



ORDER NUMBER
G-73-19

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

and

the *Insurance Corporation Act*, RSBC 1996, Chapter 228, as amended

and

Insurance Corporation of British Columbia
Revenue Requirements Application for Universal Compulsory Automobile Insurance
Effective April 1, 2019

BEFORE:

K. A. Keilty, Panel Chair
R. D. Revel, Commissioner
E. B. Lockhart, Commissioner
T. A. Loski, Commissioner

on April 1, 2019

ORDER

WHEREAS:

- A. On December 14, 2018, the Insurance Corporation of British Columbia (ICBC) filed an application with the British Columbia Utilities Commission (BCUC) for its 2019 Revenue Requirements for Universal Compulsory Automobile Insurance (Basic insurance), seeking a Basic insurance rate increase of 6.3 percent for the policy year commencing April 1, 2019, among other requests (Application);
- B. Pursuant to the Insurance Corporation Act and Special Direction IC2 to the BCUC, BC Regulation 307/2004, as amended (Special Direction IC2), the BCUC's jurisdiction with respect to the regulation of ICBC's revenue requirements and rates is restricted to Basic insurance. The BCUC has no jurisdiction over ICBC's Optional insurance business;
- C. In accordance with Special Direction IC2, as amended by Order in Council No. 456/2018, the BCUC must require ICBC to apply for a general rate change order by December 15 of each year for ICBC's Basic insurance rates to be effective April 1 of the next year;
- D. By Orders G-1-19 dated January 2, 2019 and G-57-19 dated March 14, 2019, the BCUC established, among other things, regulatory timetables for the review of the Application, which included intervener registration, two rounds of BCUC and intervener information requests (IRs) to ICBC, a procedural conference with further process to be determined;

- E. On March 20, 2019, the BCUC issued a letter to ICBC and interveners providing further information on the procedural conference, including items to be addressed by attendees;
- F. Pursuant to the regulatory timetable established by Order G-57-19 dated March 14, 2019, a procedural conference was held in Vancouver, BC on March 26, 2019; and
- G. The BCUC has reviewed the written submissions filed in advance of the procedural conference, in addition to the submissions made at the procedural conference on March 26, 2019 and considers that the remainder of the regulatory timetable should be established.

NOW THEREFORE for the reasons attached as Appendix B to this order, the BCUC orders that a regulatory timetable be established in accordance with Appendix A to this order.

DATED at the City of Vancouver, in the Province of British Columbia, this 1st day of April 2019.

BY ORDER

Original signed by:

K. A. Keilty
Commissioner

Attachment

Insurance Corporation of British Columbia
Revenue Requirements Application for Universal Compulsory Automobile Insurance
Effective April 1, 2019

REGULATORY TIMETABLE

Action	Date (2019)
ICBC Written Final Argument	Tuesday, May 14
Intervener Written Final Argument	Wednesday, May 29
ICBC Written Reply Argument	Wednesday, June 12

Insurance Corporation of British Columbia
Revenue Requirements Application for Universal Compulsory Automobile Insurance
Effective April 1, 2019

REASONS FOR DECISION

1.0 Introduction

On December 14, 2018, the Insurance Corporation of British Columbia (ICBC) filed an application with the British Columbia Utilities Commission (BCUC) for its 2019 Revenue Requirements for Universal Compulsory Automobile Insurance (Basic insurance), seeking a Basic insurance rate increase of 6.3 percent for the policy year commencing April 1, 2019, among other requests (Application).

On March 26, 2019, a procedural conference was held to address various procedural matters regarding the Application. Submissions were made by ICBC, British Columbia Old Age Pensioners' Organization et al. (BCOAPO), Movement of United Professionals (MoveUp), Mr. Landale and BCUC staff. A written submission was filed by Mr. McCandless on March 24, 2019. None of the other registered interveners participated.

Section 2 of these Reasons for Decision provides background on the Application. Section 3 addresses the procedural and other issues raised in submissions by the parties as well as the Panel's reasons for procedural decisions arising out of its consideration of these submissions.

