

1 (9:35 a.m.)
 2 CHAIRMAN:
 3 Q. Good morning everybody. So I think Mr.
 4 Johnson, I don't think there's any preliminary
 5 matters, is there, that we have to attend to?
 6 MS. GLYNN:
 7 Q. No, Mr. Chair.
 8 CHAIRMAN:
 9 Q. So, Mr. Johnson, I believe we are back to your
 10 questions.
 11 MR. SHAWN DOHERTY, RESUMES STAND, CROSS-EXAMINATION BY
 12 THOMAS JOHNSON, Q.C. (CONT'D)
 13 JOHNSON, Q.C.:
 14 Q. Thank you. Good morning, Mr. Doherty.
 15 MR. DOHERTY:
 16 A. Good morning.
 17 JOHNSON, Q.C.:
 18 Q. You've stated repeatedly in your evidence that
 19 you should look at the entire data set that's
 20 available to you. That would be your view,
 21 right?
 22 MR. DOHERTY:
 23 A. That would be my preference, absolutely.
 24 JOHNSON, Q.C.:
 25 Q. Okay. But would you agree that if you had 75

1 MR. DOHERTY:
 2 A. Correct.
 3 JOHNSON, Q.C.:
 4 Q. Okay. And I asked if it was important to get
 5 to the bottom of -- yesterday, I asked if it
 6 was important to get to the bottom of what
 7 brought about what you're perceiving to be a
 8 change in 2004, and you indicated yesterday
 9 that it would be to the extent we thought
 10 something had happened there that could be
 11 replicated sometime in the future. You recall
 12 that?
 13 MR. DOHERTY:
 14 A. Correct, yes.
 15 JOHNSON, Q.C.:
 16 Q. But so, but you didn't investigate it and I'm
 17 wondering how could you have concluded that
 18 it's not something that could happen again?
 19 MR. DOHERTY:
 20 A. Just based on my judgment.
 21 JOHNSON, Q.C.:
 22 Q. Just based on your judgment?
 23 MR. DOHERTY:
 24 A. Yes.
 25 JOHNSON, Q.C.:

1 years of data available to you, for example,
 2 the historical severity trend that occurred
 3 say during the 1940s would be useless in
 4 projecting the trend from '08 to 2015. Would
 5 that be fair?
 6 MR. DOHERTY:
 7 A. I would imagine so. I haven't analysed the
 8 data.
 9 JOHNSON, Q.C.:
 10 Q. So like, so this concept of using all
 11 available data to you, wouldn't it be fair to
 12 say that you would have to make an actuarial
 13 judgment as to the period that you are
 14 actually going to use? You wouldn't just make
 15 a mechanical judgment that I have 50 or 60
 16 years of data and I'm just going to
 17 mechanically toss it all into my regression
 18 model?
 19 MR. DOHERTY:
 20 A. I would imagine that's a fair statement, yeah.
 21 JOHNSON, Q.C.:
 22 Q. Now you put a fair bit of significance on
 23 something happening in 2004, but you haven't
 24 really investigated what's causing it,
 25 correct?

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

Page 5

1 separate the second part of -- the second half
 2 of 2004 and you carry on, right?
 3 MR. DOHERTY:
 4 A. Yes.
 5 JOHNSON, Q.C.:
 6 Q. And I'm just wondering, how much impact would
 7 there be if you didn't start in the second
 8 half of 2004 and instead you said well, let's
 9 take it from the first half of 2003? Would
 10 you expect there to be a significant impact
 11 from there?
 12 MR. DOHERTY:
 13 A. I'd have to measure it, but I would imagine it
 14 would change because you are changing the data
 15 that's included in that second period and the
 16 first period.
 17 JOHNSON, Q.C.:
 18 Q. Okay. So would it be a big undertaking to
 19 determine what sort of impact it would make?
 20 MR. DOHERTY:
 21 A. No, you can -- we can undertake to choose
 22 whatever -- investigate whatever period you
 23 like.
 24 JOHNSON, Q.C.:
 25 Q. Okay. So could you do it starting the first

Page 6

1 half of 2003 instead?
 2 MR. DOHERTY:
 3 A. Certainly, sure, absolutely.
 4 JOHNSON, Q.C.:
 5 Q. Okay.
 6 STAMP, Q.C.:
 7 Q. What exactly is the request, Mr. Johnson,
 8 please?
 9 JOHNSON, Q.C.:
 10 Q. The request is that instead of starting the
 11 analysis from the second half of 2004 and
 12 bringing it up to his conclusion date, that he
 13 starts it a little earlier, at the beginning
 14 of 20 -- beginning of 2003.
 15 MR. DOHERTY:
 16 A. Yeah, so as I understand it, the bifurcation,
 17 the first period is going to end 2002 H2 and
 18 the next period starts -
 19 JOHNSON, Q.C.:
 20 Q. Right.
 21 MR. DOHERTY:
 22 A. - 2003 H1. Yeah, we can absolutely do that.
 23 JOHNSON, Q.C.:
 24 Q. Yesterday during my questioning, you stated
 25 that in last year's Facility's Taxi filing,

Page 7

1 you thought that the FA's actuary had selected
 2 the severity trend from the private passenger
 3 data over, as you put it, a long period. You
 4 said "I think it was quite a long period".
 5 MR. DOHERTY:
 6 A. As I recall, but I'm not absolutely certain on
 7 that. I apologize.
 8 JOHNSON, Q.C.:
 9 Q. Okay. Just to -- if I could bring your
 10 attention again back to the February 6th, 2013
 11 letter. I think it was entered yesterday.
 12 MS. GLYNN:
 13 Q. I think it was Exhibit 1.
 14 JOHNSON, Q.C.:
 15 Q. If you could turn to question four. The
 16 question is repeated by Eckler in this
 17 response and it indicates "FA selects its past
 18 severity trend rate of plus 5.7 based on its
 19 estimate of private passenger industry
 20 experience over the 11-year period from 2001
 21 to 2011." Is that -
 22 MR. DOHERTY:
 23 A. Yeah, I see that, yes.
 24 JOHNSON, Q.C.:
 25 Q. Okay. So when you said that it was a long

Page 8

1 period, would you consider this a long period?
 2 MR. DOHERTY:
 3 A. Yeah, the 11-year, yeah, that's a long period.
 4 JOHNSON, Q.C.:
 5 Q. But I take it, it goes on to indicate that
 6 they looked at a past frequency rate of minus
 7 3.1 percent based on its estimate of
 8 commercial vehicle industry experience over an
 9 eight-year period from '04 to '11?
 10 MR. DOHERTY:
 11 A. That's correct.
 12 JOHNSON, Q.C.:
 13 Q. So two different periods, two different sets
 14 of data?
 15 MR. DOHERTY:
 16 A. Yes, that's how he did it, it appears, yes.
 17 JOHNSON, Q.C.:
 18 Q. Okay. And yesterday, I asked essentially what
 19 has happened over the last year or so to go
 20 from a situation where Facility stated that
 21 the Newfoundland and Labrador commercial
 22 vehicle experience could produce "no
 23 satisfactory statistically significant model"
 24 for the bodily injury severity trend to this
 25 point where it is now statistically

Page 9

1 significant and useable. And I wasn't quite
2 sure of what your explanation of that was.
3 MR. DOHERTY:
4 A. I'm not sure how the determination was made.
5 I'm not sure if there were capabilities in the
6 Eckler model similar to what we have. All I
7 can speak to is the analysis that I completed
8 with respect to the Facility Association. We
9 were able to, in our view, bifurcate the
10 severity trend. We used the same periods for
11 the severity as for the frequency and based on
12 that bifurcation, the second period from 2004
13 H2 onward was statistically significant and it
14 did produce a severity trend that we felt was
15 appropriate.
16 JOHNSON, Q.C.:
17 Q. Mr. Doherty, the filing of last year, I mean,
18 you, at that point, were, as you confirmed
19 yesterday, still Facility Association's Senior
20 Vice-President of Actuarial and Chief
21 Financial Officer?
22 MR. DOHERTY:
23 A. Correct.
24 JOHNSON, Q.C.:
25 Q. And you would have been fully familiar, in

Page 10

1 your role, with the filing that FA was making
2 in 2013 in this regard?
3 MR. DOHERTY:
4 A. To the -- I was -- how would I describe it?
5 It wasn't my work product. I was certainly
6 aware of what the indications that came out.
7 I was aware of the significant assumptions
8 that went in. I can't say I was aware of
9 every single detail that went into that
10 analyses, but we were relying on our external
11 provider, Mr. Pelly, for his work product.
12 JOHNSON, Q.C.:
13 Q. But you and your -- because you described this
14 process by which it goes forward and then it
15 gets approval by the Board of Directors.
16 MR. DOHERTY:
17 A. For the indications, yes.
18 JOHNSON, Q.C.:
19 Q. And I take it the Board of Directors, you're
20 the executive member with the actuarial
21 background on the Board of Directors, I take
22 it?
23 MR. DOHERTY:
24 A. I'm not on the Board of Directors.
25 JOHNSON, Q.C.:

Page 11

1 Q. You're not on the Board, but you -
2 MR. DOHERTY:
3 A. I'm not on the Board of Directors.
4 JOHNSON, Q.C.:
5 Q. I'm sorry. So you have input to the Board of
6 Directors, I take it?
7 MR. DOHERTY:
8 A. As part of management. Management makes a
9 recommendation. It gets taken forward by the
10 president and CEO, who is a director on the
11 Board.
12 JOHNSON, Q.C.:
13 Q. Okay. So on the management team, is there
14 others with actuarial expertise other than
15 yourself?
16 MR. DOHERTY:
17 A. No.
18 JOHNSON, Q.C.:
19 Q. Okay. So you are that person, okay. And so
20 you -- as part of your role, you would have
21 had a role in approving the filing of Mr.
22 Pelly's work last year, correct?
23 MR. DOHERTY:
24 A. Of recommending the indication as accepted,
25 yes.

Page 12

1 JOHNSON, Q.C.:
2 Q. And recommending that we go with the filing?
3 MR. DOHERTY:
4 A. Yes.
5 JOHNSON, Q.C.:
6 Q. Yes. And Mr. Pelly of Eckler, he was an
7 actuary of long standing relations with
8 Facility Association?
9 MR. DOHERTY:
10 A. Yes.
11 JOHNSON, Q.C.:
12 Q. And for instance, would you be aware that
13 Facility had Mr. Pelly -- his first name
14 escapes me at the moment.
15 MR. DOHERTY:
16 A. Brian.
17 JOHNSON, Q.C.:
18 Q. Brian Pelly. Are you aware that he testified
19 for FA in the 2002 hearing that Mr. Stamp was
20 involved in?
21 MR. DOHERTY:
22 A. I understand that to be correct, yes.
23 JOHNSON, Q.C.:
24 Q. And you're aware that, in fact, his
25 involvement goes back even before the 2002

Page 13

1 hearing?
 2 MR. DOHERTY:
 3 A. I believe so, yes.
 4 (9:45 a.m.)
 5 JOHNSON, Q.C.:
 6 Q. Yes. And he played -- he was your external
 7 actuary, just like Ernst and Young is your
 8 external actuary now? Is that -
 9 MR. DOHERTY:
 10 A. Yes, with respect to pricing. There are other
 11 actuarial services that we purchase and there
 12 are different people who do different things.
 13 JOHNSON, Q.C.:
 14 Q. And Mr. Pelly would have done hundreds of
 15 studies for Facility?
 16 MR. DOHERTY:
 17 A. I would say that's accurate, yes.
 18 JOHNSON, Q.C.:
 19 Q. And you stated yesterday that Facility
 20 Association does something in the
 21 neighbourhood of 20 or 25 rate level
 22 indications per month over a six-month period?
 23 MR. DOHERTY:
 24 A. Correct.
 25 JOHNSON, Q.C.:

Page 14

1 Q. So the application that we are seeing before
 2 us in this proceeding, that would have been
 3 one of 20 or 25 in the run of a month?
 4 MR. DOHERTY:
 5 A. With respect to Newfoundland, probably not 25
 6 with respect to Newfoundland because we do
 7 individual and fleet rated business on a
 8 combined basis. In jurisdictions where our
 9 fleets -- our rates are not regulated, we
 10 bifurcate the experience into individual and
 11 fleet and we analyze them differently. So I
 12 think in Newfoundland, we would have only
 13 looked at the classes. I think there would
 14 have been 20.
 15 JOHNSON, Q.C.:
 16 Q. So around 20 or so?
 17 MR. DOHERTY:
 18 A. Yeah.
 19 JOHNSON, Q.C.:
 20 Q. Okay. And how many actuaries do you have
 21 internally?
 22 MR. DOHERTY:
 23 A. Fellows?
 24 JOHNSON, Q.C.:
 25 Q. Actuaries.

Page 15

1 MR. DOHERTY:
 2 A. Yeah, so Fellows of the -
 3 JOHNSON, Q.C.:
 4 Q. Sure.
 5 MR. DOHERTY:
 6 A. Yeah. We have myself and one other fellow on
 7 staff.
 8 JOHNSON, Q.C.:
 9 Q. Okay. And the one other fellow on staff, he
 10 or she?
 11 MR. DOHERTY:
 12 A. She.
 13 JOHNSON, Q.C.:
 14 Q. She would have -- would they be doing the work
 15 up on some of this before it gets to you or do
 16 you play an equal role in that regard?
 17 MR. DOHERTY:
 18 A. There are analysts below the actuarial level
 19 that are responsible for pulling together
 20 certain amounts of information. There are
 21 specialists who deal with valuation who do
 22 parts of it. So, in terms of the valuation
 23 result, it's a different team that does the
 24 valuation. The results of the valuation get
 25 through the process and get signed off by our

Page 16

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

Page 17

1 JOHNSON, Q.C.:

2 Q. At the current time.

3 MR. DOHERTY:

4 A. Yes.

5 JOHNSON, Q.C.:

6 Q. Okay. And you spoke yesterday during your

7 direct testimony that your report contained an

8 error in relation to the calculation of the

9 complement of credibility.

10 MR. DOHERTY:

11 A. Correct.

12 JOHNSON, Q.C.:

13 Q. And that error got picked up through the RFI

14 process in this proceeding?

15 MR. DOHERTY:

16 A. Yes.

17 JOHNSON, Q.C.:

18 Q. And I think, for the record, the mistake was

19 detailed in reply to CA-FA-01.

20 MR. DOHERTY:

21 A. Correct.

22 JOHNSON, Q.C.:

23 Q. What was the impact of that error on the rate

24 indication?

25 MR. DOHERTY:

Page 18

1 A. It reduces the complement loss ratio position.

2 It dropped it down. So, it reduced the -- it

3 ended up reducing the indication.

4 JOHNSON, Q.C.:

5 Q. By about seven percent?

6 MR. DOHERTY:

7 A. I believe so. I can't remember off the top of

8 my head, but that sounds about right.

9 JOHNSON, Q.C.:

10 Q. Okay. And now the new trending model that we

11 spoke of a bit briefly yesterday, you

12 indicated that it was used in Nova Scotia for

13 both the recent private passenger and

14 miscellaneous vehicle filings?

15 MR. DOHERTY:

16 A. Correct.

17 JOHNSON, Q.C.:

18 Q. And I understand in recently reading the Nova

19 Scotia Board's October 23rd order that we

20 referred to yesterday that after Facility

21 Association filed these applications a quote,

22 to use the Board's terminology, a major error

23 was discovered in the model that calculated

24 the indications for private passenger

25 vehicles.

Page 19

1 MR. DOHERTY:

2 A. The error was not in the trend model. The

3 error was in the indication model.

4 JOHNSON, Q.C.:

5 Q. Okay. What was the major error?

6 MR. DOHERTY:

7 A. The error was with respect to I believe it's

8 Exhibit G1 where the final determination of

9 fixed expenses for third party liability is

10 determined. In the Exhibit, the layout is to

11 present the results on the basis of 100. So

12 if you were saying six percent, it would show

13 the number six as opposed to .06, which is the

14 percentage. But on the bottom part when an

15 additional piece was added, instead of using

16 that format of saying six representing six

17 percent, the format was a percentage, so that

18 instead of six it said .06. It showed as a

19 percentage. It wasn't picked up. When it got

20 taken forward to the C1 Exhibit rather than

21 showing six divided by 100, which gets you to

22 six percent, it was .06 divided by 100 and so

23 the result was that it understated the fixed

24 expense percentage.

25 JOHNSON, Q.C.:

Page 20

1 Q. How was this major error discovered?

2 MR. DOHERTY:

3 A. It was discovered through review with the

4 filing process.

5 JOHNSON, Q.C.:

6 Q. At the Nova Scotia Board?

7 MR. DOHERTY:

8 A. That's correct.

9 JOHNSON, Q.C.:

10 Q. Okay. So it's not something that obviously

11 you folks had seen prior. In relation to the

12 return on investment, what is the return on

13 investment rate that is in Facility

14 Association's currently approved taxi rates in

15 this province?

16 MR. DOHERTY:

17 A. I'm not sure.

18 JOHNSON, Q.C.:

19 Q. Okay. Could you find out for us?

20 MR. DOHERTY:

21 A. I could. I'd have to -- I think I have to

22 understand the question a bit better. I'm not

23 sure what I'm trying to find out.

24 JOHNSON, Q.C.:

25 Q. What's the return of investment provision that

Page 21

1 you're allowed in your currently approved taxi
 2 rates?
 3 MR. DOHERTY:
 4 A. Okay, thank you. Appreciate it.
 5 JOHNSON, Q.C.:
 6 Q. Okay. Do you understand that now?
 7 MR. DOHERTY:
 8 A. Yes, I do.
 9 JOHNSON, Q.C.:
 10 Q. Do you know the answer?
 11 MR. DOHERTY:
 12 A. No, I don't.
 13 JOHNSON, Q.C.:
 14 Q. Do you know what return of investment has been
 15 approved for inclusion in Facility's
 16 miscellaneous and private passenger rates in
 17 Nova Scotia arising from the recent Board
 18 orders in that province?
 19 MR. DOHERTY:
 20 A. I don't want to guess. I would want to go
 21 back and take a look.
 22 JOHNSON, Q.C.:
 23 Q. Okay. You can advise of what the Board
 24 approved in both of those September and
 25 October orders in that regard?

Page 22

1 MR. DOHERTY:
 2 A. For Nova Scotia?
 3 JOHNSON, Q.C.:
 4 Q. For Nova Scotia, the return on investment
 5 provision.
 6 MR. DOHERTY:
 7 A. Yeah, absolutely. Absolutely, yes.
 8 JOHNSON, Q.C.:
 9 Q. Okay. Do you recall what return of investment
 10 the Facility Association submitted for
 11 approval to Nova Scotia, to the Nova Scotia
 12 Board?
 13 MR. DOHERTY:
 14 A. Not exactly. It would have been similar to
 15 what we see here.
 16 JOHNSON, Q.C.:
 17 Q. Could you advise us on that?
 18 MR. DOHERTY:
 19 A. Absolutely, yes.
 20 JOHNSON, Q.C.:
 21 Q. And similar to -- you indicated that insurers
 22 who are, I guess, who write business through
 23 Facility, the insurers have a right to invest
 24 the money anyway they feel, I think you put it
 25 yesterday?

Page 23

1 MR. DOHERTY:
 2 A. Yeah. Just to clarify, so if you write
 3 automobile -- well, if you have a license for
 4 automobile insurance in Newfoundland, you are
 5 a member of the Facility Association.
 6 JOHNSON, Q.C.:
 7 Q. Right.
 8 MR. DOHERTY:
 9 A. We share the results of the Facility
 10 Association with members based on a share
 11 ratio that's determined specifically for
 12 Newfoundland based by accident year, split
 13 between private passenger and non-private
 14 passenger. The share ratio is loosely based
 15 on market share, but there's some adjustments
 16 for some credits, if that helps, I guess.
 17 JOHNSON, Q.C.:
 18 Q. But I guess the point I was getting at is that
 19 insurers who write business for Facility in
 20 Nova Scotia are no different from insurers who
 21 write business for Facility in Newfoundland
 22 and Labrador as regards their ability to take
 23 the premium revenue and invest it in a manner
 24 that they deem appropriate?
 25 MR. DOHERTY:

Page 24

1 A. Yeah, the premium revenue less any expenses.
 2 They hold that cash until we need it,
 3 absolutely.
 4 JOHNSON, Q.C.:
 5 Q. Okay. As regards the territorial
 6 differentiation issue, as you're aware there
 7 are four territories in Newfoundland and
 8 Labrador operating.
 9 MR. DOHERTY:
 10 A. Correct.
 11 JOHNSON, Q.C.:
 12 Q. There's territory 004 which is the Avalon
 13 Peninsula; territory No. 7 which is -- what I
 14 should really say is territory No. 5, 005
 15 first, or second, being Bonavista and Burin;
 16 and then territory 7 being the rest of the
 17 island and territory 006 being Labrador. Is
 18 that your understanding?
 19 MR. DOHERTY:
 20 A. Absolutely, yes.
 21 JOHNSON, Q.C.:
 22 Q. The evidence that has been adduced in the
 23 request for information process demonstrates
 24 that both Labrador and the Bonavista Burin
 25 territories have much lower reported pure loss

Page 25

1 ratios than either the Avalon Peninsula or the
 2 rest of the island territories.
 3 MR. DOHERTY:
 4 A. Correct.
 5 JOHNSON, Q.C.:
 6 Q. And perhaps we could bring up that request for
 7 information. I think it's PUB-FA-16 if I'm
 8 not mistaken. No, I don't think that's the
 9 right one.
 10 MR. DOHERTY:
 11 A. You had the right one. That was the right
 12 one.
 13 JOHNSON, Q.C.:
 14 Q. Yeah, 16 is the correct one. I'm sorry.
 15 MR. DOHERTY:
 16 A. Sorry, yeah, I was just mentioning it. Yeah,
 17 this is the one.
 18 JOHNSON, Q.C.:
 19 Q. And I understand that from this response we
 20 can determine that the five-year average
 21 reported pure loss ratio for taxi business in
 22 Bonavista and Labrador are 39 percent and 43
 23 percent respectively.
 24 MR. DOHERTY:
 25 A. I don't think the percentages are showing

Page 26

1 here. So you're looking at the five-year?
 2 JOHNSON, Q.C.:
 3 Q. Yeah. Actually, it might be of use to turn to
 4 the preamble of PUB-FA-18. In this question,
 5 it states that "in response to PUB-FA-16,
 6 Facility Association indicates that the five-
 7 year average reported pure loss ratio for taxi
 8 business in statistical territory codes 05 and
 9 06, which would be Bonavista and Burin and
 10 Labrador respectively, is 39 percent and 43
 11 percent. It also indicates that the five-year
 12 average reported pure loss ratio for taxi
 13 business in statistical territory codes 004
 14 and 007, which would be Avalon and the rest of
 15 island respectively, is 232 percent and 182
 16 percent respectively."
 17 MR. DOHERTY:
 18 A. I'm sorry, I just have slightly different
 19 percentages but those are close enough.
 20 JOHNSON, Q.C.:
 21 Q. Okay, close enough for present purposes. And
 22 I understand that in this reply, you were
 23 asked by the Board what consideration has or
 24 will Facility give to establishing a separate
 25 base rate for statistical territory codes 05

Page 27

1 and 06 and 04 and 07, and you indicated or
 2 Facility indicated that it currently does not
 3 differentiate base rates for third party
 4 liability but would not be opposed to it.
 5 MR. DOHERTY:
 6 A. Correct.
 7 (10:00 a.m.)
 8 JOHNSON, Q.C.:
 9 Q. And you pointed out that such a change would
 10 require additional implementation effort at
 11 the servicing carriers with respect to
 12 modifying and testing algorithms, I take it?
 13 MR. DOHERTY:
 14 A. Yes.
 15 JOHNSON, Q.C.:
 16 Q. And in your view, do we have enough data to
 17 say that there should be a distinction made in
 18 these territories?
 19 MR. DOHERTY:
 20 A. It's a challenge because the -- and I'm
 21 looking at all coverages, including the
 22 physical damage. Territory 05 over that five-
 23 year period, there's 43 recorded claims. In
 24 06, there's 34. So, you know, as we talk
 25 about the credibility standard, depending on

Page 28

1 what credibility standard you have, it's a
 2 challenge to recognize something through that
 3 process that as we look at the data seems to
 4 jump out at us. We would certainly be willing
 5 to go through that exercise, absolutely.
 6 JOHNSON, Q.C.:
 7 Q. If you were trying to -- what sort of analysis
 8 would you go through to be confident that you
 9 would be -- that you should be drawing
 10 distinctions? Because I think like in
 11 Labrador, I think there's 30 insured taxis, if
 12 I'm not mistaken, something, a very small
 13 number.
 14 MR. DOHERTY:
 15 A. I would imagine there is.
 16 JOHNSON, Q.C.:
 17 Q. And could you give us some insight as to what
 18 sort of process that would entail?
 19 MR. DOHERTY:
 20 A. It's up to the particular analyst. You choose
 21 a time period, either three or five years.
 22 Typically when we're looking at indications at
 23 a differential level, we will either use three
 24 or five years. We would typically use
 25 industry as opposed to our own, but in these

Page 29

1 cases, we would start with the position that
 2 the relativities -- much like we do with the
 3 rest of it, we would start with -- our
 4 underlying assumption is that the relativities
 5 are appropriate and then we're looking at the
 6 experience to see what is the experience
 7 telling us that they're not and then
 8 credibility weight the two of them. Much like
 9 what we're doing here if you assume that our
 10 underlying rates are adequate. So it's the
 11 same sort of approach. And like I said, we'd
 12 be certainly willing to do that. The
 13 challenge again is that there's so few claims
 14 through that process. If we're using 5410 or
 15 3246, whatever we're using for third party
 16 liability or the other coverages, because
 17 there's so few claims the experience itself
 18 doesn't get much weight. You can use
 19 alternate credibility methodologies which we
 20 currently don't use. We use one approach
 21 across all jurisdictions for all of our work
 22 effort, but you can convert those claim count
 23 type measures to an exposure measure that to
 24 the extent that there is no claims but you can
 25 expect that there would have been claims,

Page 30

1 they've just been lucky kind of thing, you can
 2 give weight to something that doesn't have any
 3 claims. It's a different credibility
 4 approach, but it's one that you might take.
 5 There are various things we could do and it
 6 gets down to -- part of it is actuarial, doing
 7 the strict numbers. The other part is
 8 ultimate management's decisions on how they
 9 want to distribute the cost and gather the
 10 premiums based on the results. Without doing
 11 the analysis, I can't really say, but just
 12 looking briefly at the number of claim counts,
 13 it would be a real challenge using the
 14 approach that we currently use to be able to
 15 meaningfully bifurcate the experience and move
 16 it away from the assumption that one base rate
 17 is applicable to all four territories,
 18 notwithstanding it really looks like it's
 19 different.
 20 JOHNSON, Q.C.:
 21 Q. Yeah.
 22 MR. DOHERTY:
 23 A. We could certainly -- I mean, you could even
 24 use ten-year period. I mean, there's other
 25 ways around that as well as trying to --

Page 31

1 again, we try to use five years for the
 2 overall indication because we think that's
 3 perhaps more reflective and there could have
 4 been things that were happening in the past
 5 that aren't -- we haven't adjusted for it
 6 properly somehow, which is why we tend to use
 7 a more recent period. It's just more comfort
 8 that it's more reflective of what's going on.
 9 For something like this, if you assume that
 10 any underlying change that has occurred with
 11 respect to taxis has applied to taxis in
 12 Newfoundland no matter where they are, then I
 13 think you can make a case for "I can use a
 14 longer period for the purposes of this." If
 15 you use a longer period, say ten accident
 16 years, you have more claims, more credibility.
 17 So there are different ways we could go about
 18 that to try and be able to offer that
 19 differentiation to the extent that we, you
 20 know, feel comfortable it makes sense.
 21 JOHNSON, Q.C.:
 22 Q. Like do you know in Nova Scotia, for instance,
 23 whether they draw distinctions between like
 24 Cape Breton, Halifax or -
 25 MR. DOHERTY:

Page 32

1 A. As far as I'm aware, currently I don't believe
 2 that our taxis differentiate territory
 3 anywhere. I'm not absolutely certain, but
 4 that's my understanding right now, but we can
 5 certainly find out if there are any rate
 6 distinctions in any one of our jurisdictions
 7 currently, if you would like.
 8 JOHNSON, Q.C.:
 9 Q. Yeah, I think it would be useful to have.
 10 Okay. Can I turn to the topic of expense
 11 provision, Mr. Doherty? Oliver Wyman, as
 12 you're aware, has noted in their report that
 13 Facility Association's contractual arrangement
 14 with its servicing carriers allows for a ten
 15 percent variable expense provision for
 16 underwriting and processing.
 17 MR. DOHERTY:
 18 A. Yes, I believe it's blended nine and one, but
 19 yes, ten percent, yeah, yeah.
 20 JOHNSON, Q.C.:
 21 Q. Nine and one, okay. And they've pointed out
 22 in their report that if Facility Association's
 23 current average premium for third party
 24 liability, accident benefits, et cetera, of
 25 around \$2900 increases as proposed to about

Page 33

1 \$4600, the servicing carriers will receive an
 2 increase on average of about \$170 from 292 to
 3 463 per taxi for underwriting and processing.
 4 You're aware of where they mention that in
 5 their report or you're aware of the fact that
 6 they raised it?
 7 MR. DOHERTY:
 8 A. Yes, I'm absolutely aware that they raised it,
 9 yes.
 10 JOHNSON, Q.C.:
 11 Q. And they suggest in their report that the
 12 Board may wish to confirm the reasonableness
 13 of these amounts?
 14 MR. DOHERTY:
 15 A. I do recall that in the report, yes.
 16 JOHNSON, Q.C.:
 17 Q. And is it reasonable, Mr. Doherty, to accept
 18 the proposition that a servicing carrier
 19 should be entitled to receive more for
 20 underwriting and processing just because of a
 21 premium increase? Is that a reasonable
 22 proposition to accept?
 23 MR. DOHERTY:
 24 A. Based on the compensation arrangement we have
 25 with them, which removes the requirement to

Page 34

1 track individual work effort for individual
 2 transactions and take into account all their
 3 fixed costs across the entire country that we
 4 operate in, rather than having to do that,
 5 much like the Ministry of Health, rather than
 6 collecting back money on a subrogation on
 7 individual claims, they instead look at it
 8 globally and say "we need this amount of
 9 money, so here's how we're going to charge
 10 it." That's, I believe, the basis for the
 11 decision to do compensation on this basis,
 12 much like with a brokerage.
 13 JOHNSON, Q.C.:
 14 Q. So I take your point that administratively
 15 it's easier and it's, you know, here's the
 16 rule, here's the formula.
 17 MR. DOHERTY:
 18 A. Correct.
 19 JOHNSON, Q.C.:
 20 Q. But what I'm getting at is does it, I guess,
 21 cause -- is it rational, for want of another
 22 way of putting it, to expect that because the
 23 premium goes up your take or the amount you're
 24 getting for the underwriting processing work
 25 should just march right along up with it?

Page 35

1 Does that -
 2 MR. DOHERTY:
 3 A. Based on the compensation, it's reason -
 4 JOHNSON, Q.C.:
 5 Q. Yeah, but I know it's based on the
 6 compensation. That's what happens. But do
 7 you have a comment on, you know, whether -- do
 8 you have any concerns about the fairness and
 9 reasonableness of that being the outcome of
 10 that methodology?
 11 MR. DOHERTY:
 12 A. No different than with premium tax. The
 13 Government of Newfoundland, when we increase
 14 our rates, they get three percent of whatever
 15 we charge. So I see no difference between the
 16 Government receiving an additional however
 17 many dollars it is because we've increased
 18 rates and they're getting three percent of
 19 that than the servicing carriers. And I think
 20 over time when you go back and look at,
 21 negotiate with the servicing carriers on their
 22 compensation, you may change the overall
 23 percentage based on whatever their current
 24 requirements are. But we don't do that on a
 25 six-month or annual basis or anything like

Page 36

1 that. So again, with respect to the
 2 compensation program we have in place, I think
 3 it's reasonable.
 4 JOHNSON, Q.C.:
 5 Q. Well, like I guess first of all, do you think
 6 that we should be concerning ourselves with
 7 whether or not the formula is producing a fair
 8 and reasonable result in terms of the amount
 9 that a service carrier is getting for
 10 underwriting and processing?
 11 MR. DOHERTY:
 12 A. I believe that's under the purview of the
 13 Superintendent of Insurance in Newfoundland.
 14 They approve the Plan of Operation, so it's
 15 certainly within their right to question that.
 16 JOHNSON, Q.C.:
 17 Q. But is it a concern of us in this hearing
 18 about the fairness and appropriateness of it?
 19 MR. DOHERTY:
 20 A. That's for the PUB to decide.
 21 JOHNSON, Q.C.:
 22 Q. Well, this formula, I guess, is meant to be a
 23 proxy for fair and reasonable compensation for
 24 underwriting and processing?
 25 MR. DOHERTY:

Page 37

1 A. I think that's a fair statement, yes.
 2 JOHNSON, Q.C.:
 3 Q. So would you agree that in order for someone
 4 to be confident that the proxy is producing
 5 fair and reasonable results, would you agree
 6 that we would need to know the actual expenses
 7 incurred by the servicing carriers in the
 8 processing and underwriting of taxis?
 9 MR. DOHERTY:
 10 A. That would certainly be one way of looking at
 11 it, absolutely, and the capital cost
 12 associated with providing the infrastructure
 13 to support that, absolutely.
 14 JOHNSON, Q.C.:
 15 Q. You cannot, I take it, point to, and I think
 16 this is borne out through the RFI process, but
 17 you cannot point to any evidence that would
 18 suggest that the cost of underwriting and
 19 processing a policy will increase, you know,
 20 170 or 180 dollars just -
 21 MR. DOHERTY:
 22 A. Based on individual transactions, no, I can't
 23 say that.
 24 JOHNSON, Q.C.:
 25 Q. No. You indicated or Facility indicated that

Page 38

1 its understanding in reply to a question that
 2 the Board asked in PUB-FA6, that it was
 3 Facility's understanding that the level is
 4 estimated so as to provide for the overall
 5 costs incurred by servicing carriers and
 6 measured or considered over the longer term?
 7 MR. DOHERTY:
 8 A. Yes.
 9 JOHNSON, Q.C.:
 10 Q. And so when you're speaking about overall
 11 costs there, are you talking about costs other
 12 than processing and underwriting?
 13 MR. DOHERTY:
 14 A. Yes.
 15 JOHNSON, Q.C.:
 16 Q. Okay, so that formula is meant to pick up what
 17 other sorts of costs besides underwriting and
 18 processing?
 19 MR. DOHERTY:
 20 A. Your infrastructure and capital costs
 21 associated with building the infrastructure,
 22 IT, the reporting requirements, managing the
 23 business, capturing information to provide to
 24 us. There are audits that we do on their
 25 business. They need to pay for their people to

Page 39

1 respond to our audits. We have information
 2 requests that we have for them. They have to
 3 report their information into IBC. They have
 4 to do reconciliations. There's a lot of that
 5 work effort that's involved in it.
 6 JOHNSON, Q.C.:
 7 Q. So is it actually written down somewhere that
 8 this formula is meant to compensate or
 9 reimburse, if you will, the servicing carriers
 10 for all these categories of expenses?
 11 MR. DOHERTY:
 12 A. It's laid out in the Plan of Operation, yes.
 13 JOHNSON, Q.C.:
 14 Q. It's laid out in the plan. Would you
 15 undertaking to file a copy of that plan?
 16 MR. DOHERTY:
 17 A. Absolutely, yes.
 18 STAMP, Q.C.:
 19 Q. Isn't the plan already -
 20 MR. DOHERTY:
 21 A. It's publicly available. It's on our website,
 22 but I'm more than happy to -
 23 JOHNSON, Q.C.:
 24 Q. Just for the purpose of this proceeding seeing
 25 we're referring to it.

