

SIXTH FLOOR, 900 HOWE STREET, BOX 250
VANCOUVER, B.C. V6Z 2N3 CANADA
web site: <http://www.bcuc.com>



**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER** G-73-08

TELEPHONE: (604) 660-4700
BC TOLL FREE: 1-800-663-1385
FACSIMILE: (604) 660-1102

IN THE MATTER OF

the Utilities Commission Act, R.S.B.C. 1996, Chapter 473, as amended

and

the Insurance Corporation Act, R.S.B.C. 1996, Chapter 228, as amended

and

A Filing by the Insurance Corporation of British Columbia
respecting Regional Claim Centres Allocation

BEFORE: L.F. Kelsey, Panel Chair and Commissioner April 22, 2008
A.W.K. Anderson, Commissioner
P.E. Vivian, Commissioner

O R D E R

WHEREAS:

- A. By Order No. G-46-05 dated May 18, 2005, the Commission approved for the Insurance Corporation of British Columbia ("ICBC") a Negotiated Settlement Agreement ("2005 NSA") on seven selected financial allocation functions including the Regional Claim Centres Allocation; and
- B. The 2005 NSA provided that ICBC file with the Commission in 2007 an updated work effort study relating to the Regional Claim Centres Allocation (i.e. work effort), to include revisions, if any, that ICBC proposes for the allocation of the costs of the Regional Claim Centres cost category. The 2005 NSA also provided that the filing relating to Regional Claim Centres will be reviewed in 2008 with the review including a process for the participation of Intervenor in the review; and
- C. By Letter No. L-84-07 dated October 16, 2007, the Commission provided a response to ICBC's letter dated August 9, 2007 regarding the Regional Claims Centres Allocation process. Letter No. L-84-07 anticipated a filing by mid-December 2007 followed by a regulatory process that would include a workshop in January 2008 and a negotiated settlement process in early/mid February 2008; and
- D. On December 21, 2007 ICBC submitted a filing respecting the Regional Claim Centres Allocation, which included an updated work effort study relating to the Regional Claim Centres Allocator ("the Filing"). The Filing by ICBC proposed a regulatory timetable consisting of a Workshop and Negotiated Settlement Process ("NSP"); and
- E. By Order No. G-2-08 dated January 7, 2008, the Commission established a Regulatory Timetable that included a Workshop and NSP; and

**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER** G-73-08

2

- F. By Letter No. L-2-08 dated January 17, 2008, the Commission amended the Regulatory Timetable for the Workshop to be held on the morning of February 20, 2008 and the NSP to commence following the Workshop; and
- G. At the Workshop ICBC presented information to Commission staff and Registered Intervenors. The NSP commenced immediately following the Workshop with NSP discussions concluding on the same day; and
- H. A Negotiated Settlement Agreement dated February 20, 2008 ("2008 NSA") was reached between ICBC and many of the participants. The 2008 NSA is attached as Appendix B to this Order. The 2008 NSA along with six Letters of Comment were circulated to all participants, Registered Intervenors, and the Commission Panel on March 14, 2008. The Letters of Comment from ICBC, Family Insurance Solutions Inc., British Columbia Old Age Pensioners' Organization *et al.* accept the 2008 NSA. The Insurance Bureau of Canada accepts the 2008 NSA and has three specific concerns regarding the Work Effort Study, recurring issues not addressed, and the focus on individual allocators. Canadian Direct Insurance Inc. acknowledges the negotiated settlement document. The Letter of Comment from Mr. Russell Sykes states that he does not agree to the 2008 NSA; and
- I. Subsequently in an email dated March 14, 2008, the Canadian Office & Professional Employees Union Local 378, a participant in the NSP, provided its Letter of Comment confirming its acceptance of the 2008 NSA; and
- J. On March 25, 2008 the Commission received from Mr. Sykes his "NSP Dissent" submission. By the due date of March 25, 2008, no additional Letters of Comment were received from other Registered Intervenors; and
- K. All the Letters of Comment received and the NSP Dissent are included in Appendix B to this Order; and
- L. The Commission Panel has reviewed the 2008 NSA for the regional claim centres allocation and the comments and submission received, and finds that the 2008 NSA should be approved.

NOW THEREFORE the Commission orders as follows:

1. The Commission approves for ICBC the February 20, 2008 NSA, attached as Appendix B to this Order.
2. ICBC will comply with all other directions in the Reasons for Decision attached as Appendix A to this Order.

DATED at the City of Vancouver, in the Province of British Columbia, this 22nd day of April 2008.

BY ORDER

Original signed by:

L.F. Kelsey
Panel Chair and Commissioner

Attachment

A Filing by the Insurance Corporation of British Columbia
respecting Regional Claim Centres Allocation

REASONS FOR DECISION

1.0 BACKGROUND

By Order No. G-46-05 dated May 18, 2005, the Commission approved for the Insurance Corporation of British Columbia (“ICBC”) a Negotiated Settlement Agreement (“2005 NSA”) on seven selected financial allocation functions including the Regional Claim Centres Allocation. The 2005 NSA provided that ICBC file with the Commission in 2007 an updated work effort study relating to the Regional Claim Centres Allocation (i.e. work effort), to include revisions, if any, that ICBC proposes for the allocation of the costs of the Regional Claim Centres cost category. The 2005 NSA also provided that the filing relating to Regional Claim Centres will be reviewed in 2008 with the review including a process for the participation of Intervenor in the review. By Letter No. L-84-07 dated October 16, 2007, the Commission provided a response to ICBC’s letter dated August 9, 2007 regarding the Regional Claims Centres Allocation process. Letter No. L-84-07 anticipated a filing by mid-December 2007 followed by a regulatory process that would include a workshop in January 2008 and a negotiated settlement process in early/mid February 2008.

2.0 REGIONAL CLAIM CENTRES ALLOCATION FILING

On December 21, 2007 ICBC submitted a filing respecting the Regional Claim Centres Allocation, which included an updated work effort study relating to the Regional Claim Centres Allocator (“the Filing”). The Filing by ICBC proposed a regulatory timetable consisting of a Workshop and Negotiated Settlement Process (“NSP”). By Order No. G-2-08 dated January 7, 2008, the Commission established a Regulatory Timetable that included a Workshop and NSP. By Letter No. L-2-08 dated January 17, 2008, the Commission amended the Regulatory Timetable for the Workshop to be held on the morning of February 20, 2008 and the NSP to commence following the Workshop.

3.0 NEGOTIATED SETTLEMENT AGREEMENT

A Negotiated Settlement Agreement dated February 20, 2008 (“2008 NSA”) was reached between ICBC and many of the participants. The 2008 NSA is attached as Appendix B to Order No. G-73-08. The 2008 NSA reached agreement on the allocation of compensation costs in the Regional Claim Centres. A Work Effort Study provided a determination of work effort percentages of the ten transaction types for the five job categories. The compensation costs for each job category were then allocated to each of the ten transaction types. The costs for the ten transaction types are then allocated to, or between, Basic or Optional Insurance. The 2008 NSA states that the Intervenor reserve the right to raise allocation issues regarding Regional Claim Centres in future Commission proceedings.

The 2008 NSA also reached agreement on the allocation of facilities costs and the allocation of other operating costs. The 2008 NSA accepts that the Overall Regional Claim Centre costs based on 2007 data will be allocated between Basic and Optional Insurance on the following percentage basis, which reflects the revised process for allocating Facilities Costs: Basic at 63.0 percent and Optional at 37.0 percent.

4.0 LETTERS OF COMMENT

The 2008 NSA circulated on March 14, 2008 to all Registered Intervenor and the Commission included six Letters of Comment. Subsequently, the Commission received a Letter of Comment from the Canadian Office & Professional Employees Union Local 378, a participant in the NSP. Registered Intervenor who did not participate in the negotiations were given until March 25, 2008 to provide their comments. No comments were received from Registered Intervenor who did not participate in the negotiations. Mr. Russell Sykes provided his “NSP Dissent” submission on March 25, 2008. The correspondence received has been included in Appendix B to Order No. G-73-08.

Letters of Comment from ICBC, Family Insurance Solutions Inc., British Columbia Old Age Pensioners’ Organization *et al.* and Canadian Office & Professional Employees Union Local 378 indicate that they accept the 2008 NSA. Canadian Direct Insurance Inc. in its Letter of Comment acknowledges the negotiated settlement document and indicated that it would provide the Commission with a letter, under separate cover, stating its concerns with the methodology proposed, and the issues specific to a number of the transaction types and their percentage allocation.

Insurance Bureau of Canada

The Insurance Bureau of Canada (“IBC”) accepts the 2008 NSA and has three specific concerns regarding the Work Effort Study, recurring issues not addressed, and the focus on individual allocators.

IBC submits that it is questionable whether the results of the Work Efforts Study are objective when it was conducted only by persons within the ICBC organization. IBC states that an objective third party with the appropriate expertise could also address concerns regarding how the Work Effort Study as a whole has been carried out. IBC submits that an independent third party could assist with assessing the appropriateness of the proxies used in respect of Material Damage Files – Other, Material Damage Files – Collision/Property Damage, Material Damage Files – Customer Care, Bodily Injury Exposures – Represented and Bodily Injury Exposures – Litigated.

IBC cites recurring issues not addressed. IBC questions the validity of claims counts as a proxy to determine work effort. IBC also views the allocation of Bodily Injury Exposures – Litigated and Bodily Injury Exposures – Represented as a contentious issue in 2005 and remains a contentious issue.

IBC continues to have concerns regarding the focus on individual allocators in the absence of an opportunity to assess the allocation of ICBC’s costs as a whole. IBC notes that the Commission’s May 18, 2005 transmittal letter accompanying the approval of the 2005 NSA stated that “the Commission Panel accepts ICBC’s proposal to carry out a further detailed study of financial allocations, to be filed with the Commission before the end of calendar 2007.” IBC claims that the detailed study has not yet been provided. IBC indicated it would provide a separate letter to the Commission on this regard. Subsequently, in a letter dated March 27, 2008 IBC provided to the Commission IBC’s concerns regarding ICBC’s further detailed study of financial allocations with references to the Commission transmittal letter of May 18, 2005 accompanying Order No. G-46-05 and the Commission Decision of July 13, 2006.

IBC in the conclusion of its Letter of Comment remains concerned that ICBC’s updated Work Effort Study is inadequate and the objectivity of the study is questionable. However, IBC is encouraged by ICBC’s agreement to allocate facility costs relative to the square footage used by the two lines of business, rather than in accordance with the allocation split derived in respect of the ten transaction types. IBC states the new allocation for facility costs is more robust and more in line with actual work effort.

Mr. Russell Sykes

Mr. Russell Sykes states in his Letter of Comment dated March 12, 2008 that he does not agree to the 2008 NSA. The letter also indicated that he would submit his “written dissent argument” to the Commission Panel. Mr. Sykes provided his “NSP Dissent” submission on March 25, 2008.

Mr. Sykes’ submission provides his observations and positions on the work effort percentages used in the regional claim centres cost allocation model; excess or unused/idle capacity; and performance, productivity, efficiency/effectiveness of ICBC employees. Mr. Sykes also has concerns over the Commission’s Negotiated Settlement Process. Mr. Sykes states that the proposed agreement is fundamentally flawed by accepting the work effort percentage allocations for the compensation allocations, and not providing any mechanism to adjust these percentage allocations.

In his conclusion Mr. Sykes states that there is no evidence that the proposed agreement is in the public interest. Mr. Sykes requests that: the proposed agreement not be approved; an independent objective study be required to provide acceptable evidence for cost allocations relating to the regional claim centres; and a filing of ICBC’s 2009 revenue requirements application by July 1, 2008 with a regulatory process and Decision by October 31, 2008.

The requests by Mr. Sykes regarding ICBC’s 2009 revenue requirements and its regulatory process are beyond of the scope of this proceeding. Mr. Sykes’ lengthy submission includes many details of the Filing that are simply recitals of evidence that is already on the record. He also addresses many issues that are beyond the scope of this proceeding. The Commission Panel considers that, while some points made by Mr. Sykes are relevant, many of the matters addressed by him are out of scope and not relevant to the matters at issue in this proceeding.

5.0 COMMISSION DETERMINATION

The Commission Panel acknowledges the concerns expressed by IBC and Mr. Sykes regarding the independence of the Work Effort Study and the validation of the Work Effort Study and the proper allocation of costs between Basic and Optional Insurance. The Commission Panel determines that these issues are to be addressed by ICBC in the course of preparing for its next application with respect to financial allocation methodology. The Commission Panel considers that the importance of appropriate cost allocation between Basic and Optional Insurance indicates a need for an independent professional assessment. The Commission Panel determines that,

for the purposes of this proceeding, the internal work undertaken by ICBC in support of its application, together with the results of the negotiated settlement process are adequate to support Order No. G-73-08. The Commission received a number of Letters of Comment that accepts the 2008 NSA with one dissent. **The Commission approves for ICBC the February 20, 2008 NSA, attached as Appendix B to this Order.**

The Commission directs ICBC to prepare and file an application for approval of a Proposal Plan for the identification and selection of an independent third party (“ITP”) to review, report on and make recommendations with respect to ICBC’s financial allocation methodology. The Proposal Plan should address proponent qualification criteria, the detailed scope of work required including a review of the Work Effort Study, and the time frame for the review. The Proposal Plan application is to be filed with the Commission no later than October 31, 2008.

In ordering this independent review of the current cost allocation methodologies employed by ICBC, the Commission Panel is not directing a full cost allocation study. The current allocations will stay in place until amended by the Commission as a result of any second comprehensive cost allocation study. The purpose to be served by the ITP study would be to provide objective third party analysis that would address some of the concerns raised in this proceeding and provide a base for the Commission to evaluate whether or not a second full cost allocation proceeding is required.

WILLIAM J. GRANT
TRANSITION ADVISOR
bill.grant@bcuc.com
web site: <http://www.bcuc.com>



SIXTH FLOOR, 900 HOWE STREET, BOX 250
VANCOUVER, B.C. CANADA V6Z 2N3
TELEPHONE: (604) 660-4700
BC TOLL FREE: 1-800-663-1385
FACSIMILE: (604) 660-1102

Log No. 23386

VIA E-MAIL

March 14, 2008

Dear Participants and Registered Intervenors:

Re: Insurance Corporation of British Columbia ("ICBC")
Project No. 3698495/Order No. G-2-08
Regional Claim Centres Allocation Filing
Negotiated Settlement Process

Enclosed is the February 20, 2008 Negotiated Settlement Agreement ("NSA") for ICBC's Regional Claim Centres Allocation Filing.