2.0 Background

By Orders G-1-19 dated January 2, 2019 and G-57-19 dated March 14, 2019, the BCUC established, among other things, regulatory timetables for the review of the Application, which included intervener registration, two rounds of BCUC and intervener information requests (IR) to ICBC and a procedural conference with further process to be determined.

The following parties registered as interveners:

- Richard Landale;
- MoveUp;
- Richard McCandless;
- Trial Lawyers Association of BC (TLABC);
- Hard Industries Light Oilfield Services;
- DVD Backflow Inc.;
- BCOAPO;
- Nina Heller;
- Daniel Alvarez;
- Sarah Polley; and
- Delaney Bell.

On March 8, 2019, ICBC submitted responses to BCUC and Intervener IR No. 1.

By letter dated March 20, 2019, the BCUC requested that participants address the following items at the Procedural Conference:

1. Whether there is a need for further written process (e.g. IRs) beyond the second round of IRs established by Order G-57-19 on any topics and why.
2. Whether there is a need for an oral component of the review process on any topics and why.

3. Whether any interveners intend to file intervenor evidence and the nature of that evidence.
4. Any significant time constraints and/or periods of unavailability which should be taken into consideration when establishing the regulatory timetable.
5. Any other relevant procedural matters that parties wish to bring to the attention of the Panel that will assist in the efficient and effective review of the Application.

The BCUC invited Interveners unable to attend the Procedural Conference to file written submissions in advance of the conference.

3.0 Procedural and Other Issues

3.1 Format and Timing of Further Process

Submissions by the Parties

ICBC submits it is not necessary to have a third round of IRs or an oral component and that the evidentiary record will be “sufficient” after IR No.2. ICBC states this process is consistent with how the BCUC has reviewed ICBC's revenue requirements applications in recent years and is appropriate for review of the Application based on the following considerations:

- Nature of ICBC's Costs – ICBC argues its costs and rates in the current year are driven largely by expected loss costs forecast by actuaries. ICBC explains the actuaries must certify the forecasts and in doing so adhere to professional standards of accepted actuarial practice that require unbiased best estimates. Very little of ICBC's revenue requirements are comprised of operating expenses and amortization from capital. Further, ICBC submits the regulatory framework is such that it is essentially a ‘closed system for basic insurance’ in that variances stay in the system and affect future years' rates;
- Limited Ability of the BCUC to Affect Rates – ICBC submits there is “relatively limited ability of the Commission process to affect the basic rates in the current year under the current regulatory framework that applies at present.”¹ Special Direction IC2 directs that there is to be no capital provision associated with setting rates in the current year and limits the rate change band to 1.5 percentage points of last year's rate change number.
- Need for ICBC to Focus on Implementation of Product Reform - ICBC is currently implementing very significant product reform changes and submits the BCUC should give this some weight in determining the amount of process that it puts in place. ICBC elaborates that any additional process in terms of oral hearings will inevitably impact the individuals involved in implementing the product reform and they have their undivided attention on the changes that are occurring.²

MoveUp, BCOAPO and Mr. McCandless do not see the need for further process beyond IR No. 2. MoveUp states there is no need for an oral component for the reasons essentially provided by ICBC.³ BCOAPO submits given the time and expense of an oral hearing and the nature of the major cost drivers and evidence, that it is in the policyholders' interest to review the Application through a written process.⁴ Mr. McCandless also submits there is no need for further information requests or an oral component.⁵

¹ Transcript Volume I, p. 7.

² Ibid., pp. 5–10.

³ Ibid., p. 15.

⁴ Ibid., p. 27.

⁵ Exhibit C-3-3, p. 1.

