(9:35 a.m.)
CHAIRMAN:
Q. Good morning everybody. So I think Mr. Johnson, I don't think there's any preliminary matters, is there, that we have to attend to?
MS. GLYNN:
Q. No, Mr. Chair.
CHAIRMAN:
Q. So, Mr. Johnson, I believe we are back to your questions.
MR. SHAWN DOHERTY, RESUMES STAND, CROSS-EXAMINATION BY THOMAS JOHNSON, Q.C. (CONT'D)
JOHNSON, Q.C.:
Q. Thank you. Good morning, Mr. Doherty.
MR. DOHERTY:
A. Good morning.
JOHNSON, Q.C.:
Q. You've stated repeatedly in your evidence that you should look at the entire data set that's available to you. That would be your view, right?
MR. DOHERTY:
A. That would be my preference, absolutely.
JOHNSON, Q.C.:
Q. Okay. But would you agree that if you had 75

years of data available to you, for example, the historical severity trend that occurred say during the 1940s would be useless in projecting the trend from '08 to 2015. Would that be fair?
MR. DOHERTY:
A. I would imagine so. I haven't analysed the data.
JOHNSON, Q.C.:
Q. So like, so this concept of using all available data to you, wouldn't it be fair to say that you would have to make an actuarial judgment as to the period that you are actually going to use? You wouldn't just make a mechanical judgment that I have 50 or 60 years of data and I'm just going to mechanically toss it all into my regression model?
MR. DOHERTY:
A. I would imagine that's a fair statement, yeah.
JOHNSON, Q.C.:
Q. Now you put a fair bit of significance on something happening in 2004, but you haven't really investigated what's causing it, correct?

MR. DOHERTY:
A. Correct.
JOHNSON, Q.C.:
Q. Okay. And I asked if it was important to get to the bottom of -- yesterday, I asked if it was important to get to the bottom of what brought about what you're perceiving to be a change in 2004, and you indicated yesterday that it would be to the extent we thought something had happened there that could be replicated sometime in the future. You recall that?
MR. DOHERTY:
A. Correct, yes.
JOHNSON, Q.C.:
Q. But so, but you didn't investigate it and I'm wondering how could you have concluded that it's not something that could happen again?
MR. DOHERTY:
A. Just based on my judgment.
JOHNSON, Q.C.:
Q. Just based on your judgment?
MR. DOHERTY:
A. Yes.
JOHNSON, Q.C.:

Q. And so that -- and so it's not based on any analysis or investigation?
MR. DOHERTY:
A. Correct.
JOHNSON, Q.C.:
Q. So that would -- so your judgment that it could not be replicated is really your suspicion?
MR. DOHERTY:
A. It is, to the extent that we looked at the most -- that the subsequent eight-year period from 2004 to 2012 and we did test to see if there was indication of a change in trend during that period. We didn't see any. Now, looking beyond 2012 into that future period, we are assuming that the trends we identified for the 2004 to 2012 period will continue on and we did not look at whatever the cause was of the drop in loss cost frequency and severity change in 2004, whether whatever caused that is going to cause something in the future, but we don't see evidence of that repeating itself in the 2004 to 2012 period.
JOHNSON, Q.C.:
Q. How much impact, Mr. Doherty, because you

Page 5

separate the second part of -- the second half of 2004 and you carry on, right?

MR. DOHERTY:
A. Yes.

JOHNSON, Q.C.:
Q. And I'm just wondering, how much impact would there be if you didn't start in the second half of 2004 and instead you said well, let's take it from the first half of 2003? Would you expect there to be a significant impact from there?

MR. DOHERTY:
A. I'd have to measure it, but I would imagine it would change because you are changing the data that's included in that second period and the first period.

JOHNSON, Q.C.:
Q. Okay. So would it be a big undertaking to determine what sort of impact it would make?

MR. DOHERTY:
A. No, you can -- we can undertake to choose whatever -- investigate whatever period you like.

JOHNSON, Q.C.:
Q. Okay. So could you do it starting the first

Page 6

half of 2003 instead?

MR. DOHERTY:
A. Certainly, sure, absolutely.

JOHNSON, Q.C.:
Q. Okay.

STAMP, Q.C.:
Q. What exactly is the request, Mr. Johnson, please?

JOHNSON, Q.C.:
Q. The request is that instead of starting the analysis from the second half of 2004 and bringing it up to his conclusion date, that he starts it a little earlier, at the beginning of 20 -- beginning of 2003.

MR. DOHERTY:
A. Yeah, so as I understand it, the bifurcation, the first period is going to end 2002 H2 and the next period starts -

JOHNSON, Q.C.:
Q. Right.

MR. DOHERTY:
A. - 2003 H1. Yeah, we can absolutely do that.

JOHNSON, Q.C.:
Q. Yesterday during my questioning, you stated that in last year's Facility's Taxi filing,

Page 7

you thought that the FA's actuary had selected the severity trend from the private passenger data over, as you put it, a long period. You said "I think it was quite a long period".

MR. DOHERTY:
A. As I recall, but I'm not absolutely certain on that. I apologize.

JOHNSON, Q.C.:
Q. Okay. Just to -- if I could bring your attention again back to the February 6th, 2013 letter. I think it was entered yesterday.

MS. GLYNN:
Q. I think it was Exhibit 1.

JOHNSON, Q.C.:
Q. If you could turn to question four. The question is repeated by Eckler in this response and it indicates "FA selects its past severity trend rate of plus 5.7 based on its estimate of private passenger industry experience over the 11-year period from 2001 to 2011." Is that -

MR. DOHERTY:
A. Yeah, I see that, yes.

JOHNSON, Q.C.:
Q. Okay. So when you said that it was a long

Page 8

period, would you consider this a long period?

MR. DOHERTY:
A. Yeah, the 11-year, yeah, that's a long period.

JOHNSON, Q.C.:
Q. But I take it, it goes on to indicate that they looked at a past frequency rate of minus 3.1 percent based on its estimate of commercial vehicle industry experience over an eight-year period from '04 to '11?

MR. DOHERTY:
A. That's correct.

JOHNSON, Q.C.:
Q. So two different periods, two different sets of data?

MR. DOHERTY:
A. Yes, that's how he did it, it appears, yes.

JOHNSON, Q.C.:
Q. Okay. And yesterday, I asked essentially what has happened over the last year or so to go from a situation where Facility stated that the Newfoundland and Labrador commercial vehicle experience could produce "no satisfactory statistically significant model" for the bodily injury severity trend to this point where it is now statistically

significant and useable. And I wasn't quite sure of what your explanation of that was.

MR. DOHERTY:

A. I'm not sure how the determination was made. I'm not sure if there were capabilities in the Eckler model similar to what we have. All I can speak to is the analysis that I completed with respect to the Facility Association. We were able to, in our view, bifurcate the severity trend. We used the same periods for the severity as for the frequency and based on that bifurcation, the second period from 2004 H2 onward was statistically significant and it did produce a severity trend that we felt was appropriate.

JOHNSON, Q.C.:

Q. Mr. Doherty, the filing of last year, I mean, you, at that point, were, as you confirmed yesterday, still Facility Association's Senior Vice-President of Actuarial and Chief Financial Officer?

MR. DOHERTY:

A. Correct.

JOHNSON, Q.C.:

Q. And you would have been fully familiar, in

your role, with the filing that FA was making in 2013 in this regard?

MR. DOHERTY:

A. To the -- I was -- how would I describe it? It wasn't my work product. I was certainly aware of what the indications that came out. I was aware of the significant assumptions that went in. I can't say I was aware of every single detail that went into that analyses, but we were relying on our external provider, Mr. Pelly, for his work product.

JOHNSON, Q.C.:

Q. But you and your -- because you described this process by which it goes forward and then it gets approval by the Board of Directors.

MR. DOHERTY:

A. For the indications, yes.

JOHNSON, Q.C.:

Q. And I take it the Board of Directors, you're the executive member with the actuarial background on the Board of Directors, I take it?

MR. DOHERTY:

A. I'm not on the Board of Directors.

JOHNSON, Q.C.:

Q. You're not on the Board, but you -

MR. DOHERTY:

A. I'm not on the Board of Directors.

JOHNSON, Q.C.:

Q. I'm sorry. So you have input to the Board of Directors, I take it?

MR. DOHERTY:

A. As part of management. Management makes a recommendation. It gets taken forward by the president and CEO, who is a director on the Board.

JOHNSON, Q.C.:

Q. Okay. So on the management team, is there others with actuarial expertise other than yourself?

MR. DOHERTY:

A. No.

JOHNSON, Q.C.:

Q. Okay. So you are that person, okay. And so you -- as part of your role, you would have had a role in approving the filing of Mr. Pelly's work last year, correct?

MR. DOHERTY:

A. Of recommending the indication as accepted, yes.

JOHNSON, Q.C.:

Q. And recommending that we go with the filing?

MR. DOHERTY:

A. Yes.

JOHNSON, Q.C.:

Q. Yes. And Mr. Pelly of Eckler, he was an actuary of long standing relations with Facility Association?

MR. DOHERTY:

A. Yes.

JOHNSON, Q.C.:

Q. And for instance, would you be aware that Facility had Mr. Pelly -- his first name escapes me at the moment.

MR. DOHERTY:

A. Brian.

JOHNSON, Q.C.:

Q. Brian Pelly. Are you aware that he testified for FA in the 2002 hearing that Mr. Stamp was involved in?

MR. DOHERTY:

A. I understand that to be correct, yes.

JOHNSON, Q.C.:

Q. And you're aware that, in fact, his involvement goes back even before the 2002

hearing?
MR. DOHERTY:
A. I believe so, yes.
(9:45 a.m.)
JOHNSON, Q.C.:
Q. Yes. And he played -- he was your external actuary, just like Ernst and Young is your external actuary now? Is that -
MR. DOHERTY:
A. Yes, with respect to pricing. There are other actuarial services that we purchase and there are different people who do different things.
JOHNSON, Q.C.:
Q. And Mr. Pelly would have done hundreds of studies for Facility?
MR. DOHERTY:
A. I would say that's accurate, yes.
JOHNSON, Q.C.:
Q. And you stated yesterday that Facility Association does something in the neighbourhood of 20 or 25 rate level indications per month over a six-month period?
MR. DOHERTY:
A. Correct.
JOHNSON, Q.C.:

Q. So the application that we are seeing before us in this proceeding, that would have been one of 20 or 25 in the run of a month?
MR. DOHERTY:
A. With respect to Newfoundland, probably not 25 with respect to Newfoundland because we do individual and fleet rated business on a combined basis. In jurisdictions where our fleets -- our rates are not regulated, we bifurcate the experience into individual and fleet and we analyze them differently. So I think in Newfoundland, we would have only looked at the classes. I think there would have been 20.
JOHNSON, Q.C.:
Q. So around 20 or so?
MR. DOHERTY:
A. Yeah.
JOHNSON, Q.C.:
Q. Okay. And how many actuaries do you have internally?
MR. DOHERTY:
A. Fellows?
JOHNSON, Q.C.:
Q. Actuaries.

MR. DOHERTY:
A. Yeah, so Fellows of the -
JOHNSON, Q.C.:
Q. Sure.
MR. DOHERTY:
A. Yeah. We have myself and one other fellow on staff.
JOHNSON, Q.C.:
Q. Okay. And the one other fellow on staff, he or she?
MR. DOHERTY:
A. She.
JOHNSON, Q.C.:
Q. She would have -- would they be doing the work up on some of this before it gets to you or do you play an equal role in that regard?
MR. DOHERTY:
A. There are analysts below the actuarial level that are responsible for pulling together certain amounts of information. There are specialists who deal with valuation who do parts of it. So, in terms of the valuation result, it's a different team that does the valuation. The results of the valuation get through the process and get signed off by our

appointed actuary. So our appointed actuary takes responsibility for those. Because I'm aware of the process, I can -- I'm comfortable relying on the work that comes out of the valuation process. The trend analysis process is typically done both with the valuation people and the pricing people with the process that I described before. With respect to the indications then, we bring results from the valuation. We bring results from the trend analysis. We have a person whose job it is to reconcile and make sure the data is good. And then we do have then the other actuary, the other fellow, Liqing. She prepares the initial indication work and then I review with her what the work is, test the assumptions, and then I will make some sensitivity tests done and then I will complete it and sign off on it.
JOHNSON, Q.C.:
Q. And so on all of these filings that get made, you're the one who signs the actuarial certification?
MR. DOHERTY:
A. At the current time, yes.

Page 17

JOHNSON, Q.C.:
Q. At the current time.
MR. DOHERTY:
A. Yes.
JOHNSON, Q.C.:
Q. Okay. And you spoke yesterday during your direct testimony that your report contained an error in relation to the calculation of the complement of credibility.
MR. DOHERTY:
A. Correct.
JOHNSON, Q.C.:
Q. And that error got picked up through the RFI process in this proceeding?
MR. DOHERTY:
A. Yes.
JOHNSON, Q.C.:
Q. And I think, for the record, the mistake was detailed in reply to CA-FA-01.
MR. DOHERTY:
A. Correct.
JOHNSON, Q.C.:
Q. What was the impact of that error on the rate indication?
MR. DOHERTY:

Page 18

A. It reduces the complement loss ratio position. It dropped it down. So, it reduced the -- it ended up reducing the indication.
JOHNSON, Q.C.:
Q. By about seven percent?
MR. DOHERTY:
A. I believe so. I can't remember off the top of my head, but that sounds about right.
JOHNSON, Q.C.:
Q. Okay. And now the new trending model that we spoke of a bit briefly yesterday, you indicated that it was used in Nova Scotia for both the recent private passenger and miscellaneous vehicle filings?
MR. DOHERTY:
A. Correct.
JOHNSON, Q.C.:
Q. And I understand in recently reading the Nova Scotia Board's October 23rd order that we referred to yesterday that after Facility Association filed these applications a quote, to use the Board's terminology, a major error was discovered in the model that calculated the indications for private passenger vehicles.

Page 19

MR. DOHERTY:
A. The error was not in the trend model. The error was in the indication model.
JOHNSON, Q.C.:
Q. Okay. What was the major error?
MR. DOHERTY:
A. The error was with respect to I believe it's Exhibit G1 where the final determination of fixed expenses for third party liability is determined. In the Exhibit, the layout is to present the results on the basis of 100. So if you were saying six percent, it would show the number six as opposed to .06, which is the percentage. But on the bottom part when an additional piece was added, instead of using that format of saying six representing six percent, the format was a percentage, so that instead of six it said .06. It showed as a percentage. It wasn't picked up. When it got taken forward to the C1 Exhibit rather than showing six divided by 100, which gets you to six percent, it was .06 divided by 100 and so the result was that it understated the fixed expense percentage.
JOHNSON, Q.C.:

Page 20

Q. How was this major error discovered?
MR. DOHERTY:
A. It was discovered through review with the filing process.
JOHNSON, Q.C.:
Q. At the Nova Scotia Board?
MR. DOHERTY:
A. That's correct.
JOHNSON, Q.C.:
Q. Okay. So it's not something that obviously you folks had seen prior. In relation to the return on investment, what is the return on investment rate that is in Facility Association's currently approved taxi rates in this province?
MR. DOHERTY:
A. I'm not sure.
JOHNSON, Q.C.:
Q. Okay. Could you find out for us?
MR. DOHERTY:
A. I could. I'd have to -- I think I have to understand the question a bit better. I'm not sure what I'm trying to find out.
JOHNSON, Q.C.:
Q. What's the return of investment provision that

you're allowed in your currently approved taxi rates?

