B. C. UTILITIES COMMISSION REVIEW

INSURANCE CORPORATION OF BRITISH COLUMBIA

2019 RATE REQUIREMENT APPLICATION

Submitted by

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FAITH, HOPE and CHARITY: ICBC'S 2019 RATE REQUIREMENT APPLICATION

ICBC seeks approval for a general Basic rate increase of 6.3%, which is its forecast of the net revenue requirement after accounting for the change in injury coverage, and the process to adjudicate claims under $50,000, that took effect on 1 April 2019.

The government, recognizing that the full tort third party liability model was financially unsustainable, decided to reduce claims costs by capping pain and suffering claims for "minor" injuries at $5,500, while broadening the scope and financial limits of the no-fault Part 7 benefits. In addition, the requirement that most claim disputes will be adjudicated by the Civil Resolution Tribunal (CRT) is expected to reduce claim litigation costs.

While notionally revenue-neutral, and thereby having no impact on the 2019 RRA, the government has also radically altered the formula for calculating the Basic premium. These changes take effect on 1 September 2019, and will result in a major realignment of the price of the Basic coverage between various classes of policyholders.

This application also incorporates another significant change; the alignment of the policy year to the financial fiscal year. While this distorts comparisons (because the change from PY2017 includes 17 months), it could be beneficial in the future as it allows the regulator to better link the revenue and expenditure request to the audited actuals from prior years.

These government-directed changes represent the most fundamental re-structuring of the Basic program's coverage since the creation of ICBC in the early 1970's. In addition, ICBC is also requesting a major reduction in the number and the level of detail in the performance metrics which will be publicly filed with the B.C. Utilities Commission (BCUC).

1.0 FAITH: ASSESSING THE 6.3 PER CENT RATE INCREASE

The Panel must decide if the requested 6.3% (approximately $217.6 million) rate increase is fair and reasonable.

The requested rate increase is the difference between the forecast revenue required for policy year (PY) 2019 and the annualized 2017 revenue. It incorporates 17 months of expenditure growth, which adds a layer of complexity when attempting year-over-year comparisons because ICBC did not provide a separate calculation of the change in revenue and expenditure for the five month "bridge period" between the previous policy year and the new policy year. It also incorporates significant savings in claims costs primarily as a result of the cap on pain and suffering for minor injuries.

ICBC did provide a summary table comparing the percentage changes in certain broad expenditure and revenue categories between the current request and the 2017 request (see Fig 3.2). The value of this summary (which came late in the presentation) is that it shows that without the coverage and other changes a per policy increase of approximately 44% (approximately $1.52 billion) would have been required to achieve in a break-even result.

Table 1 -- Summary of Net Rate Increase by Component

	$=million	Per Cent
Prior Year Optional Transfer	443.7	12.8
2019 Loss Cost Forecast Variance	484.8	14.0
PY2019 Loss Trend	538.8	15.5
Net Product Change Savings	(1,300.0)	(37.4)
Other Changes	50.3	1.5
RATE REQUEST	217.6	6.3

Source: IR 1, BCUC 4.1 Attachment A.

1.1 Is the $485 million Forecast for the Loss Cost Forecast Variance (LCFV) Reasonable?

ICBC states that: "The LCFV is the difference between the forecast of the loss cost for a policy year as shown in the Application and an updated forecast one year later of the loss cost forecast for that policy year with the benefit of both additional data and other information relating to losses.... the expectation is that over time, the LCFV will be random, sometimes favourable, sometimes unfavourable, as the loss cost forecast is set as an actuary's best estimate with the expectation that the LCFV will be 0."[1]

[1] See IR 1, BCUC 5.1 in https://www.bcuc.com/Documents/Proceedings/2019/DOC_53549_B-2-ICBC-Responses-to-BCUC-Intervener-IR1.pdf (pdf 21/1357)

In the last three rate requests ICBC has demonstrated a poor record of forecasting the rate change to cover cost increases. The Loss Cost Forecast Variance (LCFV) in the rate request for PY2015 was 5.8% of the total request; in PY2016 it was 5.2% and in PY2017 the variance was 4.9%.[2]

I the last three rate requests ICBC has stated that the average rate change due to the LCFV was 5.3%, yet for 2019 it asserts that 14.0% of the pre-change increase of 43.7% is the result of the LCFV; "The PY2019 LCFV, in particular, is mainly driven by a higher than expected bodily injury severity as compared to the 2017 RRA, due to the continued increase in the proportion of BI claims that are represented, the continued increase in the paid severity of BI claims, and the increasing emergence of large and catastrophic BI claims."[3] Large and catastrophic claims are defined as having a value or $450,000 or greater (which would primarily impact the Optional program costs).