With respect to the need for an oral component, Mr. Landale submits:

Year after year I request the Commission Panel to grant an oral hearing. Today is no different. In prior years ICBC has prevailed over the Commission with the argument for a streamlined process, for expediency and cost saving measures. It appears the voice of intervenors and the public must be muted at all costs. By subverting the course of benefits of a Q & A in a public oral hearing, to test the evidence and to validate the evidence.⁶

Mr. Landale requests an oral component to address customer satisfaction performance measures, confidential exhibit filings⁷, the basic capital reserve decline and other issues.⁸

BCUC staff submit that the Panel may be assisted in better understanding the evidence if there's an oral phase for cross-examination of ICBC's actuarial evidence regarding what comprises accepted actuarial evidence and to also test some of the assumptions and predictions being made by ICBC's actuaries.⁹

ICBC Reply

ICBC submits the confidentiality concerns raised by Mr. Landale are not a good reason to have an oral component and these issues should be dealt with through the appropriate BCUC process that is designed to allow intervenors to request a change to the treatment of confidential filings.¹⁰

With respect to BCUC staff's position on an oral component to address what constitutes actuarial practice and whether there is any discretion in it, ICBC responds that the issues of accepted actuarial practice are discussed in the Application and there have been several IRs on the topic of whether alternative assumptions could or could not be used in the establishment of the actuarial rate indication. ICBC states it has put forward views on whether certain assumption substitutions or sensitivities would be consistent with accepted actuarial practice. ICBC submits IR No. 2 provides an opportunity to explore the specific issues of what the parameters of accepted actuarial practice are.¹¹

ICBC also submits, if the BCUC does adopt some form of oral format, a streamlined review process is preferred as this process lends itself more to a format where there is a discussion rather than a formal cross-examination and would be more conducive to the subject matter.¹²

Panel Determination

The Panel finds there is no need for further written or oral regulatory process after the completion of IR No. 2.

None of the parties suggest the need for further written IRs after IR No. 2.

Mr. Landale and BCUC staff suggest the need for an oral component. The Panel agrees with Mr. Landale that there could be benefits to a public oral hearing on certain evidence. The Panel also agrees with BCUC staff that an oral component focussed on what comprises accepted actuarial practice could be of assistance to the Panel.

⁶ Transcript Volume I, p. 18.

⁷ Ibid., p. 22.

⁸ Ibid., pp. 19–22.

⁹ Ibid., pp. 28–29.

¹⁰ Ibid., p. 33–34.

¹¹ Ibid., pp. 38–39.

¹² Ibid., p. 39.

Further, an oral process could assist the Panel in assessing the credibility and objectivity of the actuaries who are providing expert opinion evidence on topics that ICBC points out are the key drivers of costs and rates in the current year.

However, the Panel is persuaded by ICBC's argument that under the existing regulatory framework there are limits to the Panel's ability to adjust Basic insurance rates in the current year. In this context, the benefits of adding additional process are unlikely to outweigh the time and costs of doing so.

Considering Mr. Landale's request for an oral component to address customer satisfaction performance measures, confidential exhibit filings, the Basic capital reserve decline and other unspecified topics, in the Panel's view Mr. Landale has not provided sufficient reasons why these topics cannot be addressed effectively through a written process. The Panel makes further comments on Mr. Landale's submissions on confidential materials in Subsection 3.3.3 below.

3.2 Intervener Evidence

Submissions by the Parties

BCOAPO, McCandless and MoveUp do not intend to file intervener evidence.

Mr. Landale requests the Panel reserve his right to file intervener evidence until he has more time to review IR No. 1 responses. He further states:

It is not easy to digest 1,357 pages in order to provide the Commission with a definitive response here today. My respectful apologies. I can say I need to get answers from ICBC regarding my optional insurance premium discounts. I got that today. The letter I received from the Commission [sic] -- from the customer relations representative of February the 27th was unimaginatively un-informing and deliberately vague. Which brings me back to the subversive manner of ICBC deals with the policyholder's concerns, inquiries, leading to a general disrespect of their customer, me. After all, it was a legitimate inquiry, and I am significantly dissatisfied with ICBC's customer service in this regard. I am almost sure ICBC today will rise, will address this manner in which I speak of this issue. Please do. I welcome the opportunity to reply with evidence.¹³

In response, ICBC submits that Mr. Landale's indication that he may file intervener evidence is not a sufficient basis for the BCUC to include a procedural step, particularly when the other participants are all generally aligned that the standard process of two rounds of IRs is appropriate.¹⁴

Panel Determination

The Panel finds there is no need to establish a timetable for the filing of intervener evidence. The Panel has already provided an opportunity to all interveners to outline the nature of the intervener evidence that they intend to file. The Panel agrees with ICBC that it is not appropriate to allow Mr. Landale to reserve the ability to decide later. Further, the possible evidence touched on by Mr. Landale appears focussed on his optional insurance coverage which is not within the BCUC's jurisdiction.