MR. DOHERTY:

A. Okay, thank you. Appreciate it.

JOHNSON, Q.C.:

Q. Okay. Do you understand that now?

MR. DOHERTY:

A. Yes, I do.

JOHNSON, Q.C.:

Q. Do you know the answer?

MR. DOHERTY:

A. No, I don't.

JOHNSON, Q.C.:

Q. Do you know what return of investment has been approved for inclusion in Facility's miscellaneous and private passenger rates in Nova Scotia arising from the recent Board orders in that province?

MR. DOHERTY:

A. I don't want to guess. I would want to go back and take a look.

JOHNSON, Q.C.:

Q. Okay. You can advise of what the Board approved in both of those September and October orders in that regard?

MR. DOHERTY:

A. For Nova Scotia?

JOHNSON, Q.C.:

Q. For Nova Scotia, the return on investment provision.

MR. DOHERTY:

A. Yeah, absolutely. Absolutely, yes.

JOHNSON, Q.C.:

Q. Okay. Do you recall what return of investment the Facility Association submitted for approval to Nova Scotia, to the Nova Scotia Board?

MR. DOHERTY:

A. Not exactly. It would have been similar to what we see here.

JOHNSON, Q.C.:

Q. Could you advise us on that?

MR. DOHERTY:

A. Absolutely, yes.

JOHNSON, Q.C.:

Q. And similar to -- you indicated that insurers who are, I guess, who write business through Facility, the insurers have a right to invest the money anyway they feel, I think you put it yesterday?

MR. DOHERTY:

A. Yeah. Just to clarify, so if you write automobile -- well, if you have a license for automobile insurance in Newfoundland, you are a member of the Facility Association.

JOHNSON, Q.C.:

Q. Right.

MR. DOHERTY:

A. We share the results of the Facility Association with members based on a share ratio that's determined specifically for Newfoundland based by accident year, split between private passenger and non-private passenger. The share ratio is loosely based on market share, but there's some adjustments for some credits, if that helps, I guess.

JOHNSON, Q.C.:

Q. But I guess the point I was getting at is that insurers who write business for Facility in Nova Scotia are no different from insurers who write business for Facility in Newfoundland and Labrador as regards their ability to take the premium revenue and invest it in a manner that they deem appropriate?

MR. DOHERTY:

A. Yeah, the premium revenue less any expenses. They hold that cash until we need it, absolutely.

JOHNSON, Q.C.:

Q. Okay. As regards the territorial differentiation issue, as you're aware there are four territories in Newfoundland and Labrador operating.

MR. DOHERTY:

A. Correct.

JOHNSON, Q.C.:

Q. There's territory 004 which is the Avalon Peninsula; territory No. 7 which is -- what I should really say is territory No. 5, 005 first, or second, being Bonavista and Burin; and then territory 7 being the rest of the island and territory 006 being Labrador. Is that your understanding?

MR. DOHERTY:

A. Absolutely, yes.

JOHNSON, Q.C.:

Q. The evidence that has been adduced in the request for information process demonstrates that both Labrador and the Bonavista Burin territories have much lower reported pure loss ratios than either the Avalon Peninsula or the rest of the island territories.

MR. DOHERTY:

A. Correct.

JOHNSON, Q.C.:

Q. And perhaps we could bring up that request for information. I think it's PUB-FA-16 if I'm not mistaken. No, I don't think that's the right one.

MR. DOHERTY:

A. You had the right one. That was the right one.

JOHNSON, Q.C.:

Q. Yeah, 16 is the correct one. I'm sorry.

MR. DOHERTY:

A. Sorry, yeah, I was just mentioning it. Yeah, this is the one.

JOHNSON, Q.C.:

Q. And I understand that from this response we can determine that the five-year average reported pure loss ratio for taxi business in Bonavista and Labrador are 39 percent and 43 percent respectively.

MR. DOHERTY:

A. I don't think the percentages are showing here. So you're looking at the five-year?

JOHNSON, Q.C.:

Q. Yeah. Actually, it might be of use to turn to the preamble of PUB-FA-18. In this question, it states that "in response to PUB-FA-16, Facility Association indicates that the five-year average reported pure loss ratio for taxi business in statistical territory codes 05 and 06, which would be Bonavista and Burin and Labrador respectively, is 39 percent and 43 percent. It also indicates that the five-year average reported pure loss ratio for taxi business in statistical territory codes 004 and 007, which would be Avalon and the rest of island respectively, is 232 percent and 182 percent respectively."

MR. DOHERTY:

A. I'm sorry, I just have slightly different percentages but those are close enough.

JOHNSON, Q.C.:

Q. Okay, close enough for present purposes. And I understand that in this reply, you were asked by the Board what consideration has or will Facility give to establishing a separate base rate for statistical territory codes 05 and 06 and 04 and 07, and you indicated or Facility indicated that it currently does not differentiate base rates for third party liability but would not be opposed to it.

MR. DOHERTY:

A. Correct.

(10:00 a.m.)

JOHNSON, Q.C.:

Q. And you pointed out that such a change would require additional implementation effort at the servicing carriers with respect to modifying and testing algorithms, I take it?

MR. DOHERTY:

A. Yes.

JOHNSON, Q.C.:

Q. And in your view, do we have enough data to say that there should be a distinction made in these territories?

MR. DOHERTY:

A. It's a challenge because the -- and I'm looking at all coverages, including the physical damage. Territory 05 over that five-year period, there's 43 recorded claims. In 06, there's 34. So, you know, as we talk about the credibility standard, depending on what credibility standard you have, it's a challenge to recognize something through that process that as we look at the data seems to jump out at us. We would certainly be willing to go through that exercise, absolutely.

JOHNSON, Q.C.:

Q. If you were trying to -- what sort of analysis would you go through to be confident that you would be -- that you should be drawing distinctions? Because I think like in Labrador, I think there's 30 insured taxis, if I'm not mistaken, something, a very small number.

MR. DOHERTY:

A. I would imagine there is.

JOHNSON, Q.C.:

Q. And could you give us some insight as to what sort of process that would entail?

MR. DOHERTY:

A. It's up to the particular analyst. You choose a time period, either three or five years. Typically when we're looking at indications at a differential level, we will either use three or five years. We would typically use industry as opposed to our own, but in these cases, we would start with the position that the relativities -- much like we do with the rest of it, we would start with -- our underlying assumption is that the relativities are appropriate and then we're looking at the experience to see what is the experience telling us that they're not and then credibility weight the two of them. Much like what we're doing here if you assume that our underlying rates are adequate. So it's the same sort of approach. And like I said, we'd be certainly willing to do that. The challenge again is that there's so few claims through that process. If we're using 5410 or 3246, whatever we're using for third party liability or the other coverages, because there's so few claims the experience itself doesn't get much weight. You can use alternate credibility methodologies which we currently don't use. We use one approach across all jurisdictions for all of our work effort, but you can convert those claim count type measures to an exposure measure that to the extent that there is no claims but you can expect that there would have been claims,

they've just been lucky kind of thing, you can give weight to something that doesn't have any claims. It's a different credibility approach, but it's one that you might take. There are various things we could do and it gets down to -- part of it is actuarial, doing the strict numbers. The other part is ultimate management's decisions on how they want to distribute the cost and gather the premiums based on the results. Without doing the analysis, I can't really say, but just looking briefly at the number of claim counts, it would be a real challenge using the approach that we currently use to be able to meaningfully bifurcate the experience and move it away from the assumption that one base rate is applicable to all four territories, notwithstanding it really looks like it's different.

JOHNSON, Q.C.:

Q. Yeah.

MR. DOHERTY:

A. We could certainly -- I mean, you could even use ten-year period. I mean, there's other ways around that as well as trying to --

again, we try to use five years for the overall indication because we think that's perhaps more reflective and there could have been things that were happening in the past that aren't -- we haven't adjusted for it properly somehow, which is why we tend to use a more recent period. It's just more comfort that it's more reflective of what's going on. For something like this, if you assume that any underlying change that has occurred with respect to taxis has applied to taxis in Newfoundland no matter where they are, then I think you can make a case for "I can use a longer period for the purposes of this." If you use a longer period, say ten accident years, you have more claims, more credibility. So there are different ways we could go about that to try and be able to offer that differentiation to the extent that we, you know, feel comfortable it makes sense.

JOHNSON, Q.C.:

Q. Like do you know in Nova Scotia, for instance, whether they draw distinctions between like Cape Breton, Halifax or -

MR. DOHERTY:

A. As far as I'm aware, currently I don't believe that our taxis differentiate territory anywhere. I'm not absolutely certain, but that's my understanding right now, but we can certainly find out if there are any rate distinctions in any one of our jurisdictions currently, if you would like.

JOHNSON, Q.C.:

Q. Yeah, I think it would be useful to have. Okay. Can I turn to the topic of expense provision, Mr. Doherty? Oliver Wyman, as you're aware, has noted in their report that Facility Association's contractual arrangement with its servicing carriers allows for a ten percent variable expense provision for underwriting and processing.

MR. DOHERTY:

A. Yes, I believe it's blended nine and one, but yes, ten percent, yeah, yeah.

JOHNSON, Q.C.:

Q. Nine and one, okay. And they've pointed out in their report that if Facility Association's current average premium for third party liability, accident benefits, et cetera, of around $2900 increases as proposed to about

$4600, the servicing carriers will receive an increase on average of about $170 from 292 to 463 per taxi for underwriting and processing. You're aware of where they mention that in their report or you're aware of the fact that they raised it?

MR. DOHERTY:

A. Yes, I'm absolutely aware that they raised it, yes.

JOHNSON, Q.C.:

Q. And they suggest in their report that the Board may wish to confirm the reasonableness of these amounts?

MR. DOHERTY:

A. I do recall that in the report, yes.

JOHNSON, Q.C.:

Q. And is it reasonable, Mr. Doherty, to accept the proposition that a servicing carrier should be entitled to receive more for underwriting and processing just because of a premium increase? Is that a reasonable proposition to accept?

MR. DOHERTY:

A. Based on the compensation arrangement we have with them, which removes the requirement to

track individual work effort for individual transactions and take into account all their fixed costs across the entire country that we operate in, rather than having to do that, much like the Ministry of Health, rather than collecting back money on a subrogation on individual claims, they instead look at it globally and say "we need this amount of money, so here's how we're going to charge it." That's, I believe, the basis for the decision to do compensation on this basis, much like with a brokerage.

JOHNSON, Q.C.:

Q. So I take your point that administratively it's easier and it's, you know, here's the rule, here's the formula.

MR. DOHERTY:

A. Correct.

JOHNSON, Q.C.:

Q. But what I'm getting at is does it, I guess, cause -- is it rational, for want of another way of putting it, to expect that because the premium goes up your take or the amount you're getting for the underwriting processing work should just march right along up with it?

Does that -

MR. DOHERTY:

A. Based on the compensation, it's reason -

JOHNSON, Q.C.:

Q. Yeah, but I know it's based on the compensation. That's what happens. But do you have a comment on, you know, whether -- do you have any concerns about the fairness and reasonableness of that being the outcome of that methodology?

MR. DOHERTY:

A. No different than with premium tax. The Government of Newfoundland, when we increase our rates, they get three percent of whatever we charge. So I see no difference between the Government receiving an additional however many dollars it is because we've increased rates and they're getting three percent of that than the servicing carriers. And I think over time when you go back and look at, negotiate with the servicing carriers on their compensation, you may change the overall percentage based on whatever their current requirements are. But we don't do that on a six-month or annual basis or anything like

that. So again, with respect to the compensation program we have in place, I think it's reasonable.

JOHNSON, Q.C.:

Q. Well, like I guess first of all, do you think that we should be concerning ourselves with whether or not the formula is producing a fair and reasonable result in terms of the amount that a service carrier is getting for underwriting and processing?

MR. DOHERTY:

A. I believe that's under the purview of the Superintendent of Insurance in Newfoundland. They approve the Plan of Operation, so it's certainly within their right to question that.

JOHNSON, Q.C.:

Q. But is it a concern of us in this hearing about the fairness and appropriateness of it?

MR. DOHERTY:

A. That's for the PUB to decide.

JOHNSON, Q.C.:

Q. Well, this formula, I guess, is meant to be a proxy for fair and reasonable compensation for underwriting and processing?

MR. DOHERTY:

A. I think that's a fair statement, yes.
JOHNSON, Q.C.:
Q. So would you agree that in order for someone to be confident that the proxy is producing fair and reasonable results, would you agree that we would need to know the actual expenses incurred by the servicing carriers in the processing and underwriting of taxis?
MR. DOHERTY:
A. That would certainly be one way of looking at it, absolutely, and the capital cost associated with providing the infrastructure to support that, absolutely.
JOHNSON, Q.C.:
Q. You cannot, I take it, point to, and I think this is borne out through the RFI process, but you cannot point to any evidence that would suggest that the cost of underwriting and processing a policy will increase, you know, 170 or 180 dollars just -
MR. DOHERTY:
A. Based on individual transactions, no, I can't say that.
JOHNSON, Q.C.:
Q. No. You indicated or Facility indicated that

its understanding in reply to a question that the Board asked in PUB-FA6, that it was Facility's understanding that the level is estimated so as to provide for the overall costs incurred by servicing carriers and measured or considered over the longer term?
MR. DOHERTY:
A. Yes.
JOHNSON, Q.C.:
Q. And so when you're speaking about overall costs there, are you talking about costs other than processing and underwriting?
MR. DOHERTY:
A. Yes.
JOHNSON, Q.C.:
Q. Okay, so that formula is meant to pick up what other sorts of costs besides underwriting and processing?
MR. DOHERTY:
A. Your infrastructure and capital costs associated with building the infrastructure, IT, the reporting requirements, managing the business, capturing information to provide to us. There are audits that we do on their business. They need to pay for their people to

respond to our audits. We have information requests that we have for them. They have to report their information into IBC. They have to do reconciliations. There's a lot of that work effort that's involved in it.
JOHNSON, Q.C.:
Q. So is it actually written down somewhere that this formula is meant to compensate or reimburse, if you will, the servicing carriers for all these categories of expenses?
MR. DOHERTY:
A. It's laid out in the Plan of Operation, yes.
JOHNSON, Q.C.:
Q. It's laid out in the plan. Would you undertaking to file a copy of that plan?
MR. DOHERTY:
A. Absolutely, yes.
STAMP, Q.C.:
Q. Isn't the plan already -
MR. DOHERTY:
A. It's publicly available. It's on our website, but I'm more than happy to -
JOHNSON, Q.C.:
Q. Just for the purpose of this proceeding seeing we're referring to it.

MR. DOHERTY:
A. Sure, absolutely.
JOHNSON, Q.C.:
Q. And you indicate that the costs are - that the level is estimated so as to provide for the overall cost incurred and measured or considered over the longer term. What do you mean by that, "measured or considered over the longer term"? It sounded to me to be a little amorphous.
MR. DOHERTY:
A. Yeah, it's not - you know, we don't review the arrangement or the cost on a quarterly or annual basis. I'm not absolutely certain when the last time they did a complete review of it.
JOHNSON, Q.C.:
Q. Okay. Do you know - you're not completely certain whether they've done - the last time they've done a complete review of it, but do you know whether the formula has ever been assessed or considered for reasonableness?
MR. DOHERTY:
A. Yes, and it's presented in the Plan of Operation. There was a recent change, and by

Page 41

recent, I can't recall exactly when it occurred. The changes were approved by the Superintendents of different jurisdictions at different points in time. The most recent change that was proposed was not approved for change in Alberta, and not approved for change in Newfoundland, so the most recent change that occurred in other jurisdictions was not updated for either of those last two jurisdictions, but again it's laid out in the Plan of Operation.

JOHNSON, Q.C.:

Q. Okay. There's a couple of rule changes that Facility is bringing forward here that I want to ask you about. One is the owner/driver taxi discount, and as I understand it, drivers who also happen to be owners of their vehicle are entitled to a discount presently, would that be right?

