



ORDER NUMBER

G-8-18

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 November 1, 2017

BEFORE:

B. A. Magnan, Panel Chair/Commissioner
D. J. Enns, Commissioner
R. D. Revel, Commissioner

on January 12, 2018

ORDER

WHEREAS:

- A. On September 15, 2017, the Insurance Corporation of British Columbia (ICBC) filed an application with the British Columbia Utilities Commission (Commission) for its 2017 Revenue Requirements for Universal Compulsory Automobile Insurance (Basic insurance), seeking a Basic insurance rate increase of 6.4 percent for the policy year commencing November 1, 2017, among other requests (Application);
- B. In the Application, ICBC also requests the following approvals:
 - i. To adopt an amended suite of performance measures as the reporting baseline in future revenue requirements applications, including refining and reporting operational metrics on claims and road safety in the applicable revenue requirement chapters, as set out in Chapter 6 of the Application (collectively, Performance Measures);
 - ii. To discontinue the reporting requirements specific to ICBC's Transformation Program (TP), as set out in Chapter 5, Appendix 5 D and Chapter 7, Appendix 7 C of the Application, including: (a) measuring and reporting on Claims Transformation (CT) benefits, (b) reporting on the re-allocation of TP costs; and (c) reporting on transitional period operational metrics related to CT (collectively, TP Reporting); and
 - iii. To keep confidential the unredacted version of Chapter 8, Appendix 8 B, KPMG's British Columbia Enhanced Traffic Enforcement Program Forward Looking Review;

- C. On September 5, 2017, the Lieutenant Governor in Council issued Order in Council No. 326 (OIC 326/17) directing ICBC to transfer capital of \$470 million from the Optional insurance business to the Basic insurance business by September 15, 2017, to restore the Basic Minimum Capital Test (MCT) ratio at or above the regulatory minimum of 100 percent for the end of the 2017/18 fiscal year on March 31, 2018;
- D. By Orders G-146-17 and G-156-17, the Commission approved an interim rate increase of 6.4 percent for the policy year commencing November 1, 2017, and established a regulatory timetable for the review of the Application, which included intervener and interested party registration, one round of information requests (IRs) to ICBC, a Procedural Conference, and with further process to be determined;
- E. On November 28, 2017, ICBC filed its responses to Commission and intervener IRs No. 1, including a request in the cover letter to keep the following IR No. 1 responses confidential (Exhibit B-2-1):
- i. 2017.1 RR BCUC.14.1: Attachment A – Bodily Injury (BI) Segmented Analysis as of May 2017; and
 - ii. 2017.1 RR BCUC.10.9: partially redacted to remove confidential content reproduced from the unredacted version of Attachment A – BI Segmented Analysis as of May 2017
- F. Following the Procedural Conference on December 5, 2017, by Order G-180-17 dated December 11, 2017, the Commission established a regulatory timetable for a second round of IRs to ICBC, a process for submission of intervener evidence, followed by written final and reply arguments;
- G. On December 18, 2017, the Lieutenant Governor in Council issued Order in Council No. 602 (OIC 602/17) amending Special Direction IC2 to the British Columbia Utilities Commission (Special Direction IC2). OIC 602/17 requires the Commission to issue, for the 2017 policy year, the following orders to ICBC by January 12, 2018, based on the evidence filed with the Commission by December 12, 2017:
- i. its final general rate change order; and
 - ii. any other final orders in respect of ICBC’s revenue requirements application that was filed with the Commission on September 15, 2017;
- H. By Order G-192-17A dated December 19, 2017, the Commission amended the regulatory timetable that was established by Order G-180-17 to proceed directly to written final and reply arguments;
- I. The Commission received final arguments from ICBC on December 22, 2017, and from registered interveners on or before January 4, 2018. ICBC filed a reply argument on January 8, 2018; and
- J. The Commission has considered the Application based solely upon evidence filed with the Commission by December 12, 2017, as directed by OIC 602/17, and the final arguments filed by ICBC and registered interveners, and makes the following determinations.