Letters of Comments from Participants in the negotiated settlement process are enclosed with this settlement package which is now public and is being submitted to the Commission and all Intervenors.

Prior to consideration by the Commission, Intervenors who did not participate in the settlement negotiations are requested to provide to the Commission Secretary their comments on the settlement package by Tuesday, March 25, 2008. Mr. Russell Sykes, a participant in the negotiated settlement process, indicates in his Letter of Comment that he will submit a "dissent written argument" to the Commission Panel. Another participant, Canadian Direct Insurance Inc. ("CDI"), indicates in its acknowledgement of the NSA that it would provide the Commission with a letter stating its concerns on the methodology, transaction types, and allocation. Both Mr. Sykes and CDI should also provide their submissions to the Commission Secretary by March 25, 2008. Thereafter, the Commission will consider the settlement package. A public hearing may not be required unless there is significant opposition to the proposed settlement.

Yours truly,

A handwritten signature in dark ink, appearing to read "Philip Nicholas" or similar, written over the typed name.

for William J. Grant

/rt
Enclosure



WILLIAM J. GRANT
TRANSITION ADVISOR
bill.grant@bcuc.com
web site: <http://www.bcuc.com>

SIXTH FLOOR, 900 HOWE STREET, BOX 250
VANCOUVER, B.C. CANADA V6Z 2N3
TELEPHONE: (604) 660-4700
BC TOLL FREE: 1-800-663-1385
FACSIMILE: (604) 660-1102

VIA E-Mail

March 11, 2008

Log No. 23386

To: Negotiated Settlement Participants

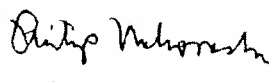
Re: Insurance Corporation of British Columbia ("ICBC")
Regional Claim Centres Allocation Filing
Negotiated Settlement Process

Please find enclosed the final copy of the Negotiated Settlement Agreement.

Please provide to me, written correspondence confirming your acceptance of this Negotiated Settlement Agreement (e-mail preferred at bill.grant@bcuc.com and doug.chong@bcuc.com) by the close of business on **Thursday, March 13, 2008**.

Subsequently, the Negotiated Settlement Agreement and letters of comment from the participants will be made public and forwarded to the Commission Panel for its review.

Yours truly,


for William J. Grant

/rt
Enclosure

**Insurance Corporation of British Columbia (“ICBC”)
Regional Claim Centres Allocation
Negotiated Settlement Agreement**

Date: February 20, 2008

CONFIDENTIAL

1. By Order No. G-46-05, delivered under cover of Letter (Log No. 9398) dated May 18, 2005, the British Columbia Utilities Commission (the “Commission”) approved the 2005 Negotiated Settlement Agreement dated April 27, 2005 relating to seven selected financial allocation functions used in ICBC’s allocation methodology. In Appendix A to Order No. G-46-05 (p. 3, paragraph 11), the 2005 Negotiated Settlement Agreement stated:

“In 2007 ICBC will file with the Commission an updated work effort study relating to the Regional Claim Centres allocator (i.e. work effort). This filing will include revisions, if any, that ICBC proposes for the allocation of the costs of the Regional Claim Centres cost category. This filing relating to Regional Claim Centres will be reviewed in 2008 with the review including a process for the participation of Intervenors in the review.”

2. ICBC sent a letter to the Commission on August 9, 2007 with a proposal to conduct the updated Work Effort study for Regional Claims Centres, and then file the updated study along with ICBC’s proposals for allocation for Regional Claim Centres. ICBC proposed that the process contain a workshop to be followed by a Negotiated Settlement Process (“NSP”). Intervenors were not asked to comment on the proposal. The Commission responded on October 16, 2007 in Letter No. L-84-07, agreeing with ICBC’s proposed process.

3. On December 21, 2007 ICBC submitted to the Commission “A Filing by the Insurance Corporation of British Columbia for a Workshop and Negotiated Settlement Process Relating to Regional Claim Centres Allocation” (the “RCCA Filing”). The RCCA Filing was based on 2006 operating costs, as the 2007 costs were not yet available.

4. By Order No. G-2-08 the Commission ordered that a Workshop be held with respect to Regional Claim Centres Allocation on February 4, 2008 followed by a NSP. Order No. G-2-08

also provided a timetable for information requests and responses by ICBC. Commission Letter No. L-2-08 amended the regulatory timetable to provide for the Workshop to be held February 20, 2008, followed by a NSP.

5. The Commission, the Insurance Bureau of Canada and Russell Sykes submitted information requests to ICBC and ICBC responded thereto.

6. On February 20, 2008 from 9:00 am until 1:00 pm, ICBC held a Workshop with respect to Regional Claim Centres Allocation. Following the Workshop a NSP amongst ICBC, Intervenor and Commission staff commenced. The persons participating in the NSP process are identified in the attached Schedule 1.

7. This document (the “Negotiated Settlement Agreement”) represents the agreement between ICBC and other parties respecting the allocation of the costs of the Regional Claim Centres, as reviewed pursuant to Commission Order No. G-46-05.

A. Description of Regional Claim Centres

8. The Regional Claim Centres consist of 38 claim centres and four Claims Handling Departments (Litigation Centre, two Lower Mainland Express, and Specialty Vehicle Appraisers) (RCCA Filing, p. 9, BCUC.4.1). The Telephone Claims Department and Specialized Claims Department are not part of the Regional Claim Centres allocation function (RCCA Filing, pp. 10-11).

9. In 2006, Regional Claim Centres operating costs were \$130,623,842, or approximately 25.5% of corporate operating costs (RCCA Filing, p. 12). Regional Claim Centres operating costs consist of Compensation Costs (86% in 2006), Facilities Costs (10% in 2006), and Other Operating Costs (4% in 2006). During the Workshop ICBC presented cost information for 2007 indicating that in 2007 Regional Claim Centres operating costs were approximately \$135,178,000, or 25.9% of corporate operating costs.

B. Allocation of Compensation Costs

10. The RCCA Filing describes how ICBC allocates Compensation Costs in the Regional Claim Centres. A summary is as follows:

Determination of Work Effort Percentages

11. ICBC conducted an updated Work Effort Study in 2007 in which the work effort of employees in five job categories (Managers/Supervisors, Office Assistants/Claims Support Assistants, Bodily Injury Adjusters/Examiners, Material Damage Adjusters, and Estimators) was allocated among 10 transaction types, by region (RCCA Filing, pp. 25-38; Figures 8, 9, 10 and 11 and Appendix H). The determination of the work effort percentages was based mostly on the judgment of the team members involved in the 2007 Work Effort Study (2007 RCCA BCUC.2.1). Figures 8 through 11 of the RCCA Filing provide updated work effort percentages (RCCA Filing, pp. 27-28).

12. After the work effort percentages for each transaction type by job category was determined (expressed as a percentage of annual time spent on each transaction type), compensation costs for each job category were then allocated to each of the ten transaction types based on the work effort percentages. Thus, the percentage of each transaction type is multiplied by the total compensation cost for a job category to derive the amount of compensation costs apportioned to the transaction type for that job category. Work effort percentages by job category are established for each transaction type, and the calculation repeated, for each of the four regions. (RCCA Filing, p. 39; Appendix F). Appendix F of the RCCA Filing includes the 2006 Allocation Matrices, showing by region the breakdown of work effort by employee job category and the 10 transaction types.

13. The results of the transaction costing model (as set out in Appendix F of the RCCA Filing) will be affected by changes to the data inputted into the costing model, namely the compensation for each of the five job categories. For example, the number of Full Time Equivalents (FTEs) in a particular job category may change, thereby affecting the overall compensation distributed in accordance with the costing model. As a result, the percentage cost of each of the ten transaction types may change from year to year. However, the work effort

percentages set out in Figures 8, 9, 10 and 11 will not change from year to year in the absence of a further work effort study and an opportunity for the Commission and intervenors to review and challenge the work effort study and resulting changes.

Allocation Between Basic and Optional Insurance

14. Once total compensation costs by transaction type are determined for each region the costs are then allocated by transaction type to, or between, Basic or Optional insurance. Five of the transaction types, by their nature, are either Basic or Optional insurance and can therefore be allocated directly. The remaining five transaction types are allocated between Basic and Optional insurance, the apportioning based on different types of statistical data or proxies (RCCA Filing, pp. 39-56).

Results of NSP with Regards to Compensation Costs

15. The Commission directed ICBC to file an updated work effort study in 2007. The parties accept that work effort remains an appropriate basis for allocating Compensation Costs in Regional Claim Centres, and accept the work effort percentages derived from the updated Work Effort Study and the methodologies set out in the RCCA Filing for allocating Compensation Costs between Basic and Optional insurance. However, certain parties to the NSP have serious reservations regarding the Work Effort Study process and the development of the methodologies set out in the RCCA Filing for allocating Compensation Costs between Basic and Optional insurance.

16. The Intervenor reserve the right to raise allocation issues regarding Regional Claim Centres in future Commission proceedings.

17. Specific comments regarding the allocation of the ten transaction types follow below.

Five Transaction Types Allocated Directly to Basic or Optional Insurance

18. It is agreed that Compensation Costs associated with the following five transaction types will be entirely allocated 100% to Basic or Optional insurance as follows:

Reference: pp. 7, 39	Basic	Optional
MD Files – Glass		100%
MD Files – Comprehensive Theft		100%
MD Files – Comprehensive Other		100%
BI Exposures – LVI	100%	
BI Exposures – Non-represented	100%	

Five Transaction Types Allocated Between Basic and Optional insurance

19. The parties accept that the Compensation Costs related to the five transaction types that are allocated between Basic and Optional insurance (identified below) will be allocated between Basic and Optional in accordance with the methodologies set out in the RCCA Filing. Some Intervenors believe that the process ICBC used to allocate the costs associated with these five transaction types is not necessarily the appropriate process.

1. MD Files – Other

20. MD Files – Other represents claims involving an unidentified (hit-and-run) or uninsured motorist that are paid under Collision coverage (Optional) or under Basic insurance Unidentified and Uninsured Motorist coverage, as applicable (RCCA Filing, p. 22).

21. In 2005 the allocation was 37% Basic and 63% Optional based on the percentage of ICBC Collision coverage purchased. In the RCCA Filing ICBC proposed a 10% Basic and 90% Optional allocation for 2006 based on claims recorded data. ICBC explained that newly available data relating to the claims recorded on hit-and-run claims tracked the costs more closely than data relating to the policies purchased (RCCA Filing, p. 42, para. 140 & 141; BCUC.3.2). Additional information was also provided in the Workshop.

22. The ICBC allocation using 2006 data is:

Reference: pp. 42-43	Basic	Optional
MD Files - Other	10%	90%
Proposed Allocator: Hit-and-Run Claims Recorded		

Applying the methodology for allocating Compensation Costs associated with MD Files – Other as set out in the RCCA Filing in future years may result in the percentages changing based on changes in the Hit and Run claims recorded data.

2. MD Files – Collision/Property Damage

23. MD Files – Collision/Property Damage represents those vehicle damage claims that fall within three Kind of Loss (KOL) codes: KOL 01, KOL 02 and KOL 37. KOL 01 represents loss resulting from a single vehicle crash, where the insured has ICBC Optional Collision coverage. KOL 02 represents loss resulting from a multi-vehicle crash, where the insured has ICBC Optional Collision coverage. KOL 37 represents loss where there is no ICBC Optional Collision coverage in place (IBC 17.1). All claims within the MD files – Collision/Property transaction type are handled in the Regional Claim Centres (RCCA Filing, p. 43).

24. In 2005 the allocation of Compensation Costs related to MD Files Collision/Property Damage was 34% Basic and 66% Optional insurance. In the RCCA Filing ICBC used the same methodology as in 2005, except that ICBC used Regional Claim Centre KOL counts rather than the corporate KOL counts that were used in 2005. The ICBC allocation using 2006 data is:

Reference: p. 49	Basic	Optional
MD Files – Collision/Property Damage	35%	65%
Allocator: work effort based on KOL 01, KOL 02, and KOL 37 Counts in Regional Claim Centres		

Applying the methodology for allocating Compensation Costs associated with MD Files – Collision / Property Damage as proposed in the RCCA Filing in future years may result in the percentages changing based on changes in KOL counts.

3. MD Files – Customer Care

25. MD Files – Customer Care represents Material Damage claims handled through the Telephone Claims Department, but where vehicle damage is estimated by Regional Claim Centres staff (RCCA Filing, p. 22).

26. In 2005 the allocation of MD Files – Customer Care was 25% Basic and 75% Optional insurance. One of the KOL counts used in the allocation of MD Files – Customer Care is impacted by the revised allocation of MD Files – Other (RCCA Filing, p. 51). The ICBC allocation using 2006 data and the result of the allocation revision in MD Files – Other is:

Reference: p. 51	Basic	Optional
MD Files – Customer Care	22%	78%
Allocator: work effort based on KOL Count for Customer Care files where the initial estimate is done at a Regional Claim Centre		

Applying the methodology for allocating Compensation Costs associated with MD Files – Customer Care as proposed in the RCCA Filing in future years may result in the percentages changing based on changes in KOL counts.

4. Bodily Injury Exposures – Represented

27. Bodily Injury Exposures – Represented consists of bodily injury exposures under 24 months old and under the \$200,000 compulsory insurance limit where the injured claimant is represented by legal counsel (RCCA Filing, p. 22).

28. In 2005 the allocation of Compensation Costs related to Bodily Injury Exposures – Represented was 95% Basic and 5% Optional insurance. In the RCCA Filing ICBC used the same methodology and allocation as in 2005.

Reference: p. 55	Basic	Optional
Bodily Injury Exposures – Represented	95%	5%
Allocator: work effort based on closed		

exposures under 24 months old where the injured claimant is represented by legal counsel		
--	--	--

5. Bodily Injury Exposures – Litigated

29. Bodily Injury Exposures – Litigated represents bodily injury exposures over 24 months old and under the \$200,000 compulsory insurance limit where the injured claimant is represented by legal counsel and legal proceedings have commenced (RCCA Filing, p. 22).

30. In 2005 the allocation of Compensation Costs related to Bodily Injury Exposures – Litigated was 95% Basic and 5% Optional insurance. In the RCCA Filing ICBC used the same methodology and allocation as in 2005.