Page 40

1 MR. DOHERTY:
 2 A. Sure, absolutely.
 3 JOHNSON, Q.C.:
 4 Q. And you indicate that the costs are - that the
 5 level is estimated so as to provide for the
 6 overall cost incurred and measured or
 7 considered over the longer term. What do you
 8 mean by that, "measured or considered over the
 9 longer term"? It sounded to me to be a little
 10 amorphous.
 11 MR. DOHERTY:
 12 A. Yeah, it's not - you know, we don't review the
 13 arrangement or the cost on a quarterly or
 14 annual basis. I'm not absolutely certain when
 15 the last time they did a complete review of
 16 it.
 17 JOHNSON, Q.C.:
 18 Q. Okay. Do you know - you're not completely
 19 certain whether they've done - the last time
 20 they've done a complete review of it, but do
 21 you know whether the formula has ever been
 22 assessed or considered for reasonableness?
 23 MR. DOHERTY:
 24 A. Yes, and it's presented in the Plan of
 25 Operation. There was a recent change, and by

Page 41

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

12 JOHNSON, Q.C.:

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

20 MR. DOHERTY:

21 A. That's my understanding, yes.

22 JOHNSON, Q.C.:

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

Page 42

1 MR. DOHERTY:

2 A. I believe so, yes.

3 JOHNSON, Q.C.:

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

6 MR. DOHERTY:

7 A. I don't know.

8 JOHNSON, Q.C.:

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

11 MR. DOHERTY:

12 A. I do not know.

13 JOHNSON, Q.C.:

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

17 MR. DOHERTY:

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

20 JOHNSON, Q.C.:

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

24 MR. DOHERTY:

25 A. I believe it would make sense, yes.

Page 43

1 JOHNSON, Q.C.:

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

6 MR. DOHERTY:

7 A. I think that would make sense, yes.

8 JOHNSON, Q.C.:

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

12 MR. DOHERTY:

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

15 JOHNSON, Q.C.:

16 Q. Okay.

17 MR. DOHERTY:

18 A. To me, anyway, personally.

19 JOHNSON, Q.C.:

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

Page 44

1 wanting - we're not wanting to attract
 2 business?

3 MR. DOHERTY:

4 A. Correct.

5 JOHNSON, Q.C.:

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

9 MR. DOHERTY:

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

Page 45

1 JOHNSON, Q.C.:

2 Q. No, you are not doing that. What you're doing

3 is eliminating -

4 MR. DOHERTY:

5 A. The discount.

6 JOHNSON, Q.C.:

7 Q. The discount, and it just - when I read the

8 rationale was stated that FA is the market of

9 last resort, and, therefore, we don't want to

10 be attracting business, it just seemed to me

11 to be a bit divorced from the idea that there

12 should be taken on board what's the overall

13 risk concept.

14 MR. DOHERTY:

15 A. That makes sense, yeah.

16 JOHNSON, Q.C.:

17 Q. Okay. I guess, let's put it this way, should

18 Facility be looking for things in its rate

19 application, either by way of rate indications

20 or rule changes, that are meant to make you

21 look unattractive to the market? I mean, is

22 that a viable consideration?

23 MR. DOHERTY:

24 A. Absolutely, that's our mission. Our mission

25 is to have as low a market presence as

Page 46

1 possible and we focus on efforts to help

2 depopulate the Facility Association because we

3 would prefer that the policy holders find a

4 company within the regular voluntary market to

5 write the business because they want that

6 business, and so we directly try to stay out

7 of the way of the voluntary market so they can

8 write that business.

9 JOHNSON, Q.C.:

10 Q. So that's your position even if it means

11 putting forward a rule change that's not

12 really responsive or reflective of the risk

13 situation?

14 MR. DOHERTY:

15 A. We try as best as we can to ensure that we're

16 differentiating where we can.

17 JOHNSON, Q.C.:

18 Q. There's another rating change that you're

19 putting forward that deals with rating for

20 more than one use, and as I understand it now,

21 if a vehicle is being used for more than one

22 purpose, the rate for the use goes to the use

23 that has the highest percentage of exposure.

24 MR. DOHERTY:

25 A. Okay.

Page 47

1 JOHNSON, Q.C.:

2 Q. Do you follow me so -

3 MR. DOHERTY:

4 A. That's my understanding, yeah.

5 JOHNSON, Q.C.:

6 Q. So, I take it, that if you were using a car or

7 a vehicle 65 percent of the time for taxi, and

8 35 percent for personal, it would be applied

9 the taxi rate because of the predominance of

10 the taxi use?

11 MR. DOHERTY:

12 A. That's my understanding, yes.

13 JOHNSON, Q.C.:

14 Q. And as I understand it, the proposal that

15 Facility is putting forward is that if the

16 vehicle is used for more than one purpose, the

17 highest rated class based on premium must be

18 used regardless of the percentage of exposure.

19 So as I understand that concept, if a car was

20 used as a taxi for 25 percent of the time and

21 75 percent of the time for personal use, it

22 gets rated to the class with the highest

23 premium?

24 MR. DOHERTY:

25 A. Correct.

Page 48

1 JOHNSON, Q.C.:

2 Q. And would you characterize that as a fairly

3 significant rule change?

4 MR. DOHERTY:

5 A. Potentially. If somebody is below 50 percent,

6 they're impacted by this. If their taxi usage

7 is about 50 percent, they're not.

8 JOHNSON, Q.C.:

9 Q. And again do you know how long the present

10 rule has been in place?

11 MR. DOHERTY:

12 A. I do not.

13 JOHNSON, Q.C.:

14 Q. Okay. Actually, could you find out for us how

15 long both of these present rules have been in

16 place in Newfoundland and Labrador?

17 MR. DOHERTY:

18 A. Yes.

19 JOHNSON, Q.C.:

20 Q. So you don't know how many policy holders this

21 will affect or what the impact will be?

22 MR. DOHERTY:

23 A. I do not.

24 JOHNSON, Q.C.:

25 Q. And, I take it, that it's understood - I think

Page 49

1 Oliver Wyman indicates that some of your rule
 2 changes that have premium impacts have not
 3 been elaborated upon in terms of financial
 4 impact?
 5 MR. DOHERTY:
 6 A. Correct.
 7 JOHNSON, Q.C.:
 8 Q. What is - if we use the example of a taxi
 9 being used or a vehicle being used 25 percent
 10 of the time for taxiing, and 75 percent of the
 11 time for personal use, what would be the
 12 rationale for doing that in terms of the rate
 13 differential with the change that you're
 14 looking to implement?
 15 MR. DOHERTY:
 16 A. I'm going to go after the top of my head here,
 17 and I apologize for that, but if I recall
 18 correctly, the frequency of claims for taxis
 19 relative to the frequency of claims for
 20 Facility Association commercial vehicles in
 21 Newfoundland is something in the neighbourhood
 22 of three times. That is for commercial
 23 vehicles, if you're involved in an accident
 24 once a year, a taxi would be involved in an
 25 accident three times in that same period. So

Page 50

1 just based on that relativity as against
 2 commercial, I believe that it's reasonable to
 3 assume that even if you're 25 percent taxi,
 4 you're still more likely, even with that 25
 5 percent, to get involved in an accident than
 6 if it was a commercial vehicle. Now,
 7 obviously we're talking about private
 8 passenger verses commercial, I don't know off
 9 the top of my head what the relativity is
 10 between Facility Association, private
 11 passenger claim's frequency and taxi, but we
 12 can certainly look into that. But off the top
 13 of my head, I don't see any issue with it
 14 because there is such a variance between the
 15 propensity to get involved in accidents
 16 because of the nature of the taxi business.
 17 CHAIRMAN:
 18 Q. How do you determine, you know, private
 19 driving and taxiing, how do you determine -
 20 MR. DOHERTY:
 21 A. We ask.
 22 CHAIRMAN:
 23 Q. So it's just a word--on your honour, I'm
 24 driving 200,000 miles a year and 50,000 is
 25 private and 150 is -

Page 51

1 MR. DOHERTY:
 2 A. Yes.
 3 CHAIRMAN:
 4 Q. Okay.
 5 JOHNSON, Q.C.:
 6 Q. I guess you investigate when--you investigate
 7 if an accident happens, what the vehicle is
 8 being used for at the time, I take it?
 9 MR. DOHERTY:
 10 A. I presume.
 11 CHAIRMAN:
 12 Q. Well you'd have to do that, that stands to
 13 reason, wouldn't you?
 14 MR. DOHERTY:
 15 A. Yeah. I mean, the accident is covered under
 16 the policy if, you know, if it's underwritten
 17 and they determine right now that the vehicle
 18 is used 25 percent of the time and under the
 19 current rules it's rated as private passenger.
 20 If you get involved in an accident, you got
 21 involved in an accident, the policy covers it,
 22 whether it was your private use or use as a
 23 taxi, the policy doesn't differentiate.
 24 CHAIRMAN:
 25 Q. Yeah, there's no distinction is there.

Page 52

1 JOHNSON, Q.C.:
 2 Q. So, I guess we don't know how many policy
 3 holders this is going to impact or what the
 4 impact will be?
 5 MR. DOHERTY:
 6 A. I do not know that, no.
 7 JOHNSON, Q.C.:
 8 Q. Is this a rule change that's in place in
 9 other--or is this proposed rule, is this in
 10 place in other jurisdictions or -
 11 MR. DOHERTY:
 12 A. I understand so, but I'm not absolutely
 13 certain. I believe so though. We can
 14 certainly undertake to determine that for you.
 15 JOHNSON, Q.C.:
 16 Q. Okay, thank you. Those are my questions.
 17 Thank you very much, Mr. Doherty.
 18 MR. DOHERTY:
 19 A. You're welcome, thank you.
 20 CHAIRMAN:
 21 Q. I believe, madam, you're next.
 22 (10:30 P.M.)
 23 MR. SHAWN DOHERTY, CROSS-EXAMINATION BY MS. JACQUI GLYNN
 24 MS. GLYNN:
 25 Q. It is me, can we just take a couple of

Page 53

1 seconds, we were just going to change spots
 2 here for the mic. Sorry for that, we thought
 3 we might do that at the break, so my
 4 apologies. Good morning, Mr. Doherty.
 5 MR. DOHERTY:
 6 A. Good morning.
 7 MS. GLYNN:
 8 Q. We are reaching the end. I think I'm probably
 9 going to be about an hour, hour and a half
 10 with you.
 11 MR. DOHERTY:
 12 A. That's fine.
 13 MS. GLYNN:
 14 Q. So bear with us and then you might be able to
 15 get out of Newfoundland.
 16 MR. DOHERTY:
 17 A. However long you need. I love Newfoundland; I
 18 want to come back here.
 19 MS. GLYNN:
 20 Q. Well you'll be back in a week.
 21 MR. DOHERTY:
 22 A. I will be back, yes, I will be back. I love
 23 the food, I think I've gained 8 pounds since
 24 I've been here.

Page 54

1 MS. GLYNN:
 2 Q. I don't doubt it. Mr. Doherty, can we start
 3 with can you tell me what your rate indication
 4 for third party reliability is? Whole change
 5 in the direction here now.
 6 MR. DOHERTY:
 7 A. So our indicator rate change that would
 8 generate a 12 percent post tax return on
 9 equity, assuming that the capital level is--
 10 the premium to capital ration is two to one,
 11 is 95.6 percent, but with zero cost of capital
 12 as per the requirement in Newfoundland it is
 13 75.4.
 14 MS. GLYNN:
 15 Q. And what is the indication that you have
 16 included in your proposed rates?
 17 MR. DOHERTY:
 18 A. Management is proposing a 50 percent rate
 19 increase.
 20 MS. GLYNN:
 21 Q. So can you explain to us why Facility has not
 22 applied for that full indication in your
 23 rates?
 24 MR. DOHERTY:
 25 A. That's a determination based on management, so

Page 55

1 first, management asked us to, instead of
 2 using the 1.14 percent discount rate that we
 3 did in this indication, they asked us to do it
 4 based on a 2.4, which I believe is the minimum
 5 of the guideline benchmark return on
 6 investment. That calculation was presented
 7 and I believe it was called IC1. I don't
 8 have that in front of me, so I'm not sure what
 9 that level was, but it was below the 75.4.
 10 And management determined that they wanted to
 11 cap the increase to reduce the year on year
 12 burden that would imply to allow the taxi
 13 industry time to adjust their revenue
 14 structure to reflect updated expenses.
 15 MS. GLYNN:
 16 Q. Mr. Doherty, can you confirm that there are no
 17 published or industry accepted standards for
 18 all these statistical measures that you've
 19 used in your analysis? The Canadian Institute
 20 of Actuaries doesn't say that there's a proper
 21 R square value or that there's a standard P
 22 value that you need to use?
 23 MR. DOHERTY:
 24 A. I would agree with that, yes.
 25 MS. GLYNN:

Page 56

1 Q. I'd like to bring up Exhibit D-1 please. And
 2 I want us to look at the ultimate loss ratio,
 3 Column 7. Mr. Doherty, I believe you stated
 4 that when this number is over 100, that would
 5 basically mean that Facility is in a loss
 6 situation for this class of business, is that
 7 correct?
 8 MR. DOHERTY:
 9 A. If it's over 100, that means the premium isn't
 10 sufficient to pay the indemnification of the
 11 claims. The Facility Association membership
 12 would be in a loss position at a loss ratio
 13 significantly even below 100.
 14 MS. GLYNN:
 15 Q. Because of the additional cost on top of your
 16 indemnity.
 17 MR. DOHERTY:
 18 A. Yes.
 19 MS. GLYNN:
 20 Q. Okay, so these numbers alone show that you're
 21 actually losing more money when you put in the
 22 other numbers.
 23 MR. DOHERTY:
 24 A. Right, but these ones do not take into account
 25 the 50 percent rate increase that we got in

Page 57

1 2013.
 2 MS. GLYNN:
 3 Q. Okay. So I just want to look at these numbers
 4 and it shows, obviously, that you're over 100
 5 for every year since 2003, except for 2005 you
 6 were pretty close.
 7 MR. DOHERTY:
 8 A. Correct.
 9 MS. GLYNN:
 10 Q. And a question would be how come you didn't
 11 come in before last year for a rate increase?
 12 MR. DOHERTY:
 13 A. In, I believe it was 2002, 2003, there was--
 14 and I'm not part of the Board of Directors, so
 15 I don't know and I wasn't here for the whole
 16 time, but as I understand it, the hearing
 17 process for private passenger and commercial
 18 at that point in time, the cost associated
 19 with Facility Association I believe was
 20 somewhere in the neighbourhood of a million
 21 dollars, and so there was, first and foremost,
 22 a concern that to bring forward another rate
 23 filing with respect to taxis, could incur a
 24 substantial amount of costs over and above
 25 what we needed. I think there is also a

Page 58

1 concern that the results were going in the
 2 wrong direction fairly quickly and there was
 3 some concern that maybe it wasn't fully
 4 credible and maybe something was going on that
 5 would correct itself and it was just a few bad
 6 years. Subsequent to that, and I think we
 7 have an undertaking to bring forward some of
 8 the results of those interim rate reviews and
 9 Board decisions, that would get fleshed out
 10 more.
 11 MS. GLYNN:
 12 Q. Okay.
 13 MR. DOHERTY:
 14 A. For me it's just hearsay, this is just what I
 15 hear. I wasn't around for that.
 16 MS. GLYNN:
 17 Q. Thank you. So has Facility given any
 18 consideration to rate shock to its insured, a
 19 50 percent increase last year and a 50 percent
 20 increase and how that's going to impact its
 21 insureds?
 22 MR. DOHERTY:
 23 A. Yeah, absolutely, it was a major
 24 consideration, but we also had to look at the
 25 experience and I think, you know, again if the

Page 59

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

Page 60

1 and the big challenge is what are those costs
 2 going to be.
 3 MS. GLYNN:
 4 Q. And you've kind of led me into my next line of
 5 questioning, so thank you very much.
 6 MR. DOHERTY:
 7 A. You're welcome.
 8 MS. GLYNN:
 9 Q. On the same exhibit, we see your recorded
 10 indemnity and you've brought us through the
 11 process of how you develop that into your
 12 ultimate indemnity. I just wanted to get a
 13 little bit more idea of those costs and the
 14 control that you might have over that. So do
 15 you have and can you answer this question, any
 16 idea how a claim is settled and Facility's
 17 role in that settlement process?
 18 MR. DOHERTY:
 19 A. The servicing carriers are responsible for the
 20 adjudication of claims. My understanding is
 21 that the general requirement is that they
 22 would handle the claim as if it were their own
 23 claim through their own processes. We do
 24 audit the claims processes and we do audit
 25 claims files to ensure that that criteria is

Page 61

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

11 MS. GLYNN:
 12 Q. Okay, so Facility doesn't involvement in the
 13 payouts. You don't approve payouts?

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

20 MS. GLYNN:
 21 Q. Okay, so if it was a certain threshold, you
 22 might be more involved?

23 MR. DOHERTY:
 24 A. Maybe, I don't know, I apologize.

25 MS. GLYNN:

Page 62

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

5 MR. DOHERTY:
 6 A. I believe that would be within the powers as
 7 laid out in the plan of operation.

8 MS. GLYNN:
 9 Q. Okay, and we're going to have that plan of
 10 operation?

11 MR. DOHERTY:
 12 A. Yes.

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

20 MR. DOHERTY:
 21 A. I'm not exactly sure. It's not my area of
 22 expertise. There is a person in management
 23 who is responsible for both claims and
 24 underwriting who would have much better
 25 expertise on that than I.

Page 63

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

7 MR. DOHERTY:
 8 A. Again, I think you'd have to ask our vice-
 9 president of claims and underwriting.

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

Page 64

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

5 MR. DOHERTY:
 6 A. Certainly there are jurisdictions in Canada,
 7 we operate in six provinces and the three
 8 Northern Territories. We are a market of last
 9 resort. In some of those jurisdictions we do
 10 not have almost 100 percent of the taxi
 11 market. I don't have the numbers off the top
 12 of my head, but I believe in Ontario we have
 13 about a 16 percent market share. In Alberta I
 14 think it's higher than that, but off the top
 15 of my head, certainly I think it's below 50
 16 percent in Alberta. In most of the Atlantic
 17 Provinces it's close to 100 percent. Our goal
 18 certainly is as a market of last resort we
 19 should be a market of last resort and we try
 20 and ensure that our pricing is set such that
 21 it is possible for the voluntary market to be
 22 able to offer price that is below ours and
 23 typically I believe, I've talked to a number
 24 of organizations that specialize in helping
 25 taxi fleet operators manage their fleets more

Page 65

1 efficiently with respect to their claims
 2 costs, these are managing general agencies. I
 3 believe in Ontario there's three--there's a
 4 few that are foreign but have a presence in
 5 Canada that operate on the basis of helping
 6 fleet managers manage the experience itself,
 7 both in terms of improving driving behaviours
 8 to reduce the frequency of claims and also
 9 instituting certain activities that help
 10 reduce the severity of a claim once a claim
 11 occurs. And when we are able to move
 12 ourselves and get out of the way of those
 13 types of companies, then they are able to step
 14 in and work their magic, if you want, on
 15 helping to manage those types of claimant and
 16 driving behaviours. We don't have that
 17 expertise at Facility Association.
 18 MS. GLYNN:
 19 Q. And is it just a cost barrier or -
 20 MR. DOHERTY:
 21 A. My understanding and certainly most recently
 22 I've had--I've been reached out to from a MGA
 23 who is interested in our Nova Scotia
 24 experience. Typically when they reach out to
 25 us for that, we share with them the loss

Page 66

1 experience, we share with them our
 2 indications, our view of it. I'm an open
 3 book. I want everyone to see how our results
 4 are so that they understand where there's
 5 opportunities for them to write, and I'm
 6 crossing my fingers, I think I might have
 7 somebody who'd be interested in writing some
 8 portion of the Nova Scotia business, but I
 9 don't want to put words in their mouth, but I
 10 am hopeful.
 11 MS. GLYNN:
 12 Q. Anybody interested in Newfoundland?
 13 MR. DOHERTY:
 14 A. No. In fact, I don't show anyone
 15 Newfoundland.
 16 MS. GLYNN:
 17 Q. So you're not aware then of any other insurers
 18 that would offer taxi coverage here in this
 19 Province?
 20 MR. DOHERTY:
 21 A. No.
 22 MS. GLYNN:
 23 Q. Okay. I want to spend a little bit of time on
 24 the Board's filing guidelines and we've
 25 referred to and we've looked at the Loss Trend

Page 67

1 Report that was prepared by Oliver Wyman and
 2 that was based on industry data through to
 3 December 31st, 2012, which was the basis for
 4 this filing. So you're familiar with that
 5 document?
 6 MR. DOHERTY:
 7 A. I am.
 8 MS. GLYNN:
 9 Q. Are you familiar with the process that the
 10 Board goes through every six months to get to
 11 that document?
 12 MR. DOHERTY:
 13 A. No, I'm not.
 14 MS. GLYNN:
 15 Q. Okay, so every six months Oliver Wyman will
 16 review the industry data and they will provide
 17 its opinion on the acceptable loss trend
 18 rates, and then the Board sends that out to
 19 all the insureds. And we allow for them to
 20 make any comments on those reports before we
 21 actually adopt them. So if you're not aware
 22 of that, I don't know if the next question
 23 will be fair to ask if -
 24 MR. DOHERTY:
 25 A. I am aware of the drafts going out to the

Page 68

1 industry.
 2 MS. GLYNN:
 3 Q. Okay, so did Facility provide any comments on
 4 that trend report before -
 5 MR. DOHERTY:
 6 A. No.
 7 MS. GLYNN:
 8 Q. Okay. So the Board also, in the filing
 9 guidelines, allowed for insurers to opt to use
 10 factors other than those adopted in the trend
 11 rates, which is the situation where we find
 12 ourselves. Can you confirm that Facility used
 13 the industry commercial data for Newfoundland
 14 to develop its loss trends?
 15 MR. DOHERTY:
 16 A. Yes.
 17 MS. GLYNN:
 18 Q. Okay. And does that commercial data include
 19 any taxi data?
 20 MR. DOHERTY:
 21 A. No.
 22 MS. GLYNN:
 23 Q. So then you developed your trend rates from
 24 the commercial industry data.
 25 MR. DOHERTY:

Page 69

1 A. Yes.
 2 MS. GLYNN:
 3 Q. And you applied that to your taxi data?
 4 MR. DOHERTY:
 5 A. Yes.
 6 MS. GLYNN:
 7 Q. Okay. And I'm going to spend a bit of time on
 8 the data because over the last couple of days
 9 we've heard data from here, here and here, so
 10 I'm going to ask you to turn to section
 11 2(a)2(1) of your report. I think it's page
 12 six, yes, there you go. And just down a
 13 little bit further, section 2(a)2(1). So at
 14 the bottom of that page, there's three sources
 15 of data that you identify as used throughout
 16 your report.
 17 MR. DOHERTY:
 18 A. Yes.
 19 MS. GLYNN:
 20 Q. And I'd like you to speak to what would be
 21 contained in each source of data and then what
 22 that data was used to compile?
 23 MR. DOHERTY:
 24 A. So the quarterly development valuation date,
 25 compiled as at June 30th, 2013, is a data set

Page 70

1 that contains Newfoundland non-private
 2 passenger experience for the Facility
 3 Association. It's in a data triangle
 4 structure, but it is used to determine
 5 estimates of ultimate for the non-private
 6 passenger Newfoundland experience for the
 7 Facility Association as at June 30th. Do you
 8 want me to explain where we use that now?
 9 MS. GLYNN:
 10 Q. Yes, please.
 11 MR. DOHERTY:
 12 A. So that experience then was used to determine
 13 the implied loss development factors that we
 14 applied to the Newfoundland taxi experience as
 15 at December 31st, 2012 to take it to ultimate
 16 level that would be consistent with our
 17 estimate of ultimate at June 30th, 2013 for
 18 all of non-private passenger Newfoundland
 19 business for the Facility Association. Is
 20 that good for one?
 21 MS. GLYNN:
 22 Q. So that information wasn't used in your loss
 23 trend rates?
 24 MR. DOHERTY:
 25 A. No.

Page 71

1 MS. GLYNN:
 2 Q. Okay, thank you. The second one?
 3 MR. DOHERTY:
 4 A. The second one is our Facility Association,
 5 what we call the AIX or auto insurance
 6 experience exhibits. This is data that's
 7 produced on our behalf by IBC. The experience
 8 that we use was Facility Association's
 9 Newfoundland taxi experience as at December
 10 31st, 2012. This data in its original form or
 11 format produced by IBC is contained in the
 12 annual GISA exhibits. It's, I forget which
 13 exhibit it is, but the format that is usually
 14 provided is a five-accident year experience
 15 only and then you have the option of getting
 16 the underlying data without, not being in a
 17 printed format. We asked IBC to expand the
 18 detail that's provided in that to include ten
 19 accident years, instead of five accident years
 20 and to include--I'm trying to think--we asked
 21 for a couple of additional fields so that we
 22 would be able to drill down a little more on
 23 the experience. For that particular data set
 24 though, we didn't ask for a split between paid
 25 and unpaid accounts and experience which we

Page 72

1 did this year. We did not ask to split
 2 between, among driving records, which we did
 3 this year, the 2013 experience. Territory, we
 4 didn't have it last year; we have it this
 5 year. And that's why one of the exhibits or
 6 one of the requests, I wasn't able to provide
 7 you with the territory experience as of
 8 December 31st, 2012, but I was able to provide
 9 it December 31st, 2013. But it is, that's
 10 Newfoundland taxi experience as at December
 11 31st, 2012, as reported through the servicing
 12 carriers and through Plan 9, but with no IB
 13 and R, that's just straight recorded activity
 14 as presented by the servicing carriers.
 15 MS. GLYNN:
 16 Q. And again, that was not used in your loss
 17 trend rates?
 18 MR. DOHERTY:
 19 A. That was not used in our loss trend rates,
 20 correct.
 21 MS. GLYNN:
 22 Q. Thank you.
 23 MR. DOHERTY:
 24 A. And then No. 3 is the industry experience, the
 25 calendar accident year exhibits compiled as at

Page 73

1 December 31st, 2012. Now this is a different
 2 data set, it's the loss development data sets
 3 that's produced by IBC. I understand it to be
 4 the same data set that Oliver Wyman used in
 5 their report, the only difference is that we
 6 used the indemnity only experience, as opposed
 7 to Oliver Wyman who used the industry and
 8 allocated loss adjustment experience, plus a
 9 factor, a calendar year factor associated with
 10 an allocated loss adjustment expenses.
 11 MS. GLYNN:
 12 Q. And that's the information that was used for
 13 your loss trends.
 14 MR. DOHERTY:
 15 A. The third one, yes, indemnity only portion of
 16 that.
 17 MS. GLYNN:
 18 Q. Okay, perfect.
 19 MR. DOHERTY:
 20 A. Sorry, that's commercial experience, just to
 21 make that clear.
 22 MS. GLYNN:
 23 Q. Yes. Mr. Doherty, the filing guidelines for
 24 the Board, are you aware that one of the
 25 things we state in our filing guidelines is

Page 74

1 that any changes in methodology or in judgment
 2 must be explained from one year's filing to
 3 the next?
 4 MR. DOHERTY:
 5 A. Yes.
 6 MS. GLYNN:
 7 Q. Just a couple of housekeeping issues and then
 8 I would be going into the loss trend rates, so
 9 I would suggest that I have two or three more
 10 questions and then perhaps we could take a
 11 break before I get into the heart of the
 12 matter, I guess. Can you explain why there is
 13 such a difference between the results by
 14 territory?
 15 MR. DOHERTY:
 16 A. Can I explain it? No.
 17 MS. GLYNN:
 18 Q. You've also stated several times throughout
 19 the last couple of days that you didn't have
 20 all the information that you needed to truly
 21 test the validity of Oliver Wyman's report,
 22 some of their models and some of their trends.
 23 Is there a reason that you didn't ask for that
 24 information through the RFI process?
 25 MR. DOHERTY:

Page 75

1 A. Through the -
 2 MS. GLYNN:
 3 Q. The Request for Information process leading up
 4 to this hearing.
 5 MR. DOHERTY:
 6 A. Is there any reason? No, there is no reason.
 7 MS. GLYNN:
 8 Q. And is Oliver Wyman's report reasonable?
 9 MR. DOHERTY:
 10 A. I would say that it's one way of coming up
 11 with it, yes.
 12 MS. GLYNN:
 13 Q. Okay. I would suggest that we take a short
 14 break and come back.
 15 CHAIRMAN:
 16 Q. Certainly, how long are you suggesting?
 17 MS. GLYNN:
 18 Q. I probably have another hour when we come
 19 back, so I'd be happy with 15 minutes. Does
 20 that work for everybody.
 21 JOHNSON, Q.C.:
 22 Q. I'm in your hands.
 23 CHAIRMAN:
 24 Q. Okay.
 25 MS. GLYNN:

Page 76

1 Q. Perfect, thank you.
 2 (10:52 A.M.) (RECESS)
 3 (11:20 A.M.) (RESUMED)
 4 MS. GLYNN:
 5 Q. Back to me.
 6 CHAIRMAN:
 7 Q. Go to it.
 8 MS. GLYNN:
 9 Q. So, Mr. Doherty, I'm going to start asking
 10 some questions about the loss trend rates.
 11 MR. DOHERTY:
 12 A. Okay.
 13 MS. GLYNN:
 14 Q. And not only is this one of the biggest
 15 differences between yourself and Oliver Wyman,
 16 but it's also where some of the differences
 17 come between last year's filing and this
 18 year's filing. So it's estimated that
 19 Facility's loss trend rates, with no other
 20 change in assumptions, would result in a rate
 21 level indication approximately 26.5 percentage
 22 points higher than Oliver Wyman's, can you
 23 confirm that number?
 24 MR. DOHERTY:
 25 A. That sounds about right, yeah.

Page 77

1 MS. GLYNN:
 2 Q. And we're going to jump right into the time
 3 periods and I'll apologize in advance, this is
 4 new territory for me so hopefully everybody
 5 will keep me back on track. But the
 6 difference in the time periods is Facility was
 7 using 20 years and Oliver Wyman was using
 8 years, different periods but all of them were
 9 10 years or less.
 10 MR. DOHERTY:
 11 A. I'm not sure I would necessarily characterize
 12 it that way because we looked at 20 years.
 13 Oliver Wyman's report has 15 years, so in my
 14 view because we were showing 20 years, the
 15 view seems to be that we're using that as our
 16 trend, well then I would say Oliver Wyman was
 17 using 15 years, they just chose to exclude a
 18 number of years in their analysis; whereas we
 19 looked at 20 years and included all those 20
 20 years as potential for our analysis.
 21 MS. GLYNN:
 22 Q. Okay. So you used your 20 years experience,
 23 but then if you identified a trend within that
 24 20 years, then you selected that shorter time
 25 period?

