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British Columbia Utilities Commission
Sixth Floor, 900 Howe Street
Vancouver, BC V6Z 2N3

Attention: Mr. Patrick Wruck, Commission Secretary

Dear Sirs/Mesdames:

**Re: Insurance Corporation of British Columbia (ICBC) – 2018 Basic Insurance Rate Design
Application – Project No. 1598968 - ICBC's Reply to TREAD Submission**

We enclose for filing ICBC's Reply to TREAD Submission, dated September 18, 2018.

Yours truly,

FASKEN MARTINEAU DuMOULIN LLP

[Original signed by]

Matthew Ghikas
Personal Law Corporation

MTG/gvm
Enclosure

BRITISH COLUMBIA UTILITIES COMMISSION
IN THE MATTER OF THE *UTILITIES COMMISSION ACT*

R.S.B.C. 1996, CHAPTER 473

and

THE *INSURANCE CORPORATION ACT* R.S.B.C. 1996, CHAPTER 228, AS AMENDED

ICBC'S 2018 BASIC INSURANCE RATE DESIGN APPLICATION

ICBC'S REPLY TO TREAD SUBMISSION

September 18, 2018

FASKEN MARTINEAU DUMOULIN LLP
Matthew T. Ghikas
Legal Counsel to ICBC

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A. INTRODUCTION

1. ICBC delivered its Final Submissions orally at the Streamlined Review Process (SRP), addressing a number of matters raised in written questions and at the hearing. One intervener, Toward Responsible Educated Attentive Driving (TREAD), was given leave to provide its submission in writing. This Reply responds only to TREAD's written submission, dated September 17, 2018. In this Reply, ICBC has addressed the substance of TREAD's main arguments, rather than replying on a line-by-line basis.¹

2. The bulk of TREAD's submission is devoted to arguing that ICBC has exhibited "active opposition" to rate design change in the past despite the current rate design becoming "unfair and outdated".² TREAD suggests that government has initiated these rate design changes despite ICBC.³ TREAD's arguments in this regard are neither germane to the Commission's disposition of this Application, nor accurate. The Commission should approve the new rate design for the reasons articulated in the Application and reiterated at the SRP.

B. DEBATING THE PAST DOES NOT HELP THE COMMISSION DECIDE THIS APPLICATION

3. TREAD's arguments about ICBC's past views and actions on rate design are a "red herring" from the perspective of the Commission's task in this proceeding. The Commission's role is to consider the new rate design, consistent with the *2018 Government Directive regarding Rate Design*⁴ and amendments to *Special Direction IC2*.⁵

C. ICBC HAS RECOGNIZED THE NEED FOR RATE DESIGN REFORM

4. While it is unnecessary for the Commission to make any findings about history, TREAD's characterization of ICBC's past views on rate design is also inaccurate.

¹ As such, silence should not be interpreted as agreement.

² TREAD Submission, paras. 2 and 8.

³ TREAD Submission, para. 9.

⁴ OIC 459/2018, August 9, 2018.

⁵ OIC 459/2018, August 9, 2018.

5. ICBC's evidence is that it has recognized shortcomings with the current rate design for a number of years.⁶

6. The provincial government is entitled to direct ICBC, as a Crown corporation, on its corporate priorities. This is reflected in the *Insurance Corporation Act*, which establishes ICBC as an agent of government and makes ICBC's mandate subject to direction by the Lieutenant Governor in Council.^{7 8} Government has provided policy direction over the years with respect to rate design and ICBC's corporate priorities. In 2007, government had directed that the key elements of the current rate design (including the Claim-rated Scale, rate territories and their boundaries, and rate classes) remain in place until at least 2011.⁹ ICBC had completed some work in 2012 on rate design, but had re-focused its priorities "on implementing its multi-year Transformation Program to renew and replace most of its major business systems."¹⁰

7. Contrary to TREAD's suggestions that government initiated the rate design changes in spite of ICBC, ICBC has worked with government to develop the new rate design. ICBC supports the changes.

8. Mr. Jimenez explained:

MR. JIMENEZ: You know, again, I think there was work initiated a number of years ago. You were referencing that. The priorities of our shareholder changed

⁶ TREAD.4.4-5.

⁷ *Insurance Corporation Act*, s. 7 "It is the function of the corporation and it has the power and capacity to do the following:

(a) subject to the approval of the Lieutenant Governor in Council, engage in and carry on, inside and outside of British Columbia, the business of insurance and reinsurance in all its classes;

(b) subject to the approval of the Lieutenant Governor in Council, operate and administer plans of insurance, including universal compulsory vehicle insurance, authorized under any other enactment; ...