NOW THEREFORE as set out in the Reasons for Decision attached as Appendix A to this order, the Commission orders as follows:

1. A permanent 6.4 percent Basic insurance rate increase for the policy year commencing November 1, 2017 is approved.

2. ICBC is directed to refile for the other approvals sought in its September 15, 2017 application in its next general rate change application, which is scheduled for August 31, 2018. ICBC is to continue reporting on the current suite of Performance Measures and TP Reporting in each revenue requirements application until otherwise directed.
3. ICBC's request to keep the following content confidential is accepted:
 - The unredacted version of Chapter 8, Appendix 8 B, KPMG's British Columbia Enhanced Traffic Enforcement Program Forward Looking Review;
 - 2017.1 RR BCUC.14.1: Attachment A – Bodily Injury Segmented Analysis as of May 2017; and
 - 2017.1 RR BCUC.10.9: partially redacted to remove confidential content reproduced from the unredacted version of Attachment A – Bodily Injury Segmented Analysis as of May 2017.

DATED at the City of Vancouver, in the Province of British Columbia, this 12th day of January 2018.

BY ORDER

Original signed by:

B. A. Magnan
Commissioner

Attachment

Insurance Corporation of British Columbia
Revenue Requirements Application for Universal Compulsory Automobile Insurance
Effective November 1, 2017

REASONS FOR DECISION

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1.0 Introduction

1.1 The application and approvals sought

On September 15, 2017, the Insurance Corporation of British Columbia (ICBC) filed an application with the British Columbia Utilities Commission (Commission) for its 2017 Revenue Requirements for Universal Compulsory Automobile Insurance (Basic insurance), seeking a Basic insurance rate increase of 6.4 percent for the policy year (PY) commencing November 1, 2017 (PY 2017), among other requests (Application).

Other approvals sought in the Application, include the following:

- i. To adopt an amended suite of performance measures as the reporting baseline in future revenue requirements applications, including refining and reporting operational metrics on claims and road safety in the applicable revenue requirement chapters, as set out in Chapter 6 of the Application (collectively, Performance Measures);¹
- ii. To discontinue the reporting requirements specific to ICBC's Transformation Program (TP), as set out in Chapter 5, Appendix 5 D and Chapter 7, Appendix 7 C of the Application, including: (a) measuring and reporting on Claims Transformation (CT) benefits, (b) reporting on the re-allocation of TP costs; and (c) reporting on transitional period operational metrics related to CT (collectively, TP Reporting);² and
- iii. To keep confidential the unredacted version of Chapter 8, Appendix 8 B, KPMG's British Columbia Enhanced Traffic Enforcement Program (ETEP) Forward Looking Review (ETEP Forward-Looking Review);³

On September 5, 2017, the Lieutenant Governor in Council issued Order in Council No. 326 (OIC 326/17) directing ICBC to transfer capital of \$470 million from the Optional insurance business to the Basic insurance business by September 15, 2017, to restore the Basic Minimum Capital Test (MCT) ratio at or above the regulatory minimum of 100 percent for the end of the 2017/18 fiscal year on March 31, 2018.

In addition, on November 28, 2017, ICBC requested that the Commission keep the following responses to information requests (IRs) confidential:

- i. 2017.1 RR BCUC.14.1: Attachment A – Bodily Injury (BI) Segmented Analysis as of May 2017
- ii. 2017.1 RR BCUC.10.9: partially redacted to remove confidential content reproduced from the unredacted version of Attachment A – BI Segmented Analysis as of May 2017.⁴

1.2 Application review process

By Order G-146-17 dated September 22, 2017, the Commission approved an interim rate increase of 6.4 percent for PY 2017 and established a regulatory timetable for the review of the Application which included intervener and interested party registration and further process to be determined. Order G-156-17 dated October 10, 2017, established one round of IRs to ICBC and a Procedural Conference to take place on December 5, 2017, to discuss further process options and possible regulatory timetables. Following the Procedural Conference, the Commission issued Order G-180-17 dated December 11, 2017, establishing a regulatory timetable for a second round of IRs to ICBC, a process for submission of intervener evidence, followed by written final and reply arguments.

¹ Exhibit B-1, p. iv.

² Ibid.

³ Ibid., pp. 8-3 to 8-4; Exhibit B-2, 2017.1 RR BCUC.68.1.

⁴ Exhibit B-2-1, Cover letter.

1.2.1 Order in Council No. 602

On December 18, 2017, the Lieutenant Governor in Council issued Order in Council No. 602 (OIC 602/17) amending Special Direction IC2 to the British Columbia Utilities Commission (Special Direction IC2). OIC 602/17 requires the Commission to issue, for PY 2017, the following orders to ICBC by January 12, 2018, based on the evidence filed with the Commission by December 12, 2017:

- i. its final general rate change order; and
- ii. any other final orders in respect of ICBC's revenue requirements application that was filed with the Commission on September 15, 2017.