Page 78

1 MR. DOHERTY:
 2 A. If there is a change in the trend, if over the
 3 20 years we noticed only one trend and there
 4 was no statistical difference when we tested
 5 for other periods, then we would have taken a
 6 20 year.
 7 MS. GLYNN:
 8 Q. And this has been covered, but can you give us
 9 an overview again of why Facility uses a 20
 10 year time period.
 11 MR. DOHERTY:
 12 A. Because the data is available and it allows
 13 you the opportunity to see how changes in
 14 trend rates, if there are any over a longer
 15 period, how they might move.
 16 MS. GLYNN:
 17 Q. Okay. So, Mr. Doherty, is there a risk, I
 18 mean for the trend rate what we're trying to
 19 do is look at the data from 20 years ago, over
 20 that time period, and use that data to
 21 identify a trend of how our claims experience
 22 is going to go into the future, correct?
 23 MR. DOHERTY:
 24 A. Yes.
 25 MS. GLYNN:

Page 79

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

Page 80

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

Page 81

1 is being said is if you use a different
 2 period, that is you're using different data
 3 points to estimate the parameter, which in
 4 this case is trend, you get a different answer
 5 if you use different data. That is absolutely
 6 correct because it is a mechanical exercise,
 7 just like if you took 10 people and wanted to
 8 determine their average height, if you only
 9 took five of them, you would get a different
 10 answer if you took the other five because
 11 you're taking an average. That doesn't mean
 12 that it's a better measure using either of the
 13 two fives than using all the 10 to come up
 14 with their average height overall. So taking
 15 different measurement--different periods is a
 16 way of coming up with estimates of a trend,
 17 but if a trend applies to a specific period,
 18 estimating that trend, not using the entire
 19 period but using smaller subsets of it, is not
 20 going to get you, in my opinion, a better
 21 estimate with smaller variance. You may get
 22 the same estimate, but you're better off just
 23 using the entire period if you think that one
 24 trend happened over that entire period.
 25 MS. GLYNN:

Page 82

1 Q. Mr. Doherty, if we could bring up CA-OW-1
 2 please? And that's the Loss Trend Report, and
 3 if we could go to--it's page 5 of the report,
 4 just down a little bit farther please?
 5 Actually I think it might be the next page, I
 6 think it's page 5. Keep going, there we go,
 7 thank you. So you can see here that Oliver
 8 Wyman found that there was quite a degree of
 9 volatility in the last six years. Can you
 10 tell me if this is incorporated into your
 11 experience period?
 12 MR. DOHERTY:
 13 A. This is loss cost on an accident year basis,
 14 as opposed to accident and a half. Those
 15 would not be the same as mine because I'm
 16 using indemnity only. This includes expenses.
 17 We have a different estimate process, we are
 18 using different loss development factors than
 19 Oliver Wyman did, so I can't confirm that I
 20 would get the exact same numbers, but
 21 certainly there is a significant amount of
 22 process variance in the data itself, more so
 23 in the review that we did on the severity side
 24 than on the frequency side for most coverages.
 25 MS. GLYNN:

Page 83

1 Q. Okay. Mr. Doherty, you've also stated a few
 2 times that you think a larger sample size with
 3 more data points, that that's better for
 4 completing your analysis, that you can feel
 5 more comfortable -
 6 MR. DOHERTY:
 7 A. For a trend estimate, yes, I believe so.
 8 MS. GLYNN:
 9 Q. So do you think that Facility would use 21
 10 years next year?
 11 MR. DOHERTY:
 12 A. We don't get data sets that are available with
 13 21 years. If someone gave me a 21 year
 14 period, I would certainly incorporate all of
 15 that in looking at the whole experience
 16 period. If there is a bifurcation between the
 17 same periods that I'm seeing now, I would have
 18 the structure the same that I currently have
 19 it, so I would have the first however many
 20 years that is up until 2004 H1 is one period
 21 and after 2004 H2 and beyond as a second
 22 period.
 23 MS. GLYNN:
 24 Q. How far do you think you'd go? Twenty-five
 25 years?

Page 84

1 MR. DOHERTY:
 2 A. If I have the data available to me, sure.
 3 MS. GLYNN:
 4 Q. Thirty?
 5 MR. DOHERTY:
 6 A. Well at 30 years I'm not really going to be
 7 using the information, so at some point I'm
 8 sure because I have restricted resources, I
 9 don't have an unlimited budget, we would
 10 probably look at is there sufficient
 11 information in that to help us understand
 12 again potential changes that may happen in the
 13 future, whether or not there's a sufficient
 14 return on that resource allocation.
 15 MS. GLYNN:
 16 Q. And you're saying that data is not available
 17 to you, anything beyond -
 18 MR. DOHERTY:
 19 A. Not IBC, IBC produces only 20 accident years
 20 in their six-month data sets.
 21 MS. GLYNN:
 22 Q. Okay. Mr. Doherty, I'd like to move on to the
 23 reform factor and the difference here is that
 24 you found evidence to include a reform factor
 25 and Oliver Wyman found that the reforms didn't

Page 85

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

Page 86

1 the result of this bodily injury reform, this
 2 \$2,500 deductible, can you tell us what the
 3 change was that Facility found into the bodily
 4 injury loss trend?
 5 MR. DOHERTY:
 6 A. Yes, so all we've done here is again, we had
 7 fitted values from our modelling. At 2003
 8 first half, 2003 second half and then 2004
 9 first half and 2004 second half. So we
 10 compare the change in--the change in frequency
 11 fitted between 2003 H1 and 2003 H4 and we come
 12 up with what I believe is the 1.039, so
 13 there's a 3.9 percent increase in the fitted
 14 frequency between 2004 H1 and 2003 H1. This
 15 is a simplified estimate of what the
 16 underlying trend is over that period. We do
 17 the same result for 2004 H2 which is the first
 18 period that has, I guess, the reform piece or
 19 where we identified a change where you can see
 20 the fitted frequency has dropped down to 6.51.
 21 And so if you take the same logic then, you
 22 can look at how has 2004 H2 move relative to
 23 2003 H2, it's dropped by just under 25
 24 percent, and so we attribute that change to
 25 whatever is causing the underlying change at

Page 87

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

Page 88

1 bodily injury loss cost?
 2 MR. DOHERTY:
 3 A. Yes.
 4 MS. GLYNN:
 5 Q. And can you confirm that Facility found that
 6 other coverages were also impacted by this?
 7 MR. DOHERTY:
 8 A. Yes, there's a change at the same point in
 9 time through our analysis.
 10 MS. GLYNN:
 11 Q. If I give you the figures, property damage
 12 loss costs were reduced by 17.2 percent, does
 13 that sound right?
 14 MR. DOHERTY:
 15 A. Okay, sounds -
 16 MS. GLYNN:
 17 Q. Accident benefit reduced by 72.6.
 18 MR. DOHERTY:
 19 A. Okay.
 20 MS. GLYNN:
 21 Q. Sound -
 22 MR. DOHERTY:
 23 A. Yeah, I'll take it that you've -
 24 MS. GLYNN:
 25 Q. I'd also like to bring up question 13(c), I

Page 89

1 think it's in the same package there. And
 2 Oliver Wyman had asked you to explain how the
 3 2004 reforms, the bodily injury deductible or
 4 whatever it was that happened in 2004, had had
 5 such a significant impact on the accident
 6 benefit losses and I'm going to walk you
 7 through this a little bit. The first part of
 8 the response is that "Our general approach is
 9 to look at reform period impacts for all
 10 coverages and for all metrics as a matter of
 11 course. Where we see that there appears to be
 12 a correlation, we will use this, even if it
 13 may not make intuitive sense, we prefer to let
 14 the data speak." And Mr. Doherty, I'd like
 15 you to explain that statement a bit further,
 16 if you could.

17 MR. DOHERTY:

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

Page 90

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

19 MS. GLYNN:

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

Page 91

1 at the data?
 2 MR. DOHERTY:
 3 A. Yes. I'm not even--at that point we're not
 4 even looking at what the reform was. We just
 5 know that a reform, it doesn't matter what has
 6 happened during this period, so we're just
 7 splitting it up to see if, whatever that
 8 reform was had an impact at all. There is,
 9 you know, correlation, if you want, between
 10 events that give rise to claims and multiple
 11 coverages, so if, for instance, you get
 12 involved in an accident and it's your fault,
 13 then you can claim for accident benefits, you
 14 can claim for collision if you've purchased
 15 that, so there's a correlation between one
 16 event could give rise to two different claims
 17 under two different coverages. If there's a
 18 third party involved, you would be seeking
 19 redress from that third party, but if you've
 20 got collision, you may be looking at, you
 21 know, part of it was your fault, so you might
 22 have some pick up on the collision coverage.
 23 There seems to be some intercon activity
 24 between certain coverages because you can have
 25 multiple claims arising from a single event.

Page 92

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

7 MS. GLYNN:

8 Q. Okay.

9 MR. DOHERTY:

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

13 MS. GLYNN:

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

17 MR. DOHERTY:

18 A. Yes.

19 MS. GLYNN:

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

25 MR. DOHERTY:

Page 93

1 A. I apologize, on this one that's not actually
 2 the fit and I apologize. What happened was we
 3 moved some of the charts and some of the data
 4 around in an earlier sheet and this one points
 5 to it, but it's using a formula called
 6 indirect, so we tell it what cell to go look
 7 at, but the actual data got moved to a
 8 different cell and it wasn't picked up by--
 9 unfortunately for the person who was preparing
 10 this filing, so this does not reflect the -
 11 MS. GLYNN:
 12 Q. So this data in this graph for accident
 13 benefit loss costs -
 14 MR. DOHERTY:
 15 A. Those are not the fitted values, the actuals
 16 are correct, but that's not the fitted values
 17 that we had. You would have to go down and
 18 look at and unfortunately I don't have a chart
 19 in here that represents then the loss costs.
 20 You can see the frequency and severity, but
 21 this does not show the actual fitting and I
 22 apologize.
 23 MS. GLYNN:
 24 Q. And I think I'm okay because I just want to
 25 point to where that dip happened and I want to

Page 94

1 point you to, you know, there's another dip
 2 there, looks like second quarter of 2000 and
 3 it doesn't really bear out on the graph, but
 4 if you look at the numbers for 2009, we have a
 5 drop from 1230 to 562, so are those points
 6 that you would have went back and looked at as
 7 well that you would have done further
 8 investigation on?
 9 MR. DOHERTY:
 10 A. I'm not sure which periods--again, we don't
 11 look at--we do look at frequency, severity and
 12 loss costs, we tend to focus on the frequency
 13 and severity. I would imagine they may have,
 14 I can't speak to it right off the top of my
 15 head, I can remember exactly how many
 16 different periods were looked at and I
 17 apologize again for this display. This
 18 display is wrong.
 19 MS. GLYNN:
 20 Q. So did Facility consider any other reason for
 21 the data point in second quarter--for the drop
 22 in 2004? Did you consider that it might be an
 23 outlier?
 24 MR. DOHERTY:
 25 A. No.

Page 95

1 MS. GLYNN:
 2 Q. I'd like to bring back up the answer to
 3 question 13(c) please, filed on April 16th.
 4 Okay, and you go on in this answer, we talked
 5 about letting the data speak and it says "It
 6 could be that the reforms have unintended
 7 consequences in relation to claimant
 8 behaviour", and I think this is the halo
 9 effect that you were talking about.
 10 MR. DOHERTY:
 11 A. Yes.
 12 MS. GLYNN:
 13 Q. Okay. "--we don't know, as we are not trying
 14 to estimate similar impacts related to other
 15 reform periods, we don't really see that this
 16 is an issue. It is what it is." And again,
 17 we may covered this, but are you saying that
 18 you're not sure there's a correlation then
 19 between the reforms and the data that we just
 20 looked at?
 21 MR. DOHERTY:
 22 A. Correct.
 23 MS. GLYNN:
 24 Q. If we could go underneath the graphs, we need
 25 to go to the next page there, please. There

Page 96

1 we go. "We again question the focus on"--and
 2 I'm assuming that's the 2004 reform factors,
 3 "as the factors do not have a direct bearing
 4 on the current indication"--and I have trouble
 5 with that statement, Mr. Doherty, and I mean,
 6 as we sit here listening to the evidence over
 7 the last couple of days, not necessarily the
 8 2004 reforms, but whatever happened in 2004,
 9 obviously has had a significant effect on the
 10 indications, it split your loss experience
 11 period, you've divided that into two, you've
 12 included it as a factor, so it has had some
 13 bearing on the indications.
 14 MR. DOHERTY:
 15 A. Well I would go back to, again, if you would
 16 prefer I can ignore all of the data before
 17 2004, there would be no 2004 reform factor,
 18 the slopes of those two lines that you see
 19 would still be the same. So I guess the
 20 frequency appears to be dropping down a little
 21 bit, I don't know exactly what the trend is
 22 there and the severity is going up. And I
 23 believe on the severity we may have had an
 24 outlier on a later period, but I don't know
 25 for sure. So as far as I am concerned, we can

Page 97

1 pretend that that didn't exist, I can focus on
 2 the most recent 8 years only as my measurement
 3 period, I will come up with those same trends
 4 that I have here, if that makes people feel
 5 more comfortable then I'm not using 20 years
 6 worth of data. You don't get a different
 7 answer than what I have here.
 8 MS. GLYNN:
 9 Q. Okay. And we don't need you to do that, but I
 10 just want to make sure that when we read that
 11 statement, like I said, to me I read that as
 12 these reform factors or whatever happened in
 13 2004 doesn't matter.
 14 MR. DOHERTY:
 15 A. Not with respect to how we determined the
 16 trend post 2004. Now if someone looks at it
 17 and says, well, I look at this and I think
 18 that perhaps the change in frequency occurred
 19 before 2004, and looking at that I can see
 20 someone making that judgment and then saying,
 21 well but for severity, I think it happened
 22 after 2004. Well then my concern is well now
 23 you've got--you're trying to come up with loss
 24 costs, but you're using two different periods,
 25 one for frequency and one for severity and I

Page 98

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

Page 99

1 would imagine.
 2 MS. GLYNN:
 3 Q. So it comes down to judgment.
 4 MR. DOHERTY:
 5 A. It does come down to judgment, absolutely.
 6 MS. GLYNN:
 7 Q. Mr. Doherty, can you confirm that the impacts
 8 of this, I keep calling them the 2004 reforms.
 9 MR. DOHERTY:
 10 A. And I do too, so -
 11 MS. GLYNN:
 12 Q. But whatever happened in 2004, that was found
 13 to be zero percent in Facility's filing for
 14 last year for 2013.
 15 MR. DOHERTY:
 16 A. As I understand Eckler's review, yes.
 17 MS. GLYNN:
 18 Q. Okay, I'd like to bring up question 5, which
 19 was responded to on April 16th please, it's
 20 the same package, question 5. And here Oliver
 21 Wyman, and this goes back to our filing
 22 guidelines, we need to understand what that
 23 change happened from your last filing. So
 24 Oliver Wyman questioned whether that 37.1
 25 percent impact on bodily injury, was that

Page 100

1 consistent with your last filing. And if you
 2 read the answer, it said that "it used a
 3 different approach to loss trend structure
 4 modelling, that it treated product reforms
 5 outside of the trend model itself, focusing
 6 instead on trends and generally treated
 7 product reform as an external factor."
 8 MR. DOHERTY:
 9 A. As I understand Eckler's process.
 10 MS. GLYNN:
 11 Q. So it wasn't built into the model?
 12 MR. DOHERTY:
 13 A. As I understand it, I could have a
 14 misunderstanding of their model, but as I
 15 understand it, their approach would be we will
 16 estimate a reform impact for something and
 17 then we will adjust the data. So if you had,
 18 like our data shows--it appears to show
 19 something going up here and then it's
 20 significantly down. They would have said,
 21 well, we've estimated reform and so, the data
 22 comes down by 5 percent or maybe it comes down
 23 by 75 percent, but they would adjust the
 24 historical data and then say, now that I got
 25 my data adjusted, I can fit something over the

Page 101	Page 103
<p>1 two periods combined as if they're one period 2 because they should be on the same basis. 3 That's not the way that we do it. But it is 4 an acceptable way of doing it. 5 MS. GLYNN: 6 Q. Okay. I want to bring up what we are going to 7 enter now as Exhibit No. Information 4, thank 8 you, and that's page 2.5 of last year's 9 memorandum. 10 MR. DOHERTY: 11 A. Okay. 12 MS. GLYNN: 13 Q. Dated January 23rd. I think it's already been 14 circulated to everybody. And this is where 15 you need to help me, Mr. Doherty. If I read 16 the mathematical equation that's starting 17 there in the third paragraph, and I'm not 18 going to read it out, but it has a reform 19 variable included into it. So to me, that 20 looks like it was included into the model. Is 21 that correct? 22 MR. DOHERTY: 23 A. That would -- yeah, that would certainly look 24 like it, yes. 25 MS. GLYNN:</p>	<p>1 MS. GLYNN: 2 Q. Okay. I would like to bring up the response 3 to Question 4 that was filed last year and 4 that was entered as Exhibit No. 1 yesterday 5 please. Oliver Wyman questioned in, I think 6 it was 4B, I apologize, the impact of the 7 reform and when you considered that in 8 reviewing your frequency trend rate. So yes, 9 B, sorry. Could we go down to the answer to 10 that, the response? Okay. And last year it 11 was stated that "the impact of the 2004 12 reforms was considered and like Oliver Wyman 13 found in its analysis, the reform variables 14 were not found to be statistically 15 significant. For this frequency trend 16 inclusion of 2004" -- we're not worried about 17 that part of it. So the explanation we asked 18 why the reforms were found to be so important 19 this year as opposed to last year. The answer 20 that we received in our RFI was that there was 21 a difference in the model. We know that's 22 probably not correct. So can you tell me, Mr. 23 Doherty, how looking at the same data last 24 year this impact was not considered to be 25 statistically significant, but this year it's</p>
<p>Page 102</p> <p>1 Q. Okay. And so this is from last year's filing? 2 MR. DOHERTY: 3 A. Yes. 4 (11:45 a.m.) 5 MS. GLYNN: 6 Q. Okay. I'd also like to go to Exhibit 4 from 7 the same document of last year and then that 8 would be entered as Information No. 5. And if 9 we go to under the bodily injury coverage, 10 independent variables are listed there and the 11 same for property damage, there's an 12 independent variable of severity, but again, 13 there's no independent variable listed for 14 reform factor. 15 MR. DOHERTY: 16 A. Okay, yeah. 17 MS. GLYNN: 18 Q. So is that different then from your 19 explanation of - 20 MR. DOHERTY: 21 A. Yeah, it appears to be so, so as I said my 22 understanding was incorrect. It looks like 23 they did try and physically account for it 24 within the data without adjusting the data. I 25 apologize.</p>	<p>Page 104</p> <p>1 a very important part of the indications? 2 MR. DOHERTY: 3 A. It's the way that we bifurcated the experience 4 periods and I'm not sure exactly what the data 5 was that Mr. Pelly was looking at. I view it 6 differently. 7 MS. GLYNN: 8 Q. Okay. I'm just going to back step a little 9 bit here because I also asked if the bodily 10 injury reforms or again whatever happened in 11 2004, we talked about how that impacted 12 property damage and we talked about how that 13 impacted accident benefits. Facility also 14 determined that that impacted collision and 15 comprehensive as well? 16 MR. DOHERTY: 17 A. There appeared to be a change at that same 18 time frame, yes. 19 MS. GLYNN: 20 Q. Okay. And as a very small housekeeping item, 21 I'd like to bring up page 196. We think there 22 may be a small typo there unless there was 23 reforms in 2002. 24 MR. DOHERTY: 25 A. Probably a typo.</p>

Page 105

1 MS. GLYNN:
 2 Q. Okay. 196 please of the actuarial memorandum
 3 from this year. So it says at the top there
 4 the years used, adjusted for seasonality and
 5 then a 2002 reform.
 6 MR. DOHERTY:
 7 A. It was split at 2002. I don't know what the
 8 reform would be though.
 9 MS. GLYNN:
 10 Q. Okay. So this goes back to the discussion of
 11 the 2004 split may not necessarily be the
 12 reforms that were introduced?
 13 MR. DOHERTY:
 14 A. Right.
 15 MS. GLYNN:
 16 Q. Okay. So for -
 17 MR. DOHERTY:
 18 A. The description here is inaccurate with
 19 respect to a reform. The analysts selected
 20 bifurcation at 2002.
 21 MS. GLYNN:
 22 Q. Okay, perfect. That clears that up. Mr.
 23 Doherty, I'm going to move into the
 24 development periods and I'd like to bring up
 25 page 157 of the memorandum and there was two

Page 106

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

Page 107

1 Q. Okay. And then the numbers -- the group of
 2 numbers at the very bottom of the page, that's
 3 -- if we go back to the heading, sorry,
 4 Andrew, if we can -- no, no, if we can see
 5 what the headings for those bottom numbers
 6 are? So that's various averages of the top
 7 group of numbers?
 8 MR. DOHERTY:
 9 A. Yes.
 10 MS. GLYNN:
 11 Q. Okay. And then the middle group of numbers
 12 there, those are the actual development
 13 factors chosen by Facility?
 14 MR. DOHERTY:
 15 A. Yes.
 16 MS. GLYNN:
 17 Q. Okay. So if we look at the numbers for 18 to
 18 24 time period and we can look at the bottom
 19 group, the averages, they're all below one
 20 there. I think the closest one to one is
 21 .9752 yet the selection by Facility was
 22 1.1491.
 23 MR. DOHERTY:
 24 A. Yes.
 25 MS. GLYNN:

Page 108

1 Q. Could you explain the basis for that
 2 selection?
 3 MR. DOHERTY:
 4 A. I'm not exactly clear on the basis for that
 5 selection, but I can undertake to get that
 6 from the appointed actuary.
 7 MS. GLYNN:
 8 Q. Okay. That would be wonderful. And then the
 9 same actually for the period of 48 to 54
 10 months, the same thing. We can see that the
 11 averages are all below one.
 12 MR. DOHERTY:
 13 A. Okay.
 14 MS. GLYNN:
 15 Q. Yet the final selection was 1.0353
 16 MR. DOHERTY:
 17 A. Okay.
 18 MS. GLYNN:
 19 Q. Okay. Thank you very much. The next point or
 20 the next area, I guess, is data selection and
 21 Mr. Johnson spoke about this in his cross, the
 22 fact that last year private passenger data was
 23 used to develop bodily injury severity and
 24 accident benefit frequency and severity and
 25 the reason for that was that the actuary from

Page 109	Page 111
<p>1 last year found that the commercial vehicle 2 data didn't provide a satisfactory 3 statistically significant model. 4 MR. DOHERTY: 5 A. I believe it was for severity. I think the 6 private passenger was used for severity, not 7 for frequency. 8 MS. GLYNN: 9 Q. Okay. My apologies. Can we bring up Question 10 10 which was answered on March 31st of this 11 year? And in this question, Oliver Wyman 12 asked you to explain why private passenger 13 data was used last year and then you've 14 changed it for this year and your answer was 15 that "we believe the risk characteristics that 16 drive frequency and severity changes over time 17 for taxis are more akin to those of commercial 18 vehicles than private passenger." 19 MR. DOHERTY: 20 A. Yes. 21 MS. GLYNN: 22 Q. And we're fine with that. What we want to 23 know is the difference from last year. Why 24 the change from last year? 25 MR. DOHERTY:</p>	<p>1 the data, but I'm satisfied with the parameter 2 selection, yes. 3 MS. GLYNN: 4 Q. Okay. I'd like to look at page 40 of the 5 memorandum from this year as well, and if we 6 look at column six, the ultimate indemnity, 7 and we look at the third party liability for 8 2012. So we need to go down a little bit 9 further. And we see there that it's listed at 10 2.8 11 MR. DOHERTY: 12 A. Yes. 13 MS. GLYNN: 14 Q. And I want you to keep that number in your 15 mind for a second because then I want to look 16 at page 80 of the same document. 17 MR. DOHERTY: 18 A. Yeah. 19 MS. GLYNN: 20 Q. And in the numbering column -- it's listed 21 total, column 22. We need to go down to 2012 22 again please. The number there is a little 23 over five million. So can you explain the 24 difference in -- why the difference in those 25 two numbers?</p>
<p>Page 110</p> <p>1 A. We were able to find for severity a 2 statistically satisfactory model for 3 commercial severity and so we used it. 4 MS. GLYNN: 5 Q. So did the data change from last year? 6 MR. DOHERTY: 7 A. Yes. 8 MS. GLYNN: 9 Q. Because we've added a year into it? 10 MR. DOHERTY: 11 A. We've added a year. I also believe, and I'm 12 not sure on this, but I believe Eckler was 13 using indemnity plus expenses where we're 14 using only indemnity. I don't know if that 15 had an impact. All I know is that when we 16 review the commercial severity, we were able 17 to determine to my satisfaction a parameter 18 for the trend. 19 MS. GLYNN: 20 Q. Okay. So you're satisfied that the data for 21 commercial vehicle was stable enough to use 22 for this year? 23 MR. DOHERTY: 24 A. Yes. There's a lot of process variance, 25 absolutely, and I think you can see that in</p>	<p>Page 112</p> <p>1 MR. DOHERTY: 2 A. Sorry, could you slide up? I just want to see 3 what the data is here. Okay, if you could 4 slide down now, please? So that's the link 5 ratio estimate for 2012 and if you slide down 6 to the next section, please. No, go back up 7 again. I apologize. I'm just trying to - 8 MS. GLYNN: 9 Q. Absolutely. 10 MR. DOHERTY: 11 A. - trying to piece this together a little bit. 12 Can we go to - 13 MS. GLYNN: 14 Q. It was page 40. 15 MR. DOHERTY: 16 A. - D5? Sorry, D2. Yeah, so the difference 17 between the number that you're seeing in D1 is 18 for taxis. 19 MS. GLYNN: 20 Q. Okay. 21 MR. DOHERTY: 22 A. The value that you're seeing in the loss 23 development exhibit, Appendix A, is for all 24 non-private passenger. 25 MS. GLYNN:</p>

Page 113

1 Q. Okay. So the loss development factors then,
2 they're not based on the taxi data? They're
3 based on the -
4 MR. DOHERTY:
5 A. Correct.
6 MS. GLYNN:
7 Q. Okay.
8 MR. DOHERTY:
9 A. Non-private passenger. So, the 5,088,963 that
10 you saw in Appendix A that you pointed us to,
11 you'll see it here as the selected ultimate,
12 the 5,088,963.
13 MS. GLYNN:
14 Q. So two questions off that, one very general.
15 What's included in non-private passenger
16 vehicle data?
17 MR. DOHERTY:
18 A. Everything that's not private passenger.
19 MS. GLYNN:
20 Q. Okay, so -
21 MR. DOHERTY:
22 A. So all public vehicles, all commercial, all
23 inter urban, all miscellaneous vehicles.
24 MS. GLYNN:
25 Q. So ski-doo's?

Page 114

1 MR. DOHERTY:
2 A. Pardon me?
3 MS. GLYNN:
4 Q. Ski-doo's?
5 MR. DOHERTY:
6 A. Yes.
7 MS. GLYNN:
8 Q. Okay. And can you say if the factors for
9 taxis then are developing the same as they
10 would be for these non-private passenger
11 vehicles?
12 MR. DOHERTY:
13 A. I would believe it's a fair assessment given
14 that probably two-thirds of the actual claims
15 that are in that data set of non-private
16 passenger are taxis.
17 MS. GLYNN:
18 Q. I only have a few more questions on trend.
19 MR. DOHERTY:
20 A. I'm fine.
21 MS. GLYNN:
22 Q. We're almost there.
23 MR. DOHERTY:
24 A. I'm fine.
25 MS. GLYNN:

Page 115

1 Q. And if -- this is again just a slight change
2 from last year's filing, which we'd like you
3 to explain. If we go to page 14, if we go
4 down just a little bit further, yes, uninsured
5 automobile. To me, when I look at this, I
6 think that the uninsured automobiles rates are
7 based off accident benefit rates. Would that
8 be -
9 MR. DOHERTY:
10 A. Yeah, the trend rates. We use the same as
11 accident benefits, yes.
12 MS. GLYNN:
13 Q. Okay. And last year, again last year we think
14 they were used off third party liability. We
15 could bring you to Exhibit 4.
16 MR. DOHERTY:
17 A. No, that's fine. That's reasonable.
18 MS. GLYNN:
19 Q. So just if you could tell us why the change?
20 (12:00 p.m.)
21 MR. DOHERTY:
22 A. That's an actuarial judgment piece. Our
23 underinsured motorists we align with BI and
24 uninsured automobile we align with accident
25 benefits. It's embedded within that

Page 116

1 government line. We just treat it that way.
2 It's just a judgment call.
3 MS. GLYNN:
4 Q. Okay.
5 MR. DOHERTY:
6 A. There's nothing specific in my mind that was
7 driving that.
8 MS. GLYNN:
9 Q. And do you know the rate indication because of
10 the change?
11 MR. DOHERTY:
12 A. Not off the top of my head, sorry.
13 MS. GLYNN:
14 Q. Can we have an undertaking to get that rate
15 indication change
16 MR. DOHERTY:
17 A. Certainly.
18 MS. GLYNN:
19 Q. Thank you. I'd also like to go to Question 14
20 filed March 31st of this year. And if we look
21 at the answer for bodily injury severity,
22 right at the end, it says "the model indicates
23 that it struggled with the fitting".
24 MR. DOHERTY:
25 A. Yes.

Page 117

1 MS. GLYNN:
 2 Q. And it says the same thing for accident
 3 benefit severity, "the model indicates it
 4 struggled fitting the severity post reform".
 5 MR. DOHERTY:
 6 A. Yes.
 7 MS. GLYNN:
 8 Q. So when I read that, again, it means that your
 9 models aren't perfect?
 10 MR. DOHERTY:
 11 A. Yeah, the selection of the periods and when I
 12 say it struggles with it, there's a high level
 13 of process variance. There's a lot of
 14 variability in the results and that's -- and
 15 because it's the residuals that you're
 16 measuring, it does struggle -- the regression
 17 itself comes up with a number.
 18 MS. GLYNN:
 19 Q. Okay.
 20 MR. DOHERTY:
 21 A. It's just a mathematical calculation. When I
 22 say it struggles, what I'm referring to is
 23 that it's hard to interpret because the
 24 residuals are so far from those fitted lines.
 25 There's a lot of what I call process variance

Page 118

1 embedded in there that it's hard to get a good
 2 fit, absolutely.
 3 MS. GLYNN:
 4 Q. And are these the two that last year we used
 5 private passenger?
 6 MR. DOHERTY:
 7 A. That's correct.
 8 MS. GLYNN:
 9 Q. So did you try private passenger this year if
 10 you were struggling with the fit?
 11 MR. DOHERTY:
 12 A. I did not look at the -- I have the private
 13 passenger severity trends, but we did not use
 14 them in this, no.
 15 MS. GLYNN:
 16 Q. Okay. So we've looked at the impact of the
 17 reforms or whatever happened in 2004 and that
 18 they're a factor this year but they weren't
 19 last year, and we've looked at the fact that
 20 the commercial vehicle data was appropriate to
 21 use this year but not last year. I'm not -- I
 22 guess, the reason for the change has come down
 23 to actuarial judgment. Is that a fair
 24 statement?
 25 MR. DOHERTY:

Page 119

1 A. Yes, I would say that's a fair
 2 characterization, yes.
 3 MS. GLYNN:
 4 Q. Okay.
 5 MR. DOHERTY:
 6 A. To a large extent. I don't know to what
 7 extent if I looked at the same data, I would
 8 have come up with the same conclusion. So if
 9 I came up with different conclusions, it would
 10 certainly be actuarial judgment, yes.
 11 MS. GLYNN:
 12 Q. Okay. We're finished with trending. I wanted
 13 to -
 14 MR. DOHERTY:
 15 A. Just one more.
 16 MS. GLYNN:
 17 Q. I want to talk about the credibility standard
 18 for a couple of minutes, and we have discussed
 19 that the standard for third party liability
 20 change from 5410 last year to 3246 this year
 21 and you discussed the reason with that change
 22 or for that change with Mr. Johnson yesterday.
 23 So could we bring up page 92 of yesterday's
 24 transcript, please? November 6th, yeah. And
 25 if we just go down to page 92, yeah, okay.

