "For reasons of data, credibility and stability, FA relied upon industry Newfoundland data in determining appropriate loss trends. We find that to be reasonable." Go back to page six of your report, we see that private passenger, which is the biggest volume for Facility, has about 8,000 vehicles in 2001, so the very reason that they moved away from this number was to achieve credibility and stability and you want to go back to it.

MS. ELLIOTT: I don't want to go back to it, sir. I used ...

MR. STAMP, Q.C.: But you did go back to it with Consent No. 1, did you not?

MS. ELLIOTT: I used the Newfoundland data, the half accident year data. We also study the annual data. This is the same data that was used by FA.

MR. STAMP, Q.C.: They didn't break it down to half year. They used whole year data.

MS. ELLIOTT: That's our point, sir.

MR. STAMP, Q.C.: And the point is it showed less noise, it showed a more reliable line, it showed more consistency, and the data behind each data point, the volume of data behind each data point was credible and stable, less so with this.

MS. ELLIOTT: I don't understand your comment that it's more reliable.

MR. STAMP, Q.C.: Well, reliable in a sense that it's credible and stable, by your own evidence. Could you turn to the benchmark ... I don't know if you have the data, the 2002 benchmark. Is that here? I have the pages we need anyway, but ...

MS. NEWMAN: I don't believe we have that filed in this proceeding.

MR. STAMP, Q.C.: I'm sorry? We don't have it?

MS. NEWMAN: We don't have it, no.

MR. STAMP, Q.C.: Okay. I have the ... I can provide copies. Mr. Chairman, I don't know if ... this is reproduced out of the, off the web site for the Board, and it's of course the comparable two pages for 2002 benchmark. I don't know if Ms. Elliott would need a few minutes to look at that or anything or to compare it to something to be satisfied that that's what it is.

MS. ELLIOTT: I don't have any material here to check anything further.

MR. STAMP, Q.C.: Could we possibly ... is it possible, Mr. Chairman, we could take a moment and give Ms. Elliott an opportunity to check the 2002 benchmark document?

MR. SAUNDERS, PRESIDING CHAIRMAN: Well, it's probably a good time to break.

MR. STAMP, Q.C.: If it's okay, that would be fine.

MR. SAUNDERS, PRESIDING CHAIRMAN: Okay. We'll break for 15 minutes and come back at 20 minutes to.

(break)

(11:50 a.m.)

MR. SAUNDERS, PRESIDING CHAIRMAN: Are you ready to resume, Mr. Stamp?

MR. STAMP, Q.C.: Thank you, yes. Ms. Elliott, the copy I just provided before the break of 2002 commercial automobile benchmark, third party liability, the numerical page and the graph pages one and two, have you been able to check that and satisfy yourself?

MS. ELLIOTT: That's from the prior benchmark report.

MR. STAMP, Q.C.: It is from the prior benchmark, yeah.

MS. NEWMAN: So we'll mark that as information number two.

MR. STAMP, Q.C.: Thank you, and I'm also going to provide you with a copy of the graph again, the same sort of thing we did the last time if we can.

MS. ELLIOTT: Okay

MR. STAMP, Q.C.: I don't think I need to spend as much time on this, Ms. Elliott, just to have you confirm that this appears to be again the accident half year, the data from the information number two, laid out in a graph in this latest document?

MS. ELLIOTT: Correct.

MR. STAMP, Q.C.: And ...

MS. NEWMAN: So we'll call that consent number two.

CONSENT NO. 2 ENTERED

MR. STAMP, Q.C.: Okay, and Ms. Elliott, again, I won't just go through that all, but again, the same, the only difference, I guess, in the chart in one sense is that it stops at an earlier point because it's an earlier benchmark?

MS. ELLIOTT: Yes.

MR. STAMP, Q.C.: And would you agree that the solid boxes for the purposes of your analysis of benchmark in 2002 represent the data points that were included in the ... the hollow boxes represent the data points that were excluded.

MS. ELLIOTT: That's correct.

MR. STAMP, Q.C.: Thank you, and again, can you just confirm please that approximately the same number of vehicles stand behind each data point here as does the case of Consent No. 1?

MS. ELLIOTT: Correct.

MR. STAMP, Q.C.: Thank you. I just have, I just want to very briefly turn to the data point 96.1, the excluded data point in Consent No. 2.

MS. ELLIOTT: Yes.

MR. STAMP, Q.C.: That was excluded in the 2003 benchmark as indicated in Consent No. 1?

MS. ELLIOTT: Correct.

MR. STAMP, Q.C.: And the 98.1, that was, it's included here, but it was excluded in the 2003 benchmark review?

MS. ELLIOTT: Correct.

MR. STAMP, Q.C.: And therefore excluded from the ...

MS. ELLIOTT: Regression analysis?

MR. STAMP, Q.C.: Regression analysis this time and, of course, for Facility Association, because this is, it would not have been the same, the material for the Facility Association trend analysis is the 2003 benchmark, is that right?

MS. ELLIOTT: Yes.

MR. STAMP, Q.C.: Yeah, okay, and then again, 2000, the year 2000.2, the data point is included?

MS. ELLIOTT: Yes.

MR. STAMP, Q.C.: And that was excluded, that's the first half of the ... what is it, the famous winter?

MS. ELLIOTT: Correct.

MR. STAMP, Q.C.: And that's included in this year, excluded in the 2003 benchmark.

MS. ELLIOTT: Correct.

MR. STAMP, Q.C.: I just want to quickly ask you to look at the 2003 benchmark, which I hope you still have before you, and if you would keep the Consent No. 2 document as well.

MS. ELLIOTT: Is that ...

MR. STAMP, Q.C.: The 2003 benchmark.

MS. ELLIOTT: The blue and yellow?

MR. STAMP, Q.C.: No, the actual benchmark binder.

MS. ELLIOTT: Okay.

