

WEISBERG LAW
C O R P O R A T I O N

2730 Ailsa Crescent
North Vancouver, BC
V7K 2B2
Fred J. Weisberg
Barrister & Solicitor
Direct: (604) 980-4069
fredweislaw@gmail.com

September 18, 2018

VIA EFile

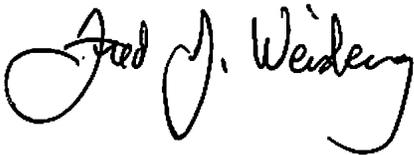
Attention: Mr. Patrick Wruck
Commission Secretary
British Columbia Utilities Commission
Suite 410, 900 Howe Street
Vancouver, BC Canada V6Z 2N3

Dear Mr. Wruck:

**RE: Insurance Corporation of British Columbia (ICBC)
Application for Approval of 2018 Rate Design for Universal Compulsory
Automobile Insurance - Project No. 1598968
Toward Responsible Educated Attentive Driving (TREAD)
Final Submissions**

Further to the Chair's direction at the Streamlined Review Process held on September 4, 2018, and in accordance with BCUC Order G-167-18, we enclose the Final Submissions on behalf of our client Toward Responsible Educated Attentive Driving ("TREAD") in the above-captioned proceeding.

Yours truly,



Fred J. Weisberg
Barrister & Solicitor
Weisberg Law Corporation
Counsel to TREAD

**Toward Responsible Educated Attentive Driving (TREAD)
FINAL SUBMISSIONS**

September 18, 2018

**Insurance Corporation of British Columbia (ICBC)
Application for Approval of 2018 Rate Design for Universal Compulsory
Automobile Insurance
Project No. 1598968**

1. The improvements in fairness of premium levels for drivers in British Columbia that are reflected in ICBC's Application for Approval of 2018 Rate Design for Universal Compulsory Automobile Insurance (Application) are much needed and woefully-overdue.

2. ICBC realized at some point prior to 2012 that its rate design had become unfair and outdated and launched its May 14 – June 22 2012 Consultation and Engagement process with public announcements that approximately 2/3 of BC drivers would be able to pay lower rates and approximately 1/3 of BC drivers would be able to pay higher rates under a new rate design being developed by ICBC. Those facts were canvassed and established through TREAD's information requests, cross-examination of ICBC witnesses, and submissions through the course of the ICBC 2013 Revenue Requirements Application proceeding.

3. Under cross-examination by TREAD's legal counsel, ICBC's witness Ms. G. Prior described the status of the June 22 2012 Consultation and Engagement process in this exchange:

“MR. WEISBERG: Q: Okay, so the terms of reference which can be found on ICBC's website in a path that begins with the document “Insurance Consultation and Engagement”. So I don't propose to take you to the website but it does say there in the terms of reference that the two things that will come out of this are a consultation summary report.

MS. PRIOR: A: Yes.

MR. WEISBERG: Q: And a consideration memo prepared by a project team indicating how the input has been considered for utilization and policy objectives and requirements.

So have either of those two documents been produced?

MS. PRIOR: A: So we have the results of the consultation document. That is documented. ***But that's basically where the work stopped on this project.***

MR. WEISBERG: Q: And what's the reason for the initiative being stalled after

money has been spent on the basic insurance side of the business to have it done?"¹ (emphasis added)

4. Ms. Prior 2013 testimony variously cited a provincial election, that it "...wasn't a priority to work on", "...a couple of things going on within the organization", the transformation work, and the government review process as reasons why the work on the rate design development stopped.²

5. Referring to the languishing Insurance Consultation and Engagement, Ms. Prior in 2013 concluded "So this work has been put on hold based on that history of what we've done."³

6. Since 2013, ICBC has filed two updates letters to the BCUC – dated December 24, 2015⁴ and June 30, 2016⁵. Both of those letters were produced in response in TREAD Information Requests, and simply provide brief mentions of additional excuses for ICBC failing to bring forward necessary rate design changes.

7. No other ratepayer group, or other intervener in BCUC proceedings, has been as consistent, persistent and diligent as TREAD in actively pursuing ICBC to deliver on its 2012 promise to bring forward the improvements of Basic insurance rate design. For at least six years, ICBC's inaction and lack of leadership has caused better drivers in BC (e.g. those who cause no crashes, or the least crashes) to pay more than they fairly should have, while enabling bad drivers (i.e. those who cause the most crashes) to pay rates lower than they they fairly should have. ICBC's evidence in the SRP confirmed that shift in costs, from bad drivers to better drivers, will never be made up by the changes proposed in the Application.

