



## TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA

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*To support and promote diligence and excellence in advocacy and jurisprudence on behalf of consumers in British Columbia. Together, we strive to: protect the rights of individuals, preserve the jury system, enhance trial practice, ensure access to the courts, advance the interests of innocent parties, and maintain judicial integrity and independence.*

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12 December 2011

Ms. Alanna Gillis  
Acting Commission Secretary  
BC Utilities Commission  
6<sup>th</sup> Floor, 900 Howe Street  
Vancouver BC V6Z 2N2

Dear Ms. Gillis:

On December 1, 2011 the Insurance Corporation of British Columbia (ICBC) applied to the British Columbia Utilities Commission (BCUC) seeking approval for an increase in Basic insurances rates of 11.2% for the 2012 calendar year. The ICBC submissions exceed 1000 pages. On December 7, 2011 BCUC invited submissions from stakeholders commenting on the ICBC interim rate request and imposed a deadline of December 12, 2011. This deadline is impossible given that a thorough analysis of ICBC's financial position and preparation of complete submissions will take much longer than the five days provided. Obviously ICBC's position on its premium rates took months to develop. We urge BCUC to postpone consideration of the rate increase and to extend the time for stakeholder submissions until at least January 31, 2012 so that an informed response can be made.

Numerous issues must be addressed in the stakeholder submissions and these include:

1. ICBC alleges that "increased claims costs" are one of the factors giving rise to the rate increase. How does ICBC define this term and does it include payments for tort claims, part 7 claims, MSP payments to doctors treating patients who have ICBC claims, defence costs, etc... A statistical analysis of the claims costs for the past 10 years must be confirmed.
2. ICBC's Manager of Regulatory Affairs states that "the main change from past years being higher claims frequency". A cursory review of the data in the ICBC submissions suggests an overall trend of bodily injury claims declining in frequency. Specifically, Weekly Benefit Claims are down in frequency and have modestly increased in severity. Personal Medical Rehab Claims are down in frequency and steady in severity. Personal Death Benefit payments are down in frequency and steady in severity and finally Personal Bodily Injury Claims continue to be down in frequency with a modest increase in severity.
3. We assume that "claims costs" include the legal fees of defending claims. The instructions given by ICBC to their defence counsel will have a direct and immediate impact on claims costs. For example, if ICBC reduces the number of mediations and forces more claims to trial then claims costs will increase. A statistical analysis of the informal settlements, mediations, and trials for the past 5 years must be conducted and a determination whether ICBC has increased their defence/claims costs.

4. It has recently come to light ICBC paid at least one executive startlingly high expenses as part of his remuneration package. How widespread is this practice? Is it consistent with private industry? What controls are in place to ensure that compensation levels are appropriate? What confidence can the public have in the reasonableness of the proposed rate increases until these issues are addressed?
5. More generally, what cost savings measures have been put in place in an effort to minimize premium increases?
6. ICBC revenues come from two sources: premiums and investment returns. Since 2007 the world economy has affected all investor portfolios and we assume ICBC is no exception. How has investment returns changed over the last decade and did ICBC plan for cyclical downturns in the economy by building sufficient returns?
7. The government has continued to draw money from ICBC despite economic conditions. Has this occurred at the expense of maintaining adequate reserves? Presumably, if ICBC has less money to invest then there is investment income will be decreased.
8. If premiums are really being increased to offset decreased investment revenue, this should be made clear to policyholders and a plan ought to be proposed in which premiums will be adjusted downwards when investments yields are increased.
9. How do the proposed insurance increases in BC compare to those in the rest of Canada?

The burden ought to be on ICBC to address these issues before any rate increase is allowed.

Yours very truly,

Marc Kazimirski  
President