Reference: p. 55	Basic	Optional
Bodily Injury Exposures – Litigated	95%	5%
Allocator: work effort based on closed exposures over 24 months old where the injured claimant is represented by legal counsel and legal proceedings have commenced		

C. Allocation of Facilities Costs

31. Facilities Costs make up approximately 10% (\$13 million in 2006) of Regional Claim Centres operating costs (RCCA Filing, p. 57). In the RCCA Filing the methodology proposed by ICBC to allocate Facilities Costs used the regional Basic/Optional allocation split derived from the Compensation Costs for the 10 transaction types. This resulted in an allocation based on 2006 costs as follows:

Reference: p. 57	Basic	Optional
2006 Facilities Costs	64.4%	35.6%

32. It is agreed that the allocation of Facilities Costs will differ from that in the RCCA Filing. It is agreed that ICBC will allocate Facilities Costs on the following basis:

First, ICBC will determine the square footage of the vehicle examination areas (the “tubes”) in the Regional Claims Centres, as a percentage of the total square footage of the Regional Claim Centres (the remainder of the facilities consisting primarily of the adjusting bay offices and the back offices) to arrive at the Vehicle Examination Area Ratio (“VEA Ratio”).

Second, the Facilities Costs in each claim centre are multiplied by the VEA Ratio, to determine the vehicle examination area facilities costs associated with each claim centre.

Third, for each claim centre, the portion of the Facilities Costs associated with the vehicle examination area are allocated between Basic and Optional insurance based on the percentages employed for MD Files – Collision/Property Damage. The Facilities Costs associated with the remainder of the Regional Claim Centres areas are allocated between Basic and Optional insurance based on the Basic/Optional allocation split derived from the Compensation Costs for the 10 transaction types.

33. The allocation based on the agreed methodology, and using 2006 data, is:

	Basic	Optional
2006 Facilities Costs	51%	49%

Applying the methodology above for allocating Facilities Costs in future years may result in the percentages changing based on changes in the MD Files – Collision / Property Damage allocator and the Basic / Optional allocation split derived from the Compensation Costs for the 10 transaction types.

D. Allocation of Other Operating Costs

34. Other Operating Costs make up approximately 4% (\$5 million in 2006) of Regional Claim Centres operating costs (RCCA Filing, p. 12). Other Operating Costs includes office supplies, telephone costs, training costs, travel related expenses and other similar items (Sykes 7.1).

35. It is accepted that the allocation of Other Operating Costs will be based on the regional Basic/Optional allocation split derived from the Compensation Costs for the 10 transaction types. That allocation using 2006 costs is:

	Basic	Optional
2006 Other Operating Costs	64.6%	35.4%

Applying the methodology above for allocating Other Operating Costs in future years may result in the percentages changing based on changes in the regional Basic / Optional allocation split derived from the Compensation Costs for the 10 transaction types.

E. Overall Regional Claim Centre Allocation

36. The RCCA Filing was based on 2006 data, as the 2007 data was not yet available. At the Workshop, ICBC provided the updated Overall Regional Claim Centres allocation reflecting 2007 data. Those allocations were as follows:

	Basic	Optional
2006 costs and claim counts	64.6%	35.4%
2007 costs and claim counts	64.4%	35.6%

37. The updated Overall Regional Claim Centres Allocation based on 2007 data did not reflect the revised process for allocating Facilities Costs agreed to in this Negotiated Settlement Agreement.

38. It is accepted that the Overall Regional Claim Centre costs based on 2007 data will be allocated between Basic and Optional on the following percentage basis, which reflects the revised process for allocating Facilities Costs:

	Basic	Optional
2007 costs and claim counts	63.0%	37.0%

**Insurance Corporation of British Columbia (“ICBC”)
Regional Claim Centres Allocation Filing**

The following persons participated in the Negotiated Settlement Process:

PARTICIPANT	PARTIES
P.W. Nakoneshny	British Columbia Utilities Commission
F. Temple	ICBC
M. Ghikas	Counsel for ICBC
A. Chaudhry	ICBC
C. Port	ICBC
D. Ferrari	ICBC
M. Chicoine	ICBC
J. Harris	ICBC
D. Gorchynski	ICBC
C.B. Johnson	Counsel for ICBC
J. Elder	ICBC
M. Lee	Insurance Bureau of Canada
S. Corbeil	Insurance Bureau of Canada
L. Olson	Insurance Bureau of Canada
L. Munn	Counsel for Insurance Bureau of Canada
G. Adair	Coalition Against No-Fault in BC
P. Thrower	Family Insurance Solutions Inc.
K. Hopkins-Lee	Canadian Direct Insurance Inc.
S. Toomey	Canadian Office & Professional Employees Union Local 378
J. Quail	Counsel for the BC Old Age Pensioners’ Organization <i>et al.</i>
R. Sykes	Policyholder
D. Chong	British Columbia Utilities Commission
W.J. Grant	British Columbia Utilities Commission



Matthew Ghikas
Direct 604 631 3191
Facsimile 604 632 3191
mghikas@fasken.com

March 12, 2008
File No.: 254656.00077/14797

BY E-MAIL

British Columbia Utilities Commission
Sixth Floor
900 Howe Street
Vancouver, B.C. V6Z 2N3

Attention: William J. Grant
Transition Advisor

Dear Sirs/Mesdames:

Re: Insurance Corporation of British Columbia ("ICBC")
Regional Claim Centres Allocation, Project No. 3698495
Negotiated Settlement Agreement

We act on behalf of ICBC in this matter.

We hereby confirm that ICBC agrees to the settlement set out in the Negotiated Settlement Agreement distributed with your letter of March 11, 2008.

Yours truly,

FASKEN MARTINEAU DuMOULIN LLP

A handwritten signature in black ink, appearing to read 'Matthew Ghikas'.

Matthew Ghikas

MTG/fxm



British Columbia Utilities Commission
Sixth Floor
900 Howe Street
Vancouver, B.C. V6Z 2N3

Attention: William J. Grant
Transition Advisor

12 March 2008

Via E-Mail

Dear Mr. Grant,

Re: Insurance Corporation of British Columbia ("ICBC") Regional Claim Centres
Allocation, Negotiated Settlement Agreement

We have reviewed and accept the final copy of the Negotiated Settlement Agreement enclosed with your letter of March 11 2008.

Yours truly,

Peter G. Thrower FCIP
Senior Underwriting Analyst
Direct: 604-488-3478
Email: peter@familyins.com

cc. Doug Chong B.C.U.C.

Suite 1400 – 1177 West Hastings Street, Vancouver, British Columbia V6E 2K3

HEAD OFFICE	CLAIMS SERVICES	UNDERWRITING
Telephone: 604-687-2655	Telephone: 604-681-6123	Telephone: 604-684-3397
Fax: 604-682-3352	Toll Free: 1-800-661-4404	Toll Free: 1-888-275-5222
Web Site: www.familyins.com	Fax: 604-687-2681	Fax: 604-682-3352

A Member of The Economical Insurance Group



March 13, 2008

VIA E-MAIL (bill.grant@bcuc.com)

British Columbia Utilities Commission
Sixth Floor, 900 Howe Street, Box 250
Vancouver, B.C. V6Z 2N3

**Attention: William J. Grant
Transition Advisor**

Dear Sir:

Re: Insurance Corporation of British Columbia ("ICBC")
Regional Claim Centres Allocation Filing ("RCCA Filing")
Negotiated Settlement Process

This letter is further to your letter of March 11, 2008 enclosing the Negotiated Settlement Agreement ("NSA").

The Insurance Bureau of Canada ("IBC") accepts the NSA in principle. However, as noted in paragraph 15 of the NSA, IBC has serious concerns regarding the Work Effort Study process and the development of the methodologies set out in the RCCA Filing for allocating Compensation Costs between Basic and Optional insurance.

IBC has three specific concerns:

1. the Work Effort Study;
2. recurring issues not addressed; and
3. the focus on individual allocators.

Each of these concerns is addressed in greater detail below.

1. The Work Effort Study

As discussed in the ICBC March 10, 2005 Filing (at paragraph 43) regarding financial allocation functions, the original work effort study was a transactional costing study carried out in early 2002, before ICBC became a regulated entity, and was done to determine the costs of dealing with different types of claims for management decision-making purposes. The study was used as the basis for allocating the Regional Claims Centres costs in ICBC's 2003 and 2004 Filings.

The original study was updated for purposes of the March 10, 2005 Filing and, as noted at paragraphs 64 and 78 of the RCCA Filing, the study was further updated in 2006 and 2007.

As stated in paragraph 11 of the NSA, the determination of the work effort percentages was "based mostly on the judgment of the team members involved in the 2007 Work Effort Study".

In putting forward the updated Work Effort Study, ICBC did not seek the assistance of anyone with expertise in conducting work effort studies or otherwise involve an independent third party to assess the study.

During the course of the 2004 Hearing, the Commission heard evidence from IBC's expert, Mr. Michael Ross, a recently retired Partner of KPMG. In response to a question regarding the appropriateness of work effort as an allocator, Mr. Ross advised:

And I'm sure they have worked hard and I believe it's their best estimate, but it's difficult from the outside to discern, for example, whether the right people were asking the questions internally, whether the realistic choices were explored thoroughly, and whether what we see is as a result of a process that we'd be happy with if we understood it better. And I'm not suggesting that that means voluminous material has to be provided, but I think there could be a bit more detailed indication of the process, and perhaps an indication that a third party has reviewed the process at the level of detail I'm talking about and has provided some comfort in that regard.

Ross, Tr. Vol. 7
p. 1138, ll., 11 – 24 (October 14, 2004)

To date no third party assessment of ICBC's work effort study has been put forward.

"Bias" is the wrong word to use in the context of an administrative hearing, but, in the absence of an independent third party, there is an overriding concern with

the Work Effort Study, given that ICBC personnel are both the subject of the study and the ones who carried out the study.

Thus, it is questionable whether the results of the study are objective when it was conducted only by persons within the ICBC organization. The study concludes that greater time is now spent on bodily injury claims, particularly by managers. This may be the case, but it must be kept in mind that there has been an increased emphasis on bodily injury claims since the 2006 Revenue Requirements Hearing. It is therefore not surprising that members of the organization believe that a greater percentage of time is now devoted to bodily injury because that is what they have been told to do. An objective third party could alleviate this concern.

An objective third party with the appropriate expertise could also address concerns regarding how the Work Effort Study as a whole has been carried out. The percentage figures set out in Figures 8, 9, 10 and 11 are estimates. Some further study supporting the percentages would assist. Likewise, an independent third party with the proper expertise could also assist with assessing the appropriateness of the proxies used in respect of “MD Files – Other”, “MD Files – Collision/Property Damage”, “MD Files – Customer Care”, “Bodily Injury Exposures – Represented” and “Bodily Injury Exposures – Litigated”. The proxies used for these five transaction types are not based on a work effort study and the issue is whether the proxies do in fact reflect work effort.

2. Recurring Issues Not Addressed

As is evident from IBC’s letter of April 26, 2005 filed in respect of the 2005 Negotiated Settlement Agreement, IBC had concerns at that time regarding the use of proxies (i.e. allocators not based on a work study) particularly the claims counts used to allocate “MD Files – Collision/Property Damage” and “MD Files – Customer Care”. IBC also raised concerns regarding the need to recognize a more significant work effort attributable to the Optional coverage for claims settling under \$200,000 (affecting both “BI Exposures – Represented” and “BI Exposures – Litigated”).

In respect of both these issues, ICBC has simply recycled the arguments used in 2005 without providing any meaningful clarification as to how the resulting percentages reflect work effort, including some form of a work effort study.

(a) Claims Counts

With regards to “MD Files – Collision/Property Damage”, the proxy used to determine work effort is KOL 01, KOL 02 and KOL 37 counts in Regional Claims Centres.

At paragraphs 145 - 158 of the RCCA Filing, ICBC presents what it calls “an in depth analysis of the type of work that is done by staff on this particular type of transaction”, but the information that follows is little different than what was available in 2005. The continued reliance on the claims counts (an after the fact

assessment) is not fully justified. There is no analysis of what coverage generates the work and this is important given that “MD Files – Collision/Property Damage” are initiated because ICBC provides Collision Coverage (an Optional product). ICBC is focused on the fact that it must handle liability issues where multi-vehicle accidents involve an at-fault driver, but it was clear during the Workshop that assessments of liability do not involve a doubling of work effort sufficient to justify the double counting reflected in Figure 17.

An updated Work Effort Study needs to address this issue from a “work effort study” perspective. If a proxy is to be used there needs to be a clear explanation as to how it reflects work effort. Similar issues arise in respect of the proxy used for “MD Files – Customer Care” and the double counting reflected in Figure 18 of the RCCA Filing.

(b) Claims Settling Under \$200,000

In its letter of April 26, 2005 IBC also questioned the 95/5% split for “BI Exposures – Represented” and “BI Exposures – Litigated”, given that there is no recognition of the potential for bodily injury claims to exceed the Basic limit of \$200,000. ICBC seeks to equate the coverage from which a claim is paid with the work done in respect of a particular coverage.

ICBC states at paragraph 34 of the RCCA Filing that the costs are to be allocated “in a manner that reflects cost causality, whereby costs are assigned to the business segment based on the extent to which the business segment caused or was responsible for driving the respective costs”. At paragraph 120 of the RCCA Filing, ICBC also notes that bodily injury claims are generally more complicated than material damage claims “because the associated risk of these claims is often unclear”. However, the RCCA Filing fails to give any recognition to the fact that claims settling under \$200,000 have a risk of settling above \$200,000 and the handling of many claims reflects the need to address that risk.

ICBC’s response to one of the Information Requests, namely 2008 RCCA IBC.18.1, is particularly puzzling in that it attempts to show that ICBC’s allocation of “BI Exposures – Represented” and “BI Exposures – Litigated”, “is consistent with how the legislation prescribes the allocation of external defence costs when a claim is paid partly from ICBC Basic vehicle insurance and partly from extended third party liability coverage”. But the legislation does not deal with the allocation of internal costs or overhead. The fact is that private insurers incur costs because they must open files and handle claims that have the potential of exceeding \$200,000, something which ICBC’s allocation methodology does not recognize.

The allocation of “BI Exposures – Litigated” and “BI Exposures – Represented” was a contentious issue in 2005 and remains a contentious issue. ICBC has not provided new or updated information that resolves the issue.

3. **The Focus on Individual Allocators**

IBC continues to have concerns regarding the focus on individual allocators in the absence of an opportunity to assess the allocation of ICBC's costs as a whole. As pointed out in IBC's letter of April 26, 2005, the adjustment of one allocator sometimes requires a corresponding change to another allocator.