MR. DOHERTY:

A. That's my understanding, yes.

JOHNSON, Q.C.:

Q. And Facility's proposal is to eliminate the discounting of premiums for owner driven taxis?

Page 42

MR. DOHERTY:

A. I believe so, yes.

JOHNSON, Q.C.:

Q. And how long has the existing rule been in place, Mr. Doherty?

MR. DOHERTY:

A. I don't know.

JOHNSON, Q.C.:

Q. Okay, and do you know how many policy holders this will impact?

MR. DOHERTY:

A. I do not know.

JOHNSON, Q.C.:

Q. And do you know what sort of premium difference it will be - there's a 10 percent discount, I think, that applies right now.

MR. DOHERTY:

A. Okay, I don't know exactly what the discount is.

JOHNSON, Q.C.:

Q. Okay. Isn't there a basis to differentiate between vehicles that are owner driven versus employee driven from a risk perspective?

MR. DOHERTY:

A. I believe it would make sense, yes.

Page 43

JOHNSON, Q.C.:

Q. And I take it that the risk would be generally considered to be lesser in the case of somebody who actually owns the vehicle that they're operating?

MR. DOHERTY:

A. I think that would make sense, yes.

JOHNSON, Q.C.:

Q. And would that be an observation that's generally accepted in the auto insurance world?

MR. DOHERTY:

A. I can't speak for the auto, but it does make sense, I would say.

JOHNSON, Q.C.:

Q. Okay.

MR. DOHERTY:

A. To me, anyway, personally.

JOHNSON, Q.C.:

Q. Okay, and as I understand it, the rationale that's being put forward by Facility for this change is that Facility, and this comes from your materials, your memorandum, that the rationale is that Facility Association is the market of last resort, and, therefore, not

Page 44

wanting - we're not wanting to attract business?

MR. DOHERTY:

A. Correct.

JOHNSON, Q.C.:

Q. Is that a sufficient rationale to do away with a consideration that has merit from a risk perspective?

MR. DOHERTY:

A. I can't speak specifically to the rationale because I'm more on the numbers side than the underwriting rule side, but as I understand it, it's more that presenting things as a discount we don't think is the tone we would want to set. It would be better to surcharge people who are not owners than to give owners a discount. It's semantics more than anything else, but from our perspective giving discounts seem to be counterintuitive. You would usually use discounts as a way of marketing so that you can attract business that you want by offering them discounts, but it amounts to the same thing. I don't recall, though, that we're actually proposing to put a surcharge on non-owners.

JOHNSON, Q.C.:
Q. No, you are not doing that. What you're doing is eliminating -
MR. DOHERTY:
A. The discount.
JOHNSON, Q.C.:
Q. The discount, and it just - when I read the rationale was stated that FA is the market of last resort, and, therefore, we don't want to be attracting business, it just seemed to me to be a bit divorced from the idea that there should be taken on board what's the overall risk concept.
MR. DOHERTY:
A. That makes sense, yeah.
JOHNSON, Q.C.:
Q. Okay. I guess, let's put it this way, should Facility be looking for things in its rate application, either by way of rate indications or rule changes, that are meant to make you look unattractive to the market? I mean, is that a viable consideration?
MR. DOHERTY:
A. Absolutely, that's our mission. Our mission is to have as low a market presence as

possible and we focus on efforts to help depopulate the Facility Association because we would prefer that the policy holders find a company within the regular voluntary market to write the business because they want that business, and so we directly try to stay out of the way of the voluntary market so they can write that business.
JOHNSON, Q.C.:
Q. So that's your position even if it means putting forward a rule change that's not really responsive or reflective of the risk situation?
MR. DOHERTY:
A. We try as best as we can to ensure that we're differentiating where we can.
JOHNSON, Q.C.:
Q. There's another rating change that you're putting forward that deals with rating for more than one use, and as I understand it now, if a vehicle is being used for more than one purpose, the rate for the use goes to the use that has the highest percentage of exposure.
MR. DOHERTY:
A. Okay.

JOHNSON, Q.C.:
Q. Do you follow me so -
MR. DOHERTY:
A. That's my understanding, yeah.
JOHNSON, Q.C.:
Q. So, I take it, that if you were using a car or a vehicle 65 percent of the time for taxi, and 35 percent for personal, it would be applied the taxi rate because of the predominance of the taxi use?
MR. DOHERTY:
A. That's my understanding, yes.
JOHNSON, Q.C.:
Q. And as I understand it, the proposal that Facility is putting forward is that if the vehicle is used for more than one purpose, the highest rated class based on premium must be used regardless of the percentage of exposure. So as I understand that concept, if a car was used as a taxi for 25 percent of the time and 75 percent of the time for personal use, it gets rated to the class with the highest premium?
MR. DOHERTY:
A. Correct.

JOHNSON, Q.C.:
Q. And would you characterize that as a fairly significant rule change?
MR. DOHERTY:
A. Potentially. If somebody is below 50 percent, they're impacted by this. If their taxi usage is about 50 percent, they're not.
JOHNSON, Q.C.:
Q. And again do you know how long the present rule has been in place?
MR. DOHERTY:
A. I do not.
JOHNSON, Q.C.:
Q. Okay. Actually, could you find out for us how long both of these present rules have been in place in Newfoundland and Labrador?
MR. DOHERTY:
A. Yes.
JOHNSON, Q.C.:
Q. So you don't know how many policy holders this will affect or what the impact will be?
MR. DOHERTY:
A. I do not.
JOHNSON, Q.C.:
Q. And, I take it, that it's understood - I think

Page 49

Oliver Wyman indicates that some of your rule changes that have premium impacts have not been elaborated upon in terms of financial impact?

MR. DOHERTY:

A. Correct.

JOHNSON, Q.C.:

Q. What is - if we use the example of a taxi being used or a vehicle being used 25 percent of the time for taxiing, and 75 percent of the time for personal use, what would be the rationale for doing that in terms of the rate differential with the change that you're looking to implement?

MR. DOHERTY:

A. I'm going to go after the top of my head here, and I apologize for that, but if I recall correctly, the frequency of claims for taxis relative to the frequency of claims for Facility Association commercial vehicles in Newfoundland is something in the neighbourhood of three times. That is for commercial vehicles, if you're involved in an accident once a year, a taxi would be involved in an accident three times in that same period. So

Page 50

just based on that relativity as against commercial, I believe that it's reasonable to assume that even if you're 25 percent taxi, you're still more likely, even with that 25 percent, to get involved in an accident than if it was a commercial vehicle. Now, obviously we're talking about private passenger verses commercial, I don't know off the top of my head what the relativity is between Facility Association, private passenger claim's frequency and taxi, but we can certainly look into that. But off the top of my head, I don't see any issue with it because there is such a variance between the propensity to get involved in accidents because of the nature of the taxi business.

CHAIRMAN:

Q. How do you determine, you know, private driving and taxiing, how do you determine -

MR. DOHERTY:

A. We ask.

CHAIRMAN:

Q. So it's just a word--on your honour, I'm driving 200,000 miles a year and 50,000 is private and 150 is -

Page 51

MR. DOHERTY:

A. Yes.

CHAIRMAN:

Q. Okay.

JOHNSON, Q.C.:

Q. I guess you investigate when--you investigate if an accident happens, what the vehicle is being used for at the time, I take it?

MR. DOHERTY:

A. I presume.

CHAIRMAN:

Q. Well you'd have to do that, that stands to reason, wouldn't you?

MR. DOHERTY:

A. Yeah. I mean, the accident is covered under the policy if, you know, if it's underwritten and they determine right now that the vehicle is used 25 percent of the time and under the current rules it's rated as private passenger. If you get involved in an accident, you got involved in an accident, the policy covers it, whether it was your private use or use as a taxi, the policy doesn't differentiate.

CHAIRMAN:

Q. Yeah, there's no distinction is there.

Page 52

JOHNSON, Q.C.:

Q. So, I guess we don't know how many policy holders this is going to impact or what the impact will be?

MR. DOHERTY:

A. I do not know that, no.

JOHNSON, Q.C.:

Q. Is this a rule change that's in place in other--or is this proposed rule, is this in place in other jurisdictions or -

MR. DOHERTY:

A. I understand so, but I'm not absolutely certain. I believe so though. We can certainly undertake to determine that for you.

JOHNSON, Q.C.:

Q. Okay, thank you. Those are my questions. Thank you very much, Mr. Doherty.

MR. DOHERTY:

A. You're welcome, thank you.

CHAIRMAN:

Q. I believe, madam, you're next.

(10:30 P.M.)

MR. SHAWN DOHERTY, CROSS-EXAMINATION BY MS. JACQUI GLYNN

MS. GLYNN:

Q. It is me, can we just take a couple of seconds, we were just going to change spots here for the mic. Sorry for that, we thought we might do that at the break, so my apologies. Good morning, Mr. Doherty.

MR. DOHERTY:

A. Good morning.

MS. GLYNN:

Q. We are reaching the end. I think I'm probably going to be about an hour, hour and a half with you.

MR. DOHERTY:

A. That's fine.

MS. GLYNN:

Q. So bear with us and then you might be able to get out of Newfoundland.

MR. DOHERTY:

A. However long you need. I love Newfoundland; I want to come back here.

MS. GLYNN:

Q. Well you'll be back in a week.

MR. DOHERTY:

A. I will be back, yes, I will be back. I love the food, I think I've gained 8 pounds since I've been here.

MS. GLYNN:

Q. I don't doubt it. Mr. Doherty, can we start with can you tell me what your rate indication for third party reliability is? Whole change in the direction here now.

MR. DOHERTY:

A. So our indicator rate change that would generate a 12 percent post tax return on equity, assuming that the capital level is-- the premium to capital ration is two to one, is 95.6 percent, but with zero cost of capital as per the requirement in Newfoundland it is 75.4.

MS. GLYNN:

Q. And what is the indication that you have included in your proposed rates?

MR. DOHERTY:

A. Management is proposing a 50 percent rate increase.

MS. GLYNN:

Q. So can you explain to us why Facility has not applied for that full indication in your rates?

MR. DOHERTY:

A. That's a determination based on management, so

first, management asked us to, instead of using the 1.14 percent discount rate that we did in this indication, they asked us to do it based on a 2.4, which I believe is the minimum of the guideline benchmark return on investment. That calculation was presented and I believe it was called I C1. I don't have that in front of me, so I'm not sure what that level was, but it was below the 75.4. And management determined that they wanted to cap the increase to reduce the year on year burden that would imply to allow the taxi industry time to adjust their revenue structure to reflect updated expenses.

MS. GLYNN:

Q. Mr. Doherty, can you confirm that there are no published or industry accepted standards for all these statistical measures that you've used in your analysis? The Canadian Institute of Actuaries doesn't say that there's a proper R square value or that there's a standard P value that you need to use?

MR. DOHERTY:

A. I would agree with that, yes.

MS. GLYNN:

Q. I'd like to bring up Exhibit D-1 please. And I want us to look at the ultimate loss ratio, Column 7. Mr. Doherty, I believe you stated that when this number is over 100, that would basically mean that Facility is in a loss situation for this class of business, is that correct?

MR. DOHERTY:

A. If it's over 100, that means the premium isn't sufficient to pay the indemnification of the claims. The Facility Association membership would be in a loss position at a loss ratio significantly even below 100.

MS. GLYNN:

Q. Because of the additional cost on top of your indemnity.

MR. DOHERTY:

A. Yes.

MS. GLYNN:

Q. Okay, so these numbers alone show that you're actually losing more money when you put in the other numbers.

MR. DOHERTY:

A. Right, but these ones do not take into account the 50 percent rate increase that we got in

Page 57

2013.

MS. GLYNN:

Q. Okay. So I just want to look at these numbers and it shows, obviously, that you're over 100 for every year since 2003, except for 2005 you were pretty close.

MR. DOHERTY:

A. Correct.

MS. GLYNN:

Q. And a question would be how come you didn't come in before last year for a rate increase?

MR. DOHERTY:

A. In, I believe it was 2002, 2003, there was-- and I'm not part of the Board of Directors, so I don't know and I wasn't here for the whole time, but as I understand it, the hearing process for private passenger and commercial at that point in time, the cost associated with Facility Association I believe was somewhere in the neighbourhood of a million dollars, and so there was, first and foremost, a concern that to bring forward another rate filing with respect to taxies, could incur a substantial amount of costs over and above what we needed. I think there is also a

Page 58

concern that the results were going in the wrong direction fairly quickly and there was some concern that maybe it wasn't fully credible and maybe something was going on that would correct itself and it was just a few bad years. Subsequent to that, and I think we have an undertaking to bring forward some of the results of those interim rate reviews and Board decisions, that would get fleshed out more.

MS. GLYNN:

Q. Okay.

MR. DOHERTY:

A. For me it's just hearsay, this is just what I hear. I wasn't around for that.

MS. GLYNN:

Q. Thank you. So has Facility given any consideration to rate shock to its insured, a 50 percent increase last year and a 50 percent increase and how that's going to impact its insureds?

MR. DOHERTY:

A. Yeah, absolutely, it was a major consideration, but we also had to look at the experience and I think, you know, again if the

Page 59

experience itself is reflective of what you're going to see going forward, there's a significant amount of rate need that's there. The credibility process allows us not to recognize it all and hopefully the experience is not going to be like this, that we have had just ten years of bad luck with the industry and that the loss costs are going to come down substantially, in which case the rate level need, as based on this experience, is not going to manifest itself. But if it does, then there is a substantial need and when it's over 50 percent and you're only taking it 20 percent of the time, it's a number of years before you get out of the hole and you get the rates and we look back on this experience, we know certainly over this ten year period the industry has been in a hole. We've been paying out substantially more in claims alone then we've been gathering in premium. We recognize that, that's behind us. But that's just a fact. The rate-making exercise is a perspective exercise. We're looking forward, we want our rates in the future to be proper with respect to what we expect the costs to be

Page 60

and the big challenge is what are those costs going to be.

MS. GLYNN:

Q. And you've kind of led me into my next line of questioning, so thank you very much.

MR. DOHERTY:

A. You're welcome.

MS. GLYNN:

Q. On the same exhibit, we see your recorded indemnity and you've brought us through the process of how you develop that into your ultimate indemnity. I just wanted to get a little bit more idea of those costs and the control that you might have over that. So do you have and can you answer this question, any idea how a claim is settled and Facility's role in that settlement process?

MR. DOHERTY:

A. The servicing carriers are responsible for the adjudication of claims. My understanding is that the general requirement is that they would handle the claim as if it were their own claim through their own processes. We do audit the claims processes and we do audit claims files to ensure that that criteria is

Page 61

being met, and management meets on a quarterly basis with our audit team to go through any findings they have on any of the audits that they do. Any material audit findings go to the audit risk committee, with management's response, that is the service and carrier of management response and follow-up action if they are required. Those reports where there are significant audit findings also go to the Board of Directors.

MS. GLYNN:

Q. Okay, so Facility doesn't involvement in the payouts. You don't approve payouts?

MR. DOHERTY:

A. No, no. I can't say that for sure, I think for a large enough claims, there may be involvement, whether it's some sort of sign off, but I'm not the expert on that. There is somebody at Facility Association -

MS. GLYNN:

Q. Okay, so if it was a certain threshold, you might be more involved?

MR. DOHERTY:

A. Maybe, I don't know, I apologize.

MS. GLYNN:

Page 62

Q. Okay, no, no, that's fine. Along the same line then, I guess, could Facility direct a servicing carrier to carry out further investigation before they settled a claim?

MR. DOHERTY:

A. I believe that would be within the powers as laid out in the plan of operation.

MS. GLYNN:

Q. Okay, and we're going to have that plan of operation?

MR. DOHERTY:

A. Yes.

MS. GLYNN:

Q. Okay, so Mr. Johnson already brought us through how payment to the service carriers is made, that's all through the plan of operation. So I guess the bottom line is if you can tell us how and what opportunities Facility might have to control those costs?