8. ICBC's filings in its most recent Revenue Requirements Application also makes clear that ICBC opposed any discussion or consideration in that proceeding of the EY (Ernst & Young) *ICBC Affordable and effective auto insurance – A new road forward for British Columbia* dated 10 July 2017⁶, which was commissioned by ICBC's own Board of Directors. That comprehensive 193 page report set out detailed recommendations for improving ICBC's insurance scheme, including many of the rate design concepts reflected in the current Application. ICBC's active opposition in that

¹ ICBC 2013 Revenue Requirements Application, T7; 1100; ll. 2 – 24.

² ICBC 2013 Revenue Requirements Application, T7; 1100, l. 21 – 1103 l.2.

³ ICBC 2013 Revenue Requirements Application, T7; 1103, ll. 3 -4.

⁴ http://www.bcuc.com/Documents/Proceedings/2018/DOC_52403_B-2-ICBC-Responses-BCUC-Questions.pdf at PDF p. 93.

⁵ http://www.bcuc.com/Documents/Proceedings/2018/DOC_52403_B-2-ICBC-Responses-BCUC-Questions.pdf at PDF p. 94.

⁶ <https://www.icbc.com/about-icbc/company-info/Documents/Affordable-and-Effective-AutoInsurance-Report.pdf>

regard further delayed and frustrated public understanding of the pressing need for rate design changes to ICBC's Basic insurance.

9. The rate design improvements that are now reflected in ICBC's Application should be understood by the BCUC, interveners, BC drivers who pay ICBC's Basic insurance rates, and the general public as steps that the provincial government has compelled ICBC to apply for approval of from the BCUC. These positive steps are most certainly not the result of ICBC's inexcusably long inaction and lack of leadership regarding rate design.

10. No comfort is provided, and none should be taken, from ICBC's CEO's assurances provided to TREAD's legal counsel in the SRP:

MR. JIMENEZ: I guess what I would say is just reiterating what Kelly said earlier, which is, you know, the high value vehicle surcharge was a government direction. So, you know, we're focussed right now, and I'm going to repeat myself, on getting this rate design complete and put to bed, so to speak. Anything we would undertake in the future, it's very hard for us to say today, "Yes, there's a long list of things we'll do and here's the time frame in which we'll do them," ***because we are primarily focused with 150 percent of our energies on getting this thing ready for implementation September 1st.*** So it's premature for me to say today, "Here's the catalogue of 20 things we're going to look at and here's the time frame in which we're going to get them done."

MR. WEISBERG: ***One hundred and fifty percent is a lot of energy.***

MR. JIMENEZ: ***It's a lot of work.***⁷ (emphasis added)

11. Yes, introducing basic fairness into ICBC's Basic insurance rate design will be a lot of work, which is precisely why ICBC must be held publicly accountable for doing nothing other than opposing such changes for at least the last six years.

12. Hyperbole like promising to bring "150 percent of our energies" should remain in the emotionally-charged domain of Friday night football or professional sports press conferences intended to fire up dispirited athletes and discontent team fans. It is not a credible or appropriate response from a public insurance company that has, through its inaction and lack of leadership, taken no initiative of its own to improve an admittedly out-dated and unfair rate design.

⁷ ICBC 2018 Basic Insurance Rate Design SRP - September 4th, 2018 - Transcript Volume 1, p. 150, ll. 9-26.

13. If there is to be any practical effect from ICBC's new-found "150 percent" enthusiasm to energize rate design improvements and increase the fairness of premiums for drivers with Basic insurance, one would have expected MoveUp - the union representing ICBC employees - to be very concerned about how an outstanding 50% increase in effort and energy of ICBC personnel can be achieved without necessitating significant increases in ICBC's costs. TREAD looks forward to pursuing that aspect in the context of the forthcoming ICBC Revenue Requirements Application.

Conclusion

14. The government directives to ICBC provide very little discretion to the BCUC to vary the rate design changes proposed in the Application. TREAD supports the approval of the applied-for rate design changes by the BCUC. TREAD further encourages the BCUC to exercise its discretion to the greatest extent possible to achieve the greatest fairness possible under these new changes, and to be proactive in doing all within its authority and jurisdiction to continue to press ICBC to bring forward further changes and refinements in Basic rate design on a timely basis.

All of which is respectfully submitted.

Fred J. Weisberg
Weisberg Law Corporation
Counsel to TREAD