The RCCA Filing raises a similar concern. In response to one of the Information Requests, namely 2008 BCCA IBC.14.1-6, ICBC explains that there are decreased operating costs for Regional Claims Centres due to a decrease in Estimator FTE's and their associated compensation. ICBC also explains that claims costs paid to repair shops have increased. In other words, compensation costs for Estimators have decreased but claims costs have increased. This may very well make good business sense, but it should be kept in mind that the allocation of the costs paid to effect the estimates will change. In this regard, it appears from Figures 8, 9, 10 and 11 of the RCCA Filing that the majority of compensation costs incurred in respect of Estimators are allocated to Optional coverages. If the cost of having estimates done is now a claims cost, it is not clear whether the Basic and Optional coverages still bear the same proportion of costs. If allocators, or the basis for assigning costs change, a more comprehensive analysis of allocators and costs is required.

In this regard, IBC notes that the Commission's letter dated May 18, 2005 (Log No. 9398), which accompanied the Commission's approval of the 2005 Negotiated Settlement Agreement, stated that "the Commission Panel accepts ICBC's proposal to carry out a further detailed study of financial allocations, to be filed with the Commission before the end of calendar 2007." The detailed study has not yet been provided. IBC will provide a separate letter to the Commission in this regard.

In Conclusion

The cost of a full hearing may not be warranted with respect to the Regional Claims Centre allocation, particularly when there is to be a further detailed study of financial allocations. Nevertheless, IBC remains concerned that ICBC's updated Work Effort Study is inadequate. The objectivity of the study is questionable. Moreover, issues raised in 2005 have yet to be addressed.

The Commission is charged with ensuring that ICBC's Basic business does not subsidize its Optional business. It is not yet clear that the allocation of the Regional Claims Centres costs adequately conforms to this requirement, particularly in respect of the five transaction types that cannot be directly assigned and in respect of which a proxy is used.

IBC is encouraged by ICBC's agreement to allocate facility costs relative to the square footage used by the two lines of business, rather than in accordance with the allocation split derived in respect of the ten transaction types. The new allocation is more robust and more in line with actual work effort.

IBC continues to look for comfort, or verification, that all allocators truly reflect where the costs are arising within ICBC.

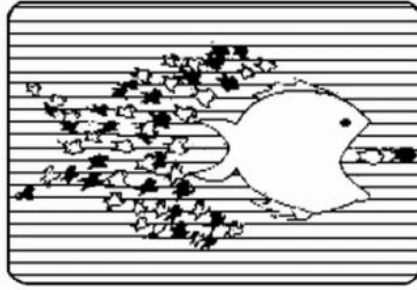
Yours truly,

A handwritten signature in blue ink, appearing to be "J. H. [unclear]", with a long horizontal stroke extending to the right.

cc: parties on record

**The
British Columbia
Public Interest
Advocacy Centre**

208-1090 West Pender Street
Vancouver, BC V6E 2N7
Tel: (604) 687-3063 Fax: (604) 682-7896
email: bcpiac@bcpiac.com
<http://www.bcpiac.com>



Sarah Khan 687-4134
James L. Quail 687-3034
Ros Salvador 488-1315
Leigha Worth 687-3044
Barristers & Solicitors

Eugene Kung
Articled Student

APPENDIX B
to Order No. G-73-08
Page 22 of 45

March 12, 2008

Erica Hamilton
Commission Secretary
BC Utilities Commission
6th Floor, 900 Howe Street
Vancouver, BC V6Z 2N3

VIA E-MAIL

Dear Ms. Hamilton:

**Re: Insurance Corporation of British Columbia ("ICBC")
Regional Claim Centres Allocation
Negotiated Settlement Agreement**

We continue to represent BCOAPO at al in this proceeding.

Please be advised that our clients consent to the Negotiated Settlement Agreement, circulated with Mr. Grant's letter dated March 11, 2008, being made an Order of the Commission in the final resolution of this Application.

As always, we commend Mr. Grant and the rest of the Commission's staff for their adroit handling of this matter and their invaluable assistance to the participants in achieving consensus.

Yours truly,

BC PUBLIC INTEREST ADVOCACY CENTRE

Original in file signed by Patrice Morgan secretary for:

Jim Quail, Executive Director

JQ:pm

cc: parties of record

From: Karen Hopkins-Lee [karen_hopkins-lee@canadiandirect.ca]
Sent: Wednesday, March 12, 2008 5:28 PM
To: Grant, Bill J BCUC:EX; Chong, Doug BCUC:EX
Subject: Re: Insurance Corporation of British Columbia - Regional Claim Centres Allocation Filing - Negotiated Settlement Process

Further to your email of March 11, Canadian Direct Insurance Inc. acknowledges the Negotiated Settlement document. We will provide the Commission with a letter, under separate cover, stating our concerns with the methodology proposed, and the issues specific to a number of the transaction types and their percentage allocation.

Sincerely,

Karen L. Hopkins-Lee

Lapierre, Yvonne BCUC:EX

From: Steve Toomey [stoomey@cope378.ca]
Sent: Friday, March 14, 2008 5:23 PM
To: Commission Secretary BCUC:EX; Nakoneshny, Philip BCUC:EX; fiona.temple@ICBC.com; mghikas@fasken.com; XT:Chaudhry, Anwar FIN:IN; chris.port@ICBC.com; david.ferrari@ICBC.com; michael.chicoine@ICBC.com; jane.harris@ICBC.com; darcy.gorchynski@ICBC.com; cjohnson@fasken.com; june.elder@ICBC.com; mlee@ibc.ca; scorbeil@ibc.ca; lolson@ibc.ca; lm@cwilson.com; gadair@Telus.net; peter@familyins.com; karen_hopkins-lee@canadiandirect.com; JimQuail@bcpiac.com; Chong, Doug BCUC:EX; Grant, Bill J BCUC:EX; russellsykes@uniserve.com; gadair@Telus.net; satyatasconsulting@shaw.ca; karen_hopkins-lee@canadiandirect.ca; lolson@ibc.ca; cuisa@cucbc.com; cschiller@iscu.com; russellsykes@uniserve.com; peter@familyins.com; donnie.wing@ICBC.com; regaffairs@ICBC.com; Grant, Bill J BCUC:EX; dough.chong@bcuc.com
Cc: David Black
Subject: RE: Insurance Corporation of British Columbia - Project No. 3698495

Please accept this email as confirmation of COPE378's acceptance of the Negotiated Settlement agreement as purposed by the Commission in its Letter of March 11,2008.

Yours Truly

Steve Toomey
Executive Director
COPE378

Russell Sykes
Registered Intervenor
2958 Brixham Road
North Vancouver, BC
V7H 1C4

March 12, 2008

British Columbia Utilities Commission
Sixth Floor, 900 Howe Street, Box 250
Vancouver, BC Canada V6Z 2N3

Attention: Erica M. Hamilton, Commission Secretary

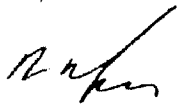
Dear Ms. Hamilton:

RE: ICBC RCC Allocation Proceeding – Negotiated Settlement Agreement (“NSA”)

I do not agree to the Negotiated Settlement Agreement attached to Mr. Grant's letter dated March 11, 2008: I will submit a “dissent written argument” to the Commission Panel.

Please indicate the names of the members of the Commission Panel who have been appointed to consider the proposed NSA.

Yours truly,



2008-03-12 14:56:66

Receiving

Russell Sykes
Registered Intervenor
2958 Brixham Road
North Vancouver, BC
V7H 1C4

March 25, 2008

British Columbia Utilities Commission
Sixth Floor, 900 Howe Street, Box 250
Vancouver, BC Canada V6Z 2N3

BCUC Log # 24727
RECEIVED

Attention: Erica M. Hamilton, Commission Secretary

Dear Ms. Hamilton:

MAR 25 2008
Routing _____

RE: ICBC RCC Allocation Proceeding – “NSP Dissent”

This submission opposes approval of the proposed agreement and the use of the Commission's NSP. The Commission's Negotiated Settlement Process: Policy, Procedures and Guidelines (Jan. 2001) is referred to below as “the NSP document”. A workshop and NSP were held on February 20, 2008. The NSP was less than two hours: there were 23 individuals who attended the NSP. I attended both the workshop and the NSP. The sections and paragraphs below are given letters and numbers for reference purposes.

A. Total Regional Claim Centre (“RCC”) costs

1. ICBC says (page 6 of the filing) its total RCC costs were \$ 130,623,842 for 2006, \$ 129,150,500 for 2005, and \$ 128,214,700 for 2004 – increases of 1.14% in 2006 and 0.73% in 2005. ICBC says its RCC costs for 2007 were \$ 135,178,000 - an increase of 3.49% over 2006. ICBC gives no information about its planned RCC costs for 2008, 2009 or 2010. ICBC gives no “variance analysis” relating to the variances between actual and budgeted costs for 2004, 2005, 2006 or 2007. ICBC says the RCC operating costs and FTEs for 2004, 2005, 2006 and 2007 were as follows (see page 12 of ICBC's filing, and Exhibit B-6, slide 7):

	<u>2004 Actual</u>	<u>2005 Actual</u>	<u>2006 Actual</u>	<u>2007 Actual</u>
Compensation	\$ 110,229,933	\$ 110,864,098	\$ 112,572,266	\$ 115,667,000
Facilities	12,932,141	13,443,037	13,062,682	14,511,000
Other	<u>5,052,626</u>	<u>4,843,365</u>	<u>4,988,894</u>	<u>5,000,000</u>
Total	\$ 128,214,700	\$ 129,150,500	\$ 130,623,842	\$ 135,178,000
FTEs	1,725	1,740	1,725	1,736
Average compensation	\$ 63,901.41	\$ 63,715.00	\$ 65,259.28	\$ 66,628.46

2. ICBC says (page 11 of the filing) in allocating costs, it uses fully-allocated costing methodology that assigns direct costs (costs exclusively associated with a single business segment) to the appropriate business – either Basic or Optional, and allocates indirect costs (common costs) to each business segment based on principles of cost causality – that is, the extent to which the business segment caused or was responsible for the costs.

3. Appendix G (page 80 of ICBC's filing) identifies 48 cost centres, showing total cost of \$ 130,624,000 for 2006 (rounded to thousands of dollars by ICBC). ICBC is proposing allocation of its RCC costs at regional level, not at individual cost centre level. With regard to paragraph 195 (of the filing), ICBC claims employees during 2006 in fact worked on claims outstanding as December 31, 2005 as well as claims made during 2006: the workloads on RCC employees included a mix of claims made in 2006 and previous claims. ICBC does not provide the information requested in 2008 RCCA SYKES 27.

4. ICBC does not provide the hours of operations for the RCCs (2008 RCCA SYKES 1).

5. ICBC says its total RCC costs were \$ 130,623,842 for 2006, or about 25.5% of ICBC's 2006 total corporate operating costs (paragraph 35 of ICBC's filing). ICBC says its 2006 total corporate operating costs were \$ 511,958,000 (2008 RCCA SYKES 66) as follows: \$ 252,657,000 for Claims services; \$ 48,357,000 for Road safety/loss management services; \$ 132,816,000 for Operating costs – insurance; and \$ 78,128,000 for Operating costs – non-insurance. ICBC presents these costs as “period costs” and provides no information regarding how it accounts for and reports adjustments to its Statement of Operations for claims service costs included in ICBC's liability “Provision for Unpaid Claims” - these are material to income and the Balance Sheet.

B. ICBC's Net Income from Basic Insurance and from Optional insurance

1. ICBC has not provided the information requested relating to how it calculated its reported 2006 net income (2008 RCCA SYKES 46). ICBC provided no information relating to its net income for 2007 from Basic insurance and Optional insurance.

C. Number of ICBC insurance policies: Basic coverage and Optional coverages

1. ICBC says (page 6 of the filing) the number of policies issued are: 2,947,533 for 2004; 3,033,447 for 2005; and 3,116,556 for 2006 – increases of 2.91% in 2005 and 2.74% in 2006.

D. ICBC's Claims

1. ICBC says (page 10 of the filing, and Figure 2 on page 11 of the filing) that in 2006 there were a total of 947,471 claims reported to ICBC. These are summarized as follows:

	<u>Claims</u>	<u>Claims Paid</u>	<u>Average Claim</u>
Specialized claims	8,772 (0.93%)	\$ 624,871,069 (26.05%)	\$ 71,234.73
Telephone Claims Dept	418,148 (44.13%)	346,704,901 (14.45%)	829.14
RCCs	520,551 (54.94%)	1,427,445,618 (59.50%)	2,742.18
Total	947,471	\$ 2,399,021,588	\$ 2,532.03

2. ICBC says (see 2007.2 RR SYKES 3) that the claims reported for 2006 and 2005 of 923,925 and 947,414 were made up as follows; however, ICBC has not provided the breakdown of the 992,110 claims it says were reported in 2007:

<u>Claims by type</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>
Bodily injury	44,650	45,194	
Property damage	206,686	213,601	
Death benefit	400	366	
Accident benefit	57,620	58,197	
Collision	231,976	241,579	
Windshield	91,245	96,624	
Comprehensive	106,098	102,219	
Special coverage	12,410	12,331	
RoadStar	87,417	85,789	
RoadStar Plus	<u>85,423</u>	<u>91,514</u>	
Total	923,925	947,414	992,110
Increase in number of claims		2.54%	4.72%

3. ICBC says (see slide 4, Exhibit B-6) that in 2007 there were a total of 992,110 claims reported to ICBC,

summarized as follows:

	<u>Claims</u>	<u>Claims Paid</u>	<u>Average Claim</u>
Specialized Handling	11,645 (1.17%)	\$ 657,050,846 (25.71%)	\$ 56,423.43
Telephone Claims Dept	446,816 (45.04%)	402,344,863 (15.74%)	900.47
RCCs	533,649 (54.94%)	1,496,601,508 (58.55%)	2,804.47
Total	992,110	\$ 2,555,997,217	\$ 2,576.32

4. The number of RCC claims reported in 2007 increased by 13,098 (533,649 minus 520,551), or by less than 1 claim per day per ICBC RCC location. ICBC says claims reported in 2007 increased by 4.72% over 2006 (from 947,471 to 992,110).

5. ICBC says the BI claims began increasing in 2005. ICBC provides no evidence to support its assertion that it is resolving claims at the earliest opportunity, or that increased Manager and increased BI adjusters/examiners is having any effect on reducing BI claims costs or related claims service costs.

E. ICBC's "claims services expenses"

1. ICBC shows its "claims services expenses" as \$ 252,657,000 for 2006 and \$ 239,563,000 for 2005 (see page 50 of ICBC's 2006 Annual Report): these expenses represent 9.56% and 9.46% of ICBC's net claims incurred expenses of \$ 2,643,439,000 and \$ 2,525,177,000 for 2006 and 2005 respectively (total corporation).