On December 19, 2017, as a result of the amendments to Special Direction IC2 as set out in OIC 602/17, the Commission issued Order G-192-17A amending the regulatory timetable for the review of the Application to proceed directly to written final and reply arguments.⁵

1.3 Participants

The following six interveners registered and actively participated in the proceeding, and provided final arguments:

- Mr. Richard Landale (Mr. Landale);
- Movement of United Professionals (MoveUP);
- Mr. Richard McCandless (Mr. McCandless);
- British Columbia Old Age Pensioners' Organization *et al.* (BCOAPO);
- Toward Responsible Educated Attentive Driving (TREAD); and
- Mr. Todd Litman (Mr. Litman).

1.4 Panel discussion

The Panel acknowledges the efforts made by interveners and ICBC to meet the deadlines in the expedited regulatory timetable as a result of OIC 602/17. The Panel notes that certain parties filed their arguments after the 12 p.m. noon deadline established by Order G-192-17A. In its discretion, the Panel allowed the late submissions and posted the arguments to the proceeding webpage. Further, the Panel notes that final argument is a summary of a party's position on the Application, based on the evidence presented, which is made at the end of the evidentiary part of the proceeding. Insofar as any arguments introduced new evidence, such evidence was not considered in reaching our decision.

In the following sections, the Panel will discuss and make determinations in accordance with OIC 602/17 and in the context of the Commission's jurisdiction over the regulation of Basic insurance in a revenue requirements application.

2.0 Basic insurance rate change

ICBC submits that the requested Basic insurance rate increase of 6.4 percent for PY 2017 is just and reasonable and should be approved on a permanent basis as it reflects: accepted actuarial practice, Special Direction IC2,

⁵ Order G-192-17A, Appendix A.

the Commission-approved Capital Management Plan, and the steps being taken by ICBC to reduce costs within the current insurance regime.⁶

According to ICBC's actuaries, the change in Basic insurance revenue needed to pay for expected future costs in PY 2017 is +20.0 percentage points, or \$639.5 million.⁷ However, the requested rate change is +6.4 percentage points as a result of the rate smoothing framework set by section 3(1.1)(b) and (c) of Special Direction IC2. These sections state that the PY 2017 rate change must fall within an allowable rate change band of +/- 1.5 percentage points of the previous policy year rate change which was +4.9 percent. Accordingly, the proposed rate change of +6.4 percentage points is at the ceiling of the allowable rate change band. ICBC submits that the 13.6 percentage point deficit between +20.0 percent and +6.4 percent, equivalent to \$415 million over the course of the PY 2017, will decrease Basic capital.⁸ ICBC indicates that \$415 million of insufficient premium over the course of the PY 2017 will be partially covered by the \$470 million capital transfer from Optional insurance to Basic insurance as provided for by OIC 326/17.⁹

ICBC submits that the two largest components of the +20.0 percentage point rate change to cover costs are: (i) the carry forward impact of a rate offset from PY 2016, which accounts for 10.1 percentage points, and ii) the impact from increasing claims costs trends resulting from more crashes, more property damage and injury claims, and higher vehicle repair costs, which account for 12.9 percentage points.¹⁰

All interveners either acknowledged the need for a permanent Basic insurance rate increase of 6.4 percent for PY 2017 or otherwise provided no comment.¹¹ Some interveners commented on the components contributing to the PY 2017 rate increase, including in the areas of actuarial analysis¹² to estimate and explain claims costs, operating expenses,¹³ and the future financial outlook¹⁴ of ICBC's Basic insurance. ICBC responded to comments from interveners in its reply argument.¹⁵

Commission determination

The Panel approves ICBC's request for a permanent 6.4 percent Basic insurance rate increase for the policy year commencing November 1, 2017.

In accordance with Special Direction IC2, the general rate change order for PY 2017 must differ by no more than 1.5 percent from the previous general rate change order approving a permanent Basic insurance rate change of 4.9 percent for the 2016 policy year.¹⁶ Accordingly, for PY 2017, the rate change must be in the range of 3.4 percent to 6.4 percent.

In considering a final general rate change order, the Panel considered whether or not there is sufficient evidence to support a permanent rate increase for PY 2017 of 6.4 percentage points and whether or not it could be lower

⁶ ICBC Final Argument, p. 2.