Page 120

1 Stop right there. Thank you. Stop, okay.
 2 And if I understand what you said yesterday
 3 was that last year when Eckler determined 5410
 4 they had done some kind of study and that's
 5 how they had estimated their multiplier, but
 6 when you took over the process, you made
 7 actual judgment.
 8 MR. DOHERTY:
 9 A. Yes.
 10 MS. GLYNN:
 11 Q. Is that correct? Okay. I'd like to bring us
 12 to Section 2.81 of your memorandum from this
 13 year. Oh, I don't have the page, sorry.
 14 Okay, here it is, sorry. Yeah. And right
 15 here it says "the current full credibility
 16 standards were derived based on the analysis
 17 of a 2003 industry Atlantic commercial size of
 18 loss experience." Is that the same study that
 19 Eckler used last year?
 20 MR. DOHERTY:
 21 A. This is an incorrect statement. I apologize.
 22 MS. GLYNN:
 23 Q. Okay.
 24 MR. DOHERTY:
 25 A. It was based on my judgment. I didn't pick

Page 121

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

Page 122

1 to consider, other approaches, we put it on a
 2 list of things that we might consider in
 3 changing our processes. We try and be
 4 consistent everywhere, but we put it on our
 5 list. We would do an investigation of what
 6 the impact might be of changing and then we
 7 would first of all discuss that with our
 8 partners. If we come to some sort of
 9 conclusion or recommendation for management to
 10 make a change to the process, we would then
 11 take it for discussion at the actuarial
 12 committee to get their input and their ideas
 13 on the value of staying the same or moving
 14 forward. Our goal was to get to that for
 15 2014. We didn't get to it. It's been pushed
 16 forward to 2015. I'm not sure if we're going
 17 to do it for 2015 either.
 18 MS. GLYNN:
 19 Q. You still have two months in 2014.
 20 MR. DOHERTY:
 21 A. I've got a lot of stuff that I have to do in
 22 the next two months.
 23 MS. GLYNN:
 24 Q. So with this analysis then, it is a
 25 possibility that you could change your

Page 123

1 standard again?
 2 MR. DOHERTY:
 3 A. I could even change the way we determine
 4 credibility, yeah, absolutely.
 5 MS. GLYNN:
 6 Q. All right.
 7 MR. DOHERTY:
 8 A. It probably -- if we did make a change, I
 9 don't think we'd actually change it in 2015.
 10 I think there's a small window for 2015
 11 change. It would probably get implemented for
 12 2016, but I don't know at this point.
 13 MS. GLYNN:
 14 Q. Okay. So the change from the 5410 standard to
 15 the 3246, do you have the effect that that had
 16 on the rate level indication?
 17 MR. DOHERTY:
 18 A. I believe yesterday we said it was about seven
 19 points, was that about right? Somewhere
 20 around there, yes.
 21 MS. GLYNN:
 22 Q. Seven percent.
 23 MR. DOHERTY:
 24 A. Yeah.
 25 MS. GLYNN:

Page 124

1 Q. And was that taken into consideration when you
 2 were advised the approach?
 3 MR. DOHERTY:
 4 A. No.
 5 MS. GLYNN:
 6 Q. The credibility -
 7 MR. DOHERTY:
 8 A. We knew that the change overall would tend to
 9 give more weight to experience, the actual
 10 experience underlying it. In some classes of
 11 business that means that because the
 12 experience is better than the underlying it
 13 would improve the results, i.e. rate
 14 indications would drop. In some classes, some
 15 jurisdictions, it would go the other way. It
 16 really is giving more weight to the experience
 17 than what it was under the other methodology
 18 and really depends on how the experience looks
 19 relative to the rates.
 20 MS. GLYNN:
 21 Q. The credibility standard for comprehensive and
 22 specified perils also changed from last year's
 23 filing. They were 3246 last year and they
 24 changed to 1082 this year. So, can you -- the
 25 same, it was -

Page 125

1 MR. DOHERTY:
 2 A. It was the same.
 3 MS. GLYNN:
 4 Q. Your judgment?
 5 MR. DOHERTY:
 6 A. I just split it between long tail and short
 7 tail and all short tail gets the same and all
 8 long tail gets the same.
 9 MS. GLYNN:
 10 Q. Okay. And do you know the changes that those
 11 -- the impact that those changes had on the
 12 rate level indication?
 13 MR. DOHERTY:
 14 A. Not off the top, no.
 15 MS. GLYNN:
 16 Q. And can you undertake to -
 17 MR. DOHERTY:
 18 A. Absolutely, yes.
 19 MS. GLYNN:
 20 Q. Perfect. Complement to credibility, I won't
 21 spend much time. Again, it was something that
 22 Mr. Johnson explored with you and he did
 23 indicate, of course, that the Board in its
 24 order last year, Order A1-9-2013, the Board
 25 said that it did not accept the assumptions

Page 126

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

Page 127

1 absolutely.
 2 MS. GLYNN:
 3 Q. A couple of questions on physical damages
 4 multiplier, and we're almost at the end.
 5 MR. DOHERTY:
 6 A. Okay.
 7 MS. GLYNN:
 8 Q. Can you confirm that the physical damage
 9 coverages for taxis, they're currently rated
 10 as a percentage of Facility's private
 11 passenger rates?
 12 MR. DOHERTY:
 13 A. Yeah. So we would rate up an individual taxi
 14 as if it was a private passenger vehicle and
 15 then we would multiple it by the multiplier.
 16 MS. GLYNN:
 17 Q. And that's the physical coverage multiplier?
 18 MR. DOHERTY:
 19 A. Yes.
 20 MS. GLYNN:
 21 Q. Okay. And that's currently 225 percent of
 22 private passenger rates?
 23 MR. DOHERTY:
 24 A. I believe so. I don't know if it's 200 or 225
 25 or 250. It would be one of those three.

Page 128

1 MS. GLYNN:
 2 Q. So 225, subject to check.
 3 MR. DOHERTY:
 4 A. Okay.
 5 MS. GLYNN:
 6 Q. And can you explain how that multiplier was
 7 determined?
 8 MR. DOHERTY:
 9 A. Previously I believe it was at 250 and then
 10 last year we had an undertaking to do an
 11 analysis to see based on the experience
 12 whether or not it should move and based on
 13 that experience, I believe Mr. Pelly came up
 14 with a recommendation that I think it was 225,
 15 like you said, now that I think about it.
 16 MS. GLYNN:
 17 Q. 225, yeah.
 18 MR. DOHERTY:
 19 A. Yeah, so it was based on analysis of the
 20 experience. I'm not sure how he did the
 21 credibility weighting off the top of my head,
 22 but was able to determine that, yes.
 23 MS. GLYNN:
 24 Q. Okay. In the current application, Facility
 25 presents rate level changes of negative 20 for

Page 129

1 collision, negative 1.2 for comprehensive,
 2 positive 9.6 for specified perils and a
 3 negative 13.7 for all perils, all subject to
 4 check.
 5 MR. DOHERTY:
 6 A. Okay.
 7 MS. GLYNN:
 8 Q. So that's an overall indicated decrease of 9.1
 9 for the physical damage coverage combined but
 10 there's no proposal for any change in the
 11 physical damage?
 12 MR. DOHERTY:
 13 A. My understanding, that's correct.
 14 MS. GLYNN:
 15 Q. Okay. Can you explain why that decrease
 16 wasn't applied for?
 17 MR. DOHERTY:
 18 A. Typically with dependent coverages, we don't
 19 do that additional review of that factor and
 20 because they are dependent coverages, if
 21 private passenger rates change, so if we were
 22 to give you a filing for private passenger and
 23 physical damage premiums got reduced through
 24 that process, if we've changed the relativity,
 25 then there would be a decrease that happens

Page 130

1 automatically with taxis. If there was an
 2 increase obviously there would be an increase.
 3 Our view is that the relativity between the
 4 physical damage experience for private
 5 passenger and taxis is reflected in the 2.25
 6 percent and if you change the relativity to
 7 reflect the experience of physical damage for
 8 taxis but the relativity actually stays the
 9 same, then if we change private passenger,
 10 that's automatically going to have another
 11 impact on taxis that then again realigns the
 12 relativity of the two of them, but because we
 13 change the relativity, you get a different
 14 impact. So it's just a timing issue more than
 15 anything else.
 16 MS. GLYNN:
 17 Q. Subject to checking with my two wonderful
 18 assistants here, I have one final line of
 19 questioning and I think it's a housekeeping
 20 item. If we could bring up the responses to
 21 PUB-FA-23, we think there's a discrepancy in
 22 the numbers provided in 23 and 24. So if we
 23 go to the table -- and I should have had this
 24 put together so you could see the numbers
 25 together and I apologize, Mr. Doherty, but

Page 131

1 this indication, the second indication where
 2 it shows and 18.4 and 125.4 and 132, if we go
 3 over to PUB-24 and we look at the last
 4 highlighted, and I think it's the same
 5 assumptions that are being used, the
 6 indication is now changed to 17.4, 186.7 and
 7 195.3.
 8 MR. DOHERTY:
 9 A. I would have to compare the actual -
 10 MS. GLYNN:
 11 Q. Maybe we could have an undertaking, Mr.
 12 Doherty -
 13 MR. DOHERTY:
 14 A. Yeah, absolutely.
 15 MS. GLYNN:
 16 Q. - for you to look at those.
 17 MR. DOHERTY:
 18 A. Because I'm looking at the net trend. There's
 19 a 396. I'm not sure that they used the same
 20 trend period on the two of them.
 21 MS. GLYNN:
 22 Q. Perfect. If you could undertake -
 23 MR. DOHERTY:
 24 A. So yeah, we can certainly look at that.
 25 MS. GLYNN:

Page 132

1 Q. - to look at that, that would be wonderful.
 2 MR. DOHERTY:
 3 A. Absolutely, yeah.
 4 MS. GLYNN:
 5 Q. I think we're done.
 6 MR. DOHERTY:
 7 A. Well, thank you. And I appreciate the
 8 opportunity to speak in from of the committee
 9 and respond to questions.
 10 MS. GLYNN:
 11 Q. I'm not sure -
 12 STAMP, Q.C.:
 13 Q. We're not done.
 14 MS. GLYNN:
 15 Q. - actually the Commissioners may have some
 16 questions or Mr. Stamp may have some redirect.
 17 So you're not quite -- you're finished with
 18 me.
 19 MR. DOHERTY:
 20 A. All right.
 21 MR. SHAWN DOHERTY, RE-EXAMINATION BY KEVIN STAMP, Q.C.
 22 STAMP, Q.C.:
 23 Q. I have a few questions for clarification, Mr.
 24 Doherty, arising. I think these are mostly
 25 out of -- maybe entirely out of Mr. -- the

Page 133

1 Consumer Advocate's questions. There was a
 2 discussion, Mr. Doherty, about the Nova Scotia
 3 case that was, I guess, mentioned to you and
 4 dealing with the issue of ROI in the Nova
 5 Scotia context. You undertook to provide some
 6 material about that.
 7 MR. DOHERTY:
 8 A. Yes.
 9 STAMP, Q.C.:
 10 Q. And can you also undertake to provide, when
 11 you do that, the extent to which Nova Scotia
 12 allows a cost of capital or ROE, if that's the
 13 right way of describing it, allowance in its
 14 decision as well?
 15 MR. DOHERTY:
 16 A. Yeah, they do allow an 11 percent after tax
 17 return on equity, but I will undertake to get
 18 that formally recognized.
 19 STAMP, Q.C.:
 20 Q. Okay. Now my learned friend spoke about the
 21 issue of the four territories and I'm not sure
 22 if the implication of it is that -- I think
 23 the implication suggested that maybe one or
 24 more of these territories was less risky than
 25 another for the claims.

Page 134

1 MR. DOHERTY:
 2 A. I'm not sure I would necessarily characterize
 3 it as less risky, but certainly it appears
 4 that the rate level adequacy, when you look at
 5 the loss ratios, the reported loss ratios
 6 alone, looking at those, the rates in certain
 7 territories certainly seem to be more adequate
 8 than in other territories, but it could be
 9 that there's large loss activity that you get
 10 once every five years or once every three
 11 years because you got enough taxis here, but
 12 those claims haven't had the opportunity to
 13 arise in those other territories because you
 14 got too short of a period. So I can't really
 15 comment on it, but certainly from the data
 16 that was presented, the loss ratios in certain
 17 territories is lower and in some cases
 18 significantly lower than other territories and
 19 on a consistent basis it appears.
 20 STAMP, Q.C.:
 21 Q. But the rate indications that have been
 22 generated are across all territories, are they
 23 not?
 24 MR. DOHERTY:
 25 A. That's correct.

Page 135

1 STAMP, Q.C.:
 2 Q. So what happens if there is a suggestion, for
 3 example, on the part of the Consumer Advocate,
 4 if there is a suggestion that the rating in
 5 let's say, you know, Corner Brook territory
 6 which is, I think, 06 or 07, not sure which
 7 one, if that rate was to be -- if the
 8 indication for that rate was to be brought
 9 down because of the experience that you spoke
 10 about, what would happen to the overall result
 11 in the rate indications you've prepared
 12 generally across the board?
 13 MR. DOHERTY:
 14 A. We would still be looking for the overall rate
 15 increase that we're asking for. You can
 16 certainly make it so that some territories
 17 have less than that indication overall, but if
 18 you do, then some other territory needs to get
 19 more to offset that.
 20 STAMP, Q.C.:
 21 Q. That's what I'm getting at. If you drop one
 22 territory, what happens in the other
 23 territory?
 24 MR. DOHERTY:
 25 A. You would have to increase more to offset it.

Page 136

1 STAMP, Q.C.:
 2 Q. Because the dollar amount you're seeking is
 3 fixed, is it?
 4 MR. DOHERTY:
 5 A. Yes, that's correct.
 6 STAMP, Q.C.:
 7 Q. And on the point, on this -- similarly, I
 8 guess, it was brought up that there's a
 9 suggestion that there would be -- had you
 10 looked at the discount or the elimination of
 11 the discount and the impact on that, so if the
 12 discount is eliminated as was being talked
 13 about by the Consumer Advocate, what would be
 14 the effect on premium of the elimination of a
 15 discount?
 16 (12:15 p.m.)
 17 MR. DOHERTY:
 18 A. That will increase premium.
 19 STAMP, Q.C.:
 20 Q. And so when you did your analysis and your
 21 indications, did your premium reflect the
 22 absence of a discount?
 23 MR. DOHERTY:
 24 A. No, we did not do a separate analysis on that.
 25 So to the extent that the -- and I think that

Page 137

1 was brought up that there was no specific
 2 amounts that we had determined -- felt we were
 3 able to determine because we don't have access
 4 to the information to be able to measure that
 5 impact.
 6 STAMP, Q.C.:
 7 Q. Okay. The issue of, I guess, the compensation
 8 for the servicing carriers, some of the
 9 expense provisions I guess really was brought
 10 up and the question as I understand from the
 11 Consumer Advocate seemed to be directed to is
 12 it fair that the cost being -- or the expense
 13 amount being paid to the servicing carriers is
 14 going up because of an increase in premium.
 15 What I'm wondering is if what drives up the
 16 increase in premium is, for example, an
 17 increase in severity and that's what you've
 18 identified I think throughout most of this
 19 process, certainly for the third party
 20 liability bodily injury component that has
 21 been certainly the focus. What happens to
 22 your expense -- the service carrier expenses
 23 associated with, I guess, looking after that
 24 process if severity has gone up? I mean, if
 25 the cases have gotten more expensive, more

Page 138

1 complicated, longer expenses, longer claims
 2 periods, what happens to your expenses, do you
 3 think?
 4 MR. DOHERTY:
 5 A. I assume that if you expend more time and
 6 energy adjudicating claims there's a cost
 7 associated with that.
 8 STAMP, Q.C.:
 9 Q. And would you expect that there'd be some
 10 correlation between the cost of adjudicating
 11 claims if the claims were small values versus
 12 claims that are big values?
 13 MR. DOHERTY:
 14 A. Potentially, and I think, you know, if the
 15 premium level for all classes of business
 16 generates the same loss ratio then you
 17 generate enough premium commensurate with the
 18 loss cost level. If you then think there's a
 19 relationship between loss cost and the work
 20 effort associated with it, then you're
 21 generating the right amount of servicing
 22 carrier cost or fee commensurate with the loss
 23 cost themselves. I think the challenge that
 24 we have in taxis is that we're paying
 25 servicing carriers X on the assumption that

Page 139

1 the loss ratio is the same as it would be
 2 maybe in our private passenger and so the work
 3 effort is commensurate with that, but the loss
 4 ratio is three or four times as high. So I
 5 would -- my initial view on that is that
 6 they're probably not getting the amount of
 7 money that is commensurate with the work
 8 effort because we're not charging enough and
 9 so we're not really reflecting in the premium
 10 the underlying loss cost.
 11 STAMP, Q.C.:
 12 Q. Okay. And you spoke, Mr. Doherty, about the
 13 fact that, I guess, these expenses captured in
 14 the plan of operation and that it is approved
 15 for the Superintendent of Insurance?
 16 MR. DOHERTY:
 17 A. That's correct.
 18 STAMP, Q.C.:
 19 Q. Okay. So that's within his domain to direct
 20 and control, I guess, or at least decide
 21 whether he would agree with the plan of
 22 operation or changes to it?
 23 MR. DOHERTY:
 24 A. Yes.
 25 STAMP, Q.C.:

Page 140

1 Q. And you did speak about one particular element
 2 of expenses where there had been a proposal to
 3 amend the plan of operation to increase
 4 certain expense payments?
 5 MR. DOHERTY:
 6 A. Correct.
 7 STAMP, Q.C.:
 8 Q. And that approval had been reached with the
 9 superintendents in all of the jurisdictions
 10 where you operate save to -- did I understand
 11 you to say that you were -
 12 MR. DOHERTY:
 13 A. Yes.
 14 STAMP, Q.C.:
 15 Q. - don't have approval -
 16 MR. DOHERTY:
 17 A. Except for Alberta and Newfoundland, yes,
 18 Newfoundland and Labrador.
 19 STAMP, Q.C.:
 20 Q. And does that mean you're not going to get
 21 approval or it's just that approval has still
 22 not been received?
 23 MR. DOHERTY:
 24 A. I don't know that answer.
 25 STAMP, Q.C.:

Page 141

1 Q. That's not clear to you, is it?

2 MR. DOHERTY:

3 A. That's not clear to me.

4 STAMP, Q.C.:

5 Q. Okay. One last question. Mr. Chairman I

6 guess touched on this as well. The issue of

7 if you have percentage use of vehicle some,

8 for example, personal use and then some taxi

9 use, the thinking would be that there would be

10 some kind of an attempt to rate the premium

11 based on that distribution.

12 MR. DOHERTY:

13 A. For the individual?

14 STAMP, Q.C.:

15 Q. Well, I understood that there was a rate

16 change that was proposed which would eliminate

17 this, I guess, application of a lower rate for

18 taxi -- you're applying a rate for taxi across

19 the board that is the highest use rate?

20 MR. DOHERTY:

21 A. Yeah, as I understand the current process, an

22 application would come in and on the

23 application, the operator would identify the

24 percentage use of their vehicle split between

25 taxi and private passenger and as I understand

Page 142

1 it, under the current, if they are using the

2 vehicle for more than 50 percent for private

3 passenger, the vehicle is rated as if it is a

4 private passenger vehicle. There may be a

5 business class. It might be a class 07, so

6 there may be some reflection that you're

7 actually using your vehicle for business

8 class. I'm not sure on that individual

9 rating. But if it's predominantly taxi, then

10 it would be rated as if it were full-time

11 taxi.

12 STAMP, Q.C.:

13 Q. And what sort of, if you like, you know, audit

14 opportunity exists to make sure that what is

15 being said by the person who says "I use it

16 for 25 percent this way and 75 percent that

17 way", what opportunity is there really to test

18 the accuracy of that?

19 MR. DOHERTY:

20 A. I can't answer that question. I don't know.

21 STAMP, Q.C.:

22 Q. So it is a concern that it could be open for

23 abuse?

24 MR. DOHERTY:

25 A. It may be. I don't know.

Page 143

1 STAMP, Q.C.:

2 Q. Just one further question. One final

3 question, Mr. Doherty. In terms of the

4 changes in process or methodology that have

5 been adopted here, were any of those changes

6 made by you with a bias to try and achieve a

7 certain outcome?

8 MR. DOHERTY:

9 A. No, the changes that I make broadly have I'd

10 say three or four main focuses. My primary

11 focus certainly is to get into what I would

12 refer to better answers faster. I would refer

13 to that as the effectiveness. But I also

14 focus on efficiency. As I mentioned I think

15 at the beginning of my remarks under direct,

16 I've worked at a number of organizations where

17 that was my primary responsibility was to

18 start actuarial services or to improve

19 existing actuarial services and so I do focus

20 on efficiency. I do focus on making sure

21 that as much as possible we're applying

22 consistent approach across jurisdictions which

23 is why we moved to a single template instead

24 of having two different approaches, why we

25 have a trend model that we use for all

Page 144

1 classes. We use the exact same trend model.

2 It's a template that you bring forward for

3 commercial, private passengers, motorcycles.

4 We could do Facility Association only or

5 industry. We could apply anything to it. So,

6 certainly we don't pick -- you know, cherry

7 pick factors to have certain outcomes. Our

8 goal is to get what we think is a good

9 estimate of our future costs so that we can

10 determine what we should be doing from a

11 premium standpoint.

12 STAMP, Q.C.:

13 Q. Thank you. Those are all my questions, Mr.

14 Chairman.

15 CHAIRMAN:

16 Q. Thank you. I think well that's everything now

17 until the -- oh, I'm sorry. What's wrong with

18 me? Questions.

19 MR. SHAWN DOHERTY, CROSS-EXAMINATION BY COMMISSIONER

20 DWANDA NEWMAN

21 COMMISSIONER NEWMAN:

22 Q. I do have one question. I believe you had

23 indicated when asked why the proposal is for

24 an approximate 50 percent rate increase

25 whereas indications were somewhere either 67

Page 145

1 or 75 or 95 depending on what the parameters
 2 are that are used and I think your answer was
 3 that management wanted to cap the increase to
 4 reduce the year-on-year impact on rate payers
 5 or the burden.
 6 MR. DOHERTY:
 7 A. That's right, yes.
 8 COMMISSIONER NEWMAN:
 9 Q. Okay.
 10 MR. DOHERTY:
 11 A. That's part of the thought process, as I
 12 understand it, yes.
 13 COMMISSIONER NEWMAN:
 14 Q. Okay. Is there a standard or a guideline or a
 15 norm within Facility Association with regard
 16 to the level of rate increase that would pose
 17 a burden or that would normally be proposed
 18 from year-on-year?
 19 MR. DOHERTY:
 20 A. There's a number of considerations that go
 21 into deciding that. Certainly one of them is
 22 what is the overall rate level. So just to
 23 ballpark it, if you had a rate level
 24 indication that was a hundred percent and we
 25 would -- normally, I think, they would look at

Page 146

1 like capping it at 20 percent. But if you cap
 2 it at 20 percent and you really believe you
 3 had a hundred percent indication, it's going
 4 to take you five years to get to rate level
 5 adequacy. So that's part of the consideration
 6 when we're taking it into account. In this
 7 particular situations, both last year and this
 8 year, and as I project forward with management
 9 saying experience level is here and if the
 10 experience continues like this, then here's
 11 how your future indications are going to go
 12 because your credibility weighted indication
 13 is going to move more and more toward the
 14 experience. And so when we look at the
 15 experience alone, indication being at 125
 16 percent, that had a bearing on the decision as
 17 well that not just the 75 or the 68 or
 18 whichever one you choose, but look at if the
 19 experience continues on this way, then we're
 20 never going to catch up if we make it too low.
 21 COMMISSIONER NEWMAN:
 22 Q. Thank you.
 23 COMMISSIONER OXFORD:
 24 Q. No questions.
 25 MR. SHAWN DOHERTY, CROSS-EXAMINATION BY VICE-CHAIR

Page 147

1 DARLENE WHALEN
 2 VICE-CHAIR WHALEN:
 3 Q. I just wanted to go back to, I think, the
 4 discussion you might have had with Ms. Glynn
 5 this morning on your mission statement and the
 6 language around that. I think, correct me if
 7 I didn't -- if I'm paraphrasing you
 8 incorrectly.
 9 MR. DOHERTY:
 10 A. Okay.
 11 VICE-CHAIR WHALEN:
 12 Q. Did I understand you to say that FA's goal is
 13 to depopulate as -
 14 MR. DOHERTY:
 15 A. Not necessarily depopulate, but to make our
 16 market share as small as possible.
 17 VICE-CHAIR WHALEN:
 18 Q. Small as possible.
 19 MR. DOHERTY:
 20 A. And the reason we use the words "as possible"
 21 is because it varies depending on the
 22 marketplace and stuff like that really focused
 23 on.
 24 VICE-CHAIR WHALEN:
 25 Q. Absolutely. So you are still -- your residual

Page 148

1 market, you're for the residual market and so
 2 I guess how is it -- well, let me preface
 3 that. Ideally I guess then the majority of
 4 the risk that would be in FA that you want to
 5 move out of FA?
 6 MR. DOHERTY:
 7 A. Ideally I would have no business at all.
 8 VICE-CHAIR WHALEN:
 9 Q. Yeah, and I think I heard you say that, yeah.
 10 So those risks would be written in the
 11 voluntary market?
 12 MR. DOHERTY:
 13 A. That's correct.
 14 VICE-CHAIR WHALEN:
 15 Q. How is it that all of the taxis, the majority
 16 of taxis, or I don't know what the number is -
 17 - I think you say almost all the taxis in
 18 Newfoundland and Labrador are in Facility
 19 Association?
 20 MR. DOHERTY:
 21 A. I believe it's a reflection of the rate -- the
 22 perception in the industry of the amount of
 23 rate you would need to make a return on your
 24 capital. There may be some other
 25 considerations like the amount of work effort

Page 149

1 and stuff like that and the level of expertise
 2 you would have to apply to ensure that you're
 3 underwriting the risk appropriately, that
 4 you're charging the appropriate risk and that
 5 you can manage the claims appropriately.
 6 Certainly I think at the experience loss
 7 ratios, individual voluntary companies would
 8 not be interested in writing the business at
 9 these levels.
 10 VICE-CHAIR WHALEN:
 11 Q. So the voluntary market doesn't have -- it
 12 doesn't have it on their books, a rate that
 13 would -- or a rate at which it will take a
 14 taxi risk?
 15 MR. DOHERTY:
 16 A. I would suggest perhaps -- and I don't want --
 17 I guess I shouldn't be speaking on behalf of
 18 the industry, but I would imagine there's no
 19 appetite for offering this type of insurance
 20 at this rate level that Facility Association
 21 currently is at.
 22 VICE-CHAIR WHALEN:
 23 Q. So your -
 24 MR. DOHERTY:
 25 A. But that doesn't prevent me from trying to go

Page 150

1 to my membership to find pockets where -
 2 VICE-CHAIR WHALEN:
 3 Q. Absolutely, and you referred to that. Nova
 4 Scotia, I think you said you have somebody who
 5 might be -
 6 MR. DOHERTY:
 7 A. But even in Newfoundland, there may be some
 8 areas of opportunity and I will be trying to
 9 discuss with membership who might have some
 10 sort of appetite. The challenge is building
 11 the infrastructure and having enough volume to
 12 make it worthwhile. That if we can only show
 13 them, you know, there's 50 taxis here that we
 14 think you can make money at at rates lower
 15 than what we charge, they may look at it and
 16 say "well, it's not worth the risk because if
 17 I come in for 50 taxis and I don't make any
 18 money, then what was the point? I would rather
 19 not." So there's a lot of consideration at
 20 individual insurance companies that certainly
 21 doesn't prevent me from going out and trying
 22 to hawk the business.
 23 VICE-CHAIR WHALEN:
 24 Q. So would it be a fair statement to say that
 25 there are risks in FA and that this class of

Page 151

1 business and the taxi business that are not
 2 true risk in the sense of what FA is designed
 3 to capture?
 4 MR. DOHERTY:
 5 A. There may very well be and I currently do not
 6 have the capability of drilling down to
 7 identify those. And I certainly don't have
 8 the expertise and that's where it would be
 9 wonderful if we had a member company or two
 10 member companies that did have that expertise
 11 or even, as I mentioned earlier, a managing
 12 general agency that was able to come in and
 13 look at the portfolio and say, you know, even
 14 our rating algorithm, if you want, probably
 15 doesn't split out in sufficient detail the
 16 types of risk characteristics that I believe
 17 the Consumer Advocate was speaking of and in
 18 even more detail. We don't have that
 19 expertise to be able to say if you look at
 20 this, this and this, these three
 21 characteristics can differentiate this group
 22 from that group and if you focus on that and
 23 rank that stuff properly, you'd be able to do
 24 -- you know, you'd get a better risk
 25 classification piece and then we might be able

Page 152

1 to walk in. We don't have that level of
 2 expertise unfortunately, and unfortunately,
 3 the data that we gather is through the stat
 4 plan nine, so there's restrictions on how much
 5 detail we even have available to us.
 6 (12:30 p.m.)
 7 VICE-CHAIR WHALEN:
 8 Q. So, just so I understand, from FA's
 9 perspective, FA has been in this jurisdiction
 10 for a fairly long time. There was a number of
 11 years, decades perhaps that FA didn't come in
 12 with a filing.
 13 MR. DOHERTY:
 14 A. Correct.
 15 VICE-CHAIR WHALEN:
 16 Q. Last year you came in with a filing, had a 50
 17 percent increase for this class of business.
 18 This year it's another filing, you're capping
 19 that at 50 percent. I think I read here
 20 somewhere that unless experience improves,
 21 you're going to need to file again next year.
 22 MR. DOHERTY:
 23 A. Yes.
 24 VICE-CHAIR WHALEN:
 25 Q. Absent any insurer in the regular market that

Page 153

1 will take this business, the taxi drivers, the
 2 two that came and spoke here and the numbers
 3 that are written to us, they have no choice.
 4 They have to take these rates.
 5 MR. DOHERTY:
 6 A. Unless another market comes in and is able to
 7 offer.
 8 VICE-CHAIR WHALEN:
 9 Q. And do you have any reason to expect--you had
 10 a 50 percent increase last year, did that de-
 11 populate--take any of the taxi business out of
 12 FA?
 13 MR. DOHERTY:
 14 A. I don't believe--I'm not absolutely sure. I'd
 15 have to look at more recent things. I think
 16 that our counts may have come down, but I'm
 17 not sure if it's because someone else insured
 18 the taxis or as I believe the gentleman
 19 indicated, they may have just taken the taxis
 20 off the road, I really don't know. I don't
 21 have that detail. Now, when we say, I think
 22 we're writing a 100 percent it's because I
 23 don't really know how many licensed taxis
 24 there area. There may be a member company who
 25 is writing one or two taxis already; I don't

Page 154

1 know. I don't get a good sense and I think
 2 IBC does a very good job of trying to ensure
 3 the data that they get through stat plan 8
 4 which is the Automobile Statistical Plan, the
 5 general one, has good quality information.
 6 And that's what we use as our benchmark for
 7 the industry and there are minor differences
 8 between our count and the industry. So, it
 9 looks like somebody is doing something; it's
 10 just so minuscule relative to our portfolio
 11 that we basically say writing practically all
 12 of them. I don't think we are writing
 13 necessarily all of them, but practically all
 14 of them.
 15 VICE-CHAIR WHALEN:
 16 Q. How does a taxi operator, whether it's
 17 employee or owner, how would they approach, to
 18 end up in FA? Do they have to go to the
 19 regular market first or -
 20 MR. DOHERTY:
 21 A. I believe that they would work through their
 22 broker on that to try to find a market for it.
 23 I'm not sure about the actual process.
 24 VICE-CHAIR WHALEN:
 25 Q. But if there is no market, FA is it; that's

Page 155

1 where they have to go.
 2 MR. DOHERTY:
 3 A. Yes. The mechanism is we're the residual
 4 market. So, if you can't find anywhere else,
 5 we will insure you, if you're legally able to
 6 drive.
 7 VICE-CHAIR WHALEN:
 8 Q. If you're indicated rates for taxi is based on
 9 because even if a new market entrant, a new
 10 entrant came into the market that was willing
 11 to take this business presumably they would
 12 have to use the data that you're relying on or
 13 Oliver Wyman or anybody else that's coming in,
 14 it's the same data to -
 15 MR. DOHERTY:
 16 A. I'm not sure, I wouldn't presume to know how
 17 some of the -
 18 VICE-CHAIR WHALEN:
 19 Q. No, no, but -
 20 MR. DOHERTY:
 21 A. There may be an expert out there who says, "I
 22 know this stuff really well and I can go in
 23 and I've got rates that I feel comfortable
 24 with and I'm just going to tweak it for the
 25 differences I understand in Newfoundland".

Page 156

1 VICE-CHAIR WHALEN:
 2 Q. Sure, yes.
 3 MR. DOHERTY:
 4 A. But I can't presume to know that.
 5 VICE-CHAIR WHALEN:
 6 Q. Would it be reasonable though to assume that
 7 there would be no, let's see, we wouldn't be
 8 surprised if a new entrant came in who, you
 9 know, their rates wouldn't be any much lower
 10 than perhaps the range that we're dealing with
 11 here in the -
 12 MR. DOHERTY:
 13 A. Certainly if a member company or anybody came
 14 to me and said, can I look at your data and
 15 what you've done because I'm interested in
 16 writing taxis in Newfoundland. I would give
 17 them everything and say, you know, this is
 18 what it is. And I would also give Oliver
 19 Wyman's view on trends and say, if you like
 20 that trend approach better, then presumably
 21 you can come up with lower rates and write the
 22 business. And if you want to know who the
 23 brokers are that we're getting that from, we
 24 can ask the servicing carriers to help us out
 25 on that. I will do what I can to help de-

Page 157

1 populate the Facility Association with respect
 2 to the taxis. The challenge--the reason we
 3 haven't been actively doing it is because the
 4 experience has been so bad for so long.
 5 VICE-CHAIR WHALEN:
 6 Q. But if that experience informs the rates, then
 7 there's no expectation the rates will be any
 8 lower with -
 9 MR. DOHERTY:
 10 A. Yeah, unless we're able to do something to
 11 reduce the frequency of claims or the severity
 12 of claims or if somebody could come in and do
 13 that, I don't know.
 14 VICE-CHAIR WHALEN:
 15 Q. How long might it take if the taxi industry or
 16 some other mechanism was in place to educate
 17 and, sort of, deal with all of the high risk
 18 issues that must be out there for that class
 19 of business, how long might it take for that
 20 new experience to filter through in lower
 21 rates?
 22 MR. DOHERTY:
 23 A. Well, if were to rely strictly on the
 24 experience, you've got this hangover of going
 25 for five years. I think that if--however

Page 158

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

Page 159

1 support that, we wouldn't have any problem
 2 saying that, however introduced in 2015 was
 3 something that we believe is going to reduce
 4 loss cost by 25 percent. We would put a .75
 5 in there and it would get reflected in our
 6 experience. Because we think, going forward,
 7 the loss costs are going to be lower because
 8 of that. We would just look for what's the
 9 support we would have for that. And certain
 10 would want it to be enough that we could
 11 justify it to this Commission. And I don't
 12 want to pre-suppose where you're going with
 13 this, but there's two pieces to it, right. We
 14 need either premium to reflect the current
 15 losses or expenses, but if we can reduce the
 16 expenses, then I'm not going to need as much
 17 rate increase. The two things can work in
 18 tandem or we can focus on the other. Just,
 19 under the current structure, it's a struggle
 20 for us and we pass those costs onto the
 21 industry.
 22 VICE-CHAIR WHALEN:
 23 Q. Yes, I think that's all. Thank you. Safe
 24 travels home.
 25 CHAIRMAN:

Page 160

1 Q. Doesn't sound like you're worried about
 2 becoming unemployed any time soon.
 3 MR. DOHERTY:
 4 A. I think I'm moving out here and I'm going to -
 5 STAMP, Q.C.:
 6 Q. Mr. Commissioner, may I ask one question
 7 arising out of Commissioner Whalen's -
 8 CHAIRMAN:
 9 Q. Yes.
 10 MR. SHAWN DOHERTY, RE-EXAMINATION BY KEVIN STAMP, Q.C.
 11 STAMP, Q.C.:
 12 Q. Thank you. This discussion that Commissioner
 13 Whalen seems to focus on, I think, is the
 14 issue of how does a taxi industry, sort of,
 15 improve this piece. First of all, before you,
 16 I guess turn to that, is what we're seeing in
 17 the way of the increased costs, is this all
 18 driven, if you like, on the part of conduct of
 19 taxi drivers?
 20 MR. DOHERTY:
 21 A. Well, the majority of the claims, activity and
 22 dollars that's we're talking about, 93 percent
 23 of the premium and the majority of the claims
 24 certainly, if not 90 percent and close to 90
 25 percent is coming through the Third Party

Page 161

1 Liability. And this is events that arise from
 2 where the taxi driver is deemed, at least in
 3 some part, at fault, or else it wouldn't be
 4 through the Third Party Liability. And that's
 5 why we say, you know, if you change driving
 6 behaviour so that claims frequency drops--if
 7 the claims frequency drops, then your loss
 8 costs are going to go down. If you have the
 9 same number of claims, but you're able to do
 10 things like, I don't know, make sure your
 11 passengers wear their seatbelts or ask your
 12 passenger to check over their shoulder before
 13 they open the door and step out. Those types
 14 of things may be all that you need to put some
 15 meaningful dent into it. I'm not an expert in
 16 that, but certainly given that this is under
 17 the Third Party Liability, you would think
 18 that there is potentially something within the
 19 control of the taxis drivers that may
 20 influence those costs.
 21 STAMP, Q.C.:
 22 Q. Well, I mean, at first instance, it's a driver
 23 in a car, a private passenger car and a driver
 24 or a taxi and a driver, two people are on the
 25 same roads doing the same thing driving cars.