MR. STAMP, Q.C.: I'm looking at, again, the one you had on the graph on the screen, but you know, for purposes of looking at the filed document, it's Appendix C, Tab 7, page 1 and 2, so looking at the two of those together, if you would turn, first of all if you would, to Consent No. 2.

MS. ELLIOTT: Uh hum.

MR. STAMP, Q.C.: And I'm looking ... I'm sorry, I'm sorry, it's in, Mr. Pelly *(sic)*, that's information number two, I want you to turn to, please.

MS. ELLIOTT: Consent No. 2?

MR. STAMP, Q.C.: No, information number two, the comparable document for 2002, information number two.

MS. ELLIOTT: Okay.

MR. STAMP, Q.C.: That's the one we just labelled.

MS. ELLIOTT: Right.

MR. STAMP, Q.C.: You have it?

MS. ELLIOTT: I believe, it's the commercial (inaudible) graph, yes.

MR. STAMP, Q.C.: Yeah, that's the 2002 commercial benchmark, commercial benchmark, third party liability, bodily injury.

MS. ELLIOTT: Yes.

MR. STAMP, Q.C.: Okay.

MS. ELLIOTT: Sorry.

MR. STAMP, Q.C.: Now, in information number two, on the second page, do you see the, under loss cost, the percentage or ratio for seasonality?

MS. ELLIOTT: Yes.

MR. STAMP, Q.C.: It's approximately 24 percent, 25 percent?

MS. ELLIOTT: Yes.

MR. STAMP, Q.C.: Okay, and that's in 2002, and would you just look at the comparable number at page two of Tab 7, Appendix C, 2003 benchmark, it's about 9 percent, 9 1/4?

MS. ELLIOTT: Yes.

MR. STAMP, Q.C.: Can you explain for us why the, why the seasonality would have changed so dramatically from 2002 to 2003?

MS. ELLIOTT: It's a combination of changes in severity and frequency. Those changes that are evident when you look at the severity columns and the frequency column, but why in specific, why they changed, I don't know the answer to that.

MR. STAMP, Q.C.: You had told us previously when we were looking at some of the documentation that intuitively you expected things to stay much the same from one year to the next.

MS. ELLIOTT: What I meant to express is that if, not necessarily the seasonality factor itself from one year to the next, but if that you have found it was, the first half was high and the second half was low, or vice versa, you would expect to see that, barring situations that don't follow that pattern, but over time, if you believe that exists, you'd expect to see that. The seasonality factor that you're pointing to describes the degree of difference from one half to the next half.

MR. STAMP, Q.C.: Right, so the seasonality in 2002 was about 25 or 26 ... 25 percent, I'm sorry, 25 percent ... 24 or 25, and that meant that the seasonality in the second half which was going up, it went up by about 25 percent or so?

MS. ELLIOTT: That would be the relative relationship, uh hum.

MR. STAMP, Q.C.: Right, and in 2003 it's going up by only about 9 percent or so.

MS. ELLIOTT: Right, correct.

MR. STAMP, Q.C.: On that point, Ms. Elliott, was that variation to that magnitude unexpected?

MS. ELLIOTT: That variation ... I don't know, I don't have an answer for that, I'm sorry.

(12:00 noon)

MR. STAMP, Q.C.: Okay, Ms. Elliott, can you ... I'm just trying to match up transcript documentation, if you can give me a moment, please. Ms. Elliott, I'm just going to refer you to your evidence on the 18th. Do you have that book still with you, the transcript for December the 18th?

MS. ELLIOTT: In my pile here, I hope to find it. Page number?

MR. STAMP, Q.C.: 28, I'm sorry, 25.

MS. ELLIOTT: Okay.

MR. STAMP, Q.C.: Yeah, page 25.

MS. ELLIOTT: Yes.

MR. STAMP, Q.C.: And I'm looking at line 44, 44 through 49 actually, and Ms. Newman is asking you, here the question is, "Okay, so by fitted you mean ...", and then you respond, "Fitted is the results of the regression analysis, so when we prepare the regression analysis what you want to do is come up with a change period over period, and the fitted values then reflect that change period over period that has been estimated", right?

MS. ELLIOTT: Correct.

MR. STAMP, Q.C.: So it's the change over time that you're looking at, period from period.

MS. ELLIOTT: That would be the time parameter.

MR. STAMP, Q.C.: Yeah, but the regression analysis is looking at it period over period, is that what you're saying here?

MS. ELLIOTT: Yes.

MR. STAMP, Q.C.: Yeah, and I want you to just look at your report, if you would, please, page 28.

MS. ELLIOTT: The Mercer report?

MR. STAMP, Q.C.: Yeah, your report, I'm sorry, I gave you the wrong page, it's page 15, Ms. Elliott, the charts on page 15.

MS. ELLIOTT: Yes.

MR. STAMP, Q.C.: I'll just look at the, the PD tort.

MS. ELLIOTT: Yes.

MR. STAMP, Q.C.: The first chart, and your evidence basically was to show that when you look at the overall total difference from '97 to 2001, the difference in Facility's fitted value was $602, whereas yours was $74, which I took you to imply or mean that it was better because it was closer to zero.

MS. ELLIOTT: The fitted values and the actual values were closer together, yes.

MR. STAMP, Q.C.: Yeah, okay, so the difference is closer to zero.

MS. ELLIOTT: Correct.

MR. STAMP, Q.C.: Now, and the actual value, but I'm looking at, I'm looking at '97, the actual is 2,416.

MS. ELLIOTT: Yes.

MR. STAMP, Q.C.: And the '98 value is 2,600, and if you want to check this you can, certainly, with a calculator. I calculated 7.6 percent difference. You might want to check that if you would.

MS. ELLIOTT: Between which two points, would you help me there?

MR. STAMP, Q.C.: That's '97 and '98, the increase from '97 to '98, what percentage increase was that?

MS. ELLIOTT: Oh, pardon me, yes, on the actual column.

MR. STAMP, Q.C.: 7.6 percent?

MS. ELLIOTT: Correct.