MR. DOHERTY:

A. I'm not exactly sure. It's not my area of expertise. There is a person in management who is responsible for both claims and underwriting who would have much better expertise on that than I.

Page 63

MS. GLYNN:

Q. Okay. Before I go off that line of questioning, how does Facility, and again, I apologize if you can't offer these questions, how does Facility satisfy that there is no fraud in the claims process?

MR. DOHERTY:

A. Again, I think you'd have to ask our vice-president of claims and underwriting.

MS. GLYNN:

Q. Okay. I do want to bring you to a statement that was in your cover letter to the Application and I'd ask if we could bring up page 2 of that cover letter please? And it's just below the mission statement there, and again, I understand that you didn't sign this letter but the statement is not--just move up again, please, Andrew. "Currently almost all of the taxis in Newfoundland and Labrador are insured through Facility Association, contrary to our mission; however, this is not surprising given that taxis are receiving the coverage at premiums that do not cover costs. If we can get out pricing to an adequate level, it could help to create room in the

Page 64

market for more companies to enter, thereby creating more choice for taxi owners." So can you give us some background for this statement?

MR. DOHERTY:

A. Certainly there are jurisdictions in Canada, we operate in six provinces and the three Northern Territories. We are a market of last resort. In some of those jurisdictions we do not have almost 100 percent of the taxi market. I don't have the numbers off the top of my head, but I believe in Ontario we have about a 16 percent market share. In Alberta I think it's higher than that, but off the top of my head, certainly I think it's below 50 percent in Alberta. In most of the Atlantic Provinces it's close to 100 percent. Our goal certainly is as a market of last resort we should be a market of last resort and we try and ensure that our pricing is set such that it is possible for the voluntary market to be able to offer price that is below ours and typically I believe, I've talked to a number of organizations that specialize in helping taxi fleet operators manage their fleets more efficiently with respect to their claims costs, these are managing general agencies. I believe in Ontario there's three--there's a few that are foreign but have a presence in Canada that operate on the basis of helping fleet managers manage the experience itself, both in terms of improving driving behaviours to reduce the frequency of claims and also instituting certain activities that help reduce the severity of a claim once a claim occurs. And when we are able to move ourselves and get out of the way of those types of companies, then they are able to step in and work their magic, if you want, on helping to manage those types of claimant and driving behaviours. We don't have that expertise at Facility Association.

MS. GLYNN:

Q. And is it just a cost barrier or -

MR. DOHERTY:

A. My understanding and certainly most recently I've had--I've been reached out to from a MGA who is interested in our Nova Scotia experience. Typically when they reach out to us for that, we share with them the loss

experience, we share with them our indications, our view of it. I'm an open book. I want everyone to see how our results are so that they understand where there's opportunities for them to write, and I'm crossing my fingers, I think I might have somebody who'd be interested in writing some portion of the Nova Scotia business, but I don't want to put words in their mouth, but I am hopeful.

MS. GLYNN:

Q. Anybody interested in Newfoundland?

MR. DOHERTY:

A. No. In fact, I don't show anyone Newfoundland.

MS. GLYNN:

Q. So you're not aware then of any other insurers that would offer taxi coverage here in this Province?

MR. DOHERTY:

A. No.

MS. GLYNN:

Q. Okay. I want to spend a little bit of time on the Board's filing guidelines and we've referred to and we've looked at the Loss Trend

Report that was prepared by Oliver Wyman and that was based on industry data through to December 31st, 2012, which was the basis for this filing. So you're familiar with that document?

MR. DOHERTY:

A. I am.

MS. GLYNN:

Q. Are you familiar with the process that the Board goes through every six months to get to that document?

MR. DOHERTY:

A. No, I'm not.

MS. GLYNN:

Q. Okay, so every six months Oliver Wyman will review the industry data and they will provide its opinion on the acceptable loss trend rates, and then the Board sends that out to all the insureds. And we allow for them to make any comments on those reports before we actually adopt them. So if you're not aware of that, I don't know if the next question will be fair to ask if -

MR. DOHERTY:

A. I am aware of the drafts going out to the

industry.

MS. GLYNN:

Q. Okay, so did Facility provide any comments on that trend report before -

MR. DOHERTY:

A. No.

MS. GLYNN:

Q. Okay. So the Board also, in the filing guidelines, allowed for insurers to opt to use factors other than those adopted in the trend rates, which is the situation where we find ourselves. Can you confirm that Facility used the industry commercial data for Newfoundland to develop its loss trends?

MR. DOHERTY:

A. Yes.

MS. GLYNN:

Q. Okay. And does that commercial data include any taxi data?

MR. DOHERTY:

A. No.

MS. GLYNN:

Q. So then you developed your trend rates from the commercial industry data.

MR. DOHERTY:

A. Yes.
MS. GLYNN:
Q. And you applied that to your taxi data?
MR. DOHERTY:
A. Yes.
MS. GLYNN:
Q. Okay. And I'm going to spend a bit of time on the data because over the last couple of days we've heard data from here, here and here, so I'm going to ask you to turn to section 2(a)2(1) of your report. I think it's page six, yes, there you go. And just down a little bit further, section 2(a)2(1). So at the bottom of that page, there's three sources of data that you identify as used throughout your report.
MR. DOHERTY:
A. Yes.
MS. GLYNN:
Q. And I'd like you to speak to what would be contained in each source of data and then what that data was used to compile?
MR. DOHERTY:
A. So the quarterly development valuation date, compiled as at June 30th, 2013, is a data set

that contains Newfoundland non-private passenger experience for the Facility Association. It's in a data triangle structure, but it is used to determine estimates of ultimate for the non-private passenger Newfoundland experience for the Facility Association as at June 30th. Do you want me to explain where we use that now?
MS. GLYNN:
Q. Yes, please.
MR. DOHERTY:
A. So that experience then was used to determine the implied loss development factors that we applied to the Newfoundland taxi experience as at December 31st, 2012 to take it to ultimate level that would be consistent with our estimate of ultimate at June 30th, 2013 for all of non-private passenger Newfoundland business for the Facility Association. Is that good for one?
MS. GLYNN:
Q. So that information wasn't used in your loss trend rates?
MR. DOHERTY:
A. No.

MS. GLYNN:
Q. Okay, thank you. The second one?
MR. DOHERTY:
A. The second one is our Facility Association, what we call the AIX or auto insurance experience exhibits. This is data that's produced on our behalf by IBC. The experience that we use was Facility Association's Newfoundland taxi experience as at December 31st, 2012. This data in its original form or format produced by IBC is contained in the annual GISA exhibits. It's, I forget which exhibit it is, but the format that is usually provided is a five-accident year experience only and then you have the option of getting the underlying data without, not being in a printed format. We asked IBC to expand the detail that's provided in that to include ten accident years, instead of five accident years and to include--I'm trying to think--we asked for a couple of additional fields so that we would be able to drill down a little more on the experience. For that particular data set though, we didn't ask for a split between paid and unpaid accounts and experience which we

did this year. We did not ask to split between, among driving records, which we did this year, the 2013 experience. Territory, we didn't have it last year; we have it this year. And that's why one of the exhibits or one of the requests, I wasn't able to provide you with the territory experience as of December 31st, 2012, but I was able to provide it December 31st, 2013. But it is, that's Newfoundland taxi experience as at December 31st, 2012, as reported through the servicing carriers and through Plan 9, but with no IB and R, that's just straight recorded activity as presented by the servicing carriers.
MS. GLYNN:
Q. And again, that was not used in your loss trend rates?
MR. DOHERTY:
A. That was not used in our loss trend rates, correct.
MS. GLYNN:
Q. Thank you.
MR. DOHERTY:
A. And then No. 3 is the industry experience, the calendar accident year exhibits compiled as at

December 31st, 2012. Now this is a different data set, it's the loss development data sets that's produced by IBC. I understand it to be the same data set that Oliver Wyman used in their report, the only difference is that we used the indemnity only experience, as opposed to Oliver Wyman who used the industry and allocated loss adjustment experience, plus a factor, a calendar year factor associated with an allocated loss adjustment expenses.

MS. GLYNN:

Q. And that's the information that was used for your loss trends.

MR. DOHERTY:

A. The third one, yes, indemnity only portion of that.

MS. GLYNN:

Q. Okay, perfect.

MR. DOHERTY:

A. Sorry, that's commercial experience, just to make that clear.

MS. GLYNN:

Q. Yes. Mr. Doherty, the filing guidelines for the Board, are you aware that one of the things we state in our filing guidelines is

that any changes in methodology or in judgment must be explained from one year's filing to the next?

MR. DOHERTY:

A. Yes.

MS. GLYNN:

Q. Just a couple of housekeeping issues and then I would be going into the loss trend rates, so I would suggest that I have two or three more questions and then perhaps we could take a break before I get into the heart of the matter, I guess. Can you explain why there is such a difference between the results by territory?

MR. DOHERTY:

A. Can I explain it? No.

MS. GLYNN:

Q. You've also stated several times throughout the last couple of days that you didn't have all the information that you needed to truly test the validity of Oliver Wyman's report, some of their models and some of their trends. Is there a reason that you didn't ask for that information through the RFI process?

MR. DOHERTY:

A. Through the -

MS. GLYNN:

Q. The Request for Information process leading up to this hearing.

MR. DOHERTY:

A. Is there any reason? No, there is no reason.

MS. GLYNN:

Q. And is Oliver Wyman's report reasonable?

MR. DOHERTY:

A. I would say that it's one way of coming up with it, yes.

MS. GLYNN:

Q. Okay. I would suggest that we take a short break and come back.

CHAIRMAN:

Q. Certainly, how long are you suggesting?

MS. GLYNN:

Q. I probably have another hour when we come back, so I'd be happy with 15 minutes. Does that work for everybody.

JOHNSON, Q.C.:

Q. I'm in your hands.

CHAIRMAN:

Q. Okay.

MS. GLYNN:

Q. Perfect, thank you.

(10:52 A.M.) (RECESS)

(11:20 A.M.) (RESUMED)

MS. GLYNN:

Q. Back to me.

CHAIRMAN:

Q. Go to it.

MS. GLYNN:

Q. So, Mr. Doherty, I'm going to start asking some questions about the loss trend rates.

MR. DOHERTY:

A. Okay.

MS. GLYNN:

Q. And not only is this one of the biggest differences between yourself and Oliver Wyman, but it's also where some of the differences come between last year's filing and this year's filing. So it's estimated that Facility's loss trend rates, with no other change in assumptions, would result in a rate level indication approximately 26.5 percentage points higher than Oliver Wyman's, can you confirm that number?

MR. DOHERTY:

A. That sounds about right, yeah.

MS. GLYNN:
Q. And we're going to jump right into the time periods and I'll apologize in advance, this is new territory for me so hopefully everybody will keep me back on track. But the difference in the time periods is Facility was using 20 years and Oliver Wyman was using 10 years, different periods but all of them were 10 years or less.
MR. DOHERTY:
A. I'm not sure I would necessarily characterize it that way because we looked at 20 years. Oliver Wyman's report has 15 years, so in my view because we were showing 20 years, the view seems to be that we're using that as our trend, well then I would say Oliver Wyman was using 15 years, they just chose to exclude a number of years in their analysis; whereas we looked at 20 years and included all those 20 years as potential for our analysis.
MS. GLYNN:
Q. Okay. So you used your 20 years experience, but then if you identified a trend within that 20 years, then you selected that shorter time period?

MR. DOHERTY:
A. If there is a change in the trend, if over the 20 years we noticed only one trend and there was no statistical difference when we tested for other periods, then we would have taken a 20 year.
MS. GLYNN:
Q. And this has been covered, but can you give us an overview again of why Facility uses a 20 year time period.
MR. DOHERTY:
A. Because the data is available and it allows you the opportunity to see how changes in trend rates, if there are any over a longer period, how they might move.
MS. GLYNN:
Q. Okay. So, Mr. Doherty, is there a risk, I mean for the trend rate what we're trying to do is look at the data from 20 years ago, over that time period, and use that data to identify a trend of how our claims experience is going to go into the future, correct?
MR. DOHERTY:
A. Yes.
MS. GLYNN:

Q. Okay, so is there a risk that the older data, so that data from 1993 may no longer be relevant?
MR. DOHERTY:
A. Again if you--through our analysis I could have instead looked at the period from 2004 H2 to 2012 and excluded all of the previous data points completely. My trend line for that second period stays the same and one of the responses that we had, we showed that your trend rate for that second period, because it's independent of the first period, stays the same. So if you would like for us to redo everything with those exclusions, we can certainly do that, but it doesn't change the selection of our trend rates for that second period. The slope of the line in that second period stays the same.
MS. GLYNN:
Q. So because of the identification of the change in 2004 forward.
MR. DOHERTY:
A. Yes.
MS. GLYNN:
Q. Okay. So has there been any advances in

technology or changes in technology again that could affect that older data?
MR. DOHERTY:
A. Not to my knowledge.
MS. GLYNN:
Q. And to your knowledge, Mr. Doherty, has the 20 year experience period for a regression analysis been accepted by any other boards or jurisdictions?
MR. DOHERTY:
A. I'm not aware of anyone saying that that's an issue. We use it in all of our jurisdictions.
MS. GLYNN:
Q. Okay. Oliver Wyman has stated and I can bring you to the references if we need be, that "it does not appear that Facility has fully considered that industry loss trends vary over time or that the loss cost trend could be quite different if you use different measurement periods." Could you respond to that statement? Can you tell me how Facility's regression analysis has the impact of those changes into it?
MR. DOHERTY:
A. Absolutely. As I understand the comment, what

Page 81

is being said is if you use a different period, that is you're using different data points to estimate the parameter, which in this case is trend, you get a different answer if you use different data. That is absolutely correct because it is a mechanical exercise, just like if you took 10 people and wanted to determine their average height, if you only took five of them, you would get a different answer if you took the other five because you're taking an average. That doesn't mean that it's a better measure using either of the two fives than using all the 10 to come up with their average height overall. So taking different measurement--different periods is a way of coming up with estimates of a trend, but if a trend applies to a specific period, estimating that trend, not using the entire period but using smaller subsets of it, is not going to get you, in my opinion, a better estimate with smaller variance. You may get the same estimate, but you're better off just using the entire period if you think that one trend happened over that entire period.

MS. GLYNN:

Page 82

Q. Mr. Doherty, if we could bring up CA-OW-1 please? And that's the Loss Trend Report, and if we could go to--it's page 5 of the report, just down a little bit farther please? Actually I think it might be the next page, I think it's page 5. Keep going, there we go, thank you. So you can see here that Oliver Wyman found that there was quite a degree of volatility in the last six years. Can you tell me if this is incorporated into your experience period?

MR. DOHERTY:

A. This is loss cost on an accident year basis, as opposed to accident and a half. Those would not be the same as mine because I'm using indemnity only. This includes expenses. We have a different estimate process, we are using different loss development factors than Oliver Wyman did, so I can't confirm that I would get the exact same numbers, but certainly there is a significant amount of process variance in the data itself, more so in the review that we did on the severity side than on the frequency side for most coverages.

MS. GLYNN:

Page 83

Q. Okay. Mr. Doherty, you've also stated a few times that you think a larger sample size with more data points, that that's better for completing your analysis, that you can feel more comfortable -

MR. DOHERTY:

A. For a trend estimate, yes, I believe so.

MS. GLYNN:

Q. So do you think that Facility would use 21 years next year?

MR. DOHERTY:

A. We don't get data sets that are available with 21 years. If someone gave me a 21 year period, I would certainly incorporate all of that in looking at the whole experience period. If there is a bifurcation between the same periods that I'm seeing now, I would have the structure the same that I currently have it, so I would have the first however many years that is up until 2004 H1 is one period and after 2004 H2 and beyond as a second period.