2. ICBC's filing does not provide any information regarding ICBC's largest liability - "Provision for Unpaid Claims". ICBC says its Provision for Unpaid Claims for Basic insurance was 76.17% and 76.95% of its total as at December 31, 2006 and 2005 respectively (being \$ 4,128,278,000 and \$ 3,888,000,600 - see page 73 of ICBC's 2006 Annual Report). The liability for unpaid claims for Basic insurance increased by 6.16% in 2006, compared with the increase in 2006 of 10.9% for ICBC's liability for its Optional insurance unpaid claims.

3. ICBC says for Basic insurance, "net claims incurred expenses" were \$ 1,654,144,000 and \$ 1,751,291,000 for 2006 and 2005 respectively - a decrease of \$ 97,147,000 in one year. These amounts were 62.58% and 69.35% of ICBC's total net claims expenses for 2006 and 2005 (pages 50/72 of ICBC's 2006 Annual Report).

4. ICBC says its "claims services and road safety/loss management expenses" for Basic insurance were \$ 197,608,000 (11.95% of net claims incurred) for 2006 and \$ 189,050,000 (10.79% of net claims incurred) for 2005 (see page 72 of ICBC's 2006 Annual Report). ICBC combined these different categories of expenses, and allocated 65.65% and 65.86% of these combined expenses to Basic insurance for 2006 and 2005 respectively (see pages 50/72 of ICBC's 2006 Annual Report).

F. Schedules 1 to 5 attached (Lower Mainland - 2006 compensation of \$ 74,200,428)

1. Schedules 1 to 5 (see attached) show the range of sensitivity to shifts in work effort percentage allocations and/or allocation shifts between Basic insurance and Optional insurance for transaction types (for purposes of these Schedules, transaction types 4 and 5, 7 and 8, and 9 and 10 are grouped together). Schedules 1 to 5 are based on the Lower Mainland region RCCs ("LM") for compensation only - namely, \$ 74,200,428 for 2006.

2. Schedule 1 shows the make up of the 65.71% Allocation to Basic insurance based on the data in ICBC's filing (please note that small difference of 0.01% points is due to ICBC's internal computation and rounding method used by its computers/software: this is insignificant as 0.01% of total compensation of \$ 74,200,428 is only \$ 7,420). Schedule 2 shows 58.14% Allocation to Basic insurance. Schedule 3 shows 46.20% allocation to Basic insurance. Schedule 4 shows 42.79% allocation to Basic insurance. Schedule 5 shows 39.43% allocation to Basic insurance. So, the variation, simply regarding the LM compensation of \$ 74,200,428 for 2006, is from \$ \$ 48,759,182 in Schedule 1 to a low of \$ 29,254,111 in Schedule 5 - this is a material variation. Various other combinations give overall percentage points within the range of 39.43% to 65.71%. [See section V. below]

G. The five (5) job categories used in the RCC cost allocation model

1. The average annual compensation for 2006 for each of the five job categories used by ICBC is: \$ 87,939 per Manager/Supervision; \$ 44,819 per OA/CSA; \$ 64,068 per Estimator; \$ 73,630 per BI Adjuster/Examiner; and \$

61,607 per MD Adjuster (see 2008 RCCA SYKES 41 to 45). ICBC refuses to provide information sought in the information requests. There is the issue of efficiency/effectiveness, turnover rates, and wasted costs.

2. ICBC says, for MD claims, there are 50 new claims per month per adjuster, and on average ICBC takes 52 days to settle MD claims (see slide 18, Exhibit B-6). If true, based on 287 MD Adjusters (see slide 8, Exhibit B-6), there were 172,200 new MD claims in 2007 (being 287 FTEs times 50 per month times 12 months).

3. ICBC says, for BI claims, there are 10 new claims per month per adjuster, and on average ICBC takes 416 days to settle BI claims (see slide 18, Exhibit B-6). If true, based on 555 BI Adjusters (see slide 8, Exhibit B-6), there were 66,600 new BI claims in 2007 (being 555 FTEs times 10 per month times 12 months). This differs from the 50,000 BI claims ICBC says occur annually. ICBC has not given the number of outstanding files each adjusters handles on average at the RCC locations. ICBC says that its BI adjusters are required to make the "first offer of settlement" to BI claimants within three months (this was Mr. Gorchynski's answer to a question I posed at the ICBC workshop on February 20, 2008): it appears that ICBC has a very low settlement success rate within the three months, given the average of 416 days.

H. How ICBC counts relating to "claims": "coverages", "exposures", "files", and "incidents"

1. ICBC has a particular way of counting relating to automobile insurance claims (see Appendix E – pages 72 to 74 of the filing). This is important in understanding workload in ICBC's claims handling and adjusting process.

2. ICBC says for 2006 its RCCs had 520,551 claims reported (Figure 2 on page 11 of ICBC's filing). So, 4% to 4.5% would be 20,822 to 23,425, or about an average of one (1) claim per day per RCC location: this clearly does not explain or account for the large re-weighted percentages included in ICBC's response to 2008 RCCA SYKES 8. ICBC admits there is a further shift in its allocations to Basic insurance, but provides no details as to how the allocation was arrived at (see also 2008 RCCA SYKES 12 and 20).

3. ICBC says it cannot provide the information requested in 2008 RCCA SYKES 9. Such information is essential to managing labour costs: the Commission Panel ought to be very concerned about ICBC's refusal or inability to provide this necessary and relevant information, which ICBC has exclusively in its possession.

4. ICBC does not provide the information relating to increasing workload associated with ICBC's dominant and growing share of the Optional insurance market in British Columbia (2008 RCCA SYKES 10): this increasing market share (numbers of drivers/vehicles) is causing additional demands on ICBC's RCCs.

5. ICBC says it does not believe there is low labour productivity (2008 RCCA SYKES 26), but ICBC gives no information to show how it measures its labour performance (management and staff; union and non-union). Issues relating to how ICBC plans, monitors and evaluates its labour performance (including effectiveness and efficiency) is highly relevant to issues as to the costs allocated to Basic insurance.

6. ICBC refuses to provide information regarding the number of claims, exposures and files for each of the RCCs listed on Appendix G (page 80 of ICBC's filing) using the definitions in Appendix D and E: ICBC refuses to provide the number of Optional insurance policies sold for 2004, 2005 and 2006. [2008 RCCA SYKES 7]

I. Information requests, and ICBC's responses

1. ICBC says (page 4 of its filing) its CSC was implemented province-wide in 2006: ICBC says its CSC is not part of the RCC Allocation. The CSC allows claimants to deal with bodily injury claims over the telephone rather than face-to-face at the RCCs. ICBC says BI adjusters in the RCCs were re-deployed to the CSC. ICBC says in 2006 its CSC handled 8,596 claims but refuses to provide the dollar amount of those claims (2008 RCCA SYKES 2). ICBC says that the claims handled by the CSC are included in the 418,148 claims reported for ICBC's Telephone Claims Department for 2006. The number of claims being handled by ICBC's CSC is rising: ICBC says the CSC is a program aimed at controlling BI claims costs (paragraph 121 of the filing).

2. How does the Panel know that the changes are non-substantial relating to the job categories, transaction types, work effort percentages, and cost centres? How does the Commission know that that any of the information given by ICBC is true and complete? [2008 RCCA BCUC 1.1 and 1.2]

3. ICBC provides no statistical information or financial data in response to 2008 RCCA BCUC 1.3. ICBC's unwillingness to provide the information requested is unacceptable.

4. ICBC provides no objective evidence in response to 2008 RCCA BCUC 2.1 (see also responses to 2008

RCCA SYKES 34-36).

5. The Panel ought to be disturbed that ICBC is unacceptably vague and ambiguous (see response to 2008 RCCA BCUC 3.2). ICBC admits alternative data set was created when actuaries were made aware of section 106 of the Insurance (Motor Vehicle) Act regulations pertaining to hit-and-run claims: ICBC admits that data was not available to and hence was not considered by the 2006 team. [See also paragraphs N.1 and N.2 below]
6. ICBC says its time studies could not identify activities related to Basic or Optional insurance: that is absurd and should not be accepted by the Panel. ICBC's adjusters and other claims personnel are highly aware of the particular coverages that will be charged for entries affecting claim reserves and payments and other accounting entries affecting claims incurred and unpaid claims accounts (2008 RCCA BCUC 3.3). Basic and Optional insurance claims accounts must be reserved for and charged. The Panel ought to be very concerned with ICBC's lack of response.
7. ICBC says the amended table shows 62.69%, 62.94% and 64.55% to Basic insurance for 2004, 2005 and 2006 (see 2008 RCCA BCUC 4.1): ICBC admits these percentages do not include Specialty Cost Centres compensation of \$ 1,125,367 for 2004, \$ 2,074,988 for 2005 and \$ 4,064,923 for 2006 – increases of 84.38% for 2005 (over 2004) and 95.90% for 2006 (over 2005).
8. ICBC says (see responses to 2008 RCCA IBC 1.1 and 3.1) changes since 2005 resulting in work being done outside the RCCs are Customer Service Centre (CSC), Glass Express, and Express Repair: ICBC provides no cost information.
9. ICBC says (footnote on page 21 of ICBC's filing) there is work required that is not directed at transaction types – including training, management and administration; these time-consuming activities are not identified as a separate cost. It is unclear from ICBC's filings how material this time and cost is. This must vary by RCC location from the largest (5th & Cambie) to the smallest units.
10. The Panel can and should find that ICBC's filing is insufficient. ICBC relies on its filing (2008 RCCA IBC 2.1): ICBC had the opportunity to provide the information requested.
11. ICBC says it does not report CSC claims by rating territory: ICBC says BI exposures closed were 1,036 for 2005, 1,615 for 2006 and 2,387 for 2007 (2008 RCCA SYKES 40). ICBC refuses to provide the CSC claims costs requested. Both IBC and I requested the "dollar value" of these claims. These costs are relevant to the analysis and argument.
12. ICBC says the increase in Managers/Supervisors since 2005 was to increase the management to address the rising bodily injury claims costs: ICBC says Managers have increased their focus on BI claims in day-to-day claims handling and monitoring claims handling (2008 RCCA IBC 4.1). The Panel ought to be very concerned that ICBC is using very highly paid employees with no evidence of results – see the average FTE compensation increasing levels (paragraph A. 1 above).
13. The amount of compensation paid by ICBC to its RCC employees in the five job categories is available from the T4 reports ICBC is required to file with Canada Revenue Agency. ICBC's financial year coincides with the T4 reporting year: namely, the calendar year. This information is readily available now for 2004 to 2007. There are serious inefficiencies in the use of labour at the RCCs.
14. At the workshop (February 20, 2008), ICBC said compensation amounts are fully-costed, and include all benefits, retirement/pension, overtime and incentive, bonuses and profit-sharing. In reply to one of my questions at the workshop, ICBC stated its employees are paid overtime and the overtime is included in the compensation amounts in ICBC's filing. ICBC provided no information on overtime costs or the other factors.
15. ICBC's explanation of the meaning of the term "Total Paid" is inadequate and confusing (2008 RCCA SYKES 5). Clearly, all claims made in 2006 were not paid in 2006, as a substantial amount of these claims amounts were in the "Provision for Unpaid Claims" liability account at December 31, 2006 and many of them will still be part of that liability account at December 31, 2007. ICBC did not file its audited financial statements for the year ended December 31, 2007 as part of the record in this proceeding. ICBC's 2007 Annual Report is needed to develop information requests to enable proper analysis and argument relating to the issues in the proposed agreement.

J. Four specialized claims handling departments

1. ICBC includes four specialized claims handling departments in the same allocation percentage category as

the LM RCCs – namely, 65.72% for 2006: these departments are: Litigation Centre; Express Office Coquitlam; Express Office Surrey; and Specialized Vehicle Appraisers (page 80 of ICBC's filing): ICBC's response to 2008 RCCA SYKES 4 is evasive.

2. ICBC has included its Litigation Centre in the RCC Allocation (see BI Litigation Unit on page 80 of ICBC's filing).

3. ICBC says its Litigation Centre was initiated in November 2006 in an effort to control rising BI claims costs (paragraphs 97 and 121 of ICBC's filing). ICBC says the LC resulted in hiring more adjusters and managers overall in the RCCs (paragraph 99 of ICBC's filing). ICBC is evasive in responding to 2008 RCCA SYKES 37. ICBC provides no evidence to show whether or not the Litigation Centre has had any effect on controlling BI claims costs, and to show the extent to which claims service costs are increasing or decreasing since the implementation of this initiative – in terms on “frequency” and “severity” of claims by transaction types.

4. There are costs incurred in the RCCs related to claims transferred to Specialized Claims Handling (slide 11, Exhibit B-6): such costs should be transferred to that department so that cost centre can be allocated between Basic and Optional insurance based on the work effort in that growing cost centre – claims increased to 11,645 in 2007 (see paragraphs D. 1 and D. 3 above)

K. ICBC's “work effort percentages” used in the RCC cost allocation model

1. ICBC says (page 5 of the filing) in terms of work effort, bodily injury (BI) claims are heavily weighted towards Basic insurance. ICBC says claims handling initiatives in response to rising BI claims costs resulted in its RCC employees increasing the amount of time directed to BI claims (page 18 of the filing). The Panel ought to be concerned about how the time was spent, and the amount of time, by the RCC employees before and after those initiatives were implemented.

2. ICBC's work effort percentage allocations for MD Files – Glass by job categories is unreasonably low (see page 84 of ICBC's filing), and do not reflect the workload requirements described in the filing and in response to 2008 RCCA SYKES 3. These should be higher, with corresponding decreases in allocation to Basic insurance.

3. ICBC says its Glass Express and Express Repair has resulted in decreased costs for RCCs due to decrease in Estimator FTEs and their compensation. ICBC says the claims costs paid to repair shops have increased due to frequency and severity of crashes, inflation (parts prices and labour rates). The amounts paid to repair shops are claims costs charged directly to coverages, not part of RCC costs: ICBC says Glass Express and Express Repair shops do not provide adjusting services for ICBC – that they provide estimating services: ICBC says all costs from the shops are part of the claims costs, and that the estimating services are not invoiced separately (2008 RCCA IBC 14.1 – 14.6). The Panel can and should be very concerned about the time and effort involved in the activities of RCC employees (managers and staff) in monitoring and auditing the Express shops for both glass and repair claims (see page 4 of ICBC's filing). ICBC provides no information about results.