Page 162

1 Somehow or other one of those drivers seems to
 2 get into accidents much more frequently than
 3 the other. Is that what you're saying?
 4 MR. DOHERTY:
 5 A. Yes.
 6 STAMP, Q.C.:
 7 Q. And so if there's conduct that could be turned
 8 to on the part of the taxi driver that says, I
 9 am going to try to do something about what's
 10 happening here to bring my costs down, to
 11 bring my insurance costs down, perhaps that
 12 can be done.
 13 MR. DOHERTY:
 14 A. That could be done, yeah. It makes sense to
 15 me. I don't know what those activities are,
 16 but it certainly--I just caveat at that, the
 17 difference between the premium that we need
 18 and where the loss costs are right now. You
 19 need a significant reduction somehow in those
 20 expenses to close that gap. But I think there
 21 are things that can be looked at that can help
 22 out and if the taxi industry wants to come
 23 forward and work with us, I don't have any
 24 problem with that. Again, my goal is to
 25 reduce the size of the Facility Association.

Page 163

1 If that means helping the taxi industry make
 2 themselves better risks, if you want, and if
 3 that facilitates that process, then that's
 4 within my mission, vision, mandate and I'll
 5 certainly help out with that and I'm sure the
 6 Facility Association staff as well.
 7 STAMP, Q.C.:
 8 Q. Thank you, Mr. Chair.
 9 CHAIRMAN:
 10 Q. I just got one quick question. I'm just
 11 curious, is Uber or Lyft having any effect in
 12 Canada on taxi industry, do you know?
 13 MR. DOHERTY:
 14 A. Sorry? The?
 15 CHAIRMAN:
 16 Q. Uber or Lyft?
 17 MR. DOHERTY:
 18 A. We are starting to look at it. I can't recall
 19 Jill Hepburn, who is vice-president of Claims
 20 and Underwriting, has a better handle on that
 21 stuff. I do see passing emails where this is
 22 starting to come up more.
 23 CHAIRMAN:
 24 Q. Like they say in San Francisco, the industry
 25 is not going to exist in 18 months because of

Page 164

1 Uber and Lyft, well, anyway.
 2 MR. DOHERTY:
 3 A. Well, they used to say that about newspapers
 4 and they used to say that about a lot of
 5 stuff.
 6 CHAIRMAN:
 7 Q. Oh yes. Anyway, thank you very much, that was
 8 certainly interesting, certainly exhaustive.
 9 MR. DOHERTY:
 10 A. And exhausting.
 11 CHAIRMAN:
 12 Q. No, no, I didn't say exhausting; I said
 13 exhaustive and you said you can talk for days,
 14 well I think you clearly demonstrated that you
 15 could do a good job when you talk for days.
 16 Thank you.
 17 MR. DOHERTY:
 18 A. Thank you.
 19 CHAIRMAN:
 20 Q. Okay. We're adjourned now until Monday week -
 21 MS. GLYNN:
 22 Q. November 17, yes.
 23 CHAIRMAN:
 24 Q. November 17 and we got three days set aside,
 25 Monday, Tuesday and Wednesday.

Page 165

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

Page 166

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

<p style="text-align: center;">-\$-</p> <p>\$170 [1] 33:2 \$2,500 [2] 85:19 86:2 \$2900 [1] 32:25 \$4600 [1] 33:1</p> <hr/> <p style="text-align: center;">.-.</p> <p>'04 [1] 8:9 '08 [1] 2:4 '11 [1] 8:9</p> <hr/> <p style="text-align: center;">.-.</p> <p>.06 [3] 19:13,18,22 .75 [1] 159:4 .9752 [1] 107:21</p> <hr/> <p style="text-align: center;">-0-</p> <p>004 [2] 24:12 26:13 005 [1] 24:14 006 [1] 24:17 007 [1] 26:14 04 [1] 27:1 05 [3] 26:8,25 27:22 06 [4] 26:9 27:1,24 135:6 07 [3] 27:1 135:6 142:5</p> <hr/> <p style="text-align: center;">-1-</p> <p>1 [4] 7:13 69:11,13 103:4 1.0353 [1] 108:15 1.039 [1] 86:12 1.14 [1] 55:2 1.1491 [1] 107:22 1.2 [1] 129:1 10 [6] 42:15 77:7,9 81:7 81:13 109:10 100 [10] 19:11,21,22 56:4 56:9,13 57:4 64:10,17 153:22 1082 [1] 124:24 10:00 [1] 27:7 10:30 [1] 52:22 10:52 [1] 76:2 11 [1] 133:16 11-year [2] 7:20 8:3 11:20 [1] 76:3 11:45 [1] 102:4 12 [2] 54:8 106:18 12-month [2] 106:22,23 120 [1] 166:7 1230 [1] 94:5 125 [1] 146:15 125.4 [1] 131:2 12:00 [1] 115:20 12:15 [1] 136:16 12:30 [1] 152:6 12:43 [1] 165:13 13 [2] 88:25 95:3</p>	<p>13.7 [1] 129:3 132 [1] 131:2 14 [3] 87:12 115:3 116:19 148 [1] 92:21 15 [3] 75:19 77:13,17 150 [1] 50:25 157 [1] 105:25 16 [2] 25:14 64:13 16th [3] 85:24 95:3 99:19 17 [2] 164:22,24 17.2 [1] 88:12 17.4 [1] 131:6 170 [1] 37:20 18 [2] 107:17 163:25 18-month [1] 106:23 18.4 [1] 131:2 180 [1] 37:20 182 [1] 26:15 186.7 [1] 131:6 1940s [1] 2:3 195.3 [1] 131:7 196 [2] 104:21 105:2 1993 [1] 79:2</p> <hr/> <p style="text-align: center;">-2-</p> <p>2 [5] 63:14 69:11,11,13 69:13 2.25 [1] 130:5 2.4 [1] 55:4 2.5 [1] 101:8 2.8 [1] 111:10 2.81 [1] 120:12 20 [23] 6:14 13:21 14:3 14:14,16 59:13 77:7,12 77:14,19,19,22,24 78:3 78:6,9,19 80:6 84:19 97:5 128:25 146:1,2 200 [1] 127:24 200,000 [1] 50:24 2000 [1] 94:2 2001 [1] 7:20 2002 [8] 6:17 12:19,25 57:13 104:23 105:5,7,20 2003 [15] 5:9 6:1,14,22 57:5,13 86:7,8,11,11,14 86:23 87:6 98:16 120:17 2004 [42] 2:23 3:8 4:12 4:17,20,23 5:2,8 6:11 9:12 79:6,21 83:20,21 85:8,16 86:8,9,14,17,22 87:6 89:3,4 92:14 94:22 96:2,8,8,17,17 97:13,16 97:19,22 99:8,12 103:11 103:16 104:11 105:11 118:17 2005 [2] 57:5 98:16 2009 [1] 94:4 2011 [1] 7:21 2012 [14] 4:12,15,17,23 67:3 70:15 71:10 72:8 72:11 73:1 79:7 111:8 111:21 112:5</p>	<p>2013 [8] 7:10 10:2 57:1 69:25 70:17 72:3,9 99:14 2014 [5] 121:6 122:15,19 166:5,11 2015 [6] 2:4 122:16,17 123:9,10 159:2 2016 [1] 123:12 21 [3] 83:9,13,13 22 [1] 111:21 225 [5] 127:21,24 128:2 128:14,17 23 [1] 130:22 232 [1] 26:15 23rd [2] 18:19 101:13 24 [2] 107:18 130:22 25 [11] 13:21 14:3,5 47:20 49:9 50:3,4 51:18 86:23 142:16 159:4 250 [2] 127:25 128:9 26.5 [1] 76:21 27 [1] 87:11 292 [1] 33:2</p> <hr/> <p style="text-align: center;">-3-</p> <p>3 [1] 72:24 3.1 [1] 8:7 3.9 [1] 86:13 30 [2] 28:11 84:6 30th [3] 69:25 70:7,17 31st [9] 67:3 70:15 71:10 72:8,9,11 73:1 109:10 116:20 3246 [4] 29:15 119:20 123:15 124:23 34 [1] 27:24 35 [1] 47:8 37 [1] 87:15 37.1 [2] 87:25 99:24 39 [2] 25:22 26:10 396 [1] 131:19</p> <hr/> <p style="text-align: center;">-4-</p> <p>4 [4] 101:7 102:6 103:3 115:15 40 [2] 111:4 112:14 43 [3] 25:22 26:10 27:23 463 [1] 33:3 48 [1] 108:9 4B [1] 103:6</p> <hr/> <p style="text-align: center;">-5-</p> <p>5 [8] 24:14 82:3,6 85:23 99:18,20 100:22 102:8 5,088,963 [2] 113:9,12 5.7 [1] 7:18 50 [16] 2:15 48:5,7 54:18 56:25 58:19,19 59:13 64:15 142:2 144:24 150:13,17 152:16,19 153:10 50,000 [1] 50:24</p>	<p>54 [1] 108:9 5410 [4] 29:14 119:20 120:3 123:14 562 [1] 94:5</p> <hr/> <p style="text-align: center;">-6-</p> <p>6.51 [1] 86:20 60 [1] 2:15 65 [1] 47:7 67 [1] 144:25 68 [1] 146:17 6th [2] 7:10 119:24</p> <hr/> <p style="text-align: center;">-7-</p> <p>7 [3] 24:13,16 56:3 72.6 [1] 88:17 75 [7] 1:25 47:21 49:10 100:23 142:16 145:1 146:17 75.4 [2] 54:13 55:9 7th [2] 166:5,11</p> <hr/> <p style="text-align: center;">-8-</p> <p>8 [3] 53:23 97:2 154:3 80 [1] 111:16</p> <hr/> <p style="text-align: center;">-9-</p> <p>9 [1] 72:12 9.1 [1] 129:8 9.6 [1] 129:2 90 [2] 160:24,24 92 [2] 119:23,25 93 [1] 160:22 95 [1] 145:1 95.6 [1] 54:11 9:00 [1] 165:4 9:30 [2] 165:4,6 9:35 [1] 1:1 9:45 [1] 13:4</p> <hr/> <p style="text-align: center;">-A-</p> <p>A.D [1] 166:11 a.m [6] 1:1 13:4 27:7 76:2,3 102:4 A1-9-2013 [1] 125:24 ability [2] 23:22 166:8 able [23] 9:9 30:14 31:18 53:14 64:22 65:11,13 71:22 72:6,8 110:1,16 128:22 137:3,4 151:12 151:19,23,25 153:6 155:5 157:10 161:9 above [1] 57:24 absence [1] 136:22 Absent [1] 152:25 absolutely [36] 1:23 6:3 6:22 7:6 22:7,7,19 24:3 24:20 28:5 32:3 33:8 37:11,13 39:17 40:2,14 45:24 52:12 58:23 80:25</p>	<p>81:5 89:18 98:21 99:5 110:25 112:9 118:2 123:4 125:18 127:1 131:14 132:3 147:25 150:3 153:14 abuse [1] 142:23 accept [5] 33:17,22 125:25 126:2,4 acceptable [2] 67:17 101:4 accepted [5] 11:24 43:10 55:17 80:8 90:18 access [1] 137:3 accident [36] 23:12 31:15 32:24 49:23,25 50:5 51:7 51:15,20,21 71:19,19 72:25 82:13,14 84:19 88:17 89:5 90:9,11,22 90:25 91:12,13 92:15,24 93:12 98:4 104:13 106:1 106:19 108:24 115:7,11 115:24 117:2 accidents [2] 50:15 162:2 account [4] 34:2 56:24 102:23 146:6 accounts [1] 71:25 accuracy [1] 142:18 accurate [1] 13:17 achieve [1] 143:6 action [1] 61:7 actively [1] 157:3 activities [2] 65:9 162:15 activity [5] 72:13 91:23 106:10 134:9 160:21 actual [10] 37:6 90:3 93:7 93:21 107:12 114:14 120:7 124:9 131:9 154:23 actuals [1] 93:15 actuarial [15] 2:12 9:20 10:20 11:14 13:11 15:18 16:22 30:6 105:2 115:22 118:23 119:10 122:11 143:18,19 actuaries [3] 14:20,25 55:20 actuary [9] 7:1 12:7 13:7 13:8 16:1,1,13 108:6,25 added [3] 19:15 110:9 110:11 additional [6] 19:15 27:10 35:16 56:15 71:21 129:19 adduced [1] 24:22 adequacy [2] 134:4 146:5 adequate [5] 29:10 63:24 126:13,18 134:7 adjourn [1] 165:12 adjourned [1] 164:20 adjudicating [2] 138:6 138:10 adjudication [1] 60:20 adjust [3] 55:13 100:17 100:23</p>
--	--	--	---	--

adjusted [3] 31:5 100:25 105:4	57:24 59:3 82:21 106:16 106:18,20 136:2 137:13 138:21 139:6 148:22,25	appropriate [7] 9:15 23:24 29:5 98:2 118:20 126:6 149:4	130:10	115:25
adjusting [1] 102:24	amounts [4] 15:20 33:13 44:23 137:2	appropriately [2] 149:3 149:5	automobile [6] 23:3,4 115:5,24 154:4 166:4	best [2] 46:15 166:8
adjustment [3] 73:8,10 158:23	analysed [1] 2:7	appropriateness [1] 36:18	automobiles [1] 115:6	better [13] 20:22 44:15 62:24 81:12,20,22 83:3 124:12 143:12 151:24 156:20 163:2,20
adjustments [1] 23:15	analyses [1] 10:10	approval [6] 10:15 22:11 140:8,15,21,21	available [9] 1:20 2:1 2:11 39:21 78:12 83:12 84:2,16 152:5	between [30] 23:13 31:23 35:15 42:22 50:10,14 71:24 72:2 74:13 76:15 76:17 83:16 86:11,14 87:6,8 89:25 91:9,15,24 95:19 98:16 112:17 125:6 130:3 138:10,19 141:24 154:8 162:17
administratively [1] 34:14	analysis [23] 4:2 6:11 9:7 16:5,11 28:7 30:11 55:19 77:18,20 79:5 80:8,22 83:4 88:9 103:13 120:16 121:5 122:24 128:11,19 136:20,24	approve [2] 36:14 61:13	Avalon [3] 24:12 25:1 26:14	beyond [3] 4:15 83:21 84:17
adopt [2] 67:21 158:11	analyst [2] 28:20 90:7	approved [8] 20:14 21:1 21:15,24 41:2,5,6 139:14	average [8] 25:20 26:7 26:12 32:23 33:2 81:8 81:11,14	BI [1] 115:23
adopted [2] 68:10 143:5	analysts [2] 15:18 105:19	approving [1] 11:21	averages [3] 107:6,19 108:11	bias [1] 143:6
advance [1] 77:3	analyze [1] 14:11	approximate [1] 144:24	aware [18] 10:6,7,8 12:12,18,24 16:3 24:6 32:1,12 33:4,5,8 66:17 67:21,25 73:24 80:11	bifurcate [3] 9:9 14:10 30:15
advances [1] 79:25	Andrew [3] 63:18 92:23 107:4	April [3] 85:24 95:3 99:19	away [4] 30:16 44:6 158:2,6	bifurcated [1] 104:3
advise [2] 21:23 22:17	annual [3] 35:25 40:14 71:12	area [3] 62:21 108:20 153:24	-B-	bifurcation [4] 6:16 9:12 83:16 105:20
advised [1] 124:2	answer [15] 21:10 60:15 81:4,10 95:2,4 97:7 100:2 103:9,19 109:14 116:21 140:24 142:20 145:2	arise [2] 134:13 161:1	B [1] 103:9	big [3] 5:18 60:1 138:12
Advocate [4] 135:3 136:13 137:11 151:17	answered [1] 109:10	arising [4] 21:17 91:25 132:24 160:7	background [2] 10:21 64:3	biggest [1] 76:14
Advocate's [1] 133:1	answers [1] 143:12	arrangement [3] 32:13 33:24 40:13	bad [3] 58:5 59:7 157:4	bit [17] 2:22 18:11 20:22 45:11 60:13 66:23 69:7 69:13 82:4 89:7,15 92:22 96:21 104:9 111:8 112:11 115:4
affect [3] 48:21 80:2 158:4	anticipate [1] 158:6	aside [1] 164:24	ballpark [1] 145:23	blended [1] 32:18
again [40] 3:18 7:10 29:13 31:1 36:1 41:10 48:9 58:25 63:3,8,16,18 72:16 78:9 79:5 80:1 84:12 86:6 87:2 89:22 92:11 94:10,17 95:16 96:1,15 102:12 104:10 106:5 111:22 112:7 115:1 115:13 117:8 123:1 125:21 126:3 130:11 152:21 162:24	anyway [4] 22:24 43:18 164:1,7	assistants [1] 130:18	barrier [1] 65:19	board [31] 10:15,19,21 10:24 11:1,3,5,11 20:6 21:17,23 22:12 26:23 33:12 38:2 45:12 57:14 58:9 61:10 67:10,18 68:8 73:24 125:23,24 126:4,5 126:10 135:12 141:19 166:6
against [1] 50:1	apologies [2] 53:4 109:9	associated [7] 37:12 38:21 57:18 73:9 137:23 138:7,20	base [3] 26:25 27:3 30:16	boards [1] 80:8
age [2] 106:18,20	apologize [15] 7:7 49:17 61:24 63:4 77:3 93:1,2 93:22 94:17 102:25 103:6 112:7 120:21 121:2 130:25	Association [29] 9:8 12:8 13:20 18:21 22:10 23:5,10 26:6 43:24 46:2 49:20 50:10 56:11 57:19 61:19 63:20 65:17 70:3 70:7,19 71:4 144:4 145:15 148:19 149:20 157:1 162:25 163:6 166:4	based [32] 3:20,22 4:1 7:18 8:7 9:11 23:10,12 23:14 30:10 33:24 35:3 35:5,23 37:22 47:17 50:1 54:25 55:4 59:10 67:2 113:2,3 115:7 120:16,25 126:12 128:11,12,19 141:11 155:8	Board's [3] 18:19,22 66:24
agencies [1] 65:2	apparatus [1] 166:9	Association's [5] 9:19 20:14 32:13,22 71:8	basis [15] 14:8 19:11 34:10,11 35:25 40:14 42:21 61:2 65:5 67:3 82:13 101:2 108:1,4 134:19	bodily [14] 8:24 86:1,3 87:20 88:1 89:3 90:21 90:24 99:25 102:9 104:9 108:23 116:21 137:20
agency [1] 151:12	appear [1] 80:16	assume [6] 29:9 31:9 50:3 87:2 138:5 156:6	Bayesian [1] 121:22	Bonavista [4] 24:15,24 25:22 26:9
agency [1] 151:12	appeared [1] 104:17	assuming [3] 4:16 54:9 96:2	bear [2] 53:14 94:3	book [1] 66:3
ago [1] 78:19	Appendix [2] 112:23 113:10	assumption [3] 29:4 30:16 138:25	bearing [3] 96:3,13 146:16	books [1] 149:12
agree [6] 1:25 37:3,5 55:24 126:21 139:21	appetite [2] 149:19 150:10	assumptions [6] 10:7 16:16 76:20 125:25 126:22 131:5	becoming [1] 160:2	bore [1] 92:16
AIX [1] 71:5	applications [1] 18:21	Atlantic [2] 64:16 120:17	beginning [3] 6:13,14 143:15	borne [1] 37:16
akin [1] 109:17	applied [6] 31:11 47:8 54:22 69:3 70:14 129:16	attempt [1] 141:10	behalf [2] 71:7 149:17	bother [1] 92:6
Alberta [4] 41:6 64:13 64:16 140:17	applies [2] 42:16 81:17	attend [1] 1:5	behaviour [4] 92:2 95:8 158:10 161:6	bottom [8] 3:5,6 19:14 62:17 69:14 107:2,5,18
algorithm [1] 151:14	applying [2] 141:18 143:21	attention [1] 7:10	behaviours [2] 65:7,16	break [3] 53:3 74:11 75:14
algorithms [1] 27:12	appointed [3] 16:1,1 108:6	attract [2] 44:1,21	behind [1] 59:21	Breton [1] 31:24
align [2] 115:23,24	appreciate [2] 21:4 132:7	attracting [1] 45:10	below [9] 15:18 48:5 55:9 56:13 63:15 64:15,22 107:19 108:11	Brian [2] 12:16,18
allocated [2] 73:8,10	approach [12] 29:11,20 30:4,14 89:8,20 100:3 100:15 124:2 143:22 154:17 156:20	attributing [1] 45:10	benchmark [2] 55:5 154:6	briefly [2] 18:11 30:12
allocation [1] 84:14	audits [3] 38:24 39:1 61:3	attribute [2] 86:24 87:11	benefit [8] 88:17 89:6 92:15 93:13 98:7 108:24 115:7 117:3	bring [29] 7:9 16:9,10 25:6 56:1 57:22 58:7 63:11,13 80:14 82:1 85:23 88:25 95:2 99:18 101:6 103:2 104:21 105:24 106:13,14 109:9
allow [3] 55:12 67:19 133:16	approaches [2] 122:1 143:24	audit [7] 60:24,24 61:2,4 61:5,9 142:13	benefits [12] 32:24 90:9 90:11,22,25 91:13 92:24 98:4 104:13 106:1 115:11	
allowance [1] 133:13		auto [3] 43:10,13 71:5		
allowed [2] 21:1 68:9		automatically [2] 130:1		
allows [4] 32:14 59:4 78:12 133:12				
almost [7] 63:18 64:10 87:12 114:22 127:4 148:17 158:24				
alone [4] 56:20 59:19 134:6 146:15				
along [3] 34:25 62:1 87:4				
alternate [2] 29:19 98:22				
amend [1] 140:3				
among [1] 72:2				
amorphous [1] 40:10				
amount [15] 34:8,23 36:8				

115:15 119:23 120:11 130:20 144:2 162:10,11 bringing [2] 6:12 41:14 broadly [1] 143:9 broker [1] 154:22 brokerage [1] 34:12 brokers [1] 156:23 Brook [1] 135:5 brought [7] 3:7 60:10 62:14 135:8 136:8 137:1 137:9 budget [1] 84:9 Buhlmann [1] 121:21 building [2] 38:21 150:10 built [1] 100:11 burden [3] 55:12 145:5 145:17 Burin [3] 24:15,24 26:9 business [36] 14:7 22:22 23:19,21 25:21 26:8,13 38:23,25 44:2,21 45:10 46:5,6,8 50:16 56:6 66:8 70:19 124:11 138:15 142:5,7 148:7 149:8 150:22 151:1,1 152:17 153:1,11 155:11 156:22 157:19 158:2,2	case [9] 31:13 43:3 59:9 81:4 87:10 90:5,8 98:3 133:3 cases [3] 29:1 134:17 137:25 cash [1] 24:2 catch [1] 146:20 categories [1] 39:10 caused [3] 4:21 87:3,9 causing [2] 2:24 86:25 caveat [1] 162:16 cell [2] 93:6,8 CEO [1] 11:10 certain [15] 7:6 15:20 32:3 40:14,19 52:13 61:21 65:9 91:24 134:6 134:16 140:4 143:7 144:7 159:9 certainly [43] 6:3 10:5 28:4 29:12 30:23 32:5 36:15 37:10 50:12 52:14 59:17 64:6,15,18 65:21 75:16 79:15 82:21 83:14 98:5 101:23 116:17 119:10 131:24 134:3,7 134:15 135:16 137:19,21 143:11 144:6 145:21 149:6 150:20 151:7 156:13 160:24 161:16 162:16 163:5 164:8,8 CERTIFICATE [1] 166:1 certification [1] 16:23 certify [1] 166:2 cetera [2] 32:24 106:24 Chair [2] 1:7 163:8 Chairman [25] 1:2,8 50:17,22 51:3,11,24 52:20 75:15,23 76:6 141:5 144:14,15 159:25 160:8 163:9,15,23 164:6 164:11,19,23 165:5,11 challenge [8] 27:20 28:2 29:13 30:13 60:1 138:23 150:10 157:2 change [69] 3:8 4:13,20 5:14 27:9 31:10 35:22 40:25 41:5,6,6,7 43:22 46:11,18 48:3 49:13 52:8 53:1 54:4,7 76:20 78:2 79:15,20 86:3,10,10,19 86:24,25 87:4,7,10 88:8 92:12 97:18 98:14,15 99:23 104:17 106:9 109:24 110:5 115:1,19 116:10,15 118:22 119:20 119:21,22 122:10,25 123:3,8,9,11,14 124:8 126:14 129:10,21 130:6 130:9,13 141:16 158:7 161:5 changed [7] 85:11,11 109:14 124:22,24 129:24 131:6 changes [21] 41:2,13 45:20 49:2 74:1 78:13 80:1,23 84:12 90:1,2 98:17 109:16 125:10,11	128:25 139:22 143:4,5,9 158:10 changing [3] 5:14 122:3 122:6 characteristics [3] 109:15 151:16,21 characterization [1] 119:2 characterize [3] 48:2 77:11 134:2 charge [3] 34:9 35:15 150:15 charging [2] 139:8 149:4 chart [1] 93:18 charts [1] 93:3 check [3] 128:2 129:4 161:12 checking [1] 130:17 cherry [1] 144:6 Chief [1] 9:20 choice [2] 64:2 153:3 choose [3] 5:21 28:20 146:18 chose [1] 77:17 chosen [1] 107:13 circulated [1] 101:14 claim [12] 29:22 30:12 60:16,22,23 62:4 65:10 65:10 91:13,14 121:18 121:18 claim's [1] 50:11 claimant [3] 65:15 92:1 95:7 claiming [2] 92:5,6 claims [45] 27:23 29:13 29:17,24,25 30:3 31:16 34:7 49:18,19 56:11 59:19 60:20,24,25 61:16 62:23 63:6,9 65:1,8 78:21 91:10,16,25 106:18 114:14 133:25 134:12 138:1,6,11,11,12 149:5 157:11,12 158:16,18 160:21,23 161:6,7,9 163:19 clarification [1] 132:23 clarify [1] 23:2 class [9] 47:17,22 56:6 142:5,5,8 150:25 152:17 157:18 classes [5] 14:13 124:10 124:14 138:15 144:1 classical [1] 121:20 classification [1] 151:25 clear [6] 73:21 85:14 108:4 126:8 141:1,3 clearly [1] 164:14 clears [1] 105:22 close [7] 26:19,21 57:6 64:17 126:13 160:24 162:20 closest [1] 107:20 codes [3] 26:8,13,25 collecting [1] 34:6	collision [5] 91:14,20,22 104:14 129:1 column [7] 56:3 106:17 106:24 111:6,20,21 158:23 columns [1] 106:8 combined [3] 14:8 101:1 129:9 comfort [1] 31:7 comfortable [5] 16:3 31:20 83:5 97:5 155:23 coming [5] 75:10 81:16 126:23 155:13 160:25 commensurate [4] 138:17,22 139:3,7 comment [3] 35:7 80:25 134:15 comments [2] 67:20 68:3 commercial [21] 8:8,21 49:20,22 50:2,6,8 57:17 68:13,18,24 73:20 109:1 109:17 110:3,16,21 113:22 118:20 120:17 144:3 Commission [1] 159:11 Commissioner [10] 144:19,21 145:8,13 146:21,23 160:6,7,12 165:3 Commissioners [2] 132:15 166:6 committee [3] 61:5 122:12 132:8 companies [5] 64:1 65:13 149:7 150:20 151:10 company [4] 46:4 151:9 153:24 156:13 compare [2] 86:10 131:9 compensate [1] 39:8 compensation [8] 33:24 34:11 35:3,6,22 36:2,23 137:7 compile [1] 69:22 compiled [2] 69:25 72:25 complement [5] 17:9 18:1 125:20 126:11,25 complete [3] 16:18 40:15 40:20 completed [1] 9:7 completely [3] 40:18 79:8 126:24 completing [1] 83:4 complicated [1] 138:1 component [1] 137:20 comprehensive [3] 104:15 124:21 129:1 concept [3] 2:10 45:13 47:19 concern [6] 36:17 57:22 58:1,3 97:22 142:22 concerned [2] 96:25 98:1	concerning [1] 36:6 concerns [1] 35:8 concluded [1] 3:17 concluding [1] 165:13 conclusion [3] 6:12 119:8 122:9 conclusions [1] 119:9 conduct [2] 160:18 162:7 confident [2] 28:8 37:4 confirm [8] 33:12 55:16 68:12 76:23 82:19 88:5 99:7 127:8 confirmed [1] 9:18 consequences [1] 95:7 consider [5] 8:1 94:20 94:22 122:1,2 consideration [8] 26:23 44:7 45:22 58:18,24 124:1 146:5 150:19 considerations [3] 98:5 145:20 148:25 considered [9] 38:6 40:7 40:8,22 43:3 80:17 103:7 103:12,24 consistent [8] 70:16 100:1 122:4 126:10,20 126:24 134:19 143:22 Consumer [5] 133:1 135:3 136:13 137:11 151:17 CONT'D [1] 1:12 contained [3] 17:7 69:21 71:11 contains [1] 70:1 context [1] 133:5 continue [3] 4:17 87:4,6 continued [1] 90:8 continues [2] 146:10,19 contractual [1] 32:13 contrary [1] 63:20 control [4] 60:14 62:19 139:20 161:19 convert [2] 29:22 121:18 copy [1] 39:15 Corner [1] 135:5 correct [44] 2:25 3:2,14 4:4 8:11 9:23 11:22 12:22 13:24 17:11,21 18:16 20:8 24:10 25:4 25:14 27:6 34:18 44:4 47:25 49:6 56:7 57:8 58:5 72:20 78:22 81:6 85:2 93:16 95:22 101:21 103:22 113:5 118:7 120:11 129:13 134:25 136:5 139:17 140:6 147:6 148:13 152:14 166:3 correctly [1] 49:18 correlation [6] 89:12 89:25 91:9,15 95:18 138:10 cost [26] 4:19 30:9 37:11 37:18 40:6,13 54:11 56:15 57:18 65:19 80:18 82:13 87:17 88:1 98:11
--	---	--	---	---

-C-

c [2] 88:25 95:3
C1 [2] 19:20 55:7
CA-FA-01 [1] 17:19
CA-OW-1 [1] 82:1
calculated [1] 18:23
calculation [3] 17:8 55:6
117:21
calendar [2] 72:25 73:9
Canada [3] 64:6 65:5
163:12
Canadian [1] 55:19
cannot [2] 37:15,17
cap [3] 55:11 145:3 146:1
capabilities [1] 9:5
capability [1] 151:6
Cape [1] 31:24
capital [7] 37:11 38:20
54:9,10,11 133:12 148:24
capping [2] 146:1 152:18
capture [1] 151:3
captured [1] 139:13
capturing [1] 38:23
car [4] 47:6,19 161:23,23
carrier [6] 33:18 36:9
61:6 62:3 137:22 138:22
carriers [16] 27:11 32:14
33:1 35:19,21 37:7 38:5
39:9 60:19 62:15 72:12
72:14 137:8,13 138:25
156:24
carry [2] 5:2 62:3
cars [1] 161:25

