British Columbia Utilities Commission

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ORDER NUMBER
G-165-16

IN THE MATTER OF
the *Utilities Commission Act*, RSBC 1996, Chapter 473

and

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

and

Insurance Corporation of British Columbia
An Application for Approval of the Revenue Requirements for Universal Compulsory Automobile Insurance
Effective November 1, 2016

BEFORE:
D. A. Cote, Commissioner/Panel Chair
B. A. Magnan, Commissioner
R. I. Mason, Commissioner

on November 14, 2016

ORDER

WHEREAS:

A. On August 25, 2016, the Insurance Corporation of British Columbia (ICBC) filed an application to the British Columbia Utilities Commission (Commission) for its 2016 Revenue Requirements for Universal Compulsory Automobile Insurance (Basic insurance), seeking a Basic insurance rate increase of 4.9 percent for the policy year commencing November 1, 2016 (Application);

B. On September 2, 2016, by Order G-142-16, among other matters, the Commission established a Regulatory Timetable for the review of the Application which included Commission and Intervener Information Request (IR) No. 1;

C. On October 20, 2016, ICBC filed its responses to IR No. 1 from the Commission and interveners, which are marked as Exhibit B-2, B-2-1, B-2-2 and B-3 in the proceeding;

D. In Exhibit B-2-1, ICBC filed a request to keep the following IR No. 1 responses confidential:

    i. 2016.1 RR BCUC.14.1, Attachment A - Prospective Adjustment Criteria

    ii. 2016.1 RR BCUC.14.3.1, Attachment A - Breakdown of Financial Benefit per Alert

    iii. 2016.1 RR BCUC.16.1, Attachment A – Bodily Injury (BI) Segmented Analysis

    iv. 2016.1 RR BCUC.19.1 – partially redacted portion

E. Part IV of the Commission Rules of Practice and Procedure (Rules) established by Order G-1-16 set out the rules for confidential documents filed with the Commission;

F. In accordance with the Rules, the Commission considered ICBC's request for confidentiality on the IR No. 1 responses noted above.

NOW THEREFORE the British Columbia Utilities Commission, for reasons set out in Appendix A to this order, orders as follows:

1. The request by the Insurance Corporation of British Columbia (ICBC) to keep the content of the following Information Request (IR) No. 1 responses confidential is accepted:
    a. 2016.1 RR BCUC.14.1, Attachment A - Prospective Adjustment Criteria;
    b. 2016.1 RR BCUC.14.3.1, Attachment A - Breakdown of Financial Benefit per Alert;
    c. 2016.1 RR BCUC.16.1, Attachment A – Bodily Injury Segmented Analysis.
2. The request by ICBC to keep the content of IR No. 1 response 2016.1 RR BCUC.19.1 is denied. ICBC is to file the complete response to 2016.1 RR BCUC.19.1 as part of the public evidentiary record by Wednesday, November 16, 2016.

DATED at the City of Vancouver, in the Province of British Columbia, this 14th day of November 2016.

BY ORDER

Original signed by:

D. A. Cote
Commissioner/Panel Chair

Attachment

An Application by the Insurance Corporation of British Columbia
for Approval of the Revenue Requirements for Universal Compulsory Automobile Insurance
Effective November 1, 2016

REASONS FOR DECISION

1.0 BACKGROUND

On August 25, 2016, the Insurance Corporation of British Columbia (ICBC) filed an application to the British Columbia Utilities Commission (Commission) for its 2016 Revenue Requirements for Universal Compulsory Automobile Insurance (Basic insurance), seeking a Basic insurance rate increase of 4.9 percent for the policy year commencing November 1, 2016 (Application).

On September 2, 2016, by Order G-142-16, the Commission established a Regulatory Timetable for the review of the Application which included Commission and Intervener Information Request (IR) No. 1. On October 20, 2016, ICBC filed its responses to IR No. 1 from the Commission and interveners, marked as Exhibits B-2, B-2-1, B-2-2 and B-3 in the proceeding.

In Exhibit B-2-1, ICBC filed a request to keep the following IR No. 1 responses confidential:

i. 2016.1 RR BCUC.14.1, Attachment A - Prospective Adjustment Criteria;
ii. 2016.1 RR BCUC.14.3.1, Attachment A - Breakdown of Financial Benefit per Alert;
iii. 2016.1 RR BCUC.16.1, Attachment A – Bodily Injury (BI) Segmented Analysis;
iv. 2016.1 RR BCUC.19.1 – partially redacted portion.