4. ICBC says the majority of the LM RCC locations have introduced initiatives that permit claimants who meet certain criteria to dispense with attending at RCC locations to make a statement, but ICBC has not quantified the impact of these initiatives (page 4 of ICBC's filing). ICBC says it did not say its Managers have a 40 hour work week: ICBC says it used a 40 work week as an example to demonstrate the shift in time between MD activities and BI activities (2008 RCCA Sykes 28).

5. ICBC says Express Repair claims have significantly reduced the work required by the RCC employees (page 4 of ICBC's filing). ICBC says its Express Repair Program led to a reduction in the number of Estimators in the RCCs (paragraph 117 of ICBC's filing). For 2006, average annual compensation per Estimator was \$ 64,068. ICBC does not provide the effect or impact on the total Estimator compensation cost of the important factors such as turnover rates, overtime, bonuses, incentives, profit-sharing, vacations, sick time, training, and other non-claims time. An example of ICBC's evasive responses to information requests is 2008 RCCA SYKES 30. The Panel should be concerned about this on ICBC's 2007 costs – past, present and going forward.

6. ICBC does not explain why its employee levels (measured in terms of FTEs) have not been reduced. ICBC is increasing its allocation of RCC costs to Basic insurance, by assigning higher work effort percentages to Basic insurance (see as an example ICBC's response to 2008 RCCA SYKES 31).

7. ICBC refuses to provide the information regarding ICBC's bodily injury (BI) claims costs in terms of frequency and severity by Kinds of Loss (KOL) and by territories (see for example 2008 RCCA SYKES 32).

8. ICBC refuses to provide information requested regarding the time and costs of having Managers and others

involved in Risk Management Committees. ICBC refused to provide information to show how effective ICBC is in settling claims on the “first settlement offer”, and reducing the average time required to settle claims (see 2008 RCCA SYKES 33).

9. ICBC avers attempting to examine each particular RCC location would not be productive: ICBC says the role played by medical evidence in bodily injury claims is not relevant (2008 RCCA SYKES 47). ICBC provides no information sought in 2008 RCCA SYKES 48 to 50. ICBC refuses to provide the requested information relating to the work studies referred to in ICBC's filing (see 2008 RCCA SYKES 54).

10. ICBC says the costs of the ICBC employees involved in the work effort studies are in those cost centres where the compensation is charged: ICBC says some of the employees came from RCCs and others came from areas outside the RCCs (2008 RCCA SYKES 55). Therefore, these costs – not disclosed – are allocated to Basic and Optional according to the allocation method used for the cost centres that contain the costs of those employees.

11. ICBC admits that training, management and administration activities are not captured in the 10 transaction types in the work studies carried out by ICBC. ICBC says it cannot provide the information requested in 2008 RCCA SYKES 57. The Commission ought to be very concerned about these activities, as they appear to consume considerable time, effort and cost.

12. The work effort is based solely on judgment of ICBC personnel, who are not named (identity). There was no opportunity to examine or cross-examine these ICBC team employees, and no opportunity to visit any RCC location. There was no opportunity to talk to any of the ICBC employees in any of the five job categories ICBC uses for the RCC allocations. There were no independent work or time studies done to support any work effort percentages used in the RCC allocations.

13. Work effort is one fact: work results are another fact. The amount of time, effort and cost spent on claims is a question of fact. It is also a fact that large amounts on time and costs are spent on non-claims functions and activities that ought to be allocated between Basic and Optional insurance more closely to a 50%/50% basis. It is well known that most professionals (lawyers, accountants, engineers, and others) keep detailed time records by job/client for billing and performance evaluation purposes: ICBC should be able to use time accounting for its RCC personnel and claims handling activities – such accountability is long-overdue.

L. MD Files – Other, and MD Files – Customer Care

1. ICBC admits it erred in its previous allocations. In the May 2005 NSA, for MD Files – Other, ICBC allocated 37% to Basic insurance and 63% to Optional insurance. ICBC now proposes to allocate 10% to Basic and 90% to Optional insurance (paragraphs 132 to 142 of ICBC's filing). This is a material change, and ought to concern the Panel. The Commission did not detect this error in previous proceedings: the Panel accepted the previous allocations, which are now admitted by ICBC to be incorrect. Paragraph 22 of the proposed agreement says this allocation may change in future years based on changes in Hit and Run data.

2. For MD Files – Customer Care, ICBC proposes to allocate 22% to Basic insurance and 78% to its Optional insurance (from 25% and 75% respectively in 2005). The proposed agreement says in future this allocation will change based on changes in KOL counts (paragraphs 25 and 26 of the proposed agreement).

M. MD Files – Collision/Property Damage

1. ICBC wants to allocate 35% to Basic insurance and 65% to Optional insurance (see paragraphs 143 to 158 of ICBC's filing). ICBC does not provide the information requested in 2008 RCCA IBC 16.1, 16.2. For example, if the KOL 02 transfer is removed from the Basic and Optional counts, then the allocation would be 24% to Basic and 76% to Optional (Figures 17 – page 49 of ICBC's filing) – a material change. The proposed agreement says in future this will change based on changes in KOL counts (paragraphs 23 and 24 of the proposed agreement).

N. BI Exposures – Represented, and Litigated (grouped together because ICBC proposes 95%)

1. ICBC admits paragraphs 172 and 173 of its filing are incorrect, and had to file revised pages 54(a) and 54(b) – see Exhibit B-1-1. It is a question of fact as to whether or not ICBC has complied with the law: ICBC says it has not applied these legislative provisions as a work effort allocation (2008 RCCA IBC 18.1).

2. The Commission has a duty to determine that ICBC has applied the law to allocation issues (the Commission has legal counsel relating to ICBC matters). ICBC has internal costs associated with claims which could exceed the \$ 200,000 liability limit of Basic insurance. There are three broad categories of scenarios: first, cases where optional coverage is with ICBC; second, cases where the optional coverage is with a private insurer; and third, cases where there is no optional coverage.
3. For the first category, ICBC carries the entire risk (100%): it is simply a question as to how the claim will be settled, and accounted for by ICBC as between Basic insurance and ICBC's Optional insurance. ICBC ought to be minimizing these costs.
4. For the second category, ICBC will not be affected if the ultimate liability exceeds \$ 200,000 to the extent that the excess will be paid by private insurers.
5. For the third category, there is a potential risk that a person found liable in excess of \$ 200,000 could claim for that excess against ICBC or the broker who sold the insurance – that is, if ICBC is negligent in handling the claim causing ultimate liability to exceed \$ 200,000 thereby exposing the individual (who did not buy additional liability coverage) to loss and costs in excess of the \$ 200,000 the limit under Basic insurance). ICBC says the RCCs closed 104 bodily injury exposures in 2006 in excess of \$ 200,000 of the 59,640 bodily injury exposures closed overall in the RCCs (see paragraph 174 of ICBC's filing).
6. With regard to the 1,266 files ICBC says it transferred from RCCs to Head Office in 2006 because those files had potential to exceed \$ 200,000 (paragraph 175 of ICBC's filing), ICBC says it does not track the amount of time spent on individual or group claim files and cannot provide the actual percentage of time spent on these files (2008 RCCA IBC 19.1). This is an astounding admission, that ought to of considerable concern if true.
7. ICBC says there are a small number of BI claims handled in the RCCs which, although expected to be settled below the \$ 200,000 limit, may ultimately exceed \$ 200,000 (see footnote 4 on page 9 of the filing): however, ICBC provides no information of the numbers or amounts of such claims or their characteristics, or about the reserve levels carried in the "Provision for Unpaid Claims".
8. ICBC says it included "negated bodily injury exposures" in its work effort activities and related percentage allocations. The set up and reversal of these exposures are important: injury reserves are created (provision for unpaid claims) and later closed with no payment, but ICBC provides no information as to the impact of the timing of these reserve adjustments on claims incurred and/or PYCA (prior years claims adjustment) depending on the timing of the reserves set up, changes and reversals to zero. [2008 RCCA SYKES 59]
9. ICBC refuses to provide the information requested in 2008 RCCA SYKES 60.
10. ICBC does not provide the information requested in 2008 RCCA SYKES 61. Canada Revenue Agency says clearly that motor vehicle injury payments (that is, BI indemnity payments) are not taxable (CRA's Income Tax Guide). Clearly, it is in the financial interests of BI claimants to maximize BI indemnity payments, because they are not subject to income taxes in Canada. It is a question of fact as to how much money has been paid by ICBC to BI claimants. In particular, ICBC knows, or can determine, the amount of money that ICBC has paid to ICBC employees and former employees as BI indemnity payments, and the BI indemnity amounts that have been paid to persons related to ICBC employees and former employees.
11. ICBC does not provide the information requested in 2008 RCCA SYKES 62.
12. The proposed agreement (see paragraphs 27 to 30) says the allocation will be 95% to Basic insurance (the same allocation used in 2004 and 2005). However, it is not clear whether or not this 95% will change in future based on some variable measurement.

O. Excess or unused/idle capacity – ICBC's RCCs: "stand-alone" locations, and as a "total system"

1. There is the important issue of "excess, unused or idle capacity" relating to facilities, human resources, and other costs associated with ICBC's RCCs including space allocations, computers, equipment and other assets at each of ICBC's RCC locations. This issue applies at individual RCC locations, and for the RCCs as a whole. The nature and amount of costs at each RCC can be measured in terms of capacity use or utilization: then by comparing the RCCs, the relative capacities and efficiencies can be evaluated. ICBC provides no information regarding this issue.
2. ICBC admits size and location of each RCC affects the type and number of employees assigned (category, experience) and depending on the mix of types of claims and volumes of such type (paragraph 28 of ICBC's

filing). ICBC continues its practice of being vague, ambiguous, and refusing to give information requested, or asserts information requested is not relevant without giving reasons for its position.

3. ICBC says since 2005 it has closed two RCCs: the South Vancouver and East Vancouver centres. ICBC says it “redeployed” the employees to other RCC locations within the LM region (paragraph 49 of the filing). It can be inferred that there were no reductions in RCC employees because of these closures. ICBC does not provide the information requested relating to reasons/criteria used by ICBC to continue operating particular RCC locations and to ascertain the decision-making targets used to identify inefficient units (2008 RCCA SYKES 56).

4. ICBC refuses to provide a breakdown of the number of employees at each RCC location by job categories, and the number of ICBC employees at other locations who manage RCC operations (2008 RCCA SYKES 58).

5. Based on 520,551 claims reported in 2006 for RCCs, the average daily number per RCC is 32 – a very low volume. Using 2006 data, the average cost per claim made in 2006 is \$ 250.93 (being the total RCC cost of \$ 130,623,842 divided by the total number of claims reported of 520,551) – this is 9.15% of the average amount of the 2006 claim amount (being \$ 250.93 divided by \$ 2,742.18 – see paragraph D. 1 above).

6. ICBC's largest RCC location is at 5th and Cambie, with total costs of \$ 11,115,000 for 2006 (see page 80 of ICBC's filing) or an average of \$ 30,452.05 per day. The average cost per ICBC RCC location for 2006 was \$ 2,902,752 (\$ 130,623,842 divided by 45 units – page 80 of the filing), an average of \$ 7,952.75 per day. It is clear there are wide ranges of economies of scale, volumes, labour efficiency/effectiveness between RCCs.

7. A general measure on demand on ICBC's RCC system/facilities is based on the number of vehicles and population of British Columbia. Using the 520,551 claims reported for 2006 through the RCCs, there were 8 individuals per claim at RCCs and 6 vehicles per claim made (using population of 4.2 million and 3.2 million insured vehicles). ICBC provides no information about accidents caused by BI claimants after the dates those individuals filed BI claims: it appears there are many individuals driving who have received BI claim payments or are currently claiming BI indemnity.

8. ICBC provides some information about its Coquitlam Claim Centre (slides 19 to 21, Exhibit B-6). Based on total employees of 86, the average cost of the Coquitlam Claim Centre is \$ 71,279.07 per employee (being total cost of \$ 6,130,000 – page 80 of the filing – divided by 86 employees). This suggests costs of \$ 122,956,396 (based on this average of \$ 71,279.07 times 1,725 FTEs for 2006); total RCC cost for 2006 is reported to be \$ 130,623,842 – a discrepancy of \$ 7,667,446: indicating variations in efficiencies between ICBC's RCC locations.

P. Performance, productivity, efficiency/effectiveness: ICBC employees (management and staff)

1. ICBC says (pages 14 and 15 of the filing, and slide 8, Exhibit B-6) the actual numbers of ICBC employees at the RCCs, expressed in terms of “Full Time Equivalents” (“FTEs), were as follows (ICBC gives no explanation as to how it calculates FTEs of any breakdown by individual RCC locations):

	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>
Managers/Supervisors	204	217	217	223
OA/CSA	402	397	398	404
Estimator	284	283	276	267
BI Adjuster/examiner	545	550	548	555
MD Adjuster	<u>290</u>	<u>293</u>	<u>286</u>	<u>287</u>
Total	1,725	1,740	1,725	1,736

2. ICBC says (page 8 of its filing) the result of this review of RCC allocation is consistent with the efficiencies achieved in handling MD claims and the increased emphasis on effective handling of BI claims. ICBC says its FTEs in the RCCs increased in 2007 to 1,736 (slide 8, Exhibit B-6), consisting of 223 Manager/Supervisors, 404 OA/CSA, 267 Estimators, 555 BI Adjusters/Examiners, and 287 MD Adjusters. These increases are largely going to be allocated to Basic insurance if the Panel approves the proposed agreement.

3. The following issues are important in measuring performance of ICBC's employees (managers and staff): efficiency; productivity; employee turnover rates; transfers/promotions/firings/resignations/absences (illness or

automobile accidents); effectiveness; workloads (volume and mix); contracting out or outsourcing. This is a very sensitive issue with ICBC and COPE. ICBC and COPE agree to the proposed agreement. It is in the interests of both ICBC and COPE to allocate time and work effort to Basic insurance. ICBC and COPE want to have an allocation method that allocates actual compensation, and avoids review of the value of compensation dollars actually paid. Connected with this issue is the question as to how ICBC plans and budgets and does its day-to-day management of compensation costs in operating the RCCs: ICBC provides no information about how it minimizes RCC compensation costs, or optimizes labour efficiency/effectiveness. .

4. ICBC says the compensation amounts include overtime, incentives, bonuses and profit-sharing, and benefits including retirement pension funding costs. ICBC provides no details of the breakdown of compensation, which account for 86.18% of the total RCC costs for 2006 (\$ 112,572,266 divided by \$ 130,623,842). Compensation levels and rate changes are a material driver of compensation costs: ICBC provides no information of the impact of compensation levels and rate changes for its unionized and non-unionized employees at ICBC's RCCs.