MS. GLYNN:

Q. How far do you think you'd go? Twenty-five years?

Page 84

MR. DOHERTY:

A. If I have the data available to me, sure.

MS. GLYNN:

Q. Thirty?

MR. DOHERTY:

A. Well at 30 years I'm not really going to be using the information, so at some point I'm sure because I have restricted resources, I don't have an unlimited budget, we would probably look at is there sufficient information in that to help us understand again potential changes that may happen in the future, whether or not there's a sufficient return on that resource allocation.

MS. GLYNN:

Q. And you're saying that data is not available to you, anything beyond -

MR. DOHERTY:

A. Not IBC, IBC produces only 20 accident years in their six-month data sets.

MS. GLYNN:

Q. Okay. Mr. Doherty, I'd like to move on to the reform factor and the difference here is that you found evidence to include a reform factor and Oliver Wyman found that the reforms didn't

Page 85

have a measurable impact, would that be
correct?
MR. DOHERTY:
A. Yeah, and as I stated, I'm not sure if what we
saw was because of the reform or for something
else.
MS. GLYNN:
Q. Something in 2004.
MR. DOHERTY:
A. There appears to be something that happened
that changed the frequency and also changed
the severity at that point in time.
MS. GLYNN:
Q. Okay, just so we're all clear, can you tell us
what these reforms that were introduced in
2004, what were they?
MR. DOHERTY:
A. Well the major one, as I understand it with
respect to this, was a $2,500 deductible
introduced on non-pecuniary losses for pain
and suffering.
MS. GLYNN:
Q. Could we bring up the response to question 5
which was filed on April 16th please? Thank
you. And Mr. Doherty, can you tell us that

Page 86

the result of this bodily injury reform, this
$2,500 deductible, can you tell us what the
change was that Facility found into the bodily
injury loss trend?
MR. DOHERTY:
A. Yes, so all we've done here is again, we had
fitted values from our modelling. At 2003
first half, 2003 second half and then 2004
first half and 2004 second half. So we
compare the change in--the change in frequency
fitted between 2003 H1 and 2003 H4 and we come
up with what I believe is the 1.039, so
there's a 3.9 percent increase in the fitted
frequency between 2004 H1 and 2003 H1. This
is a simplified estimate of what the
underlying trend is over that period. We do
the same result for 2004 H2 which is the first
period that has, I guess, the reform piece or
where we identified a change where you can see
the fitted frequency has dropped down to 6.51.
And so if you take the same logic then, you
can look at how has 2004 H2 move relative to
2003 H2, it's dropped by just under 25
percent, and so we attribute that change to
whatever is causing the underlying change at

Page 87

that point in time. You'd do the same thing
on the severity side where again you assume
that if it weren't for the--whatever caused
this change, severity would continue along the
path that's evident through the relationship
between 2004 H1 and 2003 H1, would continue,
but it didn't, so that change or difference
between the two projections would be
representative of something that caused the
underlying change. In this case we look at
those two relationships and we attribute a 27
percent drop in frequency and almost 14
percent drop in severity.
MS. GLYNN:
Q. And the total then was the 37.
MR. DOHERTY:
A. Yeah, loss cost is just a multiple of
frequency and severity.
MS. GLYNN:
Q. So the impact of this, we think the bodily
injury reform could be something else.
MR. DOHERTY:
A. It could be something else, yes.
MS. GLYNN:
Q. There was a 37.1 percent increase in the

Page 88

bodily injury loss cost?
MR. DOHERTY:
A. Yes.
MS. GLYNN:
Q. And can you confirm that Facility found that
other coverages were also impacted by this?
MR. DOHERTY:
A. Yes, there's a change at the same point in
time through our analysis.
MS. GLYNN:
Q. If I give you the figures, property damage
loss costs were reduced by 17.2 percent, does
that sound right?
MR. DOHERTY:
A. Okay, sounds -
MS. GLYNN:
Q. Accident benefit reduced by 72.6.
MR. DOHERTY:
A. Okay.
MS. GLYNN:
Q. Sound -
MR. DOHERTY:
A. Yeah, I'll take it that you've -
MS. GLYNN:
Q. I'd also like to bring up question 13(c), I

think it's in the same package there. And Oliver Wyman had asked you to explain how the 2004 reforms, the bodily injury deductible or whatever it was that happened in 2004, had had such a significant impact on the accident benefit losses and I'm going to walk you through this a little bit. The first part of the response is that "Our general approach is to look at reform period impacts for all coverages and for all metrics as a matter of course. Where we see that there appears to be a correlation, we will use this, even if it may not make intuitive sense, we prefer to let the data speak." And Mr. Doherty, I'd like you to explain that statement a bit further, if you could.

MR. DOHERTY:

A. Yeah, absolutely. We don't go in with a pre-determined view. As I mentioned in describing our approach, we do have some standard views where it's use all the data, see what that says and then again, our reviews across various jurisdictions, we do set up periods where we know reforms have taken place and we have found a lot of correlation between when

reforms take place is in changes, either one time shifts up or down or changes in the actual trend itself. That seemed to occur around when reforms happen. In this particular case, for every single coverages we had those first four or five standard reviews that we did and then the analyst would have continued on with other reviews. In this case for accident benefits, there was a statistically significant fit with respect to the accident benefits. I think there was a difference on the severity on the one parameter but generally what we do is, as I say here, you let the data speak. We're not trying to impose anything on it, other than we said let's look at this period, but then let's look at some other periods and we came back and accepted this model

MS. GLYNN:

Q. Okay. So when you look at the reform for bodily injuries and you look at such a significant impact on accident benefits, what you're saying is intuitively a reform on bodily injury may not have had such a great impact on accident benefits, so let's go look

at the data?

MR. DOHERTY:

A. Yes. I'm not even--at that point we're not even looking at what the reform was. We just know that a reform, it doesn't matter what has happened during this period, so we're just splitting it up to see if, whatever that reform was had an impact at all. There is, you know, correlation, if you want, between events that give rise to claims and multiple coverages, so if, for instance, you get involved in an accident and it's your fault, then you can claim for accident benefits, you can claim for collision if you've purchased that, so there's a correlation between one event could give rise to two different claims under two different coverages. If there's a third party involved, you would be seeking redress from that third party, but if you've got collision, you may be looking at, you know, part of it was your fault, so you might have some pick up on the collision coverage. There seems to be some intercon activity between certain coverages because you can have multiple claims arising from a single event.

And we think that that speaks to claimant behaviour and there may be what we might refer to as a halo effect or something like that, that if there is less incentive to start the process of claiming, then maybe you're not going to bother claiming for any of it.

MS. GLYNN:

Q. Okay.

MR. DOHERTY:

A. But I'm not sure, I really don't know and again, I'm not really sure what drove this change.

MS. GLYNN:

Q. Okay, so you saw this data point for 2004 and you decided that for accident benefit, that that bore some further investigation.

MR. DOHERTY:

A. Yes.

MS. GLYNN:

Q. Can we pull up the data then? Can we pull up page 148 from the memorandum of this year? And if we could go down a little bit farther, sorry Andrew. If we could look at the graph for accident benefits last.

MR. DOHERTY:

Page 93

A. I apologize, on this one that's not actually the fit and I apologize. What happened was we moved some of the charts and some of the data around in an earlier sheet and this one points to it, but it's using a formula called indirect, so we tell it what cell to go look at, but the actual data got moved to a different cell and it wasn't picked up by-- unfortunately for the person who was preparing this filing, so this does not reflect the -

MS. GLYNN:

Q. So this data in this graph for accident benefit loss costs -

MR. DOHERTY:

A. Those are not the fitted values, the actuals are correct, but that's not the fitted values that we had. You would have to go down and look at and unfortunately I don't have a chart in here that represents then the loss costs. You can see the frequency and severity, but this does not show the actual fitting and I apologize.

MS. GLYNN:

Q. And I think I'm okay because I just want to point to where that dip happened and I want to

Page 94

point you to, you know, there's another dip there, looks like second quarter of 2000 and it doesn't really bear out on the graph, but if you look at the numbers for 2009, we have a drop from 1230 to 562, so are those points that you would have went back and looked at as well that you would have done further investigation on?

MR. DOHERTY:

A. I'm not sure which periods--again, we don't look at--we do look at frequency, severity and loss costs, we tend to focus on the frequency and severity. I would imagine they may have, I can't speak to it right off the top of my head, I can remember exactly how many different periods were looked at and I apologize again for this display. This display is wrong.

MS. GLYNN:

Q. So did Facility consider any other reason for the data point in second quarter--for the drop in 2004? Did you consider that it might be an outlier?

MR. DOHERTY:

A. No.

Page 95

MS. GLYNN:

Q. I'd like to bring back up the answer to question 13(c) please, filed on April 16th. Okay, and you go on in this answer, we talked about letting the data speak and it says "It could be that the reforms have unintended consequences in relation to claimant behaviour", and I think this is the halo effect that you were talking about.

MR. DOHERTY:

A. Yes.

MS. GLYNN:

Q. Okay. "--we don't know, as we are not trying to estimate similar impacts related to other reform periods, we don't really see that this is an issue. It is what it is." And again, we may covered this, but are you saying that you're not sure there's a correlation then between the reforms and the data that we just looked at?

MR. DOHERTY:

A. Correct.

MS. GLYNN:

Q. If we could go underneath the graphs, we need to go to the next page there, please. There

Page 96

we go. "We again question the focus on"--and I'm assuming that's the 2004 reform factors, "as the factors do not have a direct bearing on the current indication"--and I have trouble with that statement, Mr. Doherty, and I mean, as we sit here listening to the evidence over the last couple of days, not necessarily the 2004 reforms, but whatever happened in 2004, obviously has had a significant effect on the indications, it split your loss experience period, you've divided that into two, you've included it as a factor, so it has had some bearing on the indications.

MR. DOHERTY:

A. Well I would go back to, again, if you would prefer I can ignore all of the data before 2004, there would be no 2004 reform factor, the slopes of those two lines that you see would still be the same. So I guess the frequency appears to be dropping down a little bit, I don't know exactly what the trend is there and the severity is going up. And I believe on the severity we may have had an outlier on a later period, but I don't know for sure. So as far as I am concerned, we can

Page 97

pretend that that didn't exist, I can focus on the most recent 8 years only as my measurement period, I will come up with those same trends that I have here, if that makes people feel more comfortable then I'm not using 20 years worth of data. You don't get a different answer than what I have here.

MS. GLYNN:

Q. Okay. And we don't need you to do that, but I just want to make sure that when we read that statement, like I said, to me I read that as these reform factors or whatever happened in 2004 doesn't matter.

MR. DOHERTY:

A. Not with respect to how we determined the trend post 2004. Now if someone looks at it and says, well, I look at this and I think that perhaps the change in frequency occurred before 2004, and looking at that I can see someone making that judgment and then saying, well but for severity, I think it happened after 2004. Well then my concern is well now you've got--you're trying to come up with loss costs, but you're using two different periods, one for frequency and one for severity and I

Page 98

would be concerned that now is that really appropriate and that's why we decided keep the two periods the same, maybe in the case of accident benefits it's not ideal, but that's certainly one of the considerations that we go through and we talk about and what is the benefit of having two different overlapping periods, as opposed to having the same happening on frequency and the same happening on severity. The nice part about this is that then when you look at a loss cost, you're not getting one thing happening on severity, no, frequency I guess would end first and so you'd have a change then in your loss cost because of frequency change and then a short period where between 2003 and 2005 where now you've got severity changes in that second period, so now we've got another period, so you'd have kind of a step ladder. I've have more trouble with that just from understanding it, so yes, absolutely and we may have tested these alternate periods, moving it back on the frequency and moving it forward on the severity and seeing what those look like. And we would have had a discussion around those, I

Page 99

would imagine.

MS. GLYNN:

Q. So it comes down to judgment.

MR. DOHERTY:

A. It does come down to judgment, absolutely.

MS. GLYNN:

Q. Mr. Doherty, can you confirm that the impacts of this, I keep calling them the 2004 reforms.

MR. DOHERTY:

A. And I do too, so -

MS. GLYNN:

Q. But whatever happened in 2004, that was found to be zero percent in Facility's filing for last year for 2013.

MR. DOHERTY:

A. As I understand Eckler's review, yes.

MS. GLYNN:

Q. Okay, I'd like to bring up question 5, which was responded to on April 16th please, it's the same package, question 5. And here Oliver Wyman, and this goes back to our filing guidelines, we need to understand what that change happened from your last filing. So Oliver Wyman questioned whether that 37.1 percent impact on bodily injury, was that

Page 100

consistent with your last filing. And if you read the answer, it said that "it used a different approach to loss trend structure modelling, that it treated product reforms outside of the trend model itself, focusing instead on trends and generally treated product reform as an external factor."

MR. DOHERTY:

A. As I understand Eckler's process.

MS. GLYNN:

Q. So it wasn't built into the model?

MR. DOHERTY:

A. As I understand it, I could have a misunderstanding of their model, but as I understand it, their approach would be we will estimate a reform impact for something and then we will adjust the data. So if you had, like our data shows--it appears to show something going up here and then it's significantly down. They would have said, well, we've estimated reform and so, the data comes down by 5 percent or maybe it comes down by 75 percent, but they would adjust the historical data and then say, now that I got my data adjusted, I can fit something over the

Page 101

two periods combined as if they're one period because they should be on the same basis. That's not the way that we do it. But it is an acceptable way of doing it.

MS. GLYNN:

Q. Okay. I want to bring up what we are going to enter now as Exhibit No. Information 4, thank you, and that's page 2.5 of last year's memorandum.

MR. DOHERTY:

A. Okay.

MS. GLYNN:

Q. Dated January 23rd. I think it's already been circulated to everybody. And this is where you need to help me, Mr. Doherty. If I read the mathematical equation that's starting there in the third paragraph, and I'm not going to read it out, but it has a reform variable included into it. So to me, that looks like it was included into the model. Is that correct?

MR. DOHERTY:

A. That would -- yeah, that would certainly look like it, yes.

MS. GLYNN:

Page 102

Q. Okay. And so this is from last year's filing?

MR. DOHERTY:

A. Yes.

(11:45 a.m.)

MS. GLYNN:

Q. Okay. I'd also like to go to Exhibit 4 from the same document of last year and then that would be entered as Information No. 5. And if we go to under the bodily injury coverage, independent variables are listed there and the same for property damage, there's an independent variable of severity, but again, there's no independent variable listed for reform factor.

MR. DOHERTY:

A. Okay, yeah.

MS. GLYNN:

Q. So is that different then from your explanation of -

MR. DOHERTY:

A. Yeah, it appears to be so, so as I said my understanding was incorrect. It looks like they did try and physically account for it within the data without adjusting the data. I apologize.

Page 103

MS. GLYNN:

Q. Okay. I would like to bring up the response to Question 4 that was filed last year and that was entered as Exhibit No. 1 yesterday please. Oliver Wyman questioned in, I think it was 4B, I apologize, the impact of the reform and when you considered that in reviewing your frequency trend rate. So yes, B, sorry. Could we go down to the answer to that, the response? Okay. And last year it was stated that "the impact of the 2004 reforms was considered and like Oliver Wyman found in its analysis, the reform variables were not found to be statistically significant. For this frequency trend inclusion of 2004" -- we're not worried about that part of it. So the explanation we asked why the reforms were found to be so important this year as opposed to last year. The answer that we received in our RFI was that there was a difference in the model. We know that's probably not correct. So can you tell me, Mr. Doherty, how looking at the same data last year this impact was not considered to be statistically significant, but this year it's

Page 104

a very important part of the indications?