MR. STAMP, Q.C.: Okay, now you can check if you wish, but I calculate in the next ... at two percent, and the next at 2.9 percent.

MS. ELLIOTT: Uh hum.

MR. STAMP, Q.C.: And the next at 5.1 percent, and if you will allow me to, if you will treat those as accurate, you can check them certainly if you wish, but if you average those out, the changes over time, which is what you talked about back in your evidence, that average is 4.4, okay?

MS. ELLIOTT: An arithmetic average.

MR. STAMP, Q.C.: Arithmetic average over time, 4.4, and the trend that has been recommended by Eckler is 4.3, and very close to the 4.4, and Mercer's fitted trend is 2.5, off of that 4.4 average over time. Do you agree?

MS. ELLIOTT: I'll accept that.

MR. STAMP, Q.C.: Thank you. I'm just going to be referring very briefly, Ms. Elliott, and you can get the document out if you wish, but it's PLE-4, and the pages are 16 and 17.

MS. ELLIOTT: Yes.

MR. STAMP, Q.C.: I think in your evidence, and I'll just give you a reference to that, if you wish, at page ... well, it won't be 28 anymore now because I've got to find it for you ... yeah, in the typed version of the transcript, Ms. Elliott, it's at page 28, line 61.

MR. SAUNDERS, PRESIDING CHAIRMAN: That's the 19th or 18th?

MR. STAMP, Q.C.: The 18th still, Mr. Chairman.

MS. ELLIOTT: I'm sorry, I missed the page number?

MR. STAMP, Q.C.: 28, line 61.

MS. ELLIOTT: And I'm sorry, the 18th?

MR. STAMP, Q.C.: Yes, the date ... yeah.

MS. ELLIOTT: I'm there.

MR. STAMP, Q.C.: Okay, so at line 61, it's in the middle of an answer, you say, "So you heard Mr. Pelly say a lot about the importance of R square, R square values, and we don't deny that R square values are important, and just to remind everyone, the R square just shows how much variation there is from period to period, and that's explained by the R square value in the regression analysis. That's simply all it means, but R square values, while they are important, they are not the final or overriding determinant of an appropriate regression model. I'm going to give you two examples, I want to look at the real life practical example, I'm going to point you to page 16", so that's what I'm turning to now. My only question is, first of all, is it Mercer's view that the R squared, that you view the R squared as an overriding determinant?

MS. ELLIOTT: That we ...

MR. STAMP, Q.C.: That we do, that is it your impression that Eckler's views the R squared as an overriding determinant?

MS. ELLIOTT: Well, it is ... Mercer's does not view the R square as an overriding determinant.

MR. STAMP, Q.C.: Have you formed the opinion that we did, that Eckler has in its analysis?

MS. ELLIOTT: Well, what I observed is in the direct testimony that was provided by Mr. Pelly, there was reference to R square on several occasions as he, as sheets were described.

MR. STAMP, Q.C.: But did you conclude that they were of the opinion that the R squared was an overriding determinant?

MS. ELLIOTT: I have the opinion that it is viewed as an important element, not necessarily the overriding determinant because there are cases where the high R square regression model is provided but then not used, so I wouldn't say it's the overriding determinant in all their selections, no.

MR. STAMP, Q.C.: Okay, that's fine, and so these two examples at page 16 and 17 of your exhibit, are they just there to show what you're saying there, that the R square need not follow the pattern?

MS. ELLIOTT: It was there to provide some information to the Board to show that you could have a graph with a very good R square, but it's not necessarily a good predictor for the subsequent year, and the same with the flat graph. It would have a low R square value but when looking at it, you might think that that was a reasonable fit, that was information.

MR. STAMP, Q.C.: But obviously, obviously as an actuary you are, of course, expected to, and will exercise judgement, so just because you might see some kind of a fit mathematically, there's no intuitive basis for you to exercise judgement appropriately, I guess.

MS. ELLIOTT: That would be correct.

MR. STAMP, Q.C.: That's all the questions I have, Mr. Chairman, thank you. Thank you, Ms. Elliott.

MR. SAUNDERS, PRESIDING CHAIRMAN: Thank you, Mr. Stamp. Are you ready to commence your cross-examination, Mr. O'Flaherty?

MR. O'FLAHERTY: Yes, Mr. Chairman, I just have a couple of areas that I want to clarify with Ms. Elliott. Ms. Elliott, can I bring you to page 6 of your report.

MS. ELLIOTT: Yes.

MR. O'FLAHERTY: And this is an area that we spent a lot of time on today, and I believe we did yesterday as well, the number of written vehicles comparison between private passenger vehicles and commercial automobiles?

MS. ELLIOTT: Yes.

MR. O'FLAHERTY: Now, as I understand it, the figure of $8,372 refers, in the 2001 horizontal line, for the top graph that's shown there, or the top chart that's shown there ... that referred to the number of written vehicles in the year 2001 by FA that are private passenger vehicles?

MS. ELLIOTT: That's correct.

MR. O'FLAHERTY: And as I also understand then there's a number next to it, which is the number of written vehicles in 2001 for the entire industry in private passenger, in that particular area for the Province of Newfoundland and Labrador, is that correct?

MS. ELLIOTT: That's correct.

MR. O'FLAHERTY: Now, you had no problem with FA, as I understand your analysis, using the industry number for the purposes of analyzing trend.

MS. ELLIOTT: Correct.

MR. O'FLAHERTY: And if we go to the lower set of information on the same page, under the heading "Commercial Automobile", and we have, under written vehicles we have the number 406 or either 408, I can't really make it out on the copy.

MS. ELLIOTT: 408.

MR. O'FLAHERTY: 408, okay, thank you, which is, as I understand it, the number of written vehicles by the Facility Association that are commercial automobiles in the year 2001 in this province.

MS. ELLIOTT: Correct.

MR. O'FLAHERTY: And then the number next to it, the 17,969, is the number of commercial automobile policies written by the entire industry, excluding FA, of course, in the Province of Newfoundland and Labrador in 2001.