5. ICBC says (page 6 of its filing, and paragraph 37) the compensation costs at the RCCs are a function of the volume of claims of various types, type and complexity of claims handled, different compensation levels for the different positions within the job categories. ICBC says (page 6 of the filing) RCCs handle more MD claims than BI claims, but BI claims require significantly more time to adjust than MD files: ICBC provides no evidence to support this assertion or to show the nature and amount of additional time for BI claims versus MD claims.

6. ICBC says (page 6 of the filing) its BI adjusters/examiners have more skills that mean higher compensation compared to ICBC's MD adjusters/estimators: however, ICBC provides no evidence to support this assertion.

Q. The Commission's Negotiated Settlement Process (NSP")

1. The Commission says (page 5 of the NSP document) it is the responsibility of participants to ensure that the proposed settlement agreement contains sufficient evidence to support the proposal, and that provisions of the proposed settlement agreement that relate to issues identified by the Panel, or any other matters that may affect the public or non-participant parties, must be supported by explicit rationales. The Panel has not identified any issues. Participants who agree with the proposed agreement are responsible for the substance and supporting rationales (page 8 of the NSP document). The Commission says it is committed to public participation and to transparency in its decision making (page 1 of the NSP document).

2. The NSP document was issued in the context of energy utility regulation - it does not deal with automobile insurance. Automobile insurance is the largest line of general insurance, measured by premiums. The risk is less than 100% (unlike life insurance, where mortality is 100%). Not all vehicles, vehicle owners or drivers are involved each year or ever in an accident, incident or injury: therefore, the risk in any given policy year is less than 100%. It is interesting to note that ICBC admits to 947,471 claims in 2006 and says the number of Basic insurance policies was 3,116,556 for 2006 - an average percentage of 30.40%, or about "one in three".

3. The Commission says it must adhere to the principles of natural justice and fairness (see page 1 of the NSP document): this includes giving participants adequate time to make their case. The Panel denied my request for an extension of time to file my submission to March 31, 2008 and provided no reasons for its decision.

4. My concern is for persons who must buy Basic insurance: both the allocation and level of costs are relevant. All Basic policyholders will be affected by this NSA. For example, in the aggregate, there is realistically an error in the order of magnitude of about \$ 20 million – see discussion at paragraph V. 2 below. The record provides no evidence the Commission staff who participated in settlement negotiations possess skills, knowledge and experience otherwise not available (first paragraph on page 9 of the NSP document). The Commission staff who were present in negotiations did not discharge responsibilities in section IV (see page 9 of the NSP document). The NSP was less than two hours on February 20, 2008: less than an average of 4 minutes for each of the 23 persons who attended the NSP to speak (and allowing 15 minutes for the break): in short, the NSP was not effective for the Basic policyholder and not in the public interest.

5. This NSA introduces policy issues not suitably addressed by negotiation. The issues are not amenable to the NSP, and the considerations for when NSP is appropriate (section III on pages 2/3 of the NSP document) have not been met. The issue of ICBC's financial allocation methodology has not been addressed for several years, and was not properly dealt with in the initial process. The increases in Basic insurance premium rates since the Commission was given the statutory duty has been well above what ICBC has required. The Panel's decisions relating to ICBC have never been reviewed by the court.

6. "Sufficient information" was not available to all intervenors as required before the commencement of the NSP

(see third paragraph on page 4 of the NSP document). The proposed agreement has not been reviewed by an independent member of the Commission staff, as is provided for (see item vii) on page 6 of the NSP document).

7. The Panel has not identified any issues of particular concern to it: no such information has been passed on to the participants in written form (see item ii) on page 5 of the NSP document). The participants accepting the proposed agreement have not met the responsibility of ensuring it contains sufficient evidence to support the proposal for purposes of item vi) on page 5 of the NSP document, and is not supported by explicit rationales referred to on page 6 of the NSP document.

8. This submission is pursuant to section IV 3. viii) on page 6 of the NSP document.

9. The Commission has a duty to regulate in the public interest: Panels are not to accept proposed settlements unless persuaded the agreements are in the public interest and consistent with the Utilities Commission Act (first paragraph - section 10 on page 9 of the NSP document). Panels are not to accept individual terms contravening the Commission's obligations under the Utilities Commission Act. There is a process to amend settlements and to determine if participants will agree to the changes. There is insufficient information on the record to evaluate the proposed agreement: proponents of the proposed agreement have the onus of ensuring there is sufficient information is on the record (fourth paragraph - page 10 of the NSP document). The Commission Panels may evaluate settlements through public hearings (the fifth paragraph on page 10 of the NSP document). There is provision to amend proposed agreements (see section IV item 11 on page 11 of the NSP document).

10. The RCC cost allocation issues are not appropriate for the NSP as information exclusively in possession of ICBC is involved: the RCC cost allocation can and should be part of the Commission's review of ICBC's revenue requirements for 2008 and the year commencing January 1, 2009.

R. Specialized Vehicle Appraisers – cost centre number 171337

1. ICBC says its Specialized Vehicle Appraisers estimate damage to "high end vehicles" repaired in any of six designated repair facilities (footnote ** on page 80 of the filing). This cost centre had total costs of \$ 524,000 for 2006 (page 80 of the filing), or \$ 1,435.62 per day. ICBC allocated 65.72% of this centre to Basic insurance for 2006. Clearly, ICBC can associate BI claims with high end vehicles to establish BI claims related to "high end vehicles" and size/power of the engines. ICBC provided no information – stating this department was not an area of focus for work effort study (footnote 5 on page 9 of the filing). The Panel knows "type of vehicle" is not used to calculate Basic insurance premiums, but that there has been increasing upward pressure on the claims handling costs related to specialized vehicles, and amounts paid as MD and BI indemnity related to these higher end vehicles: these are questions of fact relevant to allocation of costs between Basic and Optional insurance.

S. Facilities Costs (\$ 13,062,682 for 2006)

1. ICBC is a large corporation with a specialized finance/accounting department with computers and software capable of sophisticated and detailed "costing systems and methods". The "costing" of facilities is an easy and widely-accepted cost accounting application, and is based on a simple set of principles used by business and in decision-making relating to the efficiency/effectiveness of ICBC's facilities.

2. ICBC refuses to provide annual costs per square foot for RCCs and 2008 property assessments. ICBC says the costs associated with each RCC Claim Centre are not separately allocated (2008 RCCA SYKES 70). The Commission staff says for 2006 the allocation is 49% to Basic insurance (paragraphs 31 to 33 of the proposed agreement). The methodology is based on a set of factors that are subject to change. ICBC's RCC locations are available for use for both Basic and Optional claimants. If ICBC were constructing facilities today, there would be fewer and they would be more efficient. Advancing technology and outsourcing activities has had and continues to have significant impacts. A more appropriate allocation is 35% to Basic insurance: this would also encourage ICBC to minimize facilities costs, including closing RCC units and consolidating operations. This would be an allocation of \$ 4,571,939 to Basic insurance for 2006 (35% of \$ 13,062,682) rather than \$ 6,400,714 (being 49% of \$ 13,062,682) – a difference of \$ 1,828,775 using the 2006 figures – or an average of \$ 111.34 per day per RCC location, a reasonable difference in the context of the nature and amount of ICBC's RCC facilities.

3. The square footage data provided is of no use (2008 RCCA IBC 20.1) and is confusing. If the total area for Kelowna is 20,725 square feet and Driver Service area is 4,560 square feet, where is it located – in the office area of 11,974 or the Bay/Other areas of 8,751? The office area represents 43%, 50% and 58% of Kingsway, Maple Ridge and Kelowna centres, indicating each RCC is different in activities and space allotted, capacities,

utilization in terms of volume and types of claims, and excess/unused facilities (see section O. above). ICBC provides no information to enable evaluation of whether the RCC facilities are efficiently operated, and whether particular RCC locations should be closed and sold (the "opportunity costs" model).

4. ICBC says it closed its East Vancouver Claims Centre in February 2004 and closed its South Vancouver Claims Centre in March 2006: ICBC says it transferred all of the employees working at those centres to other centres (2008 RCCA SYKES 68). The Panel should be concerned ICBC realized no reductions in employees as a result of these closures/consolidations. ICBC gives no information to explain how these other RCC locations could accommodate the increases in employees (office space, file facilities and other resources). BI claims do not require large buildings to evaluate persons who claim BI indemnity: such evaluations are made at the offices of the medical doctors who assess the nature and degrees of alleged injuries: ICBC admitted at the workshop that RCC personnel do not physically examine BI claimants. The medical and other costs of BI claims adjusting are in addition to the RCC costs of \$ 130,623,842 for 2006.

T. Other Operating costs (\$ 4,988,894 for 2006)

1. ICBC says its other operating costs for its RCCs consists of office supplies, telephone costs, training costs and travel-related expenses: ICBC does not provide a breakdown of these costs (2008 RCCA SYKES 71).
2. The proposed agreement uses "compensation" as the proxy to allocate the RCC other operating costs, and in future this allocation will change based on changes in compensation allocation changes – driven by changes in actual compensation costs (see paragraphs 34 and 35 of the proposed agreement). For 2006, Commission staff says this would be 64.6% to Basic insurance, or an amount of \$ 3,222,826 for 2006 (64.6% of \$ 4,988,894). A split of 50%/50% between Basic and Optional is more appropriate as these facilities are available for claims and other activities including matters related to ICBC's integrated operations: such split (50% each) would be \$ 2,494,447 (50% of \$ 4,988,894) for 2006, compared with an allocation of \$ 3,222,826 for 2006 if the 64.6% were used – a difference of \$ 728,379 for 2006, or \$ 44.35 per day per location. The concept of "opportunity cost" or "available for use" cost applies because ICBC has no way of knowing what day-to-day demands will be placed on the RCC locations, as each location must deal with the claims as they show up. This 50%/50% split also recognizes ICBC is an integrated operation, and there are substantial RCC/Head Office activities.

U. Premium tax (4.4%)

1. Premium taxes are a significant factor in the expenses that are recovered from Basic insurance premium rates. The Commission accepted ICBC's that the premium tax estimate of \$ 90,235,000 for ICBC's 2007 policy year, based on 4.4% of the 2007 Basic insurance premium revenue of \$ 2,050,785,000 (see paragraph Y. 2 below). The Panel knows that "premium tax" is charged on "premium tax" ("tax on tax").

V. Plausible alternative RCC cost allocations

1. The accurate allocation of RCC costs for 2006 likely lies somewhere within the range defined by various plausible alternatives. To define that range and various approximations within the range, it is useful to consider the range estimates, based on calculations in this submission. The range is as follows for 2006 for the allocation to Basic insurance (based on RCC cost information in ICBC's filing):

	<u>Compensation</u>	<u>Facilities</u>	<u>Other</u>	<u>Total Allocated</u>	<u>% Allocated</u>
Proposed agreement	Not given in the proposed agreement (para. 38 says 63.0% for 2007)				
ICBC's filing (2006)				\$ 84,396,064	64.61%
Schedule 1 (using 65.71%)	\$ 73,971,236	\$ 4,571,939	\$ 2,494,447	81,037,622	62.04%
Schedule 2 (using 58.14%)	65,449,515	4,571,939	2,494,447	72,515,901	55.52%
Schedule 3 (using 46.20%)	52,008,387	4,571,939	2,494,447	59,074,773	45.23%
Schedule 4 (using 42.79%)	48,169,673	4,571,939	2,494,447	55,236,059	42.29%
Schedule 5 (using 39.43%)	44,387,244	4,571,939	2,494,447	51,453,630	39.39%

Note: % Allocated is based on total 2006 RCC costs of \$ 130,623,842 (see paragraph A. 1 above).

2. The range of difference is from 64.61% to 39.39% for the overall allocation percentage to Basic insurance for 2006, or overall dollar range of \$ 32,942,434 (\$ 84,396,064 minus \$ 51,453,630 – paragraph V. 1 above). This is a very material range of allocation variation. The premium tax impact could be as much as \$ 1,449,467 (4.4% of \$ 32,942,434). This overall impact is significant to Basic policyholders as a whole. It is likely that the actual accurate cost for 2006 would be close to around central-tendencies in the range: with the premium tax effect would be about a \$ 20,000,000 gain for the Basic policyholders using 2006 data. The Commission staff states that the allocation to Basic insurance for 2007 would be 63.0% (see paragraph 38 of the proposed agreement), but no information is provided as to how that 63.0% was calculated. Each 1% point change represents for 2006 \$ 1,306,238 (based on RCC costs of \$ 130,623,842), or a sensitivity of \$ 79.53 per day per RCC location.

W. Principles applicable to reaching “conclusions or inferences”

1. The matter of “ultimate issue” and “ultimate fact” - where opinions are involved - are a mixed question of fact and law. Opinion evidence should be rejected where the trier of fact is as well qualified as the witness to draw the necessary and relevant conclusions or inferences: the trier is presumed capable of applying the standard. The trier of fact can reject evidence. Where the opinion involves a mixed question of fact and law, the opinion is not admissible. The trier of fact must make the “ultimate” determination of the issue: the witness cannot usurp the duty/function of the trier. “Ultimate facts” are facts essential for the decision and to determine issues in the proceeding (as distinguished from evidence supporting facts that are premises essential to sound arguments).
2. Experts are required to provide triers of fact with the basis for the opinion, or judgment. Opinions rests on premises which must be supplied to the trier of fact - the persons giving the opinions must provide the evidence supporting the premises. Opinions are “hypothetical” since they depend on premises – which are either true or false: the trier of fact must decide whether the premises are findings of fact. By examination, premises can be tested. The trier decides whether to accept or reject each of the premises and whether the premises, taken together, are sufficient and sound in logic and reasoning to support the opinion tendered.
3. There are two separate and distinct matters involved in the process – first, premises; and second, inferences or conclusions. Inferences or conclusions necessarily involve assessing and testing premises provided: the trier of fact decides whether the premises are true, then decides whether the inferences or conclusions are properly founded on reasoning/logic using the premises proved by properly tested evidence – that is, whether the proved premises, taken together, are necessary and sufficient to support the opinion or judgment.
4. It is also the duty of triers of fact to decide on the credibility of the witnesses or evidence. This is best done through examination/cross-examination of persons tendering the evidence that purports to support allegations of fact. ICBC provided no authorities. ICBC has not even provided the identity or qualifications of the ICBC teams involved in the work effort studies: there is no basis whatsoever for evaluating the “expertness” of those who allegedly provided the opinions: there has been no examination/cross-examination of any team members.
5. There is a danger associated with so-called “expert evidence”. Expert evidence must be both necessary and relevant: it is not enough that some aspects of such evidence might assist. The need for expert evidence must be assessed against the potential to distort fact-finding. A basic tenet of Canadian law is that the usual (non-expert) witness may not give opinion evidence. The persons referred to as the members of ICBC's work effort teams have not been qualified as “expert witnesses”: moreover, the opinions or judgments expressed in ICBC's filing have not been tested - the premises relied on for the opinions or judgments have not even been provided.
6. Opinion evidence may be biased: lack of independence/impartiality is a serious concern. The danger from admitting opinion evidence or giving it any weight is that the duty of the trier of fact might be “usurped” by such opinion. Where there is no competing opinion evidence, the trier of fact is deprived of an effective framework to evaluate the merits of the opinion.
7. A serious danger of opinion evidence and overriding requirement is that the prejudicial effect outweighs the probative value. To deal with this danger, it is necessary to distill the “prejudicial” and “probative” elements of the opinion: Is there a technical quality to the evidence requirements necessitating opinion? ICBC provided no evidence or argument to deal with this serious concern. The members of ICBC's teams are mostly long-term, very well-compensated employees: their opinions are self-serving. The Panel ought not to admit these opinions as evidence, or if the Panel does admit such opinions, those opinions ought to be given no weight.