<p>98:14 133:12 137:12 138:6,10,18,19,22,23 139:10 159:4 costs [29] 34:3 38:5,11 38:11,17,20 40:4 57:24 59:8,25 60:1,13 62:19 63:23 65:2 88:12 93:13 93:19 94:12 97:24 144:9 159:7,20 160:17 161:8 161:20 162:10,11,18 count [2] 29:22 154:8 counterintuitive [1] 44:19 country [1] 34:3 counts [5] 30:12 121:18 121:18,19 153:16 couple [10] 41:13 52:25 69:8 71:21 74:7,19 96:7 119:18 127:3 165:9 course [2] 89:11 125:23 cover [3] 63:12,14,23 coverage [6] 63:23 66:18 91:22 102:9 127:17 129:9 coverages [12] 27:21 29:16 82:24 88:6 89:10 90:5 91:11,17,24 127:9 129:18,20 covered [3] 51:15 78:8 95:17 covers [1] 51:21 create [1] 63:25 creating [1] 64:2 credibility [22] 17:9 27:25 28:1 29:8,19 30:3 31:16 59:4 119:17 120:15 121:14,20,21,22,23 123:4 124:6,21 125:20 126:12 128:21 146:12 credible [1] 58:4 credits [1] 23:16 criteria [2] 60:25 121:23 cross [1] 108:21 CROSS-EXAMINATION [4] 1:11 52:23 144:19 146:25 crossing [1] 66:6 curious [1] 163:11 current [12] 16:25 17:2 32:23 35:23 51:19 96:4 120:15 128:24 141:21 142:1 159:14,19</p>	<p>27:16 28:3 67:2,16 68:13 68:18,19,24 69:3,8,9,15 69:21,22,25 70:3 71:6 71:10,16,23 73:2,2,4 78:12,19,20 79:1,2,7 80:2 81:2,5 82:22 83:3 83:12 84:2,16,20 89:14 89:21 90:14 91:1 92:14 92:20 93:3,7,12 94:21 95:5,19 96:16 97:6 100:17,18,21,24,25 102:24,24 103:23 104:4 106:4,10 108:20,22 109:2 109:13 110:5,20 111:1 112:3 113:2,16 114:15 118:20 119:7 134:15 152:3 154:3 155:12,14 156:14 date [2] 6:12 69:24 Dated [2] 101:13 166:10 days [6] 69:8 74:19 96:7 164:13,15,24 de [2] 153:10 156:25 deal [2] 15:21 157:17 dealing [2] 133:4 156:10 deals [1] 46:19 decades [1] 152:11 December [7] 67:3 70:15 71:9 72:8,9,10 73:1 decide [2] 36:20 139:20 decided [3] 92:15 98:2 158:10 deciding [1] 145:21 decision [3] 34:11 133:14 146:16 decisions [2] 30:8 58:9 decrease [4] 106:21 129:8,15,25 deductible [3] 85:19 86:2 89:3 deem [1] 23:24 deemed [1] 161:2 degree [1] 82:8 demonstrated [1] 164:14 demonstrates [1] 24:23 dent [1] 161:15 dependent [2] 129:18 129:20 depending [3] 27:25 145:1 147:21 depopulate [3] 46:2 147:13,15 derived [1] 120:16 describe [1] 10:4 described [2] 10:13 16:8 describing [2] 89:19 133:13 description [1] 105:18 designed [1] 151:2 detail [6] 10:9 71:18 151:15,18 152:5 153:21 detailed [1] 17:19</p>	<p>determination [3] 9:4 19:8 54:25 determine [14] 5:19 25:20 50:18,19 51:17 52:14 70:4,12 81:8 110:17 123:3 128:22 137:3 144:10 determined [9] 19:10 23:11 55:10 89:19 97:15 104:14 120:3 128:7 137:2 develop [3] 60:11 68:14 108:23 developed [1] 68:23 developing [2] 114:9 126:3 development [9] 69:24 70:13 73:2 82:18 105:24 106:3 107:12 112:23 113:1 difference [15] 35:15 42:15 73:5 74:13 77:6 78:4 84:23 87:7 90:12 103:21 109:23 111:24,24 112:16 162:17 differences [4] 76:15,16 154:7 155:25 different [39] 8:13,13 13:12,12 15:23 23:20 26:18 30:3,19 31:17 35:12 41:3,4 73:1 77:8 80:19,19 81:1,2,4,5,9,15 81:15 82:17,18 91:16,17 93:8 94:16 97:6,24 98:7 100:3 102:18 119:9 121:16 130:13 143:24 differential [2] 28:23 49:13 differentiate [5] 27:3 32:2 42:21 51:23 151:21 differentiating [1] 46:16 differentiation [2] 24:6 31:19 differently [2] 14:11 104:6 dip [2] 93:25 94:1 direct [5] 17:7 62:2 96:3 139:19 143:15 directed [1] 137:11 direction [2] 54:5 58:2 directly [1] 46:6 director [1] 11:10 Directors [8] 10:15,19 10:21,24 11:3,6 57:14 61:10 discount [14] 41:16,18 42:16,18 44:14,17 45:5 45:7 55:2 136:10,11,12 136:15,22 discounting [1] 41:24 discounts [3] 44:19,20 44:22 discovered [3] 18:23 20:1,3 discrepancy [1] 130:21 discuss [2] 122:7 150:9</p>	<p>discussed [2] 119:18,21 discussion [6] 98:25 105:10 122:11 133:2 147:4 160:12 display [2] 94:17,18 distinction [2] 27:17 51:25 distinctions [3] 28:10 31:23 32:6 distribute [1] 30:9 distribution [1] 141:11 divide [2] 106:17,18 divided [3] 19:21,22 96:11 divorced [1] 45:11 docket [1] 121:24 document [4] 67:5,11 102:7 111:16 doesn't [16] 29:18 30:2 51:23 55:20 61:12 79:15 81:11 91:5 94:3 97:13 149:11,12,25 150:21 151:15 160:1 Doherty [416] 1:11,14 1:15,22 2:6,19 3:1,13,19 3:23 4:3,9,25 5:3,12,20 6:2,15,21 7:5,22 8:2,10 8:15 9:3,17,22 10:3,16 10:23 11:2,7,16,23 12:3 12:9,15,21 13:2,9,16,23 14:4,17,22 15:1,5,11,17 16:24 17:3,10,15,20,25 18:6,15 19:1,6 20:2,7,16 20:20 21:3,7,11,19 22:1 22:6,13,18 23:1,8,25 24:9,19 25:3,10,15,24 26:17 27:5,13,19 28:14 28:19 30:22 31:25 32:11 32:17 33:7,14,17,23 34:17 35:2,11 36:11,19 36:25 37:9,21 38:7,13 38:19 39:11,16,20 40:1 40:11,23 41:20 42:1,5,6 42:11,17,24 43:6,12,17 44:3,9 45:4,14,23 46:14 46:24 47:3,11,24 48:4 48:11,17,22 49:5,15 50:20 51:1,9,14 52:5,11 52:17,18,23 53:4,5,11 53:16,21 54:2,6,17,24 55:16,23 56:3,8,17,23 57:7,12 58:13,22 60:6 60:18 61:14,23 62:5,11 62:20 63:7 64:5 65:20 66:13,20 67:6,12,24 68:5 68:15,20,25 69:4,17,23 70:11,24 71:3 72:18,23 73:14,19,23 74:4,15,25 75:5,9 76:9,11,24 77:10 78:1,11,17,23 79:4,22 80:3,6,10,24 82:1,12 83:1,6,11 84:1,5,18,22 85:3,9,17,25 86:5 87:16 87:22 88:2,7,14,18,22 89:14,17 91:2 92:9,17 92:25 93:14 94:9,24 95:10,21 96:5,14 97:14 99:4,7,9,15 100:8,12 101:10,15,22 102:2,15 102:20 103:23 104:2,16</p>	<p>104:24 105:6,13,17,23 106:5,7,15 107:8,14,23 108:3,12,16 109:4,19,25 110:6,10,23 111:11,17 112:1,10,15,21 113:4,8 113:17,21 114:1,5,12,19 114:23 115:9,16,21 116:5 116:11,16,24 117:5,10 117:20 118:6,11,25 119:5 119:14 120:8,20,24 121:8 121:13 122:20 123:2,7 123:17,23 124:3,7 125:1 125:5,13,17 126:7,17 127:5,12,18,23 128:3,8 128:18 129:5,12,17 130:25 131:8,12,13,17 131:23 132:2,6,19,21,24 133:2,7,15 134:1,24 135:13,24 136:4,17,23 138:4,13 139:12,16,23 140:5,12,16,23 141:2,12 141:20 142:19,24 143:3 143:8 144:19 145:6,10 145:19 146:25 147:9,14 147:19 148:6,12,20 149:15,24 150:6 151:4 152:13,22 153:5,13 154:20 155:2,15,20 156:3 156:12 157:9,22 160:3 160:10,20 162:4,13 163:13,17 164:2,9,17 dollar [1] 136:2 dollars [4] 35:17 37:20 57:21 160:22 domain [1] 139:19 done [13] 13:14 16:6,18 40:19,20 86:6 94:7 120:4 132:5,13 156:15 162:12 162:14 door [1] 161:13 doubt [1] 54:2 down [33] 18:2 30:6 39:7 59:8 69:12 71:22 82:4 86:20 90:2 92:22 93:17 96:20 99:3,5 100:20,22 100:22 103:9 106:13,14 111:8,21 112:4,5 115:4 118:22 119:25 135:9 151:6 153:16 161:8 162:10,11 drafts [1] 67:25 draw [1] 31:23 drawing [1] 28:9 drill [1] 71:22 drilling [1] 151:6 drive [2] 109:16 155:6 driven [4] 41:24 42:22 42:23 160:18 driver [5] 161:2,22,23 161:24 162:8 drivers [5] 41:16 153:1 160:19 161:19 162:1 drives [1] 137:15 driving [9] 50:19,24 65:7 65:16 72:2 116:7 158:10 161:5,25 drop [7] 4:19 87:12,13 94:5,21 124:14 135:21</p>	
<p align="center">-D-</p> <p>D-1 [1] 56:1 D1 [2] 112:17 158:24 D2 [1] 112:16 D5 [1] 112:16 damage [10] 27:22 88:11 102:11 104:12 127:8 129:9,11,23 130:4,7 damages [1] 127:3 DARLENE [1] 147:1 data [9] 1:19 2:1,8,11 2:16 5:14 7:3 8:14 16:12</p>					

<p>dropped [3] 18:2 86:20 86:23</p> <p>dropping [1] 96:20</p> <p>drops [2] 161:6,7</p> <p>drove [1] 92:11</p> <p>during [5] 2:3 4:14 6:24 17:6 91:6</p> <p>DWANDA [1] 144:20</p> <hr/> <p style="text-align: center;">-E-</p> <hr/> <p>easier [1] 34:15</p> <p>Eckler [6] 7:16 9:6 12:6 110:12 120:3,19</p> <p>Eckler's [2] 99:16 100:9</p> <p>educate [1] 157:16</p> <p>effect [6] 92:3 95:9 96:9 123:15 136:14 163:11</p> <p>effectiveness [1] 143:13</p> <p>efficiency [2] 143:14,20</p> <p>efficiently [1] 65:1</p> <p>effort [8] 27:10 29:22 34:1 39:5 138:20 139:3 139:8 148:25</p> <p>efforts [1] 46:1</p> <p>eight-year [2] 4:11 8:9</p> <p>either [11] 25:1 28:21,23 41:9 45:19 81:12 90:1 122:17 126:13 144:25 159:14</p> <p>elaborated [1] 49:3</p> <p>element [1] 140:1</p> <p>eliminate [2] 41:23 141:16</p> <p>eliminated [1] 136:12</p> <p>eliminating [1] 45:3</p> <p>elimination [2] 136:10 136:14</p> <p>emails [1] 163:21</p> <p>embedded [2] 115:25 118:1</p> <p>employee [2] 42:23 154:17</p> <p>end [7] 6:17 53:8 98:13 116:22 127:4 154:18 158:25</p> <p>ended [1] 18:3</p> <p>energy [1] 138:6</p> <p>ensure [5] 46:15 60:25 64:20 149:2 154:2</p> <p>entail [1] 28:18</p> <p>enter [2] 64:1 101:7</p> <p>entered [3] 7:11 102:8 103:4</p> <p>entire [5] 1:19 34:3 81:18 81:23,24</p> <p>entirely [1] 132:25</p> <p>entitled [2] 33:19 41:18</p> <p>entrant [3] 155:9,10 156:8</p> <p>equal [1] 15:16</p> <p>equality [1] 101:16</p> <p>equity [2] 54:9 133:17</p>	<p>Ernst [1] 13:7</p> <p>error [9] 17:8,13,23 18:22 19:2,3,5,7 20:1</p> <p>escapes [1] 12:14</p> <p>essentially [1] 8:18</p> <p>establishing [1] 26:24</p> <p>estimate [13] 7:19 8:7 70:17 81:3,21,22 82:17 83:7 86:15 95:14 100:16 112:5 144:9</p> <p>estimated [5] 38:4 40:5 76:18 100:21 120:5</p> <p>estimates [2] 70:5 81:16</p> <p>estimating [1] 81:18</p> <p>et [2] 32:24 106:24</p> <p>event [2] 91:16,25</p> <p>events [2] 91:10 161:1</p> <p>everybody [4] 1:3 75:20 77:4 101:14</p> <p>everywhere [1] 122:4</p> <p>evidence [7] 1:18 4:22 24:22 37:17 84:24 96:6 158:25</p> <p>evident [1] 87:5</p> <p>exact [2] 82:20 144:1</p> <p>exactly [9] 6:7 22:14 41:1 42:18 62:21 94:15 96:21 104:4 108:4</p> <p>example [5] 2:1 49:8 135:3 137:16 141:8</p> <p>except [2] 57:5 140:17</p> <p>exclude [1] 77:17</p> <p>excluded [1] 79:7</p> <p>exclusions [1] 79:14</p> <p>executive [1] 10:20</p> <p>exercise [4] 28:5 59:22 59:23 81:6</p> <p>exhausting [2] 164:10 164:12</p> <p>exhaustive [2] 164:8,13</p> <p>exhibit [13] 7:13 19:8,10 19:20 56:1 60:9 71:13 101:7 102:6 103:4 112:23 115:15 158:19</p> <p>exhibits [4] 71:6,12 72:5 72:25</p> <p>exist [2] 97:1 163:25</p> <p>existing [2] 42:4 143:19</p> <p>exists [1] 142:14</p> <p>expand [1] 71:17</p> <p>expect [6] 5:10 29:25 34:22 59:25 138:9 153:9</p> <p>expectation [1] 157:7</p> <p>expend [1] 138:5</p> <p>expense [7] 19:24 32:10 32:15 137:9,12,22 140:4</p> <p>expenses [16] 19:9 24:1 37:6 39:10 55:14 73:10 82:16 110:13 137:22 138:1,2 139:13 140:2 159:15,16 162:20</p> <p>expensive [1] 137:25</p> <p>experience [65] 7:20 8:8</p>	<p>8:22 14:10 29:6,6,17 30:15 58:25 59:1,5,10 59:16 65:6,24 66:1 70:2 70:6,12,14 71:6,7,9,14 71:23,25 72:3,7,10,24 73:6,8,20 77:22 78:21 80:7 82:11 83:15 96:10 104:3 120:18 124:9,10 124:12,16,18 128:11,13 128:20 130:4,7 135:9 146:9,10,14,15,19 149:6 152:20 157:4,6,20,24 158:12 159:6</p> <p>expert [3] 61:18 155:21 161:15</p> <p>expertise [9] 11:14 62:22 62:25 65:17 149:1 151:8 151:10,19 152:2</p> <p>explain [13] 54:21 70:8 74:12,16 89:2,115 106:5 108:1 109:12 111:23 115:3 128:6 129:15</p> <p>explained [1] 74:2</p> <p>explanation [3] 9:2 102:19 103:17</p> <p>explored [1] 125:22</p> <p>exposure [4] 29:23 46:23 47:18 121:19</p> <p>extent [9] 3:9 4:10 29:24 31:19 119:6,7 133:11 136:25 158:11</p> <p>external [4] 10:10 13:6 13:8 100:7</p> <hr/> <p style="text-align: center;">-F-</p> <hr/> <p>FA [13] 7:17 10:1 12:19 45:8 148:4,5 150:25 151:2 152:9,11 153:12 154:18,25</p> <p>FA's [3] 7:1 147:12 152:8</p> <p>facilitates [1] 163:3</p> <p>Facility [71] 8:20 9:8,19 12:8,13 13:15,19 18:20 20:13 22:10,23 23:5,9 23:19,21 26:6,24 27:2 32:13,22 37:25 41:14 43:21,22,24 45:18 46:2 47:15 49:20 50:10 54:21 56:5,11 57:19 58:17 61:12,19 62:2,19 63:3,5 63:20 65:17 68:3,12 70:2 70:7,19 71:4,8 77:6 78:9 80:16 83:9 86:3 88:5 94:20 104:13 106:2 107:13,21 126:1 128:24 144:4 145:15 148:18 149:20 157:1 162:25 163:6 166:3</p> <p>Facility's [9] 6:25 21:15 38:3 41:23 60:16 76:19 80:22 99:13 127:10</p> <p>fact [7] 12:24 33:5 59:22 66:14 108:22 118:19 139:13</p> <p>factor [10] 73:9,9 84:23 84:24 96:12,17 100:7 102:14 118:18 129:19</p> <p>factors [11] 68:10 70:13</p>	<p>82:18 96:2,3 97:12 106:3 107:13 113:1 114:8 144:7</p> <p>fair [14] 2:5,11,20,22 36:7,23 37:1,5 67:23 114:13 118:23 119:1 137:12 150:24</p> <p>fairly [3] 48:2 58:2 152:10</p> <p>fairness [2] 35:8 36:18</p> <p>familiar [3] 9:25 67:4,9</p> <p>far [4] 32:1 83:24 96:25 117:24</p> <p>farther [2] 82:4 92:22</p> <p>faster [1] 143:12</p> <p>fault [3] 91:12,21 161:3</p> <p>February [1] 7:10</p> <p>fee [1] 138:22</p> <p>fellow [3] 15:6,9 16:14</p> <p>Fellows [2] 14:23 15:2</p> <p>felt [3] 9:14 106:2 137:2</p> <p>few [7] 29:13,17 58:5 65:4 83:1 114:18 132:23</p> <p>fields [1] 71:21</p> <p>figures [1] 88:11</p> <p>file [2] 39:15 152:21</p> <p>filed [5] 18:21 85:24 95:3 103:3 116:20</p> <p>files [1] 60:25</p> <p>filing [27] 6:25 9:17 10:1 11:21 12:2 20:4 57:23 66:24 67:4 68:8 73:23 73:25 74:2 76:17,18 93:10 99:13,21,23 100:1 102:1 115:2 124:23 129:22 152:12,16,18</p> <p>filings [2] 16:21 18:14</p> <p>filter [1] 157:20</p> <p>final [4] 19:8 108:15 130:18 143:2</p> <p>financial [2] 9:21 49:3</p> <p>findings [3] 61:3,4,9</p> <p>fine [6] 53:12 62:1 109:22 114:20,24 115:17</p> <p>fingers [1] 66:6</p> <p>finished [2] 119:12 132:17</p> <p>first [22] 5:9,16,25 6:17 12:13 24:15 36:5 55:1 57:21 79:12 83:19 86:8 86:9,17 89:7 90:6 98:13 106:17 122:7 154:19 160:15 161:22</p> <p>fit [5] 90:10 93:2 100:25 118:2,10</p> <p>fitted [7] 86:7,11,13,20 93:15,16 117:24</p> <p>fitting [3] 93:21 116:23 117:4</p> <p>five [13] 26:6 27:22 28:21 28:24 31:1 71:19 81:9 81:10 90:6 111:23 134:10 146:4 157:25</p> <p>five-accident [1] 71:14</p> <p>five-year [3] 25:20 26:1</p>	<p>26:11</p> <p>fives [1] 81:13</p> <p>fixed [4] 19:9,23 34:3 136:3</p> <p>fleet [5] 14:7,11 64:25 65:6 158:9</p> <p>fleets [2] 14:9 64:25</p> <p>fleshed [1] 58:9</p> <p>focus [12] 46:1 94:12 96:1 97:1 137:21 143:11 143:14,19,20 151:22 159:18 160:13</p> <p>focused [1] 147:22</p> <p>focuses [1] 143:10</p> <p>focusing [1] 100:5</p> <p>folks [1] 20:11</p> <p>follow [2] 47:2 121:4</p> <p>follow-up [1] 61:7</p> <p>food [1] 53:23</p> <p>footnote [1] 121:5</p> <p>foregoing [1] 166:2</p> <p>foreign [1] 65:4</p> <p>foremost [1] 57:21</p> <p>forget [1] 71:12</p> <p>form [1] 71:10</p> <p>formally [1] 133:18</p> <p>format [5] 19:16,17 71:11,13,17</p> <p>formula [7] 34:16 36:7 36:22 38:16 39:8 40:21 93:5</p> <p>forward [21] 10:14 11:9 19:20 41:14 43:21 46:11 46:19 47:15 57:22 58:7 59:2,23 79:21 98:23 122:14,16 126:23 144:2 146:8 159:6 162:23</p> <p>found [11] 82:8 84:24,25 86:3 88:5 89:25 99:12 103:13,14,18 109:1</p> <p>four [7] 7:15 24:7 30:17 90:6 133:21 139:4 143:10</p> <p>frame [1] 104:18</p> <p>Francisco [1] 163:24</p> <p>fraud [1] 63:6</p> <p>frequency [33] 4:19 8:6 9:11 49:18,19 50:11 65:8 82:24 85:11 86:10,14,20 87:12,18 93:20 94:11,12 96:20 97:18,25 98:9,13 98:15,23 103:8,15 108:24 109:7,16 157:11 158:17 161:6,7</p> <p>frequently [1] 162:2</p> <p>friend [1] 133:20</p> <p>front [1] 55:8</p> <p>full [2] 54:22 120:15</p> <p>full-time [1] 142:10</p> <p>fully [3] 9:25 58:3 80:16</p> <p>future [8] 3:11 4:15,22 59:24 78:22 84:13 144:9 146:11</p>
--	---	---	---	--

<p style="text-align: center;">-G-</p> <p>G1 [1] 19:8 gained [1] 53:23 gap [1] 162:20 gather [2] 30:9 152:3 gathering [1] 59:20 general [6] 60:21 65:2 89:8 113:14 151:12 154:5 generally [5] 43:2,10 90:13 100:6 135:12 generate [2] 54:8 138:17 generated [1] 134:22 generates [1] 138:16 generating [1] 138:21 gentleman [1] 153:18 GISA [1] 71:12 given [4] 58:17 63:22 114:13 161:16 giving [2] 44:18 124:16 globally [1] 34:8 Glynn [196] 1:6 7:12 52:23,24 53:7,13,19 54:1 54:14,20 55:15,25 56:14 56:19 57:2,9 58:11,16 60:3,8 61:11,20,25 62:8 62:13 63:1,10 65:18 66:11,16,22 67:8,14 68:2 68:7,17,22 69:2,6,19 70:9,21 71:1 72:15,21 73:11,17,22 74:6,17 75:2 75:7,12,17,25 76:4,8,13 77:1,21 78:7,16,25 79:19 79:24 80:5,13 81:25 82:25 83:8,23 84:3,15 84:21 85:7,13,22 87:14 87:19,24 88:4,10,16,20 88:24 90:19 92:7,13,19 93:11,23 94:19 95:1,12 95:23 97:8 99:2,6,11,17 100:10 101:5,12,25 102:5 102:17 103:1 104:7,19 105:1,9,15,21 106:12,25 107:10,16,25 108:7,14 108:18 109:8,21 110:4,8 110:19 111:3,13,19 112:8 112:13,19,25 113:6,13 113:19,24 114:3,7,17,21 114:25 115:12,18 116:3 116:8,13,18 117:1,7,18 118:3,8,15 119:3,11,16 120:10,22 121:3,10 122:18,23 123:5,13,21 123:25 124:5,20 125:3,9 125:15,19 126:15 127:2 127:7,16,20 128:1,5,16 128:23 129:7,14 130:16 131:10,15,21,25 132:4 132:10,14 147:4 164:21 165:1,8 goal [5] 64:17 122:14 144:8 147:12 162:24 goes [8] 8:5 10:14 12:25 34:23 46:22 67:10 99:21 105:10 gone [1] 137:24 good [13] 1:3,14,16 16:12</p>	<p>53:4,6 70:20 118:1 144:8 154:1,2,5 164:15 government [3] 35:13 35:16 116:1 graph [4] 92:23 93:12 94:3 106:6 graphs [1] 95:24 great [1] 90:24 group [6] 107:1,7,11,19 151:21,22 guess [31] 21:20 22:22 23:16,18 34:20 36:5,22 45:17 51:6 52:2 62:2,17 74:12 86:18 96:19 98:13 108:20 118:22 133:3 136:8 137:7,9,23 139:13 139:20 141:6,17 148:2,3 149:17 160:16 guideline [2] 55:5 145:14 guidelines [5] 66:24 68:9 73:23,25 99:22</p>	<p>hereby [1] 166:2 high [3] 117:12 139:4 157:17 higher [3] 64:14 76:22 106:3 highest [4] 46:23 47:17 47:22 141:19 highlighted [1] 131:4 historical [2] 2:2 100:24 hold [1] 24:2 holders [4] 42:9 46:3 48:20 52:3 hole [2] 59:15,18 home [1] 159:24 honour [1] 50:23 hopeful [1] 66:10 hopefully [2] 59:5 77:4 hour [3] 53:9,9 75:18 housekeeping [3] 74:7 104:20 130:19 hundred [2] 145:24 146:3 hundreds [1] 13:14</p>	<p>important [4] 3:4,6 103:18 104:1 impose [1] 90:15 improve [3] 124:13 143:18 160:15 improves [1] 152:20 improving [1] 65:7 inaccurate [1] 105:18 inadequacy [1] 126:5 incentive [1] 92:4 include [4] 68:18 71:18 71:20 84:24 included [7] 5:15 54:16 77:19 96:12 101:19,20 113:15 includes [1] 82:16 including [1] 27:21 inclusion [2] 21:15 103:16 incorporate [1] 83:14 incorporated [1] 82:10 incorrect [2] 102:22 120:21 incorrectly [1] 147:8 increase [28] 33:2,21 35:13 37:19 54:19 55:11 56:25 57:11 58:19,20 86:13 87:25 106:21 130:2 130:2 135:15,25 136:18 137:14,16,17 140:3 144:24 145:3,16 152:17 153:10 159:17 increased [2] 35:17 160:17 increases [1] 32:25 incur [1] 57:23 incurred [3] 37:7 38:5 40:6 indemnification [1] 56:10 indemnity [9] 56:16 60:10,12 73:6,15 82:16 110:13,14 111:6 independent [4] 79:12 102:10,12,13 indicate [3] 8:5 40:4 125:23 indicated [12] 3:8 18:12 22:21 27:1,2 37:25,25 106:4 129:8 144:23 153:19 155:8 indicates [6] 7:17 26:6 26:11 49:1 116:22 117:3 indication [26] 4:13 11:24 16:15 17:24 18:3 19:3 31:2 54:3,15,22 55:3 76:21 96:4 116:9 116:15 123:16 125:12 131:1,1,6 135:8,17 145:24 146:3,12,15 indications [17] 10:6,17 13:22 16:9 18:24 28:22 45:19 66:2 96:10,13 104:1 124:14 134:21 135:11 136:21 144:25 146:11</p>	<p>indicator [1] 54:7 indirect [1] 93:6 individual [11] 14:7,10 34:1,1,7 37:22 127:13 141:13 142:8 149:7 150:20 industry [30] 7:19 8:8 28:25 55:13,17 59:7,18 67:2,16 68:1,13,24 72:24 73:7 80:17 120:17 144:5 148:22 149:18 154:7,8 157:15 158:7,13 159:21 160:14 162:22 163:1,12 163:24 influence [1] 161:20 information [17] 15:20 24:23 25:7 38:23 39:1,3 70:22 73:12 74:20,24 75:3 84:7,11 101:7 102:8 137:4 154:5 informs [1] 157:6 infrastructure [4] 37:12 38:20,21 150:11 initial [2] 16:15 139:5 injuries [1] 90:21 injury [13] 8:24 86:1,4 87:21 88:1 89:3 90:24 99:25 102:9 104:10 108:23 116:21 137:20 input [2] 11:5 122:12 insight [1] 28:17 instance [4] 12:12 31:22 91:11 161:22 instead [11] 5:8 6:1,10 19:15,18 34:7 55:1 71:19 79:6 100:6 143:23 Institute [1] 55:19 instituting [1] 65:9 insurance [9] 23:4 36:13 43:10 71:5 139:15 149:19 150:20 162:11 166:5 insure [1] 155:5 insured [4] 28:11 58:18 63:20 153:17 insureds [2] 58:21 67:19 insurer [1] 152:25 insurers [6] 22:21,23 23:19,20 66:17 68:9 inter [1] 113:23 intercon [1] 91:23 interested [5] 65:23 66:7 66:12 149:8 156:15 interesting [1] 164:8 interim [1] 58:8 internally [1] 14:21 interpret [1] 117:23 introduced [4] 85:15,20 105:12 159:2 intuitive [1] 89:13 intuitively [1] 90:23 invest [2] 22:23 23:23 investigate [4] 3:16 5:22 51:6,6 investigated [1] 2:24</p>
	<p style="text-align: center;">-H-</p> <p>H1 [7] 6:22 83:20 86:11 86:14,14 87:6,6 H2 [7] 6:17 9:13 79:6 83:21 86:17,22,23 H4 [1] 86:11 half [11] 5:1,8,9 6:1,11 53:9 82:14 86:8,8,9,9 Halifax [1] 31:24 halo [2] 92:3 95:8 handle [2] 60:22 163:20 hands [1] 75:22 hangover [1] 157:24 happening [6] 2:23 31:4 98:9,9,12 162:10 happy [2] 39:22 75:19 hard [2] 117:23 118:1 hawk [1] 150:22 head [9] 18:8 49:16 50:9 50:13 64:12,15 94:15 116:12 128:21 heading [2] 106:13 107:3 headings [1] 107:5 Health [1] 34:5 hear [1] 58:15 heard [3] 69:9 148:9 166:5 hearing [5] 12:19 13:1 36:17 57:16 75:4 hearsay [1] 58:14 heart [1] 74:11 height [2] 81:8,14 help [11] 46:1 63:25 65:9 84:11 101:15 106:4 156:24,25 158:15 162:21 163:5 helping [4] 64:24 65:5 65:15 163:1 helps [1] 23:16 Hepburn [1] 163:19</p>	<p style="text-align: center;">-I-</p> <p>i.e [1] 124:13 IB [1] 72:12 IBC [8] 39:3 71:7,11,17 73:3 84:19,19 154:2 idea [3] 45:11 60:13,16 ideal [1] 98:4 Ideally [2] 148:3,7 ideas [1] 122:12 identification [1] 79:20 identified [4] 4:16 77:23 86:19 137:18 identify [5] 69:15 78:21 121:25 141:23 151:7 ignore [1] 96:16 imagine [7] 2:7,20 5:13 28:15 94:13 99:1 149:18 impact [32] 4:25 5:6,10 5:19 17:23 42:10 48:21 49:4 52:3,4 58:20 80:22 85:1 87:20 89:5 90:22 90:25 91:8 99:25 100:16 103:6,11,24 110:15 118:16 122:6 125:11 130:11,14 136:11 137:5 145:4 impacted [5] 48:6 88:6 104:11,13,14 impacts [4] 49:2 89:9 95:14 99:7 implement [1] 49:14 implementation [1] 27:10 implemented [1] 123:11 implication [2] 133:22 133:23 implicit [1] 106:21 implied [1] 70:13 imply [1] 55:12</p>		