⁸ *BCOAPO et al v. British Columbia (Ministry of Public Safety)* 2006 BCSC 257. Bauman J. (as he then was) referred (paras. 31 to 40) to the agency provisions and the objects, powers and capacity provisions of the *Insurance Corporation Act*, R.S.B.C. 1996 c.228, and stated: "[40] The commission is simply directed to recognize and accept what ICBC has done in complying with the otherwise lawful directions of its principal, the government as represented by the Minister and the LGinC."

⁹ *2007 Government Directive regarding Rate Design*, OIC 039/2007, February 2, 2007.

¹⁰ TREAD.2.1-2. The Transformation Program was also the subject of a "government directive" dated April 19, 2010.

in the midst of doing that work. So we went out and we had consultations with customers to begin and initiate a rate design exercise. The shareholder made a judgment that they had different priorities, which is their right to do, and we moved forward on a different set of priorities for a period of time. We are now at the place where we are putting forward proposals, package of reforms, which we think improve the system. I think we feel pretty good about the direction that we've received from government and our ability to design a program that meets that direction.¹¹

9. In recent years, TREAD had generally advocated rate design in the context of revenue requirements proceedings. The Commission had agreed with ICBC in those proceedings that rate design was out of scope. It is important to avoid misconstruing ICBC's desire to keep revenue requirements proceedings focussed on matters that are within scope as opposition to rate design change *per se*.

10. TREAD is overstating its point in equating the need for rate design changes to improve fairness with the current rate design being categorically "unfair".

D. ICBC IS WORKING HARD TO IMPLEMENT CHANGES AND WILL BE MONITORING RESULTS

11. In paragraphs 8 to 12, TREAD is critical of Mr. Jimenez's choice of wording when addressing the implementation of the new rate design. TREAD wants ICBC to pursue additional rate design changes and refinements, and urges the Commission to press ICBC in that regard.¹² ICBC recognizes that further work can be done on rate design, but there are practical and legal limitations on what can be done in the short-term.

12. While TREAD criticizes Mr. Jimenez's word choice, it is overlooking the key points that Mr. Jimenez was making in the quoted passage. He was explaining that: (i) it is necessary for ICBC to focus right now on "getting this rate design complete and put to bed, so to speak"¹³; and (ii) it is difficult for ICBC to commit to particular refinements on a particular timetable at this stage. The evidence supports his assessment.

¹¹ T:141, ll.7-20; TREAD 4.4-5

¹² TREAD Submission, para. 14.

¹³ T:150, l.14.

13. First, it is clear that the amount of work involved in implementing the new rate design is significant. ICBC explained its preparations, including changes to its internal systems, business processes and its change management plan aimed at customers, brokers, and employees.¹⁴ ICBC is, at the same time, undertaking other changes as part of the Rate Affordability Action Plan (RAAP).

14. Second, it will take some time after implementation to monitor and assess the results of the changes. Mr. Jimenez explained:

So looking forward to post-2019, the government directive contemplates that this will take effect on September 1. We've mentioned that before. There are certain aspects that are directed to take effect in subsequent years, specifically those measures that Kelly talked about in terms of the DRP and the DPP increases. And it's also fair to say that we'll be doing a significant amount of monitoring in terms of the results. This is, you know, a one in 30-year change. And we're introducing, you know, new requirements for information; we are introducing new features, new rating factors, that have heretofore not been part of our program. And we will be monitoring very closely and carefully what that transition looks like. Now, that's not a one- or two-month effort. It's a multiple-year effort, because, you know, it will be a full year before we have our customers migrated to the new -- all of our customers migrated to the new system. So if you think by September 2020 we'll only have one full year experience, but still only part of our customers, you know, who are living in the new world, if you will. So we have many years ahead of us in terms of trying to understand the changes that occur as a result of what we've designed.¹⁵

15. Ms. Aimer's echoed this point from an actuarial standpoint, stating:

MS. AIMERS: And keep in mind, it's going to be a least a year to capture the data. We have to at least wait a year and then take that information and analyze it and understand what it means. From an actuarial standpoint we would typically need a couple of years to see how things are developing.¹⁶

¹⁴ E.g., ICBC Application, Chapter 4-7, pp 25-27; BCUC.11 to 16.

¹⁵ T:81, l.19 to T:82, l.10.

¹⁶ T:85, ll. 4-9.

16. ICBC's monitoring will inform whether adjustments are required. Any such adjustments would also have to fit within the legislative constraints discussed by counsel for ICBC starting at Transcript volume 2, p. 300, line 13 to p. 304, line 26.

E. CONCLUSION AND ORDER SOUGHT

17. ICBC respectfully submits that the new Basic insurance rate design is just and reasonable, being consistent with the legislative framework. The Application should be approved. ICBC is well positioned for a successful implementation and the rate design is an appropriate foundation for the future.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

Dated:

September 18, 2018

[original signed by Matthew Ghikas]

Matthew Ghikas
FASKEN MARTINEAU DUMOULIN LLP
Counsel for ICBC