⁷ Exhibit B-1, Appendix A.1.

⁸ Exhibit B-1, p. ii.

⁹ Exhibit B-2, 2017.1 RR BCUC.21.1, 2017.1 RR RL.2.3.1

¹⁰ Ibid., pp. vi, p. 2-1; Exhibit B-2, 2017.1 RR BCOAPO.5.1.

¹¹ BCOAPO Final Argument, p. 2; Landale Final Argument, p. 15; McCandless Final Argument, p. 4; MoveUP Final Argument, p. 1; TREAD Final Argument, p. 6.

¹² Landale Final Argument, pp. 2-3; Litman Final Argument, pp. 1-3; MoveUP Final Argument, pp. 3-5; TREAD Final Argument, pp. 9-10.

¹³ Landale Final Argument, pp. 4-5.

¹⁴ McCandless Final Argument, pp. 1-3; TREAD Final Argument, pp. 9-10.

¹⁵ ICBC Reply Argument, pp. 4-9.

¹⁶ Order G-2-17; Special Direction IC2, Section 3(1.1)(b).

than that rate ceiling. ICBC submits that the real rate change to cover costs is +20.0 percentage points for the 2017 policy year, of which 10.1 percentage points are carryover from PY 2016 as a result of the rate smoothing framework, and 12.9 percentage points are due to increasing claims costs trends. The change in Basic insurance revenue needed to pay for expected future costs in PY 2017 is estimated to be \$639.5 million, but the Basic insurance rate increase allowable ceiling of 6.4 percent results in a rate deficiency of \$415 million over the course of PY 2017 which will decrease Basic capital.¹⁷ The Panel is concerned that continuous unfavourable claims cost trends and the carryover impact from the previous policy year are putting significant pressure on ICBC's financial situation. Therefore, the Panel finds there is sufficient evidence filed and reviewed to December 12, 2017, to show that a 6.4 percentage point Basic insurance rate increase as proposed by ICBC is necessary, and therefore just and reasonable.

As a point of clarification, the Panel makes no determination on whether or not the change in Basic insurance revenue needed to pay for expected future costs in PY 2017 is 20.0 percentage points, as stated by ICBC. The Panel notes that the attenuated hearing as required by OIC 602/17 does not allow the Commission adequate time to fully explore all the components that contribute to the rate change to fully cover costs, including ICBC's actuarial rate level indication analysis, operating expenses and allocation information, and investment matters.

3.0 Other approvals sought

3.1 Performance Measures and TP Reporting

As noted in Section 1.1 of these Reasons for Decision, the Application includes ICBC's requests for Commission approval of an amended suite of performance measures and changes to reporting requirements specific to TP. Specifics of these ICBC requests are outlined in ICBC's response to BCUC IR 1.1 as requests number 2 through 7.¹⁸

During the Procedural Conference on December 5, 2017, ICBC submitted that the Government announced that it has hired a consulting firm to lead an operational review of ICBC. The operational review is expected to: i) identify waste, fraud, overbilling or other opportunities for business reform; and ii) consider how to maintain or improve the quality of service levels for ICBC's customers. A final report to the Government is expected to be released in early 2018.¹⁹

Furthermore, ICBC referenced discussions in the legislative debates on November 7, 2017 that the Attorney General stated, "... [the] terms of reference is to look at all of these previous reports that have been done, look at ICBC, make recommendations, and so on, and identify initiatives that are still relevant and should be implemented. Those are all public reports."²⁰

Final arguments

Given that major changes are expected in ICBC's current Basic insurance program and that insufficient time is available to explore the issues in this proceeding, all interveners who commented agreed that it would be premature for the Commission to approve ICBC's request for an amended suite of performance measures at this

¹⁷ Exhibit B-1, p. i.

¹⁸ Exhibit B-2, 2017.1 RR BCUC.1.1, Requests pertaining to Performance measures (Customer Value and Service), Performance Measure (Financial Stability), Performance Measure (Operational Excellence), Performance Measure (Aligning People and Business Capabilities), TP and TP related reporting, and Other Reporting Proposals.

¹⁹ Exhibit B-4.