<p>investigation [5] 4:2 62:4 92:16 94:8 122:5</p> <p>investment [8] 20:12,13 20:25 21:14 22:4,9 55:6 126:2</p> <p>involved [11] 12:20 39:5 49:23,24 50:5,15 51:20 51:21 61:22 91:12,18</p> <p>involvement [3] 12:25 61:12,17</p> <p>island [3] 24:17 25:2 26:15</p> <p>issue [10] 24:6 50:13 80:12 95:16 130:14 133:4 133:21 137:7 141:6 160:14</p> <p>issues [2] 74:7 157:18</p> <p>item [2] 104:20 130:20</p> <p>itself [11] 4:23 29:17 58:5 59:1,11 65:6 82:22 90:3 100:5 117:17 158:13</p> <hr/> <p style="text-align: center;">-J-</p> <p>JACQUI [1] 52:23</p> <p>January [1] 101:13</p> <p>Jill [1] 163:19</p> <p>job [3] 16:11 154:2 164:15</p> <p>John's [2] 166:7,10</p> <p>Johnson [144] 1:4,9,12 1:13,17,24 2:9,21 3:3,15 3:21,25 4:5,24 5:5,17,24 6:4,7,9,19,23 7:8,14,24 8:4,12,17 9:16,24 10:12 10:18,25 11:4,12,18 12:1 12:5,11,17,23 13:5,13 13:18,25 14:15,19,24 15:3,8,13 16:20 17:1,5 17:12,17,22 18:4,9,17 19:4,25 20:5,9,18,24 21:5,9,13,22 22:3,8,16 22:20 23:6,17 24:4,11 24:21 25:5,13,18 26:2 26:20 27:8,15 28:6,16 30:20 31:21 32:8,20 33:10,16 34:13,19 35:4 36:4,16,21 37:2,14,24 38:9,15 39:6,13,23 40:3 40:17 41:12,22 42:3,8 42:13,20 43:1,8,15,19 44:5 45:1,6,16 46:9,17 47:1,5,13 48:1,8,13,19 48:24 49:7 51:5 52:1,7 52:15 62:14 75:21 108:21 119:22 125:22</p> <p>judgment [16] 2:13,15 3:20,22 4:6 74:1 97:20 99:3,5 115:22 116:2 118:23 119:10 120:7,25 125:4</p> <p>Judy [2] 166:2,12</p> <p>jump [2] 28:4 77:2</p> <p>June [3] 69:25 70:7,17</p> <p>jurisdiction [1] 152:9</p> <p>jurisdictions [15] 14:8 29:21 32:6 41:3,8,10 52:10 64:6,9 80:9,12</p>	<p>89:23 124:15 140:9 143:22</p> <p>justify [1] 159:11</p> <hr/> <p style="text-align: center;">-K-</p> <hr/> <p>keep [5] 77:5 82:6 98:2 99:8 111:14</p> <p>KEVIN [2] 132:21 160:10</p> <p>kind [5] 30:1 60:4 98:19 120:4 141:10</p> <p>knew [1] 124:8</p> <p>knowledge [2] 80:4,6</p> <hr/> <p style="text-align: center;">-L-</p> <hr/> <p>Labrador [14] 8:21 23:22 24:8,17,24 25:22 26:10 28:11 48:16 63:19 140:18 148:18 166:7,10</p> <p>ladder [1] 98:19</p> <p>laid [4] 39:12,14 41:10 62:7</p> <p>language [1] 147:6</p> <p>large [3] 61:16 119:6 134:9</p> <p>larger [1] 83:2</p> <p>last [56] 6:25 8:19 9:17 11:22 40:15,19 41:9 43:25 45:9 57:11 58:19 64:8,18,19 69:8 72:4 74:19 76:17 82:9 92:24 96:7 99:14,23 100:1 101:8 102:1,7 103:3,10 103:19,23 108:22 109:1 109:13,23,24 110:5 115:2 115:13,13 118:4,19,21 119:20 120:3,19 124:22 124:23 125:24 126:6 128:10 131:3 141:5 146:7 152:16 153:10</p> <p>late [1] 165:10</p> <p>layout [1] 19:10</p> <p>leading [1] 75:3</p> <p>learned [2] 133:20 158:8</p> <p>least [2] 139:20 161:2</p> <p>led [1] 60:4</p> <p>legally [1] 155:5</p> <p>less [6] 24:1 77:9 92:4 133:24 134:3 135:17</p> <p>lesser [1] 43:3</p> <p>letter [4] 7:11 63:12,14 63:17</p> <p>letting [1] 95:5</p> <p>level [26] 13:21 15:18 28:23 38:3 40:5 54:9 55:9 59:9 63:25 70:16 76:21 117:12 123:16 125:12 128:25 134:4 138:15,18 145:16,22,23 146:4,9 149:1,20 152:1</p> <p>levels [1] 149:9</p> <p>liability [11] 19:9 27:4 29:16 32:24 111:7 115:14 119:19 137:20 161:1,4 161:17</p>	<p>license [1] 23:3</p> <p>licensed [1] 153:23</p> <p>likely [1] 50:4</p> <p>Limousine [1] 166:4</p> <p>line [8] 60:4 62:1,17 63:2 79:8,17 116:1 130:18</p> <p>lines [2] 96:18 117:24</p> <p>link [1] 112:4</p> <p>Liqing [1] 16:14</p> <p>list [2] 122:2,5</p> <p>listed [4] 102:10,13 111:9 111:20</p> <p>listening [1] 96:6</p> <p>logic [1] 86:21</p> <p>longer [9] 31:14,15 38:6 40:7,9 78:14 79:2 138:1 138:1</p> <p>look [56] 1:19 4:18 21:21 28:3 34:7 35:20 45:21 50:12 56:2 57:3 58:24 59:16 78:19 84:10 86:22 87:10 89:9 90:16,17,20 90:21,25 92:23 93:6,18 94:4,11,11 97:17 98:11 98:24 101:23 107:17,18 111:4,6,7,15 115:5 116:20 118:12 131:3,16 131:24 132:1 134:4 145:25 146:14,18 150:15 151:13,19 153:15 156:14 159:8 163:18</p> <p>looked [15] 4:10 8:6 14:13 66:25 77:12,19 79:6 94:6,16 95:20 118:16,19 119:7 136:10 162:21</p> <p>looking [21] 4:15 26:1 27:21 28:22 29:5 30:12 37:10 45:18 49:14 59:23 83:15 91:4,20 97:19 103:23 104:5 106:11 131:18 134:6 135:14 137:23</p> <p>looks [7] 30:18 94:2 97:16 101:20 102:22 124:18 154:9</p> <p>loosely [1] 23:14</p> <p>losing [1] 56:21</p> <p>loss [64] 4:19 18:1 24:25 25:21 26:7,12 56:2,5,12 56:12 59:8 65:25 66:25 67:17 68:14 70:13,22 72:16,19 73:2,8,10,13 74:8 76:10,19 80:17,18 82:2,13,18 86:4 87:17 88:1,12 93:13,19 94:12 96:10 97:23 98:11,14 100:3 106:3 112:22 113:1 120:18 126:1 134:5,5,9 134:16 138:16,18,19,22 139:1,3,10 149:6 159:4 159:7 161:7 162:18</p> <p>losses [3] 85:20 89:6 159:15</p> <p>love [2] 53:17,22</p> <p>low [2] 45:25 146:20</p> <p>lower [10] 24:25 134:17</p>	<p>134:18 141:17 150:14 156:9,21 157:8,20 159:7</p> <p>luck [1] 59:7</p> <p>lucky [1] 30:1</p> <p>Lyft [3] 163:11,16 164:1</p> <hr/> <p style="text-align: center;">-M-</p> <hr/> <p>madam [1] 52:21</p> <p>magic [1] 65:14</p> <p>main [1] 143:10</p> <p>major [5] 18:22 19:5 20:1 58:23 85:18</p> <p>majority [4] 148:3,15 160:21,23</p> <p>makes [5] 11:8 31:20 45:15 97:4 162:14</p> <p>manage [4] 64:25 65:6 65:15 149:5</p> <p>management [14] 11:8 11:8,13 54:18,25 55:1 55:10 61:1,7 62:22 122:9 145:3 146:8 158:9</p> <p>management's [2] 30:8 61:5</p> <p>managers [1] 65:6</p> <p>managing [3] 38:22 65:2 151:11</p> <p>mandate [1] 163:4</p> <p>manifest [1] 59:11</p> <p>manner [1] 23:23</p> <p>march [3] 34:25 109:10 116:20</p> <p>market [27] 23:15 43:25 45:8,21,25 46:4,7 64:1,8 64:11,13,18,19,21 147:16 148:1,1,11 149:11 152:25 153:6 154:19,22,25 155:4 155:9,10</p> <p>marketing [1] 44:21</p> <p>marketplace [1] 147:22</p> <p>material [2] 61:4 133:6</p> <p>materials [1] 43:23</p> <p>mathematical [2] 101:16 117:21</p> <p>matter [6] 31:12 74:12 89:10 91:5 97:13 166:3</p> <p>matters [1] 1:5</p> <p>may [32] 33:12 35:22 61:16 79:2 81:21 84:12 89:13 90:24 91:20 92:2 94:13 95:17 96:23 98:21 104:22 105:11 132:15,16 142:4,6,25 148:24 150:7 150:15 151:5 153:16,19 153:24 155:21 160:6 161:14,19</p> <p>mean [13] 9:17 30:23,24 40:8 45:21 51:15 56:5 78:18 81:11 96:5 137:24 140:20 161:22</p> <p>meaningful [1] 161:15</p> <p>meaningfully [1] 30:15</p> <p>means [6] 46:10 56:9 117:8 124:11 163:1 166:9</p>	<p>meant [4] 36:22 38:16 39:8 45:20</p> <p>measurable [1] 85:1</p> <p>measure [4] 5:13 29:23 81:12 137:4</p> <p>measured [3] 38:6 40:6 40:8</p> <p>measurement [3] 80:20 81:15 97:2</p> <p>measures [2] 29:23 55:18</p> <p>measuring [1] 117:16</p> <p>mechanical [2] 2:15 81:6</p> <p>mechanically [1] 2:17</p> <p>mechanism [2] 155:3 157:16</p> <p>meets [1] 61:1</p> <p>member [6] 10:20 23:5 151:9,10 153:24 156:13</p> <p>members [1] 23:10</p> <p>membership [3] 56:11 150:1,9</p> <p>memorandum [7] 43:23 92:21 101:9 105:2,25 111:5 120:12</p> <p>mention [1] 33:4</p> <p>mentioned [5] 89:19 121:16 133:3 143:14 151:11</p> <p>mentioning [1] 25:16</p> <p>merit [1] 44:7</p> <p>met [1] 61:1</p> <p>methodologies [1] 29:19</p> <p>methodology [4] 35:10 74:1 124:17 143:4</p> <p>metrics [2] 89:10 121:17</p> <p>MGA [1] 65:22</p> <p>mic [1] 53:2</p> <p>middle [1] 107:11</p> <p>might [22] 26:3 30:4 53:3 53:14 60:14 61:22 62:19 66:6 78:15 82:5 91:21 92:2 94:22 122:2,6 142:5 147:4 150:5,9 151:25 157:15,19</p> <p>miles [1] 50:24</p> <p>million [2] 57:20 111:23</p> <p>mind [2] 111:15 116:6</p> <p>mine [1] 82:15</p> <p>minimum [1] 55:4</p> <p>Ministry [1] 34:5</p> <p>minor [1] 154:7</p> <p>minus [1] 8:6</p> <p>minuscule [1] 154:10</p> <p>minutes [2] 75:19 119:18</p> <p>miscellaneous [3] 18:14 21:16 113:23</p> <p>mission [6] 45:24,24 63:15,21 147:5 163:4</p> <p>mistake [1] 17:18</p> <p>mistaken [2] 25:8 28:12</p>
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misunderstanding [1] 100:14	122:18,23 123:5,13,21 123:25 124:5,20 125:3,9 125:15,19 126:15 127:2 127:7,16,20 128:1,5,16 128:23 129:7,14 130:16 131:10,15,21,25 132:4 132:10,14 147:4 164:21 165:1,8	normally [2] 145:17,25	30:4,16 32:6,18,21 37:10 41:15 46:20,21 47:16 54:10 70:20 71:2,4 72:5 72:6 73:15,24 74:2 75:10 76:14 78:3 79:9 81:23 83:20 85:18 90:1,12 91:15 93:1,4 97:25,25 98:5,12 101:1 107:19,20 107:20 108:11 113:14 119:15 121:4 126:19,23 126:25 127:25 130:18 133:23 135:7,21 140:1 141:5 143:2,2 144:22 145:21 146:18 153:25 154:5 158:24 160:6 162:1 163:10	owners [4] 41:17 44:16 44:16 64:2
model [20] 2:18 8:23 9:6 18:10,23 19:2,3 90:18 100:5,11,14 101:20 103:21 109:3 110:2 116:22 117:3 143:25 144:1 158:22	multiple [4] 87:17 91:10 91:25 127:15	Northern [1] 64:8	41:15 46:20,21 47:16 54:10 70:20 71:2,4 72:5 72:6 73:15,24 74:2 75:10 76:14 78:3 79:9 81:23 83:20 85:18 90:1,12 91:15 93:1,4 97:25,25 98:5,12 101:1 107:19,20 107:20 108:11 113:14 119:15 121:4 126:19,23 126:25 127:25 130:18 133:23 135:7,21 140:1 141:5 143:2,2 144:22 145:21 146:18 153:25 154:5 158:24 160:6 162:1 163:10	owns [1] 43:4
modelling [2] 86:7 100:4	multiplier [5] 120:5 127:4,15,17 128:6	noted [1] 32:12	91:15 93:1,4 97:25,25 98:5,12 101:1 107:19,20 107:20 108:11 113:14 119:15 121:4 126:19,23 126:25 127:25 130:18 133:23 135:7,21 140:1 141:5 143:2,2 144:22 145:21 146:18 153:25 154:5 158:24 160:6 162:1 163:10	OXFORD [1] 146:23
models [2] 74:22 117:9	must [3] 47:17 74:2 157:18	nothing [1] 116:6	107:20 108:11 113:14 119:15 121:4 126:19,23 126:25 127:25 130:18 133:23 135:7,21 140:1 141:5 143:2,2 144:22 145:21 146:18 153:25 154:5 158:24 160:6 162:1 163:10	
modifying [1] 27:12		noticed [1] 78:3	107:20 108:11 113:14 119:15 121:4 126:19,23 126:25 127:25 130:18 133:23 135:7,21 140:1 141:5 143:2,2 144:22 145:21 146:18 153:25 154:5 158:24 160:6 162:1 163:10	<hr/> -P- <hr/>
moment [1] 12:14		notwithstanding [2] 30:18 158:22	107:20 108:11 113:14 119:15 121:4 126:19,23 126:25 127:25 130:18 133:23 135:7,21 140:1 141:5 143:2,2 144:22 145:21 146:18 153:25 154:5 158:24 160:6 162:1 163:10	P [1] 55:21
Monday [3] 164:20,25 165:4		Nova [16] 18:12,18 20:6 21:17 22:2,4,11,11 23:20 31:22 65:23 66:8 133:2 133:4,11 150:3	107:20 108:11 113:14 119:15 121:4 126:19,23 126:25 127:25 130:18 133:23 135:7,21 140:1 141:5 143:2,2 144:22 145:21 146:18 153:25 154:5 158:24 160:6 162:1 163:10	p.m [5] 52:22 115:20 136:16 152:6 165:13
money [7] 22:24 34:6,9 56:21 139:7 150:14,18		November [5] 119:24 164:22,24 166:5,11	107:20 108:11 113:14 119:15 121:4 126:19,23 126:25 127:25 130:18 133:23 135:7,21 140:1 141:5 143:2,2 144:22 145:21 146:18 153:25 154:5 158:24 160:6 162:1 163:10	package [2] 89:1 99:20
month [2] 13:22 14:3		now [32] 2:22 4:14 8:25 13:8 18:10 21:6 32:4 42:16 46:20 50:6 51:17 54:5 70:8 73:1 83:17 97:16,22 98:1,16,18 100:24 101:7 112:4 121:6 128:15 131:6 133:20 144:16 153:21 158:12 162:18 164:20	107:20 108:11 113:14 119:15 121:4 126:19,23 126:25 127:25 130:18 133:23 135:7,21 140:1 141:5 143:2,2 144:22 145:21 146:18 153:25 154:5 158:24 160:6 162:1 163:10	page [19] 63:14 69:11,14 82:3,5,6 92:21 95:25 101:8 104:21 105:25 107:2 111:4,16 112:14 115:3 119:23,25 120:13
months [8] 67:10,15 106:19,20 108:10 122:19 122:22 163:25		number [17] 19:13 28:13 30:12 56:4 59:14 64:23 76:23 77:18 111:14,22 112:17 117:17 143:16 145:20 148:16 152:10 161:9	107:20 108:11 113:14 119:15 121:4 126:19,23 126:25 127:25 130:18 133:23 135:7,21 140:1 141:5 143:2,2 144:22 145:21 146:18 153:25 154:5 158:24 160:6 162:1 163:10	paid [2] 71:24 137:13
morning [6] 1:3,14,16 53:4,6 147:5		numbering [1] 111:20	107:20 108:11 113:14 119:15 121:4 126:19,23 126:25 127:25 130:18 133:23 135:7,21 140:1 141:5 143:2,2 144:22 145:21 146:18 153:25 154:5 158:24 160:6 162:1 163:10	pain [1] 85:20
Moss [2] 166:2,12		numbers [18] 30:7 44:11 56:20,22 57:3 64:11 82:20 94:4 107:1,2,5,7 107:11,17 111:25 130:22 130:24 153:2	107:20 108:11 113:14 119:15 121:4 126:19,23 126:25 127:25 130:18 133:23 135:7,21 140:1 141:5 143:2,2 144:22 145:21 146:18 153:25 154:5 158:24 160:6 162:1 163:10	paragraph [1] 101:17
most [9] 4:11 41:4,7 64:16 65:21 82:24 97:2 126:18 137:18		observation [1] 43:9	107:20 108:11 113:14 119:15 121:4 126:19,23 126:25 127:25 130:18 133:23 135:7,21 140:1 141:5 143:2,2 144:22 145:21 146:18 153:25 154:5 158:24 160:6 162:1 163:10	parameter [4] 81:3 90:13 110:17 111:1
mostly [1] 132:24		obviously [5] 20:10 50:7 57:4 96:9 130:2	107:20 108:11 113:14 119:15 121:4 126:19,23 126:25 127:25 130:18 133:23 135:7,21 140:1 141:5 143:2,2 144:22 145:21 146:18 153:25 154:5 158:24 160:6 162:1 163:10	parameters [1] 145:1
motorcycles [1] 144:3		occur [2] 90:3 158:18	107:20 108:11 113:14 119:15 121:4 126:19,23 126:25 127:25 130:18 133:23 135:7,21 140:1 141:5 143:2,2 144:22 145:21 146:18 153:25 154:5 158:24 160:6 162:1 163:10	paraphrasing [1] 147:7
motorists [1] 115:23		occurred [5] 2:2 31:10 41:2,8 97:18	107:20 108:11 113:14 119:15 121:4 126:19,23 126:25 127:25 130:18 133:23 135:7,21 140:1 141:5 143:2,2 144:22 145:21 146:18 153:25 154:5 158:24 160:6 162:1 163:10	Pardon [1] 114:2
mouth [1] 66:9		occurs [1] 65:11	107:20 108:11 113:14 119:15 121:4 126:19,23 126:25 127:25 130:18 133:23 135:7,21 140:1 141:5 143:2,2 144:22 145:21 146:18 153:25 154:5 158:24 160:6 162:1 163:10	part [20] 5:1 11:8,20 19:14 30:6,7 57:14 89:7 91:21 98:10 103:17 104:1 106:6 126:18 135:3 145:11 146:5 160:18 161:3 162:8
move [10] 30:15 63:17 65:11 78:15 84:22 86:22 105:23 128:12 146:13 148:5		October [2] 18:19 21:25	107:20 108:11 113:14 119:15 121:4 126:19,23 126:25 127:25 130:18 133:23 135:7,21 140:1 141:5 143:2,2 144:22 145:21 146:18 153:25 154:5 158:24 160:6 162:1 163:10	particular [5] 28:20 71:23 90:5 140:1 146:7
moved [3] 93:3,7 143:23		off [18] 15:25 16:18 18:7 50:8,12 61:18 63:2 64:11 64:14 81:22 94:14 113:14 115:7,14 116:12 125:14 128:21 153:20	107:20 108:11 113:14 119:15 121:4 126:19,23 126:25 127:25 130:18 133:23 135:7,21 140:1 141:5 143:2,2 144:22 145:21 146:18 153:25 154:5 158:24 160:6 162:1 163:10	partners [1] 122:8
moving [5] 98:22,23 106:21 122:13 160:4		offer [5] 31:18 63:4 64:22 66:18 153:7	107:20 108:11 113:14 119:15 121:4 126:19,23 126:25 127:25 130:18 133:23 135:7,21 140:1 141:5 143:2,2 144:22 145:21 146:18 153:25 154:5 158:24 160:6 162:1 163:10	parts [1] 15:22
Ms [196] 1:6 7:12 52:23 52:24 53:7,13,19 54:1 54:14,20 55:15,25 56:14 56:19 57:2,9 58:11,16 60:3,8 61:11,20,25 62:8 62:13 63:1,10 65:18 66:11,16,22 67:8,14 68:2 68:7,17,22 69:2,6,19 70:9,21 71:1 72:15,21 73:11,17,22 74:6,17 75:2 75:7,12,17,25 76:4,8,13 77:1,21 78:7,16,25 79:19 79:24 80:5,13 81:25 82:25 83:8,23 84:3,15 84:21 85:7,13,22 87:14 87:19,24 88:4,10,16,20 88:24 90:19 92:7,13,19 93:11,23 94:19 95:1,12 95:23 97:8 99:2,6,11,17 100:10 101:5,12,25 102:5 102:17 103:1 104:7,19 105:1,9,15,21 106:12,25 107:10,16,25 108:7,14 108:18 109:8,21 110:4,8 110:19 111:3,13,19 112:8 112:13,19,25 113:6,13 113:19,24 114:3,7,17,21 114:25 115:12,18 116:3 116:8,13,18 117:1,7,18 118:3,8,15 119:3,11,16 120:10,22 121:3,10		offering [2] 44:22 149:19	107:20 108:11 113:14 119:15 121:4 126:19,23 126:25 127:25 130:18 133:23 135:7,21 140:1 141:5 143:2,2 144:22 145:21 146:18 153:25 154:5 158:24 160:6 162:1 163:10	party [14] 19:9 27:3 29:15 32:23 54:4 91:18 91:19 111:7 115:14 119:19 137:19 160:25 161:4,17
Ms [196] 1:6 7:12 52:23 52:24 53:7,13,19 54:1 54:14,20 55:15,25 56:14 56:19 57:2,9 58:11,16 60:3,8 61:11,20,25 62:8 62:13 63:1,10 65:18 66:11,16,22 67:8,14 68:2 68:7,17,22 69:2,6,19 70:9,21 71:1 72:15,21 73:11,17,22 74:6,17 75:2 75:7,12,17,25 76:4,8,13 77:1,21 78:7,16,25 79:19 79:24 80:5,13 81:25 82:25 83:8,23 84:3,15 84:21 85:7,13,22 87:14 87:19,24 88:4,10,16,20 88:24 90:19 92:7,13,19 93:11,23 94:19 95:1,12 95:23 97:8 99:2,6,11,17 100:10 101:5,12,25 102:5 102:17 103:1 104:7,19 105:1,9,15,21 106:12,25 107:10,16,25 108:7,14 108:18 109:8,21 110:4,8 110:19 111:3,13,19 112:8 112:13,19,25 113:6,13 113:19,24 114:3,7,17,21 114:25 115:12,18 116:3 116:8,13,18 117:1,7,18 118:3,8,15 119:3,11,16 120:10,22 121:3,10		Officer [1] 9:21	107:20 108:11 113:14 119:15 121:4 126:19,23 126:25 127:25 130:18 133:23 135:7,21 140:1 141:5 143:2,2 144:22 145:21 146:18 153:25 154:5 158:24 160:6 162:1 163:10	pass [1] 159:20
Ms [196] 1:6 7:12 52:23 52:24 53:7,13,19 54:1 54:14,20 55:15,25 56:14 56:19 57:2,9 58:11,16 60:3,8 61:11,20,25 62:8 62:13 63:1,10 65:18 66:11,16,22 67:8,14 68:2 68:7,17,22 69:2,6,19 70:9,21 71:1 72:15,21 73:11,17,22 74:6,17 75:2 75:7,12,17,25 76:4,8,13 77:1,21 78:7,16,25 79:19 79:24 80:5,13 81:25 82:25 83:8,23 84:3,15 84:21 85:7,13,22 87:14 87:19,24 88:4,10,16,20 88:24 90:19 92:7,13,19 93:11,23 94:19 95:1,12 95:23 97:8 99:2,6,11,17 100:10 101:5,12,25 102:5 102:17 103:1 104:7,19 105:1,9,15,21 106:12,25 107:10,16,25 108:7,14 108:18 109:8,21 110:4,8 110:19 111:3,13,19 112:8 112:13,19,25 113:6,13 113:19,24 114:3,7,17,21 114:25 115:12,18 116:3 116:8,13,18 117:1,7,18 118:3,8,15 119:3,11,16 120:10,22 121:3,10		offset [2] 135:19,25	107:20 108:11 113:14 119:15 121:4 126:19,23 126:25 127:25 130:18 133:23 135:7,21 140:1 141:5 143:2,2 144:22 145:21 146:18 153:25 154:5 158:24 160:6 162:1 163:10	passenger [40] 7:2,19 18:13,24 21:16 23:13,14 50:8,11 51:19 57:17 70:2 70:6,18 108:22 109:6,12 109:18 112:24 113:9,15 113:18 114:10,16 118:5 118:9,13 127:11,14,22 129:21,22 130:5,9 139:2 141:25 142:3,4 161:12 161:23
Ms [196] 1:6 7:12 52:23 52:24 53:7,13,19 54:1 54:14,20 55:15,25 56:14 56:19 57:2,9 58:11,16 60:3,8 61:11,20,25 62:8 62:13 63:1,10 65:18 66:11,16,22 67:8,14 68:2 68:7,17,22 69:2,6,19 70:9,21 71:1 72:15,21 73:11,17,22 74:6,17 75:2 75:7,12,17,25 76:4,8,13 77:1,21 78:7,16,25 79:19 79:24 80:5,13 81:25 82:25 83:8,23 84:3,15 84:21 85:7,13,22 87:14 87:19,24 88:4,10,16,20 88:24 90:19 92:7,13,19 93:11,23 94:19 95:1,12 95:23 97:8 99:2,6,11,17 100:10 101:5,12,25 102:5 102:17 103:1 104:7,19 105:1,9,15,21 106:12,25 107:10,16,25 108:7,14 108:18 109:8,21 110:4,8 110:19 111:3,13,19 112:8 112:13,19,25 113:6,13 113:19,24 114:3,7,17,21 114:25 115:12,18 116:3 116:8,13,18 117:1,7,18 118:3,8,15 119:3,11,16 120:10,22 121:3,10		older [2] 79:1 80:2	107:20 108:11 113:14 119:15 121:4 126:19,23 126:25 127:25 130:18 133:23 135:7,21 140:1 141:5 143:2,2 144:22 145:21 146:18 153:25 154:5 158:24 160:6 162:1 163:10	passengers [2] 144:3 161:11
Ms [196] 1:6 7:12 52:23 52:24 53:7,13,19 54:1 54:14,20 55:15,25 56:14 56:19 57:2,9 58:11,16 60:3,8 61:11,20,25 62:8 62:13 63:1,10 65:18 66:11,16,22 67:8,14 68:2 68:7,17,22 69:2,6,19 70:9,21 71:1 72:15,21 73:11,17,22 74:6,17 75:2 75:7,12,17,25 76:4,8,13 77:1,21 78:7,16,25 79:19 79:24 80:5,13 81:25 82:25 83:8,23 84:3,15 84:21 85:7,13,22 87:14 87:19,24 88:4,10,16,20 88:24 90:19 92:7,13,19 93:11,23 94:19 95:1,12 95:23 97:8 99:2,6,11,17 100:10 101:5,12,25 102:5 102:17 103:1 104:7,19 105:1,9,15,21 106:12,25 107:10,16,25 108:7,14 108:18 109:8,21 110:4,8 110:19 111:3,13,19 112:8 112:13,19,25 113:6,13 113:19,24 114:3,7,17,21 114:25 115:12,18 116:3 116:8,13,18 117:1,7,18 118:3,8,15 119:3,11,16 120:10,22 121:3,10		Oliver [27] 32:11 49:1 67:1,15 73:4,7 74:21 75:8 76:15,22 77:7,13 77:16 80:14 82:7,19 84:25 89:2 99:20,24 103:5,12 106:1,2 109:11 155:13 156:18	107:20 108:11 113:14 119:15 121:4 126:19,23 126:25 127:25 130:18 133:23 135:7,21 140:1 141:5 143:2,2 144:22 145:21 146:18 153:25 154:5 158:24 160:6 162:1 163:10	passing [1] 163:21
Ms [196] 1:6 7:12 52:23 52:24 53:7,13,19 54:1 54:14,20 55:15,25 56:14 56:19 57:2,9 58:11,16 60:3,8 61:11,20,25 62:8 62:13 63:1,10 65:18 66:11,16,22 67:8,14 68:2 68:7,17,22 69:2,6,19 70:9,21 71:1 72:15,21 73:11,17,22 74:6,17 75:2 75:7,12,17,25 76:4,8,13 77:1,21 78:7,16,25 79:19 79:24 80:5,13 81:25 82:25 83:8,23 84:3,15 84:21 85:7,13,22 8				

<p>people [9] 13:12 16:7,7 38:25 44:16 81:7 97:4 161:24 165:9</p> <p>per [3] 13:22 33:3 54:12</p> <p>perceiving [1] 3:7</p> <p>percent [71] 8:7 18:5 19:12,17,22 25:22,23 26:10,11,15,16 32:15,19 35:14,18 42:15 47:7,8 47:20,21 48:5,7 49:9,10 50:3,5 51:18 54:8,11,18 55:2 56:25 58:19,19 59:13,14 64:10,13,16,17 86:13,24 87:12,13,25 88:12 99:13,25 100:22 100:23 123:22 127:21 130:6 133:16 142:2,16 142:16 144:24 145:24 146:1,2,3,16 152:17,19 153:10,22 159:4 160:22 160:24,25</p> <p>percentage [11] 19:14 19:17,19,24 35:23 46:23 47:18 76:21 127:10 141:7 141:24</p> <p>percentages [2] 25:25 26:19</p> <p>perception [1] 148:22</p> <p>perfect [6] 73:18 76:1 105:22 117:9 125:20 131:22</p> <p>perhaps [9] 25:6 31:3 74:10 97:18 126:9 149:16 152:11 156:10 162:11</p> <p>perils [3] 124:22 129:2,3</p> <p>period [69] 2:13 4:11,14 4:15,17,23 5:15,16,22 6:17,18 7:3,4,20 8:1,1,3 8:9 9:12 13:22 27:23 28:21 30:24 31:7,14,15 49:25 59:17 77:25 78:10 78:15,20 79:6,9,11,12 79:17,18 80:7 81:2,17 81:19,23,24 82:11 83:14 83:16,20,22 86:16,18 89:9 90:16 91:6 96:11 96:24 97:3 98:15,17,18 101:1 106:19,22,22,23 107:18 108:9 131:20 134:14</p> <p>periods [24] 8:13 9:10 77:3,6,8 78:5 80:20 81:15 83:17 89:23 90:17 94:10,16 95:15 97:24 98:3,8,22 101:1 104:4 105:24 106:1 117:11 138:2</p> <p>person [5] 11:19 16:11 62:22 93:9 142:15</p> <p>personal [4] 47:8,21 49:11 141:8</p> <p>personally [1] 43:18</p> <p>perspective [5] 42:23 44:8,18 59:23 152:9</p> <p>physical [9] 27:22 127:3 127:8,17 129:9,11,23 130:4,7</p> <p>physically [1] 102:23</p>	<p>pick [5] 38:16 91:22 120:25 144:6,7</p> <p>picked [3] 17:13 19:19 93:8</p> <p>piece [6] 19:15 86:18 112:11 115:22 151:25 160:15</p> <p>pieces [1] 159:13</p> <p>place [9] 36:2 42:5 48:10 48:16 52:8,10 89:24 90:1 157:16</p> <p>plan [17] 36:14 39:12,14 39:15,19 40:24 41:11 62:7,9,16 72:12 139:14 139:21 140:3 152:4 154:3 154:4</p> <p>play [1] 15:16</p> <p>played [1] 13:6</p> <p>plus [3] 7:18 73:8 110:13</p> <p>pockets [1] 150:1</p> <p>point [20] 8:25 9:18 23:18 34:14 37:15,17 57:18 84:7 85:12 87:1 88:8 91:3 92:14 93:25 94:1,21 108:19 123:12 136:7 150:18</p> <p>pointed [3] 27:9 32:21 113:10</p> <p>points [8] 41:4 76:22 79:8 81:3 83:3 93:4 94:5 123:19</p> <p>policy [8] 37:19 42:9 46:3 48:20 51:16,21,23 52:2</p> <p>populate [2] 153:11 157:1</p> <p>portfolio [2] 151:13 154:10</p> <p>portion [2] 66:8 73:15</p> <p>pose [1] 145:16</p> <p>position [4] 18:1 29:1 46:10 56:12</p> <p>positive [1] 129:2</p> <p>possibility [1] 122:25</p> <p>possible [6] 46:1 64:21 143:21 147:16,18,20</p> <p>post [3] 54:8 97:16 117:4</p> <p>potential [2] 77:20 84:12</p> <p>potentially [3] 48:5 138:14 161:18</p> <p>pounds [1] 53:23</p> <p>powers [1] 62:6</p> <p>practically [2] 154:11 154:13</p> <p>pre [1] 89:18</p> <p>pre-suppose [1] 159:12</p> <p>preamble [1] 26:4</p> <p>predominance [1] 47:9</p> <p>predominantly [1] 142:9</p> <p>preface [1] 148:2</p> <p>prefer [3] 46:3 89:13 96:16</p> <p>preference [1] 1:23</p>	<p>preliminary [1] 1:4</p> <p>premium [26] 23:23 24:1 32:23 33:21 34:23 35:12 42:14 47:17,23 49:2 54:10 56:9 59:20 136:14 136:18,21 137:14,16 138:15,17 139:9 141:10 144:11 159:14 160:23 162:17</p> <p>premiums [4] 30:10 41:24 63:23 129:23</p> <p>prepared [2] 67:1 135:11</p> <p>prepares [1] 16:14</p> <p>preparing [1] 93:9</p> <p>presence [2] 45:25 65:4</p> <p>present [4] 19:11 26:21 48:9,15</p> <p>presented [4] 40:24 55:6 72:14 134:16</p> <p>presenting [1] 44:13</p> <p>presently [1] 41:18</p> <p>presents [1] 128:25</p> <p>president [2] 11:10 63:9</p> <p>presumably [2] 155:11 156:20</p> <p>presume [3] 51:10 155:16 156:4</p> <p>pretend [1] 97:1</p> <p>pretty [1] 57:6</p> <p>prevent [2] 149:25 150:21</p> <p>previous [2] 79:7 126:19</p> <p>Previously [1] 128:9</p> <p>price [1] 64:22</p> <p>pricing [4] 13:10 16:7 63:24 64:20</p> <p>primary [2] 143:10,17</p> <p>printed [1] 71:17</p> <p>private [34] 7:2,19 18:13 18:24 21:16 23:13 50:7 50:10,18,25 51:19,22 57:17 108:22 109:6,12 109:18 113:18 118:5,9 118:12 127:10,14,22 129:21,22 130:4,9 139:2 141:25 142:2,4 144:3 161:23</p> <p>problem [3] 158:20 159:1 162:24</p> <p>proceeding [3] 14:2 17:14 39:24</p> <p>process [39] 10:14 15:25 16:3,5,5,7 17:14 20:4 24:23 28:3,18 29:14 37:16 57:17 59:4 60:11 60:17 63:6 67:9 74:24 75:3 82:17,22 92:5 100:9 110:24 117:13,25 120:6 121:23 122:10 129:24 137:19,24 141:21 143:4 145:11 154:23 163:3</p> <p>processes [4] 60:23,24 121:15 122:3</p> <p>processing [10] 32:16 33:3,20 34:24 36:10,24</p>	<p>37:8,19 38:12,18</p> <p>produce [2] 8:22 9:14</p> <p>produced [3] 71:7,11 73:3</p> <p>produces [1] 84:19</p> <p>producing [2] 36:7 37:4</p> <p>product [4] 10:5,11 100:4,7</p> <p>program [1] 36:2</p> <p>project [1] 146:8</p> <p>projecting [1] 2:4</p> <p>projections [1] 87:8</p> <p>propensity [1] 50:15</p> <p>proper [2] 55:20 59:24</p> <p>properly [2] 31:6 151:23</p> <p>property [3] 88:11 102:11 104:12</p> <p>proposal [5] 41:23 47:14 129:10 140:2 144:23</p> <p>proposed [6] 32:25 41:5 52:9 54:16 141:16 145:17</p> <p>proposing [2] 44:24 54:18</p> <p>proposition [2] 33:18 33:22</p> <p>provide [10] 38:4,23 40:5 67:16 68:3 72:6,8 109:2 133:5,10</p> <p>provided [3] 71:14,18 130:22</p> <p>provider [2] 10:11 158:9</p> <p>providing [1] 37:12</p> <p>province [3] 20:15 21:18 66:19</p> <p>provinces [2] 64:7,17</p> <p>provision [4] 20:25 22:5 32:11,15</p> <p>provisions [1] 137:9</p> <p>proxy [2] 36:23 37:4</p> <p>PUB [1] 36:20</p> <p>PUB-24 [1] 131:3</p> <p>PUB-FA-16 [2] 25:7 26:5</p> <p>PUB-FA-18 [1] 26:4</p> <p>PUB-FA-23 [1] 130:21</p> <p>PUB-FA6 [1] 38:2</p> <p>public [2] 113:22 166:6</p> <p>publicly [1] 39:21</p> <p>published [1] 55:17</p> <p>pull [3] 92:20,20 158:1</p> <p>pulling [1] 15:19</p> <p>purchase [1] 13:11</p> <p>purchased [1] 91:14</p> <p>pure [4] 24:25 25:21 26:7 26:12</p> <p>purpose [3] 39:24 46:22 47:16</p> <p>purposes [2] 26:21 31:14</p> <p>purview [1] 36:12</p> <p>pushed [1] 122:15</p> <p>put [14] 2:22 7:3 22:24 43:21 44:24 45:17 56:21</p>	<p>66:9 121:24 122:1,4 130:24 159:4 161:14</p> <p>putting [4] 34:22 46:11 46:19 47:15</p> <hr/> <p style="text-align: center;">-Q-</p> <p>Q.C [171] 1:12,13,17,24 2:9,21 3:3,15,21,25 4:5 4:24 5:5,17,24 6:4,6,9 6:19,23 7:8,14,24 8:4,12 8:17 9:16,24 10:12,18 10:25 11:4,12,18 12:1,5 12:11,17,23 13:5,13,18 13:25 14:15,19,24 15:3 15:8,13 16:20 17:1,5,12 17:17,22 18:4,9,17 19:4 19:25 20:5,9,18,24 21:5 21:9,13,22 22:3,8,16,20 23:6,17 24:4,11,21 25:5 25:13,18 26:2,20 27:8 27:15 28:6,16 30:20 31:21 32:8,20 33:10,16 34:13,19 35:4 36:4,16 36:21 37:2,14,24 38:9 38:15 39:6,13,18,23 40:3 40:17 41:12,22 42:3,8 42:13,20 43:1,8,15,19 44:5 45:1,6,16 46:9,17 47:1,5,13 48:1,8,13,19 48:24 49:7 51:5 52:1,7 52:15 75:21 132:12,21 132:22 133:9,19 134:20 135:1,20 136:1,6,19 137:6 138:8 139:11,18 139:25 140:7,14,19,25 141:4,14 142:12,21 143:1 144:12 160:5,10,11 161:21 162:6 163:7</p> <p>quality [1] 154:5</p> <p>quarter [2] 94:2,21</p> <p>quarterly [3] 40:13 61:1 69:24</p> <p>questioned [2] 99:24 103:5</p> <p>questioning [4] 6:24 60:5 63:3 130:19</p> <p>questions [15] 1:10 52:16 63:4 74:10 76:10 113:14 114:18 127:3 132:9,16,23 133:1 144:13 144:18 146:24</p> <p>quick [1] 163:10</p> <p>quickly [1] 58:2</p> <p>quite [5] 7:4 9:1 80:19 82:8 132:17</p> <p>quote [1] 18:21</p> <hr/> <p style="text-align: center;">-R-</p> <p>R [2] 55:21 72:13</p> <p>raised [2] 33:6,8</p> <p>range [1] 156:10</p> <p>rank [1] 151:23</p> <p>rate [59] 7:18 8:6 13:21 17:23 20:13 26:25 30:16 32:5 45:18,19 46:22 47:9 49:12 54:3,7,18 55:2 56:25 57:11,22 58:8,18</p>
--	--	--	--	--