MS. ELLIOTT: It is my recollection when I prepared this exhibit, it was the industry number as a whole, so all the data that's provided in the industry AIX report.

MR. O'FLAHERTY: Okay, so that does include ...

MS. ELLIOTT: It would include ...

MR. O'FLAHERTY: FA, okay, so these numbers are inclusive, one or the other, okay, well that ... and would that be the same for the private passenger?

MS. ELLIOTT: Yes, that would be.

MR. O'FLAHERTY: Okay, thank you for that clarification, and I also understand that for the purposes of analyzing trend analysis, you took no issue, or had no criticism of Eckler Partners Limited's use of the industry data for analyzing the trend for commercial vehicle in Newfoundland.

MS. ELLIOTT: That's correct.

MR. O'FLAHERTY: Now, is there any ... and perhaps you can clarify this for me, is there any relationship besides happenstance, between 8,372 and half of 17,969 in the column to the right and below at the bottom?

MS. ELLIOTT: It's just coincidental.

MR. O'FLAHERTY: Okay, that's what I thought. Now, is the use ... and I want to ask you a couple of general questions about actuarial practice. Is the use of half year data in the analysis of trend an accepted actuarial practice?

MS. ELLIOTT: Yes.

MR. O'FLAHERTY: Would you say it's a widely accepted actuarial practice?

MS. ELLIOTT: I review numerous rate filings, and I certainly have seen it in many rate filings I have reviewed.

MR. O'FLAHERTY: Okay, and does the use of half year data in the analysis of trend necessarily involve dividing the annual number of written vehicles between the two half year periods that you're analyzing?

MS. ELLIOTT: That's how IBC provides the data in the half year segments. The actuary can then roll it into annual points if they so wish, or you can take it as the half year data.

MR. O'FLAHERTY: Okay, so if we look at the written vehicle number for 2001 for private passenger, 218,192, if an actuary were to analyze the industry data on the half yearly basis, then in each of those two half yearly data cohorts would be the two numbers that add up to 218,192.

MS. ELLIOTT: Correct.

MR. O'FLAHERTY: Okay, so one half of the year is going to have 100,000, for example, and the other one will have 118,192.

MS. ELLIOTT: Right, it's split.

MR. O'FLAHERTY: So that's just a natural result of using that type of an analysis.

MS. ELLIOTT: Correct.

MR. O'FLAHERTY: Which you say is a generally accepted actuarial practice.

MS. ELLIOTT: Yes.

(12:15 p.m.)

MR. O'FLAHERTY: Would it be, in your opinion, a legitimate criticism of another actuary's approach to criticize the use of half yearly data for reviewing trend because the annual vehicle count was divided between two half years?

MS. ELLIOTT: I don't believe it's a reasonable criticism in that it's the common practice by many actuaries to use half year data. In fact, IBC provides an analysis of what they believe is, the trend is in various provinces and I understand that their standard approach, their consulting actuary, is to use half year data.

MR. O'FLAHERTY: Okay, can I refer you to the Facility Association rate filing for 2001, which is May the 15th, 2001.

MS. ELLIOTT: Uh hum.

MR. O'FLAHERTY: Do you have that there? We'll just give the Board a moment to gather that document.

MR. SAUNDERS, PRESIDING CHAIRMAN: Is that this?

MR. O'FLAHERTY: Yes, Mr. Chairman.

MR. SAUNDERS, PRESIDING CHAIRMAN: I have it dated May the 10th, I don't know why.

MR. O'FLAHERTY: I was actually reading the received stamp, so it's ...

MR. SAUNDERS, PRESIDING CHAIRMAN: Okay, the report itself is dated May 10th, I think.

MR. O'FLAHERTY: Yes, and I believe you'll agree this was prepared by Eckler Partners Limited?

MS. ELLIOTT: Yes.

MR. O'FLAHERTY: Can I refer you to the Appendix A, page 8.2.10?

MS. ELLIOTT: Yes.

MR. O'FLAHERTY: Now, I realize that you haven't had much of a chance to look at this but generally speaking, what are we looking at on this particular page?

MS. ELLIOTT: We're looking at half year experience, half year data, we're looking at loss development factors that are by half year pyramid to estimate an ultimate incurred loss, and then under column five there's a calculation, the ultimate loss cost, so they've taken their calculation from column three, the ultimate, divided it by column four, so it's a review of data by half year, and then it's rolled into annual points in column six.

MR. O'FLAHERTY: Okay, and why are they doing this particular calculation, just on a very high level, you don't need to dig right into it, but at the top here it says it's the determination of seasonality adjustment for 2000-1 projection factors. What's going on here, is this a trend analysis that they're involved in here?

MS. ELLIOTT: They're making ... I believe that they're estimating a seasonality adjustment between the first half and the second half of the year.

MR. O'FLAHERTY: Right, okay, and I'll take you back to the reference in the text then, because I know you didn't have a chance to read this. Go back to page six of the narrative. At the very bottom of that page, just ... sorry, I'm at the narrative in that particular text.

MR. SAUNDERS, PRESIDING CHAIRMAN: The same ...

MR. O'FLAHERTY: The same text.

MR. SAUNDERS, PRESIDING CHAIRMAN: Yes.

MR. O'FLAHERTY: Do you see the last paragraph on page six of the narrative?

MS. ELLIOTT: Yes, I do.

MR. O'FLAHERTY: Okay, does that help you with what's happening when they're doing this projection in 8.2?

MS. ELLIOTT: Thank you, yes, that confirms that they're calculating a seasonality adjustment for their data.

MR. O'FLAHERTY: Okay, and this is for the purpose of a trend analysis?

MS. ELLIOTT: I'm not sure where that factor is applied.

MR. O'FLAHERTY: Okay, it's under loss trend, this is the section that they're doing.

MS. ELLIOTT: Then that would be the case.