²⁰ Exhibit B-3, p. 3 (Official Report of Debates, Tuesday, November 7, 2017, p. 1891).

time.²¹ Interveners recommended ICBC maintain its current performance measures, and possibly report on these measures, as well as its proposed performance measures in parallel, until the outcome of Government's review of ICBC is known.²²

Mr. McCandless and Mr. Landale submit that, after changes to the Basic insurance program are known, a workshop should take place to determine ICBC's annual performance measures going forward.²³

BCOAPO requests the Commission require ICBC to report on its Employee Opinion Survey results in future revenue requirements filings and to start tracking ICBC's proposed Legal Representation Conversion Rate metric.²⁴

TREAD was the only intervener to agree that refining operational metrics on claims and road safety,²⁵ and discontinuing reporting on the re-allocation of TP costs and transitional period metrics related to CT, are appropriate. However, TREAD submits that ICBC should continue reporting on TP benefits "for a few more years" to ensure that benefits continue to be realized.²⁶

Mr. Litman does not comment on the specific Performance Measure and TP Reporting proposals made by ICBC in its Application.²⁷

In its reply argument, ICBC submits that the intervener arguments in favour of rejecting the amended suite of performance measures or deferring consideration are not compelling and explains its reasons.²⁸

Commission determination

In light of the requirement from OIC 602/17 for an expedited decision on any other final orders with respect to the Application, the Panel agrees with interveners and considers that OIC 602/17 does not allow the Commission adequate time to fully explore ICBC's proposals in these areas. Accordingly, the Panel makes no determination at this time with respect to the merits of these requests.

The Panel acknowledges that ICBC is undergoing a comprehensive operational review as directed by the Government. The operational review is set out to examine fraud, business reform, and ways to maintain or improve the quality of service levels for ICBC's customers. As such, the findings of the operational review may shed light on future ICBC reporting requirements. **Therefore, the Panel directs ICBC to refile for the approvals sought in its September 15, 2017 application in its next general rate change application, which is scheduled for August 31, 2018. ICBC is to continue reporting on the current suite of Performance Measures and TP Reporting in each revenue requirements application until otherwise directed.**

²¹ BCOAPO Final Argument, pp. 3-6; Landale Final Argument, pp. 10, 12, 14-15; McCandless Final Argument, p. 5; MoveUP Final Argument, pp. 8-10; TREAD Final Argument, pp. 11-14.

²² Ibid.

²³ Landale Final Argument, pp. 10, 14; McCandless Final Argument, p. 5.

²⁴ BCOAPO Final Argument, p. 5.

²⁵ TREAD Final Argument, p. 13.

²⁶ Ibid., pp. 12-13.

²⁷ Litman Final Argument, p. 3.

²⁸ ICBC Reply Argument, pp. 9-17.

3.2 Requests for confidentiality

As noted in Section 1.1 of these Reasons for Decision, ICBC makes certain requests for confidentiality in the Application and in its responses to Commission information requests.

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.²⁹

No issues were raised by interveners with respect to these confidentiality requests.

Commission determination

The Panel has reviewed the referenced material filed by ICBC and considered ICBC's request to keep the contents of those materials confidential. The Panel has also considered the criteria provided in the Rules to make its determinations.

Regarding the ETEP Forward-Looking Review, the Panel accepts that public disclosure of the redacted information can reasonably be expected to harm public safety and law enforcement. Regarding ICBC's responses to 2017.1 RR BCUC.14.1 and 2017.1 RR BCUC.10.9, the Panel agrees with ICBC that the disclosure of the information can reasonably be expected to harm ICBC and Basic insurance policyholders as it could influence settlement negotiations with claimants and prejudice ICBC and Basic insurance policyholders. The Panel finds that parties' interests in keeping the three items confidential outweigh the public interest in the disclosure of the information in the hearing.

Therefore, the Panel accepts ICBC's request to keep the content of the following confidential:

- **The unredacted version of Chapter 8, Appendix 8 B, KPMG's British Columbia Enhanced Traffic Enforcement Program Forward Looking Review;**
- **2017.1 RR BCUC.14.1: Attachment A – Bodily Injury Segmented Analysis as of May 2017; and,**
- **2017.1 RR BCUC.10.9: partially redacted to remove confidential content reproduced from the unredacted version of Attachment A – Bodily Injury Segmented Analysis as of May 2017.**

²⁹ Order G-1-16 Commission Rules of Practice and Procedure, see Part IV: Confidential Documents: [Order G-1-16 BCUC Rules of Practice and Procedure](#)