MR. DOHERTY:

A. It's the way that we bifurcated the experience periods and I'm not sure exactly what the data was that Mr. Pelly was looking at. I view it differently.

MS. GLYNN:

Q. Okay. I'm just going to back step a little bit here because I also asked if the bodily injury reforms or again whatever happened in 2004, we talked about how that impacted property damage and we talked about how that impacted accident benefits. Facility also determined that that impacted collision and comprehensive as well?

MR. DOHERTY:

A. There appeared to be a change at that same time frame, yes.

MS. GLYNN:

Q. Okay. And as a very small housekeeping item, I'd like to bring up page 196. We think there may be a small typo there unless there was reforms in 2002.

MR. DOHERTY:

A. Probably a typo.

Page 105

MS. GLYNN:
Q. Okay. 196 please of the actuarial memorandum from this year. So it says at the top there the years used, adjusted for seasonality and then a 2002 reform.
MR. DOHERTY:
A. It was split at 2002. I don't know what the reform would be though.
MS. GLYNN:
Q. Okay. So this goes back to the discussion of the 2004 split may not necessarily be the reforms that were introduced?
MR. DOHERTY:
A. Right.
MS. GLYNN:
Q. Okay. So for -
MR. DOHERTY:
A. The description here is inaccurate with respect to a reform. The analysts selected bifurcation at 2002.
MS. GLYNN:
Q. Okay, perfect. That clears that up. Mr. Doherty, I'm going to move into the development periods and I'd like to bring up page 157 of the memorandum and there was two

Page 106

periods for accident benefits where Oliver -- yeah, Oliver Wyman felt that Facility selected loss development factors that were higher than what the data indicated. But I need your help again with this, Mr. Doherty. Can you explain the top part of this graph to us?
MR. DOHERTY:
A. Sure. So the values in the columns would represent the change from the value -- this is recorded activity? I'm not sure what data we're looking at here.
MS. GLYNN:
Q. Can we bring down the heading? Okay. No, bring it down so we can see the -
MR. DOHERTY:
A. Yeah, recorded amount. So, it would just simply divide the -- in this first column, divide the recorded claims amount at age 12 months by for that same accident period, the amount at age six months. So it shows you the increase or decrease implicit in moving from the six-month period to the 12-month period and then from the 12-month, 18-month period, in the second column, et cetera.
MS. GLYNN:

Page 107

Q. Okay. And then the numbers -- the group of numbers at the very bottom of the page, that's -- if we go back to the heading, sorry, Andrew, if we can -- no, no, if we can see what the headings for those bottom numbers are? So that's various averages of the top group of numbers?
MR. DOHERTY:
A. Yes.
MS. GLYNN:
Q. Okay. And then the middle group of numbers there, those are the actual development factors chosen by Facility?
MR. DOHERTY:
A. Yes.
MS. GLYNN:
Q. Okay. So if we look at the numbers for 18 to 24 time period and we can look at the bottom group, the averages, they're all below one there. I think the closest one to one is .9752 yet the selection by Facility was 1.1491.
MR. DOHERTY:
A. Yes.
MS. GLYNN:

Page 108

Q. Could you explain the basis for that selection?
MR. DOHERTY:
A. I'm not exactly clear on the basis for that selection, but I can undertake to get that from the appointed actuary.
MS. GLYNN:
Q. Okay. That would be wonderful. And then the same actually for the period of 48 to 54 months, the same thing. We can see that the averages are all below one.
MR. DOHERTY:
A. Okay.
MS. GLYNN:
Q. Yet the final selection was 1.0353
MR. DOHERTY:
A. Okay.
MS. GLYNN:
Q. Okay. Thank you very much. The next point or the next area, I guess, is data selection and Mr. Johnson spoke about this in his cross, the fact that last year private passenger data was used to develop bodily injury severity and accident benefit frequency and severity and the reason for that was that the actuary from

last year found that the commercial vehicle data didn't provide a satisfactory statistically significant model.

MR. DOHERTY:

A. I believe it was for severity. I think the private passenger was used for severity, not for frequency.

MS. GLYNN:

Q. Okay. My apologies. Can we bring up Question 10 which was answered on March 31st of this year? And in this question, Oliver Wyman asked you to explain why private passenger data was used last year and then you've changed it for this year and your answer was that "we believe the risk characteristics that drive frequency and severity changes over time for taxis are more akin to those of commercial vehicles than private passenger."

MR. DOHERTY:

A. Yes.

MS. GLYNN:

Q. And we're fine with that. What we want to know is the difference from last year. Why the change from last year?

MR. DOHERTY:

A. We were able to find for severity a statistically satisfactory model for commercial severity and so we used it.

MS. GLYNN:

Q. So did the data change from last year?

MR. DOHERTY:

A. Yes.

MS. GLYNN:

Q. Because we've added a year into it?

MR. DOHERTY:

A. We've added a year. I also believe, and I'm not sure on this, but I believe Eckler was using indemnity plus expenses where we're using only indemnity. I don't know if that had an impact. All I know is that when we review the commercial severity, we were able to determine to my satisfaction a parameter for the trend.

MS. GLYNN:

Q. Okay. So you're satisfied that the data for commercial vehicle was stable enough to use for this year?

MR. DOHERTY:

A. Yes. There's a lot of process variance, absolutely, and I think you can see that in

the data, but I'm satisfied with the parameter selection, yes.

MS. GLYNN:

Q. Okay. I'd like to look at page 40 of the memorandum from this year as well, and if we look at column six, the ultimate indemnity, and we look at the third party liability for 2012. So we need to go down a little bit further. And we see there that it's listed at 2.8

MR. DOHERTY:

A. Yes.

MS. GLYNN:

Q. And I want you to keep that number in your mind for a second because then I want to look at page 80 of the same document.

MR. DOHERTY:

A. Yeah.

MS. GLYNN:

Q. And in the numbering column -- it's listed total, column 22. We need to go down to 2012 again please. The number there is a little over five million. So can you explain the difference in -- why the difference in those two numbers?

MR. DOHERTY:

A. Sorry, could you slide up? I just want to see what the data is here. Okay, if you could slide down now, please? So that's the link ratio estimate for 2012 and if you slide down to the next section, please. No, go back up again. I apologize. I'm just trying to -

MS. GLYNN:

Q. Absolutely.

MR. DOHERTY:

A. - trying to piece this together a little bit. Can we go to -

MS. GLYNN:

Q. It was page 40.

MR. DOHERTY:

A. - D5? Sorry, D2. Yeah, so the difference between the number that you're seeing in D1 is for taxis.

MS. GLYNN:

Q. Okay.

MR. DOHERTY:

A. The value that you're seeing in the loss development exhibit, Appendix A, is for all non-private passenger.

MS. GLYNN:

Page 113

Q. Okay. So the loss development factors then, they're not based on the taxi data? They're based on the -
MR. DOHERTY:
A. Correct.
MS. GLYNN:
Q. Okay.
MR. DOHERTY:
A. Non-private passenger. So, the 5,088,963 that you saw in Appendix A that you pointed us to, you'll see it here as the selected ultimate, the 5,088,963.
MS. GLYNN:
Q. So two questions off that, one very general. What's included in non-private passenger vehicle data?
MR. DOHERTY:
A. Everything that's not private passenger.
MS. GLYNN:
Q. Okay, so -
MR. DOHERTY:
A. So all public vehicles, all commercial, all inter urban, all miscellaneous vehicles.
MS. GLYNN:
Q. So ski-doos?

Page 114

MR. DOHERTY:
A. Pardon me?
MS. GLYNN:
Q. Ski-doos?
MR. DOHERTY:
A. Yes.
MS. GLYNN:
Q. Okay. And can you say if the factors for taxis then are developing the same as they would be for these non-private passenger vehicles?
MR. DOHERTY:
A. I would believe it's a fair assessment given that probably two-thirds of the actual claims that are in that data set of non-private passenger are taxis.
MS. GLYNN:
Q. I only have a few more questions on trend.
MR. DOHERTY:
A. I'm fine.
MS. GLYNN:
Q. We're almost there.
MR. DOHERTY:
A. I'm fine.
MS. GLYNN:

Page 115

Q. And if -- this is again just a slight change from last year's filing, which we'd like you to explain. If we go to page 14, if we go down just a little bit further, yes, uninsured automobile. To me, when I look at this, I think that the uninsured automobiles rates are based off accident benefit rates. Would that be -
MR. DOHERTY:
A. Yeah, the trend rates. We use the same as accident benefits, yes.
MS. GLYNN:
Q. Okay. And last year, again last year we think they were used off third party liability. We could bring you to Exhibit 4.
MR. DOHERTY:
A. No, that's fine. That's reasonable.
MS. GLYNN:
Q. So just if you could tell us why the change?
(12:00 p.m.)
MR. DOHERTY:
A. That's an actuarial judgment piece. Our underinsured motorists we align with BI and uninsured automobile we align with accident benefits. It's embedded within that

Page 116

government line. We just treat it that way. It's just a judgment call.
MS. GLYNN:
Q. Okay.
MR. DOHERTY:
A. There's nothing specific in my mind that was driving that.
MS. GLYNN:
Q. And do you know the rate indication because of the change?
MR. DOHERTY:
A. Not off the top of my head, sorry.
MS. GLYNN:
Q. Can we have an undertaking to get that rate indication change
MR. DOHERTY:
A. Certainly.
MS. GLYNN:
Q. Thank you. I'd also like to go to Question 14 filed March 31st of this year. And if we look at the answer for bodily injury severity, right at the end, it says "the model indicates that it struggled with the fitting".
MR. DOHERTY:
A. Yes.

Page 117

MS. GLYNN:
Q. And it says the same thing for accident benefit severity, "the model indicates it struggled fitting the severity post reform".
MR. DOHERTY:
A. Yes.
MS. GLYNN:
Q. So when I read that, again, it means that your models aren't perfect?
MR. DOHERTY:
A. Yeah, the selection of the periods and when I say it struggles with it, there's a high level of process variance. There's a lot of variability in the results and that's -- and because it's the residuals that you're measuring, it does struggle -- the regression itself comes up with a number.
MS. GLYNN:
Q. Okay.
MR. DOHERTY:
A. It's just a mathematical calculation. When I say it struggles, what I'm referring to is that it's hard to interpret because the residuals are so far from those fitted lines. There's a lot of what I call process variance embedded in there that it's hard to get a good fit, absolutely.

Page 118

MS. GLYNN:
Q. And are these the two that last year we used private passenger?
MR. DOHERTY:
A. That's correct.
MS. GLYNN:
Q. So did you try private passenger this year if you were struggling with the fit?
MR. DOHERTY:
A. I did not look at the -- I have the private passenger severity trends, but we did not use them in this, no.
MS. GLYNN:
Q. Okay. So we've looked at the impact of the reforms or whatever happened in 2004 and that they're a factor this year but they weren't last year, and we've looked at the fact that the commercial vehicle data was appropriate to use this year but not last year. I'm not -- I guess, the reason for the change has come down to actuarial judgment. Is that a fair statement?
MR. DOHERTY:

Page 119

A. Yes, I would say that's a fair characterization, yes.
MS. GLYNN:
Q. Okay.
MR. DOHERTY:
A. To a large extent. I don't know to what extent if I looked at the same data, I would have come up with the same conclusion. So if I came up with different conclusions, it would certainly be actuarial judgment, yes.
MS. GLYNN:
Q. Okay. We're finished with trending. I wanted to -
MR. DOHERTY:
A. Just one more.
MS. GLYNN:
Q. I want to talk about the credibility standard for a couple of minutes, and we have discussed that the standard for third party liability change from 5410 last year to 3246 this year and you discussed the reason with that change or for that change with Mr. Johnson yesterday. So could we bring up page 92 of yesterday's transcript, please? November 6th, yeah. And if we just go down to page 92, yeah, okay. Stop right there. Thank you. Stop, okay. And if I understand what you said yesterday was that last year when Eckler determined 5410 they had done some kind of study and that's how they had estimated their multiplier, but when you took over the process, you made actual judgment.

Page 120

MR. DOHERTY:
A. Yes.
MS. GLYNN:
Q. Is that correct? Okay. I'd like to bring us to Section 2.81 of your memorandum from this year. Oh, I don't have the page, sorry. Okay, here it is, sorry. Yeah. And right here it says "the current full credibility standards were derived based on the analysis of a 2003 industry Atlantic commercial size of loss experience." Is that the same study that Eckler used last year?
MR. DOHERTY:
A. This is an incorrect statement. I apologize.
MS. GLYNN:
Q. Okay.
MR. DOHERTY:
A. It was based on my judgment. I didn't pick

Page 121

that up when I was reviewing the report. I apologize.
MS. GLYNN:
Q. Okay. Just one little follow up question. In the footnote, it says that "this analysis will be updated in 2014" but now we didn't use this this year?
MR. DOHERTY:
A. No.
MS. GLYNN:
Q. Okay. Will you use it next year? I don't know if -
MR. DOHERTY:
A. Well, we're reviewing overall what credibility processes we're going to use and as I mentioned earlier, there are different types of metrics that you can use. So you can use claim counts. You can convert claim counts to exposure counts. There are -- there's classical credibility. There's -- I think it's called Buhlmann credibility. There's also Bayesian credibility. The selection of what credibility criteria process to use is something that we've put on our docket for review. When we identify things that we want

Page 122

to consider, other approaches, we put it on a list of things that we might consider in changing our processes. We try and be consistent everywhere, but we put it on our list. We would do an investigation of what the impact might be of changing and then we would first of all discuss that with our partners. If we come to some sort of conclusion or recommendation for management to make a change to the process, we would then take it for discussion at the actuarial committee to get their input and their ideas on the value of staying the same or moving forward. Our goal was to get to that for 2014. We didn't get to it. It's been pushed forward to 2015. I'm not sure if we're going to do it for 2015 either.
MS. GLYNN:
Q. You still have two months in 2014.
MR. DOHERTY:
A. I've got a lot of stuff that I have to do in the next two months.
MS. GLYNN:
Q. So with this analysis then, it is a possibility that you could change your

Page 123

standard again?
MR. DOHERTY:
A. I could even change the way we determine credibility, yeah, absolutely.
MS. GLYNN:
Q. All right.
MR. DOHERTY:
A. It probably -- if we did make a change, I don't think we'd actually change it in 2015. I think there's a small window for 2015 change. It would probably get implemented for 2016, but I don't know at this point.
MS. GLYNN:
Q. Okay. So the change from the 5410 standard to the 3246, do you have the effect that that had on the rate level indication?
MR. DOHERTY:
A. I believe yesterday we said it was about seven points, was that about right? Somewhere around there, yes.
MS. GLYNN:
Q. Seven percent.
MR. DOHERTY:
A. Yeah.
MS. GLYNN:

Page 124

Q. And was that taken into consideration when you were advised the approach?
MR. DOHERTY:
A. No.
MS. GLYNN:
Q. The credibility -
MR. DOHERTY:
A. We knew that the change overall would tend to give more weight to experience, the actual experience underlying it. In some classes of business that means that because the experience is better than the underlying it would improve the results, i.e. rate indications would drop. In some classes, some jurisdictions, it would go the other way. It really is giving more weight to the experience than what it was under the other methodology and really depends on how the experience looks relative to the rates.
MS. GLYNN:
Q. The credibility standard for comprehensive and specified perils also changed from last year's filing. They were 3246 last year and they changed to 1082 this year. So, can you -- the same, it was -

Page 125

MR. DOHERTY:
A. It was the same.
MS. GLYNN:
Q. Your judgment?
MR. DOHERTY:
A. I just split it between long tail and short tail and all short tail gets the same and all long tail gets the same.
MS. GLYNN:
Q. Okay. And do you know the changes that those -- the impact that those changes had on the rate level indication?
MR. DOHERTY:
A. Not off the top, no.
MS. GLYNN:
Q. And can you undertake to -
MR. DOHERTY:
A. Absolutely, yes.
MS. GLYNN:
Q. Perfect. Complement to credibility, I won't spend much time. Again, it was something that Mr. Johnson explored with you and he did indicate, of course, that the Board in its order last year, Order A1-9-2013, the Board said that it did not accept the assumptions

Page 126

that Facility used for its loss trend rates, nor did it accept the return on investment and developing. So again, I'm struggling to understand how the Board can accept that there was rate inadequacy when the Board thought that last year's rates were appropriate.
MR. DOHERTY:
A. Yeah, I tried to get -- make this clear yesterday and I don't perhaps -- I think I did. I believe the Board would be consistent by saying our view is that the complement of credibility should be based on your rates being either adequate or very close. I think there was a small change there.
MS. GLYNN:
Q. Yeah.
MR. DOHERTY:
A. But for the most part, being adequate, relative to our view of your previous one, just like I believe I'm being consistent with my view that I don't agree with the assessment of the underlying assumptions and that this one is coming forward. So I think you would be completely consistent to say use this complement as opposed to the one that we used,

Page 127

absolutely.
MS. GLYNN:
Q. A couple of questions on physical damages multiplier, and we're almost at the end.
MR. DOHERTY:
A. Okay.
MS. GLYNN:
Q. Can you confirm that the physical damage coverages for taxis, they're currently rated as a percentage of Facility's private passenger rates?
MR. DOHERTY:
A. Yeah. So we would rate up an individual taxi as if it was a private passenger vehicle and then we would multiple it by the multiplier.
MS. GLYNN:
Q. And that's the physical coverage multiplier?
MR. DOHERTY:
A. Yes.
MS. GLYNN:
Q. Okay. And that's currently 225 percent of private passenger rates?
MR. DOHERTY:
A. I believe so. I don't know if it's 200 or 225 or 250. It would be one of those three.