MR. O'FLAHERTY: Okay, so then Eckler Partners Limited is doing a loss trend analysis for the data and they're doing it on the basis of a half yearly, half yearly data, and if you flip right back over to 8.2.10, these figures here, earned exposure on this particular document, on 8.2.10.

MS. ELLIOTT: Yes.

MR. O'FLAHERTY: Aren't those the number of vehicles in a given accident year divided into two different cohorts?

MS. ELLIOTT: That is correct.

MR. O'FLAHERTY: Okay, so this is, this is the same type of analysis that you've been doing, except on the commercial vehicle side?

MS. ELLIOTT: This is for private passenger, this exhibit.

MR. O'FLAHERTY: Yes, exactly, because there's no commercial analysis in this document.

MS. ELLIOTT: Correct.

MR. O'FLAHERTY: Okay, so that would be, if you go back to your page six, if you look at, for example, 1999, those numbers that you have in the hundreds of thousands, two hundred thousand, that kind of thing ...

MS. ELLIOTT: Yes.

MR. O'FLAHERTY: Those numbers there are these numbers in earned exposures, except broken in half.

MS. ELLIOTT: That's correct.

MR. O'FLAHERTY: Okay, thank you, I don't have any other questions, Mr. Chairman, thank you very much.

MR. SAUNDERS, PRESIDING CHAIRMAN: Thank you, Mr. O'Flaherty. Ms. Newman, I see you there ...

MS. NEWMAN: Yes, I did want to address one point.

MR. STAMP, Q.C.: Just before Ms. Newman does that, Mr. Chairman, I'm not sure how the, what the process will be. I presume she would want to be the last person to (inaudible).

MR. SAUNDERS, PRESIDING CHAIRMAN: Okay, so we'll go with Board questions at this stage and come back?

MR. STAMP, Q.C.: No, I was actually thinking that anything arising from the Consumer Advocate's inquiry, I would have a chance now to deal with, as we discussed earlier.

MR. SAUNDERS, PRESIDING CHAIRMAN: Very well.

MR. STAMP, Q.C.: There isn't much in any event, but I will want to ...

MR. SAUNDERS, PRESIDING CHAIRMAN: Thanks for reminding me of that.

MR. STAMP, Q.C.: ... ask one question, okay?

MR. SAUNDERS, PRESIDING CHAIRMAN: Carry on.

MR. STAMP, Q.C.: Ms. Elliott, you're familiarity with the use of half year data, is this based largely in Ontario?

MS. ELLIOTT: The example in my mind that I'm thinking of, because I reviewed it recently, was Ontario.

MR. STAMP, Q.C.: Okay, thank you.

MR. SAUNDERS, PRESIDING CHAIRMAN: Is that all, Mr. Stamp?

MR. STAMP, Q.C.: That's it, thank you, Mr. Chairman.

MR. SAUNDERS, PRESIDING CHAIRMAN: Commissioner Powell, do you have any questions?

MS. NEWMAN: Mr. Chairman, perhaps I'll do my redirect.

MR. SAUNDERS, PRESIDING CHAIRMAN: Okay, if you want to do it that way.

MS. NEWMAN: Ms. Elliott, I want to bring you back to a point that was raised during cross-examination by Mr. Stamp. He had suggested to you, I think, a number of times, that you had a rule with respect to outliers in loss development. I want to ask you if you have any, if there are any guidelines or principles that identify outliers in general?

MS. ELLIOTT: I'm not ... there are no guidelines published by the CAS in the principles of rate making, I'm not aware of any specific guidelines that are published that we must adhere to.

MS. NEWMAN: And if hypothetically in a rate filing you reviewed the filing and you had identified and decided there were five outliers, and they all happened to be below the average, whatever average you had taken at the time, that is they were the low points, would you, if you had identified them as outliers, would you exclude them?

MS. ELLIOTT: I would have to look at the data and understand if that opportunity presented myself *(sic)*, if I'm working for an insurance company, understand that data, those outliers. I also would want to sit back and when you go through the loss development process you, you think about it many times as you go through and make your selections, so you may consider something an outlier off the cuff, and then when you want to sit back and say well what am I doing in this rate filing, am I being balanced, am I being responsive, and you may say, gee, I've excluded nothing but low points, you might then want to go back and say, well this data has occurred, there's a random nature in the data, and perhaps that's not appropriate, so you need to look at the data and think about it.

MS. NEWMAN: Thank you. Those are all my questions.

MR. SAUNDERS, PRESIDING CHAIRMAN: Commissioner Powell?

COMMISSIONER POWELL: Yes, thank you, Mr. Chair. Ms. Elliott, I only have a couple of questions, I think most of the items got covered by counsel. What I'd like for you to do for me is simplify the process a little bit. If you were going to give someone the 20,000 foot view of an insurance premium, how would you break it down, like the different components?

MS. ELLIOTT: When you're preparing the premium level there are, there is a loss component, there's an expense component, and then there's consideration of investment income, they're the three main components.

COMMISSIONER POWELL: And those components would essentially be the same for all coverages?

MS. ELLIOTT: Yes.

COMMISSIONER POWELL: You wouldn't differentiate between the fact that you were doing rates for Facility as opposed to the normal (inaudible) or anything else like that?

MS. ELLIOTT: The approach would be the same regardless of the entity.

COMMISSIONER POWELL: So it would be no different than setting the rates for the FA coverage insurance premium as it would be for anybody in the normal market?

MS. ELLIOTT: In terms of the methodology, no, there would be no difference.

COMMISSIONER POWELL: So if you excluded one of those components from the rates, then the actual rates themselves would be flawed?

MS. ELLIOTT: Well, if you didn't include anything for expenses, that would be flawed.

COMMISSIONER POWELL: No, there's been some question, suggestion that the FA rates don't include any component for expenses related to return on capital.

MS. ELLIOTT: Zero assumption is made.

COMMISSIONER POWELL: But they're in the rates.