¹³ Ibid., pp. 23–24.

¹⁴ Ibid., p. 37.

3.3 Other Procedural Matters

3.3.1 ICBC Submissions Regarding Information Request No. 1

Submissions by the Parties

ICBC requests the BCUC remind participants of the scope of this proceeding. ICBC submits there were certain questions posed that dealt with operating costs dating back 10 years, which are issues that have been canvassed multiple times by the BCUC, and other questions were directed at whether product reform should proceed. ICBC also reinforces its request included in the cover letter to Exhibit B-2 that IRs be formatted using a continuous numbering system in accordance with Rule 13.02(f) of the BCUC Rules of Practice and Procedure because of the significant amount of work involved in processing those IRs when they are not numbered in this manner.¹⁵

With reference to ICBC comments on the IR numbering system employed by intervenor TLABC, Mr. Landale outlines his challenges and inefficiencies regarding ICBC's cross-referencing of IR responses to other IR responses.¹⁶

ICBC replied that when an applicant is engaged in responding to IRs there is a considerable volume of information that must be prepared in a very short time and to ensure quality control across responses the practice of cross-referencing is important. ICBC further submits there is value in having that information in one location so participants are referring to the same information and that this is standard practice in BCUC proceedings. Further, ICBC states that this is not just an issue of convenience, but it ensures the evidentiary record is appropriate and useable for everybody.¹⁷

Panel Discussion

The Panel reminds all parties that the BCUC Rules of Practice and Procedure¹⁸, Part 3 – Document Filings, Rule 13 states, among other things, that an IR must be numbered using a continuous numbering system.

Regarding ICBC's concerns that certain IRs in IR No. 1 were out of scope for the Application, the Panel refers ICBC to BCUC Rules of Practice and Procedure, Part 3 – Document Filings, Rule 14.04(b) and (c). These rules outline how ICBC should respond to an IR that is out of scope, contains specific questions seeking information or documents that are not relevant to the proceeding, or requests information that cannot be provided with reasonable effort.

The Panel agrees with ICBC that the practice of cross-referencing IR responses is common and helpful in BCUC proceedings.

3.3.2 Extension Request for Information Request No. 2

Submissions by the Parties

Mr. Landale refers to the volume of the ICBC responses to IR No. 1 (Exhibit B-2) and requests the BCUC consider an extension of the intervenor submission date for IR No. 2 from April 9, 2019 to April 22, 2019.¹⁹

¹⁵ Ibid., p. 14.

¹⁶ Ibid., p. 17.

¹⁷ Ibid., pp. 32–33.

¹⁸ BCUC Rules of Practice and Procedure (2019), retrieved from https://www.bcuc.com/Documents/Participant-Info/G-15-19_BCUC_Rules_of_Practice_and_Procedure.pdf

¹⁹ Ibid., pp. 16–17.

MoveUp notes interveners have been given more than a month to look at the IR responses and formulate follow up questions, MoveUp submits it does not need an extension of time to file a second round of information requests.²⁰

ICBC agrees with MoveUp that there has been a significant amount of time allowed between IRs and submits the current timetable should be followed. ICBC also submits it is in ICBC's interest to have permanent rates set earlier rather than later in the year and this competing consideration should be given weight in the circumstances.²¹

Panel Determination

The Panel finds an amendment to the April 9, 2019 filing date for IR No. 2 is not warranted. In the Panel's view, a one-month timeframe for preparing a second round of IRs provides a reasonable amount of time for the parties while ensuring regulatory efficiency.