Page 128

MS. GLYNN:
Q. So 225, subject to check.
MR. DOHERTY:
A. Okay.
MS. GLYNN:
Q. And can you explain how that multiplier was determined?
MR. DOHERTY:
A. Previously I believe it was at 250 and then last year we had an undertaking to do an analysis to see based on the experience whether or not it should move and based on that experience, I believe Mr. Pelly came up with a recommendation that I think it was 225, like you said, now that I think about it.
MS. GLYNN:
Q. 225, yeah.
MR. DOHERTY:
A. Yeah, so it was based on analysis of the experience. I'm not sure how he did the credibility weighting off the top of my head, but was able to determine that, yes.
MS. GLYNN:
Q. Okay. In the current application, Facility presents rate level changes of negative 20 for

collision, negative 1.2 for comprehensive, positive 9.6 for specified perils and a negative 13.7 for all perils, all subject to check.

MR. DOHERTY:

A. Okay.

MS. GLYNN:

Q. So that's an overall indicated decrease of 9.1 for the physical damage coverage combined but there's no proposal for any change in the physical damage?

MR. DOHERTY:

A. My understanding, that's correct.

MS. GLYNN:

Q. Okay. Can you explain why that decrease wasn't applied for?

MR. DOHERTY:

A. Typically with dependent coverages, we don't do that additional review of that factor and because they are dependent coverages, if private passenger rates change, so if we were to give you a filing for private passenger and physical damage premiums got reduced through that process, if we've changed the relativity, then there would be a decrease that happens

automatically with taxis. If there was an increase obviously there would be an increase. Our view is that the relativity between the physical damage experience for private passenger and taxis is reflected in the 2.25 percent and if you change the relativity to reflect the experience of physical damage for taxis but the relativity actually stays the same, then if we change private passenger, that's automatically going to have another impact on taxis that then again realigns the relativity of the two of them, but because we change the relativity, you get a different impact. So it's just a timing issue more than anything else.

MS. GLYNN:

Q. Subject to checking with my two wonderful assistants here, I have one final line of questioning and I think it's a housekeeping item. If we could bring up the responses to PUB-FA-23, we think there's a discrepancy in the numbers provided in 23 and 24. So if we go to the table -- and I should have had this put together so you could see the numbers together and I apologize, Mr. Doherty, but

this indication, the second indication where it shows and 18.4 and 125.4 and 132, if we go over to PUB-24 and we look at the last highlighted, and I think it's the same assumptions that are being used, the indication is now changed to 17.4, 186.7 and 195.3.

MR. DOHERTY:

A. I would have to compare the actual -

MS. GLYNN:

Q. Maybe we could have an undertaking, Mr. Doherty -

MR. DOHERTY:

A. Yeah, absolutely.

MS. GLYNN:

Q. - for you to look at those.

MR. DOHERTY:

A. Because I'm looking at the net trend. There's a 396. I'm not sure that they used the same trend period on the two of them.

MS. GLYNN:

Q. Perfect. If you could undertake -

MR. DOHERTY:

A. So yeah, we can certainly look at that.

MS. GLYNN:

Q. - to look at that, that would be wonderful.

MR. DOHERTY:

A. Absolutely, yeah.

MS. GLYNN:

Q. I think we're done.

MR. DOHERTY:

A. Well, thank you. And I appreciate the opportunity to speak in from of the committee and respond to questions.

MS. GLYNN:

Q. I'm not sure -

STAMP, Q.C.:

Q. We're not done.

MS. GLYNN:

Q. - actually the Commissioners may have some questions or Mr. Stamp may have some redirect. So you're not quite -- you're finished with me.

MR. DOHERTY:

A. All right.

MR. SHAWN DOHERTY, RE-EXAMINATION BY KEVIN STAMP, Q.C.

STAMP, Q.C.:

Q. I have a few questions for clarification, Mr. Doherty, arising. I think these are mostly out of -- maybe entirely out of Mr. -- the

Page 133

Consumer Advocate's questions. There was a discussion, Mr. Doherty, about the Nova Scotia case that was, I guess, mentioned to you and dealing with the issue of ROI in the Nova Scotia context. You undertook to provide some material about that.

MR. DOHERTY:
A. Yes.

STAMP, Q.C.:
Q. And can you also undertake to provide, when you do that, the extent to which Nova Scotia allows a cost of capital or ROE, if that's the right way of describing it, allowance in its decision as well?

MR. DOHERTY:
A. Yeah, they do allow an 11 percent after tax return on equity, but I will undertake to get that formally recognized.

STAMP, Q.C.:
Q. Okay. Now my learned friend spoke about the issue of the four territories and I'm not sure if the implication of it is that -- I think the implication suggested that maybe one or more of these territories was less risky than another for the claims.

Page 134

MR. DOHERTY:
A. I'm not sure I would necessarily characterize it as less risky, but certainly it appears that the rate level adequacy, when you look at the loss ratios, the reported loss ratios alone, looking at those, the rates in certain territories certainly seem to be more adequate than in other territories, but it could be that there's large loss activity that you get once every five years or once every three years because you got enough taxis here, but those claims haven't had the opportunity to arise in those other territories because you got too short of a period. So I can't really comment on it, but certainly from the data that was presented, the loss ratios in certain territories is lower and in some cases significantly lower than other territories and on a consistent basis it appears.

STAMP, Q.C.:
Q. But the rate indications that have been generated are across all territories, are they not?

MR. DOHERTY:
A. That's correct.

Page 135

STAMP, Q.C.:
Q. So what happens if there is a suggestion, for example, on the part of the Consumer Advocate, if there is a suggestion that the rating in let's say, you know, Corner Brook territory which is, I think, 06 or 07, not sure which one, if that rate was to be -- if the indication for that rate was to be brought down because of the experience that you spoke about, what would happen to the overall result in the rate indications you've prepared generally across the board?

MR. DOHERTY:
A. We would still be looking for the overall rate increase that we're asking for. You can certainly make it so that some territories have less than that indication overall, but if you do, then some other territory needs to get more to offset that.

STAMP, Q.C.:
Q. That's what I'm getting at. If you drop one territory, what happens in the other territory?

MR. DOHERTY:
A. You would have to increase more to offset it.

Page 136

STAMP, Q.C.:
Q. Because the dollar amount you're seeking is fixed, is it?

MR. DOHERTY:
A. Yes, that's correct.

STAMP, Q.C.:
Q. And on the point, on this -- similarly, I guess, it was brought up that there's a suggestion that there would be -- had you looked at the discount or the elimination of the discount and the impact on that, so if the discount is eliminated as was being talked about by the Consumer Advocate, what would be the effect on premium of the elimination of a discount?

(12:15 p.m.)

MR. DOHERTY:
A. That will increase premium.

STAMP, Q.C.:
Q. And so when you did your analysis and your indications, did your premium reflect the absence of a discount?

MR. DOHERTY:
A. No, we did not do a separate analysis on that. So to the extent that the -- and I think that

was brought up that there was no specific amounts that we had determined -- felt we were able to determine because we don't have access to the information to be able to measure that impact.

STAMP, Q.C.:

Q. Okay. The issue of, I guess, the compensation for the servicing carriers, some of the expense provisions I guess really was brought up and the question as I understand from the Consumer Advocate seemed to be directed to is it fair that the cost being -- or the expense amount being paid to the servicing carriers is going up because of an increase in premium. What I'm wondering is if what drives up the increase in premium is, for example, an increase in severity and that's what you've identified I think throughout most of this process, certainly for the third party liability bodily injury component that has been certainly the focus. What happens to your expense -- the service carrier expenses associated with, I guess, looking after that process if severity has gone up? I mean, if the cases have gotten more expensive, more

complicated, longer expenses, longer claims periods, what happens to your expenses, do you think?

MR. DOHERTY:

A. I assume that if you expend more time and energy adjudicating claims there's a cost associated with that.

STAMP, Q.C.:

Q. And would you expect that there'd be some correlation between the cost of adjudicating claims if the claims were small values versus claims that are big values?

MR. DOHERTY:

A. Potentially, and I think, you know, if the premium level for all classes of business generates the same loss ratio then you generate enough premium commensurate with the loss cost level. If you then think there's a relationship between loss cost and the work effort associated with it, then you're generating the right amount of servicing carrier cost or fee commensurate with the loss cost themselves. I think the challenge that we have in taxis is that we're paying servicing carriers X on the assumption that

the loss ratio is the same as it would be maybe in our private passenger and so the work effort is commensurate with that, but the loss ratio is three or four times as high. So I would -- my initial view on that is that they're probably not getting the amount of money that is commensurate with the work effort because we're not charging enough and so we're not really reflecting in the premium the underlying loss cost.

STAMP, Q.C.:

Q. Okay. And you spoke, Mr. Doherty, about the fact that, I guess, these expenses captured in the plan of operation and that it is approved for the Superintendent of Insurance?

MR. DOHERTY:

A. That's correct.

STAMP, Q.C.:

Q. Okay. So that's within his domain to direct and control, I guess, or at least decide whether he would agree with the plan of operation or changes to it?

MR. DOHERTY:

A. Yes.

STAMP, Q.C.:

Q. And you did speak about one particular element of expenses where there had been a proposal to amend the plan of operation to increase certain expense payments?

MR. DOHERTY:

A. Correct.

STAMP, Q.C.:

Q. And that approval had been reached with the superintendents in all of the jurisdictions where you operate save to -- did I understand you to say that you were -

MR. DOHERTY:

A. Yes.

STAMP, Q.C.:

Q. - don't have approval -

MR. DOHERTY:

A. Except for Alberta and Newfoundland, yes, Newfoundland and Labrador.

STAMP, Q.C.:

Q. And does that mean you're not going to get approval or it's just that approval has still not been received?

MR. DOHERTY:

A. I don't know that answer.

STAMP, Q.C.:

Q. That's not clear to you, is it?
MR. DOHERTY:
A. That's not clear to me.
STAMP, Q.C.:
Q. Okay. One last question. Mr. Chairman I guess touched on this as well. The issue of if you have percentage use of vehicle some, for example, personal use and then some taxi use, the thinking would be that there would be some kind of an attempt to rate the premium based on that distribution.
MR. DOHERTY:
A. For the individual?
STAMP, Q.C.:
Q. Well, I understood that there was a rate change that was proposed which would eliminate this, I guess, application of a lower rate for taxi -- you're applying a rate for taxi across the board that is the highest use rate?
MR. DOHERTY:
A. Yeah, as I understand the current process, an application would come in and on the application, the operator would identify the percentage use of their vehicle split between taxi and private passenger and as I understand

it, under the current, if they are using the vehicle for more than 50 percent for private passenger, the vehicle is rated as if it is a private passenger vehicle. There may be a business class. It might be a class 07, so there may be some reflection that you're actually using your vehicle for business class. I'm not sure on that individual rating. But if it's predominantly taxi, then it would be rated as if it were full-time taxi.
STAMP, Q.C.:
Q. And what sort of, if you like, you know, audit opportunity exists to make sure that what is being said by the person who says "I use it for 25 percent this way and 75 percent that way", what opportunity is there really to test the accuracy of that?
MR. DOHERTY:
A. I can't answer that question. I don't know.
STAMP, Q.C.:
Q. So it is a concern that it could be open for abuse?
MR. DOHERTY:
A. It may be. I don't know.

STAMP, Q.C.:
Q. Just one further question. One final question, Mr. Doherty. In terms of the changes in process or methodology that have been adopted here, were any of those changes made by you with a bias to try and achieve a certain outcome?
MR. DOHERTY:
A. No, the changes that I make broadly have I'd say three or four main focuses. My primary focus certainly is to get into what I would refer to better answers faster. I would refer to that as the effectiveness. But I also focus on efficiency. As I mentioned I think at the beginning of my remarks under direct, I've worked at a number of organizations where that was my primary responsibility was to start actuarial services or to improve existing actuarial services and so I do focus on efficiency. I do focus on making sure that as much as possible we're applying consistent approach across jurisdictions which is why we moved to a single template instead of having two different approaches, why we have a trend model that we use for all

classes. We use the exact same trend model. It's a template that you bring forward for commercial, private passengers, motorcycles. We could do Facility Association only or industry. We could apply anything to it. So, certainly we don't pick -- you know, cherry pick factors to have certain outcomes. Our goal is to get what we think is a good estimate of our future costs so that we can determine what we should be doing from a premium standpoint.
STAMP, Q.C.:
Q. Thank you. Those are all my questions, Mr. Chairman.
CHAIRMAN:
Q. Thank you. I think well that's everything now until the -- oh, I'm sorry. What's wrong with me? Questions.
MR. SHAWN DOHERTY, CROSS-EXAMINATION BY COMMISSIONER DWANDA NEWMAN
COMMISSIONER NEWMAN:
Q. I do have one question. I believe you had indicated when asked why the proposal is for an approximate 50 percent rate increase whereas indications were somewhere either 67

or 75 or 95 depending on what the parameters are that are used and I think your answer was that management wanted to cap the increase to reduce the year-on-year impact on rate payers or the burden.

MR. DOHERTY:

A. That's right, yes.

COMMISSIONER NEWMAN:

Q. Okay.

MR. DOHERTY:

A. That's part of the thought process, as I understand it, yes.

COMMISSIONER NEWMAN:

Q. Okay. Is there a standard or a guideline or a norm within Facility Association with regard to the level of rate increase that would pose a burden or that would normally be proposed from year-on-year?