MS. ELLIOTT: The consideration is that a zero assumption is, by FA, that's what they have deemed. They include investment income on the operation, the cash flows, that's incorporated into the pricing model, but not the return on the capital. That's held by the member companies.

COMMISSIONER POWELL: But wouldn't that make the rates flawed if there was nothing ... so the other, the other insurers in the market then would be subsidizing the FA rates by that?

MS. ELLIOTT: The other insurers in the marketplace aren't involved strictly in that pricing exercise, this is the role of Facility Association. As I understand it, the FA mechanism is to ensure that there is a market for all risk and as I understand, I could be corrected, the zero is a long-standing value that is used.

COMMISSIONER POWELL: But either there's something in the rates or not in the rates, and if it's a component not in, then somebody else has to pick up that portion. Whether it's material or not, there is a portion.

MS. ELLIOTT: Right, the capital that ... I guess it's ... how can I say ... I'm not in a position to say the utilization of the various member companies of their capital ... I'm not an economist. I haven't studied the industry from that perspective in terms of the capital that is available in the marketplace, if it's being effectively and efficiently used, I think there's a very wide range of considerations in terms of this mechanism for FA, and the appropriate capital that is available to support this mechanism and effective use of capital. That's outside of the scope of my expertise.

COMMISSIONER POWELL: But as an actuary now, and I don't want to get down ... you're building up the rates, you look, in compiling all the costs and things, there's a rate (inaudible) based on actual figures that come out of the Insurance Bureau of Canada, but don't you expect to see, don't you factor that into, all these numbers get crunched around and around, and in formulas and out of formulas, but don't all those components have to be mixed in?

MS. ELLIOTT: They are all mixed in together, yes, they're all integrated, if you will.

COMMISSIONER POWELL: So not to have something in the Facility rates, somebody would have to go and take something out, or it's in somebody else's rates.

MS. ELLIOTT: Well, companies assume a certain premium to surplus ratio when they're pricing their portfolio, when they're deriving their premium levels. They may assume, you know, one to one, they may assume two to one, or whatever number that's used in their rate filing, their calculations. It is not always the same number that matches back to their actual capital to premium ratio, so again, the exercise of the efficient use of capital, the appropriate use of capital, what is the right number, is zero appropriate, I believe that's outside of the scope of my expertise.

(12:30 p.m.)

COMMISSIONER POWELL: There was a suggestion that one of the problems that the ... in Newfoundland we only have two choices, we don't have a third, I think it's referred to as a grey market ... but would an actuary, when you're setting, analyzing and setting rates, would you adjust, make any adjustment to reflect the rates to allow room for somebody else to get into the marketplace?

MS. ELLIOTT: No, I would look at each individual filing and it's data as it stands, you know, as FA has done, they've prepared a very detailed filing, it's well presented, it stands in terms of documentation. I would not then just consider another sort of element without analysis of that data, so would I consider the grey market insurers and where they necessarily fit into this, I don't believe that would be appropriate in this exercise.

COMMISSIONER POWELL: So from an actuarial point, whatever the figure are, they are, whether there's room for another entrant in the market, that's not an issue that you would even look at, from an actuarial point of view now.

MS. ELLIOTT: Right, from an actuarial point of view, we would analyze the data, and those other issues, I believe relate more to a marketing focus, an underwriting focus, which I'm not reviewing in this case.

COMMISSIONER POWELL: So in Ontario, they have one, but that's more of a legislative problem that has nothing to do with actuarial calculations and things.

MS. ELLIOTT: Grey market insurers, that's just a name. There are specific companies, although I can't remember all of them, who operate in Ontario and the specific ones that operate in this province, but as I understand it, there are three or four companies that would be labelled grey market insurers that operate in Newfoundland.

COMMISSIONER POWELL: There's some question that maybe the, I think the chart we had that showed that the Newfoundland FA rates are too close to the normal rates, so therefore, there's no room for the grey market to get into, and they have a risk sharing pool, I think is the word they have in Ontario, but from an actuarial point of view, I mean, to me, when I looked at it, I said, well let's put our rates out there and then somebody would come in, but from an actuarial person, if the facts said the rates should be this close to the regular market, that's it. I mean you wouldn't, as an actuary, say, okay, we should do something to ...

MS. ELLIOTT: Right, there's no, there's no set percentage that her's the regular market and the FA rate should be two times, one and a half times three times, there's no rule that says what percentage relationship there should be. You take the information, the data, you study it, and you analyze what that rate level should be, and then as a result, a new relationship between the regular market and FA would develop, but you don't have a preconceived idea that it has to be two times, or one point five times, or one point two five times, or three times, that's just an after fact, what that relationship is. It's not your driving force to say what the rates should be.

COMMISSIONER POWELL: That's all my questions, Mr. Chair.

MR. SAUNDERS, PRESIDING CHAIRMAN: Thank you, Commissioner Powell. Commissioner Martin?

COMMISSIONER MARTIN: I just have one question, the word "intuitive" with you actuaries seems to be a term of art, would that be fair enough? Would that be fair to say?

MS. ELLIOTT: A term of art?

COMMISSIONER MARTIN: Yeah.

MS. ELLIOTT: Yes, intuitive is, sure, thinking about what you're seeing in the data, and then trying to rationalize it in your mind, and it would be nice if we could rationalize and understand everything but that's what that's in reference to.

COMMISSIONER MARTIN: Do the words "common sense" mean the same thing?

MS. ELLIOTT: I would consider them to mean the same thing, yes.

COMMISSIONER MARTIN: That's all I have.

MR. SAUNDERS, PRESIDING CHAIRMAN: Just following up on the question that Commissioner Powell was asking in terms, or asking in terms of the Ontario situation, can you, are you familiar enough with Ontario legislation respecting auto insurance, and the impact or the picture, if you like, that's shown on BGP-4, have you got that in front of you?

MS. ELLIOTT: I have it in my pile.

MR. SAUNDERS, PRESIDING CHAIRMAN: It's the one that's, it's headed up, "Facility Association Comparison of FA Written Premiums to Industry versus FA Market Share".