2.0 COMMISSION RULES OF PRACTICE AND PROCEDURE

Part IV of the Commission's Rules of Practice and Procedure (Rules) established by Order G-1-16 set out the rules that apply to confidential documents filed with the Commission. The Rules provide that if a party wishes to keep confidential any information in a document in any matter before the Commission, the party must make a request. The Commission may, with or without a hearing or further process, grant a request for confidentiality on any terms it considers appropriate.[1]

With respect to a Commission determination regarding confidentiality, section 20.01 of the Rules states:

> 20.01 In determining whether the nature of the information or documents require a confidentiality direction, the Commission will have regard to matters that it considers relevant, including:
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> (a) whether the disclosure of the information could reasonably be expected to result in:
>
> (i) undue material financial loss or gain to a person, or
>
> (ii) significant harm or prejudice to that person's competitive or negotiating position, or
>
> (iii) harm to individual or public safety or to the environment;

[1] Order G-1-16 Commission Rules of Practice and Procedure, see Part IV: Confidential Documents. http://www.bcuc.com/Documents/Participant-Info/G_1_16_BCUC_Rules_of_Practice_and_Procedure.pdf

(b) whether the information is personal, financial, commercial, scientific, labour relations or technical information that is confidential and consistently treated as confidential by the person;

(c) whether the person's interest in confidentiality outweighs the public interest in the disclosure of the information or documents in the hearing;

(d) whether the person submitting the document has any legal obligation to maintain confidentiality; and

(e) whether it is practicable to hold the hearing in a manner that is open to the public.

2.1 ICBC Request for Confidentiality

In Exhibit B-2-1, ICBC filed its responses to Commission IR No. 1[2] and requests that the content of the following IR No. 1 responses to be kept confidential as it contains sensitive information:

	IR No. 1 Reference	Reasons for confidentiality provided by ICBC
a.	2016.1 RR BCUC.14.1, Attachment A	The information has been filed confidentially with the Commission because negotiations and contracts with vendors have not yet concluded. The public disclosure of this information could adversely affect ICBC's negotiation, with resulting negative impacts for Basic insurance customers.
b.	2016.1 RR BCUC.14.3.1, Attachment A	Breakdown of Financial Benefit per Alert (Confidential) regarding the counter-fraud program has been filed confidentially with the Commission. Providing detailed information about the effectiveness of ICBC's Special Investigation Unit may allow some individuals to determine how to defraud ICBC while minimizing the risk of detection.
c.	2016.1 RR BCUC.16.1, Attachment A	Bodily Injury Segmented Analysis is partially redacted because of confidential content. The confidential information, if made public, could influence settlement negotiations with claimants and prejudice ICBC and its Basic insurance policyholders and thereby harm ICBC's financial interest.
d.	2016.1 RR BCUC.19.1	The response to this information request is partially redacted to remove content regarding hypothetical future rate indications and Basic capital levels requested by the Commission based on assumptions which, in ICBC's opinion, do not represent a reasonable depiction of the future Basic insurance business. The content removed is considered confidential since it is a concern that the information could be taken out of context and used to prejudice ICBC and its Basic insurance policyholders and thereby harm ICBC's financial interest.

Commission determination

The Panel reviewed the referenced IR No. 1 responses filed by ICBC and considered ICBC's request to keep the contents of those IR No. 1 responses confidential. The Panel has also considered the criteria provided in section 20.01 of the Rules to make its determinations.

[2] Exhibit A-3, Commission IR No. 1 to ICBC.

Regarding items (a.) through (c.) as referenced above, the Panel agrees with ICBC that the disclosure of the information can reasonably be expected to harm ICBC and Basic insurance policyholders. The content to be kept confidential as requested by ICBC relates to contract negotiations, ICBC's fraud detection strategies, and settlement negotiations. The Panel finds that they are all relevant considerations in keeping the information confidential. Therefore, **the Panel accepts ICBC's request to keep the content of the following IR No. 1 responses confidential:**

a. **2016.1 RR BCUC.14.1, Attachment A - Prospective Adjustment Criteria**
b. **2016.1 RR BCUC.14.3.1, Attachment A - Breakdown of Financial Benefit per Alert**
c. **2016.1 RR BCUC.16.1, Attachment A – Bodily Injury Segmented Analysis**

In 2016.1 RR BCUC.19.1, the Commission requested information regarding rate indications from 2016 to 2020 given a set of hypothetical scenarios and assumptions relevant to Basic insurance such as loss trends, capital levels, and the legislated rate band. ICBC filed a portion of its response to 2016.1 RR BCUC.19.1 in confidence because ICBC is concerned that public release of the information could be taken out of context and used to prejudice ICBC and its Basic insurance policyholders and thereby harm ICBC's financial interest.

In response to 2016.1 RR BCUC.19.1, ICBC clearly stated that the forecast represents a hypothetical scenario and is subject to uncertainty. The Panel recognizes the caveats ICBC placed in the IR response. However, ICBC has not given compelling reasons to persuade the Panel that any portion of that IR response should be kept confidential. In the Panel's view, the information sought in 2016.1 RR BCUC.19.1 is similar to any other high-level scenario testing or sensitivity analysis given a set of assumptions. Thus, the Panel finds that ICBC's concerns are not compelling when the response clearly indicates the limitations and uncertainty contained in the forecast.

The request by ICBC to keep the content of IR No. 1 response 2016.1 RR BCUC.19.1 is denied. ICBC is to file the complete response to 2016.1 RR BCUC.19.1 as part of the public evidentiary record by Wednesday, November 16, 2016.