3.3.3 Issues Concerning Confidential Material

Submissions by the Parties

Mr. McCandless recommends the Panel consider what is an appropriate definition of confidential material, noting the Application has a great deal of redacted information that is vital to forming proper conclusions as to whether the coverage changes will be enough to generate the planned claims savings for 2019/20 and future years. Mr. McCandless submits in the Application that ICBC has adopted a much more expansive interpretation of what information should be confidential. He refers to ICBC's response to his IR 3.8, where ICBC asserts that historic aggregate claims severity information could influence specific settlement negotiations and thereby harm ICBC's financial interests.²²

Mr. Landale notes that ICBC regularly submits documentation to the BCUC "under the veil of confidentiality" on the pretext of proprietary evidence, arguing release would damage ICBC's optional insurance business and competitiveness. Mr. Landale submits this is "bogus, obstructive to interveners and to the public."²³ As a result, Mr. Landale argues that if information is confidential, interveners are unable to challenge or ask information requests or submit counter intervenor evidence or argument for the BCUC to weigh in the balance of evidence.²⁴

MoveUp states it is open to an intervenor or any party to make an application to the BCUC to determine that any evidence on the record should be held confidential.²⁵

ICBC also states confidentiality concerns should be addressed through the appropriate channels designed to allow interveners to request a change of the treatment. ICBC explains that if Mr. Landale decides he wishes to pursue this matter ICBC will respond in detail. ICBC highlighted the reasons why the request for confidentiality had been made and submits that ICBC's requests for confidentiality are focused and are consistent with what

²⁰ Ibid., p. 30.

²¹ Ibid., p. 32.

²² Exhibit C-3-3, p. 1.

²³ Ibid., p. 17.

²⁴ Ibid., p. 22.

²⁵ Ibid., pp. 30–31.

has been done in the past.²⁶ ICBC also acknowledges Mr. McCandless' reference to a confidential IR in his written submission.²⁷

Panel Discussion

The Panel reminds all parties that the BCUC Rules of Practice and Procedure - Part IV – Confidential documents, Rule 21.03 outlines the process for objecting to a request for confidentiality and Rule 24 covers requests for access to confidential documents in a proceeding. If interveners wish to raise specific objections or to obtain access to specific documents, they should follow this process as MoveUp and ICBC suggest.

The Panel notes Mr. McCandless filed a request that the BCUC Panel require ICBC to publicly file ICBC's full response to McCandless' IR 3.8.

3.3.4 Request for a Synopsis of Performance Measures

Submissions by the Parties

Mr. Landale asks the BCUC to request that ICBC provide a more definitive detailed synopsis of the proposed amended performance measures in advance of IR No. 2.²⁸

ICBC states that there is a chapter devoted to performance measures in the Application and there were a number of IRs in IR No. 1. ICBC submits the performance measures are "close to being crystalized" after IR No. 1, and IR No. 2 provides another opportunity to ask further questions.²⁹

Panel Determinations

The Panel finds a request for ICBC to provide additional supplemental information on performance measures is not warranted. IR No. 2 provides interveners an opportunity to ask further questions on ICBC's proposed amendments to performance measures.

3.4 Timing of Further Process

Panel Determination

The Panel orders that a regulatory timetable be established in accordance with Appendix A to this order. The Panel establishes the timetable for final argument based on the Panel's findings above that:

- further written or oral regulatory process after the completion of IR No. 2 is not needed;
- establishment of a timetable for the filing of intervener evidence is not required;
- amendment to the April 9, 2019 filing date for IR No. 2 is not warranted; and
- there is no requirement for ICBC to provide additional supplemental information on performance measures prior to IR No. 2.

In addition, the Panel has considered the time constraints outlined by the parties at the Procedural Conference and balances the need to provide parties a reasonable amount of time to prepare arguments with the need for regulatory efficiency regarding the approval of permanent rates.

²⁶ Ibid., pp. 33–34.

²⁷ Ibid., p. 35.

²⁸ Ibid., p. 25.

²⁹ Ibid., p. 38.