MS. ELLIOTT: Yes.

MR. SAUNDERS, PRESIDING CHAIRMAN: Okay.

MS. ELLIOTT: Yes.

MR. SAUNDERS, PRESIDING CHAIRMAN: And without going into too much detail, because we've been through this a few times, showing the difference that is illustrated here in Ontario, which is between 275 and 360 percent, roughly, of an increase over the regular market, if I've interpreted this correctly, are those numbers that background those data points a result of the same kind of rate making exercise that takes place in Newfoundland?

MS. ELLIOTT: Yes, the FA, the FA provides a rate filing application to FISCO, but there's a stronger relationship, if you will, between the underwriting rules, so in Ontario each insurer is required to take every ... it's a take allcomers rule, unless you have filed with FISCO your underwriting rules that outline who you will not take, and FISCO has approved it, so that's a difference between this province and Ontario. As I understand it in Newfoundland, if you don't want to take the risk you can then have it go ... it will eventually, if nobody wants to take it, no insurer, it would eventually go to, with Facility Association, so Ontario is different in that perspective. Ontario also has the residual, a residual market, and that's one layer, and then they have what we're referring to here as the market of last resort, so it's a different, slightly different system.

MR. SAUNDERS, PRESIDING CHAIRMAN: So the numbers are somewhat artificially inflated, if you like, to show that 350 percent, or a 330 percent difference?

MS. ELLIOTT: I don't want to say the number is inflated because I would suspect, I haven't tested it, but that the data would be accurate, but I think it's understanding the differences between the provinces, before you would make, reach a conclusion.

MR. SAUNDERS, PRESIDING CHAIRMAN: Okay, do you want to go to a document that was filed this morning, and I think it was called undertaking number one, that's the way I've labelled it. It's this one. Did you provide this information?

MS. ELLIOTT: No, I did not.

MR. SAUNDERS, PRESIDING CHAIRMAN: Mr. Pelly. Are you familiar with this document in terms of what it's saying? The question I had really relates to what happened between '97 and '98, are you familiar with what happened there to ...

MS. ELLIOTT: Yes ...

MR. SAUNDERS, PRESIDING CHAIRMAN: Okay.

MS. ELLIOTT: I can tell you a little bit, and it might shed some light on it. In ... it was November the 1st, 1996, but effectively 1997, Bill 59 was introduced in Ontario. At that time the insurers felt that that would be profitable, and they certainly wanted to write as many risks as they could. Now unfortunately hindsight is 20/20 and now they're realizing well maybe we should not have done that, but that's another story, so that's one of the changes that one might see in terms of the decline. You can also see back in 1991 before ONPP was introduced, that was in June 1990, the FA market share was quite high. The risk sharing pool came in in 1993, you see that switch in the graph, so there's been a number of changes over time in Ontario so before there was a sharing pool, they were up in the, Ontario was in the five percent range.

MR. SAUNDERS, PRESIDING CHAIRMAN: Yes, yeah, I was familiar with the earlier change. I wasn't exactly certain as to what happened between '97 and '98, but you've answered that, okay. A few other questions, what do you understand, and I know you and Mr. Stamp spent some time on this, but I really didn't, in going through my notes since we were here yesterday, I didn't find that there was a conclusion drawn by you as to what an outlier is in your dictionary.

MS. ELLIOTT: Typically we don't want to exclude ... and may I ask, are you referring to loss development?

MR. SAUNDERS, PRESIDING CHAIRMAN: Well, yes, when Mr. Pelly uses the word, uses the term "outlier", or when he used it in his evidence, I had concluded from what he said that outliers were automatically excluded from the calculation of the trend line.

MS. ELLIOTT: Well, this is with respect to loss development, or a lot of our discussion was yesterday.

MR. SAUNDERS, PRESIDING CHAIRMAN: Yes.

MS. ELLIOTT: And in terms of loss development there is judgement in terms of the exclusions that were made by FA, or any actuary that decides to exclude data, and in terms of the outlier for loss development, it's not a statistical measure. It is judgement there to exclude the points that were made, so it's not a statistical basis. What Mr. ... as I understand it, what Mr. Pelly referred to in a loss trend, is that it is a more statistically driven basis because the regression model is sophisticated, and there are a number of statistics that come out of it that could be utilized.

MR. SAUNDERS, PRESIDING CHAIRMAN: Okay, I can't ask Mr. Pelly the question because he's not here, but in ... can you give me a yes or no, do you automatically exclude outliers?

MS. ELLIOTT: No, I do not automatically exclude outliers.

MR. SAUNDERS, PRESIDING CHAIRMAN: Okay, so outlier is a term used to describe a point that's out of whack with the rest of the points on the graph.

MS. ELLIOTT: That would be correct. Visually you would typically see a point out of whack on the graph and then you would want to test what happens when I include it or exclude it.

MR. SAUNDERS, PRESIDING CHAIRMAN: I'd like to refer you now to your report at page 3 of the text, and under the, under other CLEAR, you say, "however, we recommend the Board consider imposing caps on premium changes that individual drivers will experience as a result of its introduction". Can you elaborate on what it is you mean by that?

MS. ELLIOTT: My reference here is that to a consumer that receives a very large rate increase, it is sometimes, obviously it can be difficult, and what many insurers have done when they introduced CLEAR, because they ... although small in amount, there can be some insureds for those coverages that are affected by CLEAR, the physical damages coverages, it's a very large rate increase, so the insurers have capped it, they've phased it in, so that the first year it might be 20 percent, and the remainder the next year to make that premium change with insurers more palatable. That was my suggestion, and it's a common practice by insurers to consider that.

MR. SAUNDERS, PRESIDING CHAIRMAN: You don't have any suggestion or recommendation in respect of exactly how that should come about in terms of the numbers or the percentages that are reasonable or ...