59:3,9 76:20 78:18 79:11 103:8 116:9,14 123:16 124:13 125:12 126:5 127:13 128:25 134:4,21 135:7,8,11,14 141:10,15 141:17,18,19 144:24 145:4,16,22,23 146:4 148:21,23 149:12,13,20 159:17	receiving [2] 35:16 63:22 recent [9] 18:13 21:17 31:7 40:25 41:1,4,7 97:2 153:15 recently [2] 18:18 65:21 RECESS [1] 76:2 recognize [3] 28:2 59:5 59:21 recognized [1] 133:18 recommendation [3] 11:9 122:9 128:14 recommending [2] 11:24 12:2 reconcile [1] 16:12 reconciliations [1] 39:4 record [1] 17:18 recorded [6] 27:23 60:9 72:13 106:10,16,18 records [1] 72:2 redirect [1] 132:16 redo [1] 79:13 redress [1] 91:19 reduce [10] 55:11 65:8 65:10 145:4 157:11 158:16,17 159:3,15 162:25 reduced [4] 18:2 88:12 88:17 129:23 reduces [1] 18:1 reducing [1] 18:3 reduction [1] 162:19 refer [3] 92:2 143:12,12 references [1] 80:15 referred [3] 18:20 66:25 150:3 referring [2] 39:25 117:22 reflect [5] 55:14 93:10 130:7 136:21 159:14 reflected [2] 130:5 159:5 reflecting [2] 139:9 158:21 reflection [2] 142:6 148:21 reflective [4] 31:3,8 46:12 59:1 reform [27] 84:23,24 85:5 86:1,18 87:21 89:9 90:20,23 91:4,5,8 95:15 96:2,17 97:12 100:7,16 100:21 101:18 102:14 103:7,13 105:5,8,19 117:4 reforms [17] 84:25 85:15 89:3,24 90:1,4 95:6,19 96:8 99:8 100:4 103:12 103:18 104:10,23 105:12 118:17 regard [4] 10:2 15:16 21:25 145:15 regardless [1] 47:18 regards [2] 23:22 24:5 regression [4] 2:17 80:7	80:22 117:16 regular [3] 46:4 152:25 154:19 regulated [1] 14:9 reimburse [1] 39:9 related [1] 95:14 relation [3] 17:8 20:11 95:7 relations [1] 12:7 relationship [2] 87:5 138:19 relationships [1] 87:11 relative [5] 49:19 86:22 124:19 126:19 154:10 relativities [2] 29:2,4 relativity [8] 50:1,9 129:24 130:3,6,8,12,13 relevant [1] 79:3 reliability [1] 54:4 rely [1] 157:23 relying [3] 10:10 16:4 155:12 remarks [1] 143:15 remember [2] 18:7 94:15 removes [1] 33:25 repeated [1] 7:16 repeatedly [1] 1:18 repeating [1] 4:23 replicated [2] 3:11 4:7 reply [3] 17:19 26:22 38:1 report [18] 17:7 32:12 32:22 33:5,11,15 39:3 67:1 68:4 69:11,16 73:5 74:21 75:8 77:13 82:2,3 121:1 reported [6] 24:25 25:21 26:7,12 72:11 134:5 reporting [1] 38:22 reports [2] 61:8 67:20 represent [1] 106:9 representative [1] 87:9 representing [1] 19:16 represents [1] 93:19 request [5] 6:7,10 24:23 25:6 75:3 requests [2] 39:2 72:6 require [1] 27:10 required [1] 61:8 requirement [3] 33:25 54:12 60:21 requirements [2] 35:24 38:22 residual [3] 147:25 148:1 155:3 residuals [2] 117:15,24 resort [5] 43:25 45:9 64:9,18,19 resource [1] 84:14 resources [1] 84:8 respect [17] 9:8 13:10	14:5,6 16:8 19:7 27:11 31:11 36:1 57:23 59:25 65:1 85:19 90:10 97:15 105:19 157:1 respectively [4] 25:23 26:10,15,16 respond [3] 39:1 80:20 132:9 responded [1] 99:19 response [9] 7:17 25:19 26:5 61:6,7 85:23 89:8 103:2,10 responses [2] 79:10 130:20 responsibility [2] 16:2 143:17 responsible [3] 15:19 60:19 62:23 responsive [1] 46:12 rest [4] 24:16 25:2 26:14 29:3 restricted [1] 84:8 restrictions [1] 152:4 result [7] 15:23 19:23 36:8 76:20 86:1,17 135:10 results [13] 15:24 16:9 16:10 19:11 23:9 30:10 37:5 58:1,8 66:3 74:13 117:14 124:13 RESUMED [1] 76:3 RESUMES [1] 1:11 return [12] 20:12,12,25 21:14 22:4,9 54:8 55:5 84:14 126:2 133:17 148:23 revenue [3] 23:23 24:1 55:13 review [11] 16:15 20:3 40:12,15,20 67:16 82:23 99:16 110:16 121:25 129:19 reviewing [3] 103:8 121:1,14 reviews [4] 58:8 89:22 90:6,8 RFI [4] 17:13 37:16 74:24 103:20 right [32] 1:21 5:2 6:20 18:8 22:23 23:7 25:9,11 25:11 32:4 34:25 36:15 41:19 42:16 51:17 56:24 76:25 77:2 88:13 94:14 105:14 116:22 120:1,14 123:6,19 132:20 133:13 138:21 145:7 159:13 162:18 rise [2] 91:10,16 risk [18] 42:23 43:2 44:7 45:13 46:12 61:5 78:17 79:1 109:15 148:4 149:3 149:4,14 150:16 151:2 151:16,24 157:17 risks [3] 148:10 150:25 163:2 risky [2] 133:24 134:3	road [2] 153:20 166:7 roads [1] 161:25 ROE [1] 133:12 ROI [1] 133:4 role [5] 10:1 11:20,21 15:16 60:17 room [1] 63:25 rule [11] 34:16 41:13 42:4 44:12 45:20 46:11 48:3 48:10 49:1 52:8,9 rules [2] 48:15 51:19 run [1] 14:3 <hr/> -S- <hr/> Safe [1] 159:23 sample [1] 83:2 San [1] 163:24 satisfactory [1] 110:17 satisfactory [3] 8:23 109:2 110:2 satisfied [2] 110:20 111:1 satisfy [1] 63:5 save [1] 140:10 saw [5] 85:5 92:14 113:10 158:24,25 says [11] 89:22 95:5 97:17 105:3 116:22 117:2 120:15 121:5 142:15 155:21 162:8 Scotia [16] 18:12,19 20:6 21:17 22:2,4,11,11 23:20 31:22 65:23 66:8 133:2 133:5,11 150:4 seasonality [1] 105:4 seatbelts [1] 161:11 second [22] 5:1,1,7,15 6:11 9:12 24:15 71:2,4 79:9,11,16,17 83:21 86:8 86:9 94:2,21 98:17 106:24 111:15 131:1 seconds [1] 53:1 section [4] 69:10,13 112:6 120:12 see [33] 4:12,14,22 7:23 22:15 29:6 35:15 50:13 59:2 60:9 66:3 78:13 82:7 86:19 89:11,21 91:7 93:20 95:15 96:18 97:19 106:14 107:4 108:10 110:25 111:9 112:2 113:11 128:11 130:24 156:7 163:21 165:2 seeing [7] 14:1 39:24 83:17 98:24 112:17,22 160:16 seeking [2] 91:18 136:2 seem [2] 44:19 134:7 selected [5] 7:1 77:24 105:19 106:2 113:11 selection [9] 79:16 107:21 108:2,5,15,20 111:2 117:11 121:22 selects [1] 7:17
--	--	---	---	---

<p>semantics [1] 44:17 sends [1] 67:18 Senior [1] 9:19 sense [9] 31:20 42:25 43:7,14 45:15 89:13 151:2 154:1 162:14 sensitivity [1] 16:17 separate [3] 5:1 26:24 136:24 September [1] 21:24 service [4] 36:9 61:6 62:15 137:22 services [3] 13:11 143:18 143:19 servicing [18] 27:11 32:14 33:1,18 35:19,21 37:7 38:5 39:9 60:19 62:3 72:11,14 137:8,13 138:21,25 156:24 set [10] 1:19 44:15 64:20 69:25 71:23 73:2,4 89:23 114:15 164:24 sets [4] 8:13 73:2 83:12 84:20 settled [2] 60:16 62:4 settlement [1] 60:17 seven [3] 18:5 123:18,22 several [1] 74:18 severity [44] 2:2 4:20 7:2 7:18 8:24 9:10,11,14 65:10 82:23 85:12 87:2 87:4,13,18 90:12 93:20 94:11,13 96:22,23 97:21 97:25 98:10,12,17,24 102:12 108:23,24 109:5 109:6,16 110:1,3,16 116:21 117:3,4 118:13 137:17,24 157:11 158:17 share [8] 23:9,10,14,15 64:13 65:25 66:1 147:16 SHAWN [6] 1:11 52:23 132:21 144:19 146:25 160:10 sheet [1] 93:4 shifts [1] 90:2 shock [1] 58:18 short [5] 75:13 98:15 125:6,7 134:14 shorter [1] 77:24 shoulder [1] 161:12 show [6] 19:12 56:20 66:14 93:21 100:18 150:12 showed [2] 19:18 79:10 showing [3] 19:21 25:25 77:14 shows [4] 57:4 100:18 106:20 131:2 side [5] 44:11,12 82:23 82:24 87:2 sign [3] 16:18 61:17 63:16 signed [1] 15:25 significance [1] 2:22 significant [17] 5:10</p>	<p>8:23 9:1,13 10:7 48:3 59:3 61:9 82:21 89:5 90:10,22 96:9 103:15,25 109:3 162:19 significantly [3] 56:13 100:20 134:18 signs [1] 16:22 similar [4] 9:6 22:14,21 95:14 similarly [1] 136:7 simplified [1] 86:15 simply [1] 106:17 single [4] 10:9 90:5 91:25 143:23 sit [1] 96:6 situation [4] 8:20 46:13 56:6 68:11 situations [1] 146:7 six [14] 19:12,13,16,16 19:18,21,22 64:7 67:10 67:15 69:12 82:9 106:20 111:6 six-month [4] 13:22 35:25 84:20 106:22 size [3] 83:2 120:17 162:25 ski-doos [2] 113:25 114:4 slide [3] 112:2,4,5 slight [1] 115:1 slightly [1] 26:18 slope [1] 79:17 slopes [1] 96:18 small [8] 28:12 104:20 104:22 123:10 126:14 138:11 147:16,18 smaller [2] 81:19,21 solid [1] 158:25 someone [6] 37:3 83:13 97:16,20 153:17 158:15 sometime [1] 3:11 somewhere [5] 39:7 57:20 123:19 144:25 152:20 soon [1] 160:2 sorry [16] 11:5 25:14,16 26:18 53:2 73:20 92:23 103:9 107:3 112:2,16 116:12 120:13,14 144:17 163:14 sort [11] 5:19 28:7,18 29:11 42:14 61:17 122:8 142:13 150:10 157:17 160:14 sorts [1] 38:17 sound [4] 88:13,21 160:1 166:9 sounded [1] 40:9 sounds [3] 18:8 76:25 88:15 source [1] 69:21 sources [1] 69:14 speak [10] 9:7 43:13 44:10 69:20 89:14 90:14</p>	<p>94:14 95:5 132:8 140:1 speaking [3] 38:10 149:17 151:17 speaks [1] 92:1 specialists [1] 15:21 specialize [1] 64:24 specific [3] 81:17 116:6 137:1 specifically [2] 23:11 44:10 specified [2] 124:22 129:2 spend [3] 66:23 69:7 125:21 split [9] 23:12 71:24 72:1 96:10 105:7,11 125:6 141:24 151:15 splitting [1] 91:7 spoke [7] 17:6 18:11 108:21 133:20 135:9 139:12 153:2 spots [1] 53:1 square [1] 55:21 St [2] 166:7,10 stable [1] 110:21 staff [3] 15:7,9 163:6 Stamp [36] 6:6 12:19 39:18 132:12,16,21,22 133:9,19 134:20 135:1 135:20 136:1,6,19 137:6 138:8 139:11,18,25 140:7 140:14,19,25 141:4,14 142:12,21 143:1 144:12 160:5,10,11 161:21 162:6 163:7 STAND [1] 1:11 standard [11] 27:25 28:1 55:21 89:20 90:6 119:17 119:19 123:1,14 124:21 145:14 standards [2] 55:17 120:16 standing [1] 12:7 standpoint [1] 144:11 stands [1] 51:12 start [7] 5:7 29:1,3 54:2 76:9 92:4 143:18 starting [6] 5:25 6:10 101:16 163:18,22 165:7 starts [2] 6:13,18 stat [2] 152:3 154:3 state [1] 73:25 statement [14] 2:20 37:1 63:11,15,17 64:4 80:21 89:15 96:5 97:11 118:24 120:21 147:5 150:24 states [1] 26:5 statistical [6] 26:8,13 26:25 55:18 78:4 154:4 statistically [8] 8:23,25 9:13 90:10 103:14,25 109:3 110:2 stay [1] 46:6 staying [1] 122:13</p>	<p>stays [6] 79:9,12,18 130:8 158:4,12 step [4] 65:13 98:19 104:8 161:13 still [7] 9:19 50:4 96:19 122:19 135:14 140:21 147:25 Stop [2] 120:1,1 straight [1] 72:13 strict [1] 30:7 strictly [1] 157:23 structure [5] 55:14 70:4 83:18 100:3 159:19 struggle [2] 117:16 159:19 struggled [2] 116:23 117:4 struggles [2] 117:12,22 struggling [2] 118:10 126:3 studies [1] 13:15 study [2] 120:4,18 stuff [11] 122:21 147:22 149:1 151:23 155:22 158:4,5,8,23 163:21 164:5 subject [3] 128:2 129:3 130:17 submitted [1] 22:10 subrogation [1] 34:6 subsequent [2] 4:11 58:6 subsets [1] 81:19 substantial [2] 57:24 59:12 substantially [2] 59:9 59:19 such [7] 27:9 50:14 64:20 74:13 89:5 90:21,24 suffering [1] 85:21 sufficient [5] 44:6 56:10 84:10,13 151:15 suggest [5] 33:11 37:18 74:9 75:13 149:16 suggested [1] 133:23 suggesting [1] 75:16 suggestion [3] 135:2,4 136:9 Superintendent [2] 36:13 139:15 superintendents [2] 41:3 140:9 support [3] 37:13 159:1 159:9 surcharge [2] 44:15,25 surprised [1] 156:8 surprising [1] 63:22 suspicion [1] 4:8</p>	<p>taking [4] 59:13 81:11 81:14 146:6 tandem [1] 159:18 tax [3] 35:12 54:8 133:16 taxi [55] 6:25 20 14 21:1 25:21 26:7,12 33:3 41:16 47:7,9,10,20 48:6 49:8 49:24 50:3,11,16 51:23 55:12 64:2,10,25 66:18 68:19 69:3 70:14 71:9 72:10 113:2 127:13 141:8 141:18,18,25 142:9,11 149:14 151:1 153:1,11 154:16 155:8 157:15 158:7,13 160:14,19 161:2 161:24 162:8,22 163:1 163:12 166:4 taxies [1] 57:23 taxiing [2] 49:10 50:19 taxis [32] 28:11 31:11,11 32:2 37:8 41:25 49:18 63:19,22 109:17 112:18 114:9,16 127:9 130:1,5 130:8,11 134:11 138:24 148:15,16,17 150:13,17 153:18,19,23,25 156:16 157:2 161:19 team [3] 11:13 15:23 61:2 technology [2] 80:1,1 telling [1] 29:7 template [2] 143:23 144:2 ten [6] 31:15 32:14,19 59:7,17 71:18 ten-year [1] 30:24 tend [3] 31:6 94:12 124:8 term [3] 38:6 40:7,9 terminology [1] 18:22 terms [6] 15:22 36:8 49:3 49:12 65:7 143:3 territorial [1] 24:5 territories [15] 24:7,25 25:2 27:18 30:17 64:8 133:21,24 134:7,8,13,17 134:18,22 135:16 territory [18] 24:12,13 24:14,16,17 26:8,13,25 27:22 32:2 72:3,7 74:14 77:4 135:5,18,22,23 test [4] 4:12 16:16 74:21 142:17 tested [2] 78:4 98:21 testified [1] 12:18 testimony [1] 17:7 testing [1] 27:12 tests [1] 16:17 thank [27] 1:14 21:4 52:16,17,19 58:17 60:5 71:2 72:22 76:1 82:7 85:24 101:7 108:19 116:19 120:1 132:7 144:13,16 146:22 159:23 160:12 163:8 164:7,16 164:18 165:12 themselves [3] 138:23 158:11 163:2</p>
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-T-

<p>there'd [1] 138:9 thereby [1] 64:1 therefore [2] 43:25 45:9 they've [4] 30:1 32:21 40:19,20 thinking [1] 141:9 third [16] 19:9 27:3 29:15 32:23 54:4 73:15 91:18 91:19 101:17 111:7 115:14 119:19 137:19 160:25 161:4,17 Thirty [1] 84:4 THOMAS [1] 1:12 thought [6] 3:9 7:1 53:2 126:5 145:11 165:6 three [16] 28:21,23 35:14 35:18 49:22,25 64:7 65:3 69:14 74:9 127:25 134:10 139:4 143:10 151:20 164:24 threshold [1] 61:21 through [33] 15:25 17:13 20:3 22:22 28:2,5,8 29:14 37:16 60:10,23 61:2 62:15,16 63:20 67:2 67:10 72:11,12 74:24 75:1 79:5 87:5 88:9 89:7 98:6 129:23 152:3 154:3 154:21 157:20 160:25 161:4 throughout [3] 69:15 74:18 137:18 times [5] 49:22,25 74:18 83:2 139:4 timing [1] 130:14 together [5] 15:19 112:11 130:24,25 158:7 tone [1] 44:14 too [3] 99:10 134:14 146:20 took [5] 81:7,9,10 120:6 158:13 top [14] 18:7 49:16 50:9 50:12 56:15 64:11,14 94:14 105:3 106:6 107:6 116:12 125:14 128:21 topic [1] 32:10 Torbay [1] 166:7 toss [1] 2:17 total [2] 87:15 111:21 touched [1] 141:6 toward [1] 146:13 track [2] 34:1 77:5 transactions [2] 34:2 37:22 transcribed [1] 166:8 transcript [2] 119:24 166:3 travels [1] 159:24 treat [1] 116:1 treated [2] 100:4,6 trend [59] 2:2,4 4:13 7:2 7:18 8:24 9:10,14 16:5 16:10 19:2 66:25 67:17 68:4,10,23 70:23 72:17</p>	<p>72:19 74:8 76:10,19 77:16,23 78:2,3,14,18 78:21 79:8,11,16 80:18 81:4,16,17,18,24 82:2 83:7 86:4,16 90:3 96:21 97:16 100:3,5 103:8,15 110:18 114:18 115:10 126:1 131:18,20 143:25 144:1 156:20 158:22 trending [2] 18:10 119:12 trends [9] 4:16 68:14 73:13 74:22 80:17 97:3 100:6 118:13 156:19 triangle [1] 70:3 tried [1] 126:8 trouble [2] 96:4 98:19 true [2] 151:2 166:2 truly [1] 74:20 try [11] 31:1,18 46:6,15 64:19 102:23 118:9 122:3 143:6 154:22 162:9 trying [14] 20:23 28:7 30:25 71:20 78:18 90:15 95:13 97:23 112:7,11 149:25 150:8,21 154:2 Tuesday [1] 164:25 turn [5] 7:15 26:3 32:10 69:10 160:16 turned [1] 162:7 tweak [1] 155:24 Twenty-five [1] 83:24 two [33] 8:13,13 29:8 41:9 54:10 74:9 81:13 87:8,11 91:16,17 96:11 96:18 97:24 98:3,7 101:1 105:25 111:25 113:14 118:4 122:19,22 130:12 130:17 131:20 143:24 151:9 153:2,25 159:13 159:17 161:24 two-thirds [1] 114:14 type [2] 29:23 149:19 types [5] 65:13,15 121:16 151:16 161:13 typically [6] 16:6 28:22 28:24 64:23 65:24 129:18 typo [2] 104:22,25</p> <hr/> <p style="text-align: center;">-U-</p> <p>Uber [3] 163:11,16 164:1 ultimate [8] 30:8 56:2 60:12 70:5,15,17 111:6 113:11 unattractive [1] 45:21 under [11] 36:12 51:15 51:18 86:23 91:17 102:9 124:17 142:1 143:15 159:19 161:16 underinsured [1] 115:23 underlying [11] 29:4,10 31:10 71:16 86:16,25 87:10 124:10,12 126:22 139:10</p>	<p>underneath [1] 95:24 understand [37] 6:16 12:22 18:18 20:22 21:6 25:19 26:22 41:16 43:20 44:12 46:20 47:14,19 52:12 57:16 63:16 66:4 73:3 80:25 84:11 85:18 99:16,22 100:9,13,15 120:2 126:4 137:10 140:10 141:21,25 145:12 147:12 152:8 155:25 158:16 understated [1] 19:23 understood [2] 48:25 141:15 undertake [7] 5:21 52:14 108:5 125:16 131:22 133:10,17 undertaking [6] 5:18 39:15 58:7 116:14 128:10 131:11 undertook [1] 133:5 underwriting [15] 32:16 33:3,20 34:24 36:10,24 37:8,18 38:12,17 44:12 62:24 63:9 149:3 163:20 underwritten [1] 51:16 unemployed [1] 160:2 unfortunately [4] 93:9 93:18 152:2,2 uninsured [3] 115:4,6 115:24 unintended [1] 95:6 unless [5] 104:22 152:20 153:6 157:10 158:7 unlimited [1] 84:9 unpaid [1] 71:25 up [62] 6:12 15:15 17:13 18:3 19:19 25:6 28:20 34:23,25 38:16 56:1 63:13,17 75:3,10 81:13 81:16 82:1 83:20 85:23 86:12 88:25 89:23 90:2 91:7,22 92:20,20 93:8 95:2 96:22 97:3,23 99:18 100:19 101:6 103:2 104:21 105:22,24 109:9 112:2,6 117:17 119:8,9 119:23 121:1,4 127:13 128:13 130:20 136:8 137:1,10,14,15,24 146:20 154:18 156:21 163:22 updated [3] 41:9 55:14 121:6 urban [1] 113:23 usage [1] 48:6 useable [1] 9:1 used [40] 9:10 18:12 46:21 47:16,18,20 49:9 49:9 51:8,18 55:19 68:12 69:15,22 70:4,12,22 72:16,19 73:4,6,7,12 77:22 100:2 105:4 108:23 109:6,13 110:3 115:14 118:4 120:19 126:1,25 131:5,19 145:2 164:3,4 useful [1] 32:9</p>	<p>useless [1] 2:3 uses [1] 78:9 using [27] 2:10 19:15 29:14,15 30:13 47:6 55:2 77:7,7,15,17 81:2,12,13 81:18,19,23 82:16,18 84:7 93:5 97:5,24 110:13 110:14 142:1,7 usually [2] 44:20 71:13 Utilities [1] 166:6</p> <hr/> <p style="text-align: center;">-V-</p> <p>validity [1] 74:21 valuation [8] 15:21,22 15:24,24 16:5,6,10 69:24 value [5] 55:21,22 106:9 112:22 122:13 values [6] 86:7 93:15,16 106:8 138:11,12 variability [1] 117:14 variable [4] 32:15 101:19 102:12,13 variables [2] 102:10 103:13 variance [6] 50:14 81:21 82:22 110:24 117:13,25 varies [1] 147:21 various [3] 30:5 89:23 107:6 vary [1] 80:17 vehicle [23] 8:8,22 18:14 41:17 43:4 46:21 47:7 47:16 49:9 50:6 51:7,17 109:1 110:21 113:16 118:20 127:14 141:7,24 142:2,3,4,7 vehicles [8] 18:25 42:22 49:20,23 109:18 113:22 113:23 114:11 verses [1] 50:8 versus [2] 42:22 138:11 viable [1] 45:22 vice [1] 63:8 VICE-CHAIR [24] 146:25 147:2,11,17,24 148:8,14 149:10,22 150:2 150:23 152:7,15,24 153:8 154:15,24 155:7,18 156:1 156:5 157:5,14 159:22 vice-president [2] 9:20 163:19 view [14] 1:20 9:9 27:16 66:2 77:14,15 89:19 104:5 126:11,19,21 130:3 139:5 156:19 views [1] 89:20 vision [1] 163:4 volatility [1] 82:9 volume [1] 150:11 voluntary [6] 46:4,7 64:21 148:11 149:7,11</p> <hr/> <p style="text-align: center;">-W-</p> <p>walk [2] 89:6 152:1</p>	<p>wanting [2] 44:1,1 wants [1] 162:22 ways [2] 30:25 31:17 wear [1] 161:11 website [1] 39:21 Wednesday [1] 164:25 week [2] 53:20 164:20 weight [5] 29:8,18 30:2 124:9,16 weighted [1] 146:12 weighting [1] 128:21 welcome [2] 52:19 60:7 Whalen [25] 147:1,2,11 147:17,24 148:8,14 149:10,22 150:2,23 152:7 152:15,24 153:8 154:15 154:24 155:7,18 156:1,5 157:5,14 159:22 160:13 Whalen's [1] 160:7 whereas [2] 77:18 144:25 whichever [1] 146:18 who'd [1] 66:7 whole [3] 54:4 57:15 83:15 willing [3] 28:4 29:12 155:10 window [1] 123:10 wish [1] 33:12 within [10] 36:15 46:4 62:6 77:23 102:24 115:25 139:19 145:15 161:18 163:4 without [3] 30:10 71:16 102:24 wonderful [4] 108:8 130:17 132:1 151:9 wondering [3] 3:17 5:6 137:15 word [1] 50:23 words [2] 66:9 147:20 worked [1] 143:16 world [1] 43:11 worried [2] 103:16 160:1 worth [2] 97:6 150:16 worthwhile [1] 150:12 write [8] 22:22 23:2,19 23:21 46:5,8 66:5 156:21 writing [7] 66:7 149:8 153:22,25 154:11,12 156:16 written [3] 39:7 148:10 153:3 wrong [3] 58:2 94:18 144:17 Wyman [21] 32:11 49:1 67:1,15 73:4,7 76:15 77:7,16 80:14 82:8,19 84:25 89:2 99:21,24 103:5,12 106:2 109:11 155:13 Wyman's [5] 74:21 75:8 76:22 77:13 156:19</p>
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<hr/> <p style="text-align: center;">-X-</p> <hr/> <p>X^[1] 138:25</p> <hr/> <p style="text-align: center;">-Y-</p> <hr/> <p>year ^[75] 8:19 9:17 11:22 23:12 26:7 27:23 49:24 50:24 55:11,11 57:5,11 58:19 59:17 71:14 72:1 72:3,4,5,25 73:9 78:6,10 80:7 82:13 83:10,13 92:21 99:14 102:7 103:3 103:10,19,19,24,25 105:3 108:22 109:1,11,13,14 109:23,24 110:5,9,11,22 111:5 115:13,13 116:20 118:4,9,18,19,21,21 119:20,20 120:3,13,19 121:7,11 124:23,24 125:24 128:10 146:7,8 152:16,18,21 153:10</p> <p>year's ^[9] 6:25 74:2 76:17,18 101:8 102:1 115:2 124:22 126:6</p> <p>year-on-year ^[2] 145:4 145:18</p> <p>years ^[40] 2:1,16 28:21 28:24 31:1,16 58:6 59:7 59:14 71:19,19 77:7,8,9 77:12,13,14,17,18,19,20 77:22,24 78:3,19 82:9 83:10,13,20,25 84:6,19 97:2,5 105:4 134:10,11 146:4 152:11 157:25</p> <p>yesterday ^[16] 3:5,8 6:24 7:11 8:18 9:19 13:19 17:6 18:11,20 22:25 103:4 119:22 120:2 123:18 126:9</p> <p>yesterday's ^[1] 119:23</p> <p>yet ^[2] 107:21 108:15</p> <p>Young ^[1] 13:7</p> <p>yourself ^[2] 11:15 76:15</p> <hr/> <p style="text-align: center;">-Z-</p> <hr/> <p>zero ^[2] 54:11 99:13</p>				
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