MR. DOHERTY:

A. There's a number of considerations that go into deciding that. Certainly one of them is what is the overall rate level. So just to ballpark it, if you had a rate level indication that was a hundred percent and we would -- normally, I think, they would look at

like capping it at 20 percent. But if you cap it at 20 percent and you really believe you had a hundred percent indication, it's going to take you five years to get to rate level adequacy. So that's part of the consideration when we're taking it into account. In this particular situations, both last year and this year, and as I project forward with management saying experience level is here and if the experience continues like this, then here's how your future indications are going to go because your credibility weighted indication is going to move more and more toward the experience. And so when we look at the experience alone, indication being at 125 percent, that had a bearing on the decision as well that not just the 75 or the 68 or whichever one you choose, but look at if the experience continues on this way, then we're never going to catch up if we make it too low.

COMMISSIONER NEWMAN:

Q. Thank you.

COMMISSIONER OXFORD:

Q. No questions.

MR. SHAWN DOHERTY, CROSS-EXAMINATION BY VICE-CHAIR

DARLENE WHALEN

VICE-CHAIR WHALEN:

Q. I just wanted to go back to, I think, the discussion you might have had with Ms. Glynn this morning on your mission statement and the language around that. I think, correct me if I didn't -- if I'm paraphrasing you incorrectly.

MR. DOHERTY:

A. Okay.

VICE-CHAIR WHALEN:

Q. Did I understand you to say that FA's goal is to depopulate as -

MR. DOHERTY:

A. Not necessarily depopulate, but to make our market share as small as possible.

VICE-CHAIR WHALEN:

Q. Small as possible.

MR. DOHERTY:

A. And the reason we use the words "as possible" is because it varies depending on the marketplace and stuff like that really focused on.

VICE-CHAIR WHALEN:

Q. Absolutely. So you are still -- your residual

market, you're for the residual market and so I guess how is it -- well, let me preface that. Ideally I guess then the majority of the risk that would be in FA that you want to move out of FA?

MR. DOHERTY:

A. Ideally I would have no business at all.

VICE-CHAIR WHALEN:

Q. Yeah, and I think I heard you say that, yeah. So those risks would be written in the voluntary market?

MR. DOHERTY:

A. That's correct.

VICE-CHAIR WHALEN:

Q. How is it that all of the taxis, the majority of taxis, or I don't know what the number is - - I think you say almost all the taxis in Newfoundland and Labrador are in Facility Association?

MR. DOHERTY:

A. I believe it's a reflection of the rate -- the perception in the industry of the amount of rate you would need to make a return on your capital. There may be some other considerations like the amount of work effort and stuff like that and the level of expertise you would have to apply to ensure that you're underwriting the risk appropriately, that you're charging the appropriate risk and that you can manage the claims appropriately. Certainly I think at the experience loss ratios, individual voluntary companies would not be interested in writing the business at these levels.

VICE-CHAIR WHALEN:

Q. So the voluntary market doesn't have -- it doesn't have it on their books, a rate that would -- or a rate at which it will take a taxi risk?

MR. DOHERTY:

A. I would suggest perhaps -- and I don't want -- I guess I shouldn't be speaking on behalf of the industry, but I would imagine there's no appetite for offering this type of insurance at this rate level that Facility Association currently is at.

VICE-CHAIR WHALEN:

Q. So your -

MR. DOHERTY:

A. But that doesn't prevent me from trying to go

to my membership to find pockets where -

VICE-CHAIR WHALEN:

Q. Absolutely, and you referred to that. Nova Scotia, I think you said you have somebody who might be -

MR. DOHERTY:

A. But even in Newfoundland, there may be some areas of opportunity and I will be trying to discuss with membership who might have some sort of appetite. The challenge is building the infrastructure and having enough volume to make it worthwhile. That if we can only show them, you know, there's 50 taxis here that we think you can make money at at rates lower than what we charge, they may look at it and say "well, it's not worth the risk because if I come in for 50 taxis and I don't make any money, then what was the point? I would rather not." So there's a lot of consideration at individual insurance companies that certainly doesn't prevent me from going out and trying to hawk the business.

VICE-CHAIR WHALEN:

Q. So would it be a fair statement to say that there are risks in FA and that this class of

business and the taxi business that are not true risk in the sense of what FA is designed to capture?

MR. DOHERTY:

A. There may very well be and I currently do not have the capability of drilling down to identify those. And I certainly don't have the expertise and that's where it would be wonderful if we had a member company or two member companies that did have that expertise or even, as I mentioned earlier, a managing general agency that was able to come in and look at the portfolio and say, you know, even our rating algorithm, if you want, probably doesn't split out in sufficient detail the types of risk characteristics that I believe the Consumer Advocate was speaking of and in even more detail. We don't have that expertise to be able to say if you look at this, this and this, these three characteristics can differentiate this group from that group and if you focus on that and rank that stuff properly, you'd be able to do -- you know, you'd get a better risk classification piece and then we might be able

to walk in. We don't have that level of expertise unfortunately, and unfortunately, the data that we gather is through the stat plan nine, so there's restrictions on how much detail we even have available to us.

(12:30 p.m.)

VICE-CHAIR WHALEN:

Q. So, just so I understand, from FA's perspective, FA has been in this jurisdiction for a fairly long time. There was a number of years, decades perhaps that FA didn't come in with a filing.

MR. DOHERTY:

A. Correct.

VICE-CHAIR WHALEN:

Q. Last year you came in with a filing, had a 50 percent increase for this class of business. This year it's another filing, you're capping that at 50 percent. I think I read here somewhere that unless experience improves, you're going to need to file again next year.

MR. DOHERTY:

A. Yes.

VICE-CHAIR WHALEN:

Q. Absent any insurer in the regular market that

Page 153

will take this business, the taxi drivers, the two that came and spoke here and the numbers that are written to us, they have no choice. They have to take these rates.

MR. DOHERTY:

A. Unless another market comes in and is able to offer.

VICE-CHAIR WHALEN:

Q. And do you have any reason to expect--you had a 50 percent increase last year, did that de-populate--take any of the taxi business out of FA?

MR. DOHERTY:

A. I don't believe--I'm not absolutely sure. I'd have to look at more recent things. I think that our counts may have come down, but I'm not sure if it's because someone else insured the taxis or as I believe the gentleman indicated, they may have just taken the taxis off the road, I really don't know. I don't have that detail. Now, when we say, I think we're writing a 100 percent it's because I don't really know how many licensed taxis there area. There may be a member company who is writing one or two taxis already; I don't

Page 154

know. I don't get a good sense and I think IBC does a very good job of trying to ensure the data that they get through stat plan 8 which is the Automobile Statistical Plan, the general one, has good quality information. And that's what we use as our benchmark for the industry and there are minor differences between our count and the industry. So, it looks like somebody is doing something; it's just so minuscule relative to our portfolio that we basically say writing practically all of them. I don't think we are writing necessarily all of them, but practically all of them.

VICE-CHAIR WHALEN:

Q. How does a taxi operator, whether it's employee or owner, how would they approach, to end up in FA? Do they have to go to the regular market first or -

MR. DOHERTY:

A. I believe that they would work through their broker on that to try to find a market for it. I'm not sure about the actual process.

VICE-CHAIR WHALEN:

Q. But if there is no market, FA is it; that's

Page 155

where they have to go.

MR. DOHERTY:

A. Yes. The mechanism is we're the residual market. So, if you can't find anywhere else, we will insure you, if you're legally able to drive.

VICE-CHAIR WHALEN:

Q. If you're indicated rates for taxi is based on because even if a new market entrant, a new entrant came into the market that was willing to take this business presumably they would have to use the data that you're relying on or Oliver Wyman or anybody else that's coming in, it's the same data to -

MR. DOHERTY:

A. I'm not sure, I wouldn't presume to know how some of the -

VICE-CHAIR WHALEN:

Q. No, no, but -

MR. DOHERTY:

A. There may be an expert out there who says, "I know this stuff really well and I can go in and I've got rates that I feel comfortable with and I'm just going to tweak it for the differences I understand in Newfoundland".

Page 156

VICE-CHAIR WHALEN:

Q. Sure, yes.

MR. DOHERTY:

A. But I can't presume to know that.

VICE-CHAIR WHALEN:

Q. Would it be reasonable though to assume that there would be no, let's see, we wouldn't be surprised if a new entrant came in who, you know, their rates wouldn't be any much lower than perhaps the range that we're dealing with here in the -

MR. DOHERTY:

A. Certainly if a member company or anybody came to me and said, can I look at your data and what you've done because I'm interested in writing taxis in Newfoundland. I would give them everything and say, you know, this is what it is. And I would also give Oliver Wyman's view on trends and say, if you like that trend approach better, then presumably you can come up with lower rates and write the business. And if you want to know who the brokers are that we're getting that from, we can ask the servicing carriers to help us out on that. I will do what I can to help de-

Page 157

populate the Facility Association with respect to the taxis. The challenge--the reason we haven't been actively doing it is because the experience has been so bad for so long.

VICE-CHAIR WHALEN:

Q. But if that experience informs the rates, then there's no expectation the rates will be any lower with -

MR. DOHERTY:

A. Yeah, unless we're able to do something to reduce the frequency of claims or the severity of claims or if somebody could come in and do that, I don't know.

VICE-CHAIR WHALEN:

Q. How long might it take if the taxi industry or some other mechanism was in place to educate and, sort of, deal with all of the high risk issues that must be out there for that class of business, how long might it take for that new experience to filter through in lower rates?

MR. DOHERTY:

A. Well, if were to rely strictly on the experience, you've got this hangover of going for five years. I think that if--however

Page 158

there was somebody came in to pull the business away, then it's their business; it comes out of ours. And so, if they're not doing anything to affect the stuff the stays with us, but only the stuff that they take away, I don't anticipate that there would be a change, unless the taxi industry got together and they said, we learned some stuff over here from this provider of fleet management or driving behaviour changes and they decided to adopt it themselves. But to the extent that the experience in ours stays the same, now if there were--the taxi industry itself took on to--you know, we're going to reach out and we're going to find someone to help us to understand how can we reduce the claims frequency and how can we reduce the severity of claims if they do occur? And we can exhibit that that's actually doing something, I don't think we would have any problem then reflecting that we believe that notwithstanding, we got a trend model and all that stuff, but we--in that adjustment column that you saw in D1, it's the one almost at the end, if we saw solid evidence that they can

Page 159

support that, we wouldn't have any problem saying that, however introduced in 2015 was something that we believe is going to reduce loss cost by 25 percent. We would put a .75 in there and it would get reflected in our experience. Because we think, going forward, the loss costs are going to be lower because of that. We would just look for what's the support we would have for that. And certain would want it to be enough that we could justify it to this Commission. And I don't want to pre-suppose where you're going with this, but there's two pieces to it, right. We need either premium to reflect the current losses or expenses, but if we can reduce the expenses, then I'm not going to need as much rate increase. The two things can work in tandem or we can focus on the other. Just, under the current structure, it's a struggle for us and we pass those costs onto the industry.

VICE-CHAIR WHALEN:

Q. Yes, I think that's all. Thank you. Safe travels home.

CHAIRMAN:

Page 160

Q. Doesn't sound like you're worried about becoming unemployed any time soon.

MR. DOHERTY:

A. I think I'm moving out here and I'm going to -

STAMP, Q.C.:

Q. Mr. Commissioner, may I ask one question arising out of Commissioner Whalen's -

CHAIRMAN:

Q. Yes.

MR. SHAWN DOHERTY, RE-EXAMINATION BY KEVIN STAMP, Q.C.

STAMP, Q.C.:

Q. Thank you. This discussion that Commissioner Whalen seems to focus on, I think, is the issue of how does a taxi industry, sort of, improve this piece. First of all, before you, I guess turn to that, is what we're seeing in the way of the increased costs, is this all driven, if you like, on the part of conduct of taxi drivers?

MR. DOHERTY:

A. Well, the majority of the claims, activity and dollars that's we're talking about, 93 percent of the premium and the majority of the claims certainly, if not 90 percent and close to 90 percent is coming through the Third Party

Page 161

Liability. And this is events that arise from where the taxi driver is deemed, at least in some part, at fault, or else it wouldn't be through the Third Party Liability. And that's why we say, you know, if you change driving behaviour so that claims frequency drops--if the claims frequency drops, then your loss costs are going to go down. If you have the same number of claims, but you're able to do things like, I don't know, make sure your passengers wear their seatbelts or ask your passenger to check over their shoulder before they open the door and step out. Those types of things may be all that you need to put some meaningful dent into it. I'm not an expert in that, but certainly given that this is under the Third Party Liability, you would think that there is potentially something within the control of the taxis drivers that may influence those costs.

STAMP, Q.C.:

Q. Well, I mean, at first instance, it's a driver in a car, a private passenger car and a driver or a taxi and a driver, two people are on the same roads doing the same thing driving cars.

Page 162

Somehow or other one of those drivers seems to get into accidents much more frequently than the other. Is that what you're saying?

MR. DOHERTY:

A. Yes.

STAMP, Q.C.:

Q. And so if there's conduct that could be turned to on the part of the taxi driver that says, I am going to try to do something about what's happening here to bring my costs down, to bring my insurance costs down, perhaps that can be done.

MR. DOHERTY:

A. That could be done, yeah. It makes sense to me. I don't know what those activities are, but it certainly--I just caveat at that, the difference between the premium that we need and where the loss costs are right now. You need a significant reduction somehow in those expenses to close that gap. But I think there are things that can be looked at that can help out and if the taxi industry wants to come forward and work with us, I don't have any problem with that. Again, my goal is to reduce the size of the Facility Association.

Page 163

If that means helping the taxi industry make themselves better risks, if you want, and if that facilitates that process, then that's within my mission, vision, mandate and I'll certainly help out with that and I'm sure the Facility Association staff as well.

STAMP, Q.C.:

Q. Thank you, Mr. Chair.

CHAIRMAN:

Q. I just got one quick question. I'm just curious, is Uber or Lyft having any effect in Canada on taxi industry, do you know?

MR. DOHERTY:

A. Sorry? The?

CHAIRMAN:

Q. Uber or Lyft?

MR. DOHERTY:

A. We are starting to look at it. I can't recall Jill Hepburn, who is vice-president of Claims and Underwriting, has a better handle on that stuff. I do see passing emails where this is starting to come up more.

CHAIRMAN:

Q. Like they say in San Francisco, the industry is not going to exist in 18 months because of

Page 164

Uber and Lyft, well, anyway.

MR. DOHERTY:

A. Well, they used to say that about newspapers and they used to say that about a lot of stuff.

CHAIRMAN:

Q. Oh yes. Anyway, thank you very much, that was certainly interesting, certainly exhaustive.

MR. DOHERTY:

A. And exhausting.

CHAIRMAN:

Q. No, no, I didn't say exhausting; I said exhaustive and you said you can talk for days, well I think you clearly demonstrated that you could do a good job when you talk for days. Thank you.

MR. DOHERTY:

A. Thank you.

CHAIRMAN:

Q. Okay. We're adjourned now until Monday week -

MS. GLYNN:

Q. November 17, yes.

CHAIRMAN:

Q. November 17 and we got three days set aside, Monday, Tuesday and Wednesday.

MS. GLYNN:
Q. We'll see how long -
COMMISSIONER NEWMAN:
Q. 9:00 on Monday or 9:30?
CHAIRMAN:
Q. No, I thought we said 9:30. What are we starting at?
MS. GLYNN:
Q. Yes, we have a couple of people getting in late, I think.
CHAIRMAN:
Q. Okay, thank you, we'll adjourn until then.
Upon concluding at 12:43 p.m..

CERTIFICATE

I, Judy Moss, hereby certify that the foregoing is a true and correct transcript in the matter of a Facility Association Application re: Taxi and Limousine Automobile Insurance Rates heard on the 7th day of November, 2014 before the Board of Commissioners of Public Utilities, 120 Torbay Road, St. John's, Newfoundland and Labrador and was transcribed by me to the best of my ability by means of a sound apparatus.
Dated at St. John's, Newfoundland and Labrador this 7th day of November, A.D., 2014
Judy Moss

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