MS. ELLIOTT: I think that's a matter of judgement. There was reference made to 35 percent in Ontario as ... you know, if you have a rate increase more than 35 percent, that that's very hard, and in actual fact, whether the Board wants to consider this just with respect to CLEAR or the whole rate level change. In Ontario, insurers are required to provide dislocation information, so how much the change will be, and that's considered by FISCO when it looks at the rate filing application. They typically don't like to see rate changes over 20 percent because it's difficult for the consumer, and that's a consideration that they look at.

(12:45 p.m.)

MR. SAUNDERS, PRESIDING CHAIRMAN: Okay, page four, under post-hearing changes, the second paragraph, our analysis, like the FA's is based on an assumed effective date of February 1. If it is determined that this cannot be achieved, and it doesn't appear as if it would be, then our recommendations will need to be changed to reflect the new effective date. Can you expand on the kind of changes that we could be running in to, it seems now, as a matter of fact, because I can't see any way in which the changes can come into effect earlier, or as early as February 1st, bearing in mind what Mr. Pelly had to say about, I think, three and a half months or something, that would take.

MS. ELLIOTT: Correct, so essentially if, once the Board makes its findings and if the implementation date that FA could reach was May 1st or June 1st, however number of months, then it would be appropriate to consider ... in the loss trend, what we're trying to do there is project when these new policies will be effective, and the rate program will be effective, and so we are, in this whole analysis we're trying to project the cost for that future period. We were assuming February 1st. If it's a little bit later, then the trend would have to be projected further.

MR. SAUNDERS, PRESIDING CHAIRMAN: Page 13, I hesitate getting into half years and annual, annual data, but there is a question that's outstanding in my mind. What determines the use of the, of the ... I'm trying to read my own writing here ... of the half year experience as opposed to the annual experience? Is there any, I think someone asked you that but ...

MS. ELLIOTT: Uh hum, well the data comes in half year segments to us.

MR. SAUNDERS, PRESIDING CHAIRMAN: Yes, I recall you saying that.

MS. ELLIOTT: So that can be your starting point, so the actuary has the option to use that half year experience and as I indicated, you can roll that data into annual points.

MR. SAUNDERS, PRESIDING CHAIRMAN: Uh hum.

MS. ELLIOTT: And it's the same data, and you get the same result.

MR. SAUNDERS, PRESIDING CHAIRMAN: Your reason, it seemed when you were discussing this with Mr. Stamp was seasonality.

MS. ELLIOTT: The issue is that, I believe it allows you to have more, more insight into the data, maybe see more ...

MR. SAUNDERS, PRESIDING CHAIRMAN: Because of seasonality?

MS. ELLIOTT: Not because of seasonality, but because it's half year data, so you may see that for one full year it was only one half of the year that there was an outlier, but the other half was fine, so you may be able to exclude just that half year and keep the other half in.

MR. SAUNDERS, PRESIDING CHAIRMAN: Uh hum.

MS. ELLIOTT: But on an annual basis, it may be the whole point that you have to remove. It depends, so it just allows you to see some of the nuances within the data.

MR. SAUNDERS, PRESIDING CHAIRMAN: Would those same nuances appear, do you think, in data, let's say in a jurisdiction like Florida where you don't have severe changes in weather for long periods of time like we do here?

MS. ELLIOTT: I don't know the answer to that.

MR. SAUNDERS, PRESIDING CHAIRMAN: I know you don't know the answer, but I connect seasonality with the use of half yearly data, and I'm wondering if that's an error on my part, or a misinterpretation of what you and Mr. Stamp discussed.

MS. ELLIOTT: I think that's, you know, intuitively that's what common sense would tell you, there you go.

MR. SAUNDERS, PRESIDING CHAIRMAN: So there aren't any other factors that cause you to ...

MS. ELLIOTT: There may be other factors that haven't been articulated or really studied, and as I said, you know, if I was in this province during the summer and (inaudible) maybe you see the driving patterns change in the summer for visitors here, so if you started to think about why there are differences in different months throughout the year, perhaps you could understand that data a little bit better.

MR. SAUNDERS, PRESIDING CHAIRMAN: Okay, yes, the fourth question I had has been answered. I just wanted to make a comment because Mr. ... I was going to make it earlier but I didn't want to interrupt Mr. Stamp, because he got so engrossed in his cross-examination, but he made a comment about Newfoundland's winter being anywhere from three to six months, and while that's true, I thought it was best put as to what we experienced between April and June by Kevin Spacey when he was here making the movie, "Shipping News", and he was interviewed after he made the movie and somebody asked him about Newfoundland and Newfoundland's people, and the climate and the experience he had here, and he said, well, he said the climate is very unusual, or the seasons are very unusual, he said, in Newfoundland. He said they have four of them and he said they are summer, fall, winter, and misery, and I thought that put it very well because usually the so-called spring that you get in Toronto, we don't get here. Are there any questions arising from the Board questions?

MR. STAMP, Q.C.: Mr. Chairman, unless there's some expansion on these points by others, I don't have anything.

MR. O'FLAHERTY: Nothing arising, Mr. Chairman.

MR. SAUNDERS, PRESIDING CHAIRMAN: Ms. Newman?

MS. NEWMAN: I just have one question, in relation to the FA rates in Ontario, are they set based upon loss experience?

MS. ELLIOTT: Yes, loss experience is considered in Ontario.

MR. SAUNDERS, PRESIDING CHAIRMAN: So we're done with this witness? Unbelievable, really, I thought we were going to be bogged down. Mr. Simpson, of course, is gone, so he won't be called now, so we're left, I guess, to adjourn until January the 8th. I'd like to take advantage of the opportunity to wish all of you a very Merry Christmas, a bright and prosperous New Year, and over the holiday season I hope you all drive safely and do all you can to stay out of Facility, and having said that, we'll adjourn to the 8th.

MR. WHALEN, Q.C.: Merry Christmas to you all.

MR. SAUNDERS, PRESIDING CHAIRMAN: Thank you.

(hearing adjourned to January 8th, 2003)