X. The “proposed settlement agreement”

1. The Commission says Panels will not accept proposed settlements unless persuaded that those agreements are in the public interest and consistent with the requirements of the *Utilities Commission Act* (see section IV 10. on page 9 of the NSP document). There is no evidence or rationale provided by parties accepting the proposed agreement: the letters of comment filed by IBC and CDI ought to be taken as significant reservations amounting to rejection of the substance of proposed agreement. Sufficient persuasion to approve the proposed agreement is absent. [See also section Q. below]
2. The proposed agreement is fundamentally flawed by accepting the work effort percentage allocations for the compensation allocations, and not providing any mechanism to adjust these percentage allocations: these are treated as fixed factors, when in reality the labour is variable. I have not been able to access the information requested - the BCUC website address given by ICBC relating to Order No. G-46-05 is not active (2008 RCCA SYKES 63).
3. The “business changes” made after October 2007 will impact on ICBC's RCCs: these impacts have not been quantified by ICBC (2008 RCCA SYKES 64).
4. ICBC's response to request to 2008 RCCA SYKES 65 is incorrect: ICBC's auditors signed their opinion on February 3, 2006 - see page 47 of ICBC's 2005 Annual Report.
5. The law in British Columbia requires that Basic insurance be purchased: ICBC is the only insurer that can offer Basic insurance in British Columbia. If the Panel approves the proposed agreement, there is no pressure on ICBC to minimize costs, as the proposed agreement allocates actual costs and has no mechanism to ensure that actual costs are minimized. Given the nature and magnitude of the amount of ICBC's RCC annual costs (more than \$ 135 million and increasing), the components of the proposed agreement require the scrutiny of an oral public hearing process as part of the next revenue requirements review.

Y. ICBC's 2007 Annual Report, and ICBC's 2007 Policy Year

1. ICBC did not file its 2007 Annual Report or 2007 audited financial statements. The Commission should have ICBC's 2007 Annual Report as information relevant to this proceeding. According to newspaper reports, ICBC reported total net income of \$ 642 million for 2007, but there has been no disclosure (that I am aware of) of the breakdown of that net income between Basic insurance and Optional insurance. For 2006 and 2007, ICBC's net income was about \$ 1.0 billion – or an average profit rate of \$ 1,369,863.01 per day. ICBC recently announced another decrease in its Optional insurance premium rates: this will likely lead to continuing increases in ICBC's share of the Optional insurance market in British Columbia, with consequent increasing demands by drivers and vehicles on ICBC's RCCs (this ought to lead to higher cost allocations to Optional insurance).
2. The Commission approved a 3.3% Basic insurance premium rate increase for 2007 (see Decision dated January 9, 2008) on the basis of the following estimates by ICBC (see Appendix A of the BCUC Decision):

Premium revenue	\$ 2,050,785,000
Less: Claims and related expenses	\$ 1,996,077,000
Road Safety/Loss Management expenses	46,436,000
Operating expenses – Admin/Other	49,347,000
Operating expenses – insurance	26,811,000
Non-insurance expenses	74,229,000
Commissions to insurance brokers	62,538,000
Premium taxes (4.4%)	<u>90,235,000</u>
Total expenses	<u>\$ 2,345,673,000</u>
Underwriting loss	\$ (294,888,000)
Less: Miscellaneous revenue	<u>340,551,000</u>
Net income	\$ 45,663,000
Capital provision	<u>45,664,000</u>
Discrepancy (presumably due to rounding - net)	\$ 1,000

3. If, for example, "claims service expenses" were reduced by (say) \$ 30 million for 2007, the required premium would be reduced accordingly, and there would also be a decrease in premium tax by \$ 1,320,000. There are two ways to reduce claims service costs charged to Basic insurance: reduce the allocation, and reduce actual costs. Any cost allocation method approved ought to have integral to it incentives/penalties to achieve optimal operating efficiencies/economies.

4. If the 3.3% and 6.5% Basic insurance premium rate increases had not been made, ICBC would not be in breach of government directives. Given ICBC's 2007 and 2006 financial results, it is clear ICBC cannot show there are any grounds to grant leave to appeal if the Commission denies the 3.3% and 6.5% Basic insurance premium rate increases. The Commission should not grant interim increases to ICBC, but ought to require ICBC to file its applications for revenue requirements prior to policy years so that decisions can be made before the commencement of the policy year affected by the particular proceeding. ICBC's policy year should coincide with the calendar year (its financial year); this would also ensure that all Basic policyholders are treated equally.

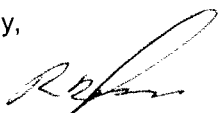
Z. Conclusion

1. Those who have accepted the proposed agreement bear the onus of proof: they have not provided sufficient evidence and rationale. The proposed agreement has not been accepted by policyholders; there is no evidence the proposed agreement is in the public interest. Further, taken together and cumulatively, the paragraphs of this submission support the conclusion that there is considerable doubt about the accuracy and completeness of the proposed allocation method relating to ICBC's RCC costs. Given the unreasonable profits of \$ 1,369,863.01 per day (during the two years ended December 31, 2007) and given the materiality of the RCC costs and disturbing trend (those costs continue to rise), the following direction/order is justified and required:

- the proposed agreement is not approved
- an independent, objective study is needed to provide acceptable evidence for cost allocations relating to the RCCs, and such study should be done by a firm selected by a tendering process (the selected firm to report directly to the Commission, and the cost of the study is to be paid by ICBC): this study report is to be filed with the Commission, ICBC and intervenors by June 20, 2008 and is to be included in the 2009 revenue requirements application
- ICBC is to file, by no later than July 1, 2008, an application for revenue requirements for the year beginning January 1, 2009, and that application is to include evidence to support the allocation between Basic insurance and Optional insurance for all revenue sources (premiums and other), investment income, and all costs (not merely the allocation of RCC costs) and to include estimated Balance Sheets at December 31, 2009 and December 31, 2010, estimated Statements of Operations for years ending December 31, 2009 and 2010, and estimated Statement of Operations for the year ending December 31, 2008 and Balance Sheet at December 31, 2008
- with regard to the 2009 revenue requirements application, the information requests/responses and public hearing are to be concluded by August 31, 2008, the argument phase is to be concluded by September 30, 2008, and the Commission Panel is to issue its Decision by October 31, 2008.

2. This submission is for benefit of Basic insurance policyholders and the public interest. Only ICBC can sell Basic insurance – there is no competition. The Commission has a duty to protect policyholders and the public, and has the power, jurisdiction and discretion to ensure the principles, standards and tests are met relating to sufficiency of evidence and sound reasoning/logic in fact-finding conclusions and underlying inferences.

Yours truly,



Russell Sykes, Registered Intervenor

Attachments: Schedules 1 to 5.

File: ICBCBCUCRCCAlloc2008

ICBC RCC Cost Allocation

LM

Actual costs 2006 (per ICBC)

RCC2008

Prepared by: Russell Sykes

Schedule 1

	TT 1	TT 2	TT 3	TT 4/5	TT 6	TT 7/8	TT 9/10	
Allocation to Basic	0.00%	22.00%	35.00%	0.00%	10.00%	100.00%	95.00%	
Work effort percentage								
Manager	0.5	2	19.5	12	1	37	28	100
Assistant	4.6	19.5	15.4	6.2	1.5	24.6	28.2	100
Estimator	0.5	41.5	33	14	2	9	0	100
Adj -BI	0	0	4.5	0	0.5	51	44	100
Adj - MD	0	1	56.5	29.5	6	7	0	100
Total compensation								
Manager	11349476	56747	226990	2213148	1361937	113495	4199306	3177853
Assistant	11405492	524653	2224071	1756446	707141	171082	2805751	3216349
Estimator	11210832	56054	4652495	3699575	1569516	224217	1008975	0
Adj - BI	28834419	0	0	1297549	0	144172	14705554	12687144
Adj - MD	11400209	0	114002	6441118	3363062	684013	798015	0
	74200428	637454	7217558	15407835	7001656	1336978	23517600	19081346
								74200428
Allocation to Basic	0	1587863	5392742	0	133698	23517600	18127279	48759182
Allocation to Basic percentage								65.71

ICBC RCC Cost Allocation
LM
Actual costs 2006 (per ICBC)

RCC2008

Prepared by: Russell Sykes

Schedule 2

		TT 1	TT 2	TT 3	TT 4/5	TT 6	TT 7/8	TT 9/10	
Allocation to Basic		0.00%	22.00%	35.00%	0.00%	10.00%	100.00%	95.00%	
Work effort percentage									
Manager		0.5	2	19.5	12	1	37	28	100
Assistant		4.6	19.5	15.4	6.2	1.5	24.6	28.2	100
Estimator		0.5	41.5	33	14	2	9	0	100
Adj -BI		10	0	4.5	10	0.5	41	34	100
Adj – MD		0	1	56.5	29.5	6	7	0	100
Total compensation									
Manager	11349476	56747	226990	2213148	1361937	113495	4199306	3177853	11349476
Assistant	11405492	524653	2224071	1756446	707141	171082	2805751	3216349	11405492
Estimator	11210832	56054	4652495	3699575	1569516	224217	1008975	0	11210832
Adj – BI	28834419	2883442	0	1297549	2883442	144172	11822112	9803702	28834419
Adj – MD	11400209	0	114002	6441118	3363062	684013	798015	0	11400209
	74200428	3520896	7217558	15407835	9885098	1336978	20634158	16197904	74200428
Allocation to Basic		0	1587863	5392742	0	133698	20634158	15388009	43136471
Allocation to Basic percentage									58.14

Prepared by: Russell Sykes

		TT 1	TT 2	TT 3	TT 4/5	TT 6	TT 7/8	TT 9/10	
Allocation to Basic		0.00%	22.00%	35.00%	0.00%	10.00%	100.00%	95.00%	
Work effort percentage									
Manager		10	10	15	15	5	25	20	100
Assistant		10	20	15	15	5	20	15	100
Estimator		5	40	30	15	5	5	0	100
Adj -BI		10	0	5	15	10	35	25	100
Adj – MD		5	5	50	25	10	5	0	100
Total compensation									
Manager	11349476	1134948	1134948	1702421	1702421	567474	2837369	2269895	11349476
Assistant	11405492	1140549	2281098	1710824	1710824	570275	2281098	1710824	11405492
Estimator	11210832	560542	4484333	3363250	1681625	560542	560542	0	11210832
Adj – BI	28834419	2883442	0	1441721	4325163	2883442	10092047	7208605	28834419
Adj – MD	11400209	570010	570010	5700105	2850052	1140021	570010	0	11400209
	74200428	6289491	8470389	13918320	12270085	5721753	16341066	11189324	74200428
Allocation to Basic		0	1863486	4871412	0	572175	16341066	10629858	34277997
Allocation to Basic percentage									46.2

Actual costs 2006 (per ICBC)

		TT 1	TT 2	TT 3	TT 4/5	TT 6	TT 7/8	TT 9/10	
Allocation to Basic		0.00%	20.00%	30.00%	0.00%	5.00%	95.00%	90.00%	
Work effort percentage									
Manager		10	10	15	15	5	25	20	100
Assistant		10	20	15	15	5	20	15	100
Estimator		5	40	30	15	5	5	0	100
Adj -BI		10	0	5	15	10	35	25	100
Adj – MD		5	5	50	25	10	5	0	100
Total compensation									
Manager	11349476	1134948	1134948	1702421	1702421	567474	2837369	2269895	11349476
Assistant	11405492	1140549	2281098	1710824	1710824	570275	2281098	1710824	11405492
Estimator	11210832	560542	4484333	3363250	1681625	560542	560542	0	11210832
Adj – BI	28834419	2883442	0	1441721	4325163	2883442	10092047	7208605	28834419
Adj – MD	11400209	570010	570010	5700105	2850052	1140021	570010	0	11400209
	74200428	6289491	8470389	13918320	12270085	5721753	16341066	11189324	74200428
Allocation to Basic		0	1694078	4175496	0	286088	15524013	10070391	31750066
Allocation to Basic percentage									42.79

Allocation to Basic percentage

42.79

		TT 1	TT 2	TT 3	TT 4/5	TT 6	TT 7/8	TT 9/10	
Allocation to Basic		0.00%	15.00%	25.00%	0.00%	5.00%	90.00%	85.00%	
Work effort percentage									
Manager		10	10	15	15	5	25	20	100
Assistant		10	20	15	15	5	20	15	100
Estimator		5	40	30	15	5	5	0	100
Adj -BI		10	0	5	15	10	35	25	100
Adj – MD		5	5	50	25	10	5	0	100
Total compensation									
Manager	11349476	1134948	1134948	1702421	1702421	567474	2837369	2269895	11349476
Assistant	11405492	1140549	2281098	1710824	1710824	570275	2281098	1710824	11405492
Estimator	11210832	560542	4484333	3363250	1681625	560542	560542	0	11210832
Adj – BI	28834419	2883442	0	1441721	4325163	2883442	10092047	7208605	28834419
Adj – MD	11400209	570010	570010	5700105	2850052	1140021	570010	0	11400209
	74200428	6289491	8470389	13918320	12270085	5721753	16341066	11189324	74200428
Allocation to Basic	0	1270558	3479580	0	286088	14706959	9510925	29254111	
Allocation to Basic percentage									39.43