ICBC attempted to explain the large re-estimate of the 2017 loss costs,[4] but while the trend in recent years leads one to question ICBC's forecasting methodology generally, the 14.0% one-year adjustment for the LCFV for 2017 seems unreasonably large.

1.2 Is the $538 million Forecast for the Loss Trend Increase for 2019 Reasonable?

In FY2017/18, actual Basic incurred claims costs increased by 9.6% over the prior year, while the 2018/19 forecast (based on Q2) for incurred claims costs provided in response to my information request was for a 7.2% increase.[5]

The ICBC forecasted increase in the loss trend for 2019 of $538.8 million is an increase of approximately 15.0% compared to the 2018/19 (Q2) forecast. While the loss trend is based on a fiscal loss year and not the fiscal year the difference is not significant. What is significant is the large increase in a period of only 17 months. The 2019 loss trend represents 15.5% of the total gross rate increase, compared to only 8% of the 2017 increase.[6]

ICBC uses the percentage change in the per policy cost, which adds a level of confusion to the analysis of costs).

ICBC states that a large increase in bodily injury costs (both frequency and severity) explains most of the forecast increase in claims costs.

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[2] Ibid.

[3] Ibid.

[4] See IR 1, BCUC 5.2 in https://www.bcuc.com/Documents/Proceedings/2019/DOC_53549_B-2-ICBC-Responses-to-BCUC-Intervener-IR1.pdf (pdf 25/1357).

[5] ICBC 2017/18 annual report page 97, and IR 1, RM 1. 1-3 Attachment A in https://www.bcuc.com/Documents/Proceedings/2019/DOC_53549_B-2-ICBC-Responses-to-BCUC-Intervener-IR1.pdf (pdf 756).

[6] See Figure 2.3 on page 2-6 of the 2017 RRA; https://www.bcuc.com/Documents/Proceedings/2018/DOC_53062_B-1-ICBC-2019-RRA.pdf (pdf 72/1419)

The pre-change loss trend forecast for PY2019 (even allowing for minor difference between PY and FY totals) would appear to be high based on the last two years of actual and forecasted fiscal year data.

1.3 Is the Net Product Change Savings Estimate Reasonable?

The net savings as a result of the product and process changes that took effect on 1 April 2019 are the key to the 2019 rate request. The savings estimate is based on a November 2018 closed claims study conducted by the consultant Ernst Young (EY). The largest savings, as one would expect, comes from the $5.500 cap on pain and suffering (general damage) awards for minor injury claims (although the EY analysis used a more restrictive definition of minor injury than that ultimately approved).

While the product and process changes are expected to result in a small reduction the number of injury claims, the major component of the anticipated reduction in claims costs is the reduction in the average injury claim payment (severity), especially for those deemed as minor. The EY study says that approximately $1.0 billion in general damage payments will saved because of the cap on these payments. ICBC reported that for 2017 there were $723 million in payments for general damages for minor injury claims.[7] Is it reasonable that some $1.0 billion in pain and suffering payments will be saved as a result of the $5,500 cap when only $723 million was paid for pain and suffering in 2017?

Unfortunately, ICBC has taken the position that disclosing the average injury claim severity information in the EY report could result in financial harm to ICBC, and the severity information was redacted. I will discuss the issue of the broad definition applied by ICBC in Section 4.1.

Without knowing the severity information by claim representation (unrepresented, represented but not litigated, and litigated) or by claim severity (minor or non-minor) it is impossible to make comparisons with actual data from previous years. Therefore, it is not possible to assess the reasonableness of the EY assumptions and calculations.

In effect, ICBC is expecting the public to have faith that its calculations are correct while withholding the key information which would allow a proper review. If, as a result of the coverage changes and the increased premium revenue, the net income is greater than the RRA forecast this has the benefit of rebuilding the capital reserve.

2.0 HOPE: OPERATING WITH NO CAPITAL RESERVE

In the last three years, despite major financial infusions from the Optional program, operating losses have completely depleted the Basic capital reserve. The 2019 rate request does not include any allowance to rebuild the Basic capital reserve, nor is there

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[7] See IR 1, RM 3.3; https://www.bcuc.com/Documents/Proceedings/2019/DOC_53549_B-2-ICBC-Responses-to-BCUC-Intervener-IR1.pdf (pdf 782).

any suggestion of a longer-term plan to rebuild the reserve. In fact, the financial forecast, which assumed a notional 6.2% rate increase for both 2020/21 and 2021/22, showed total Basic equity of approximately $116 million, with an MCT ratio of only 3% by 31 March 2022.[8]

The lack of any plan to address the lack of an adequate capital reserve should be of concern to the Panel. While the government may have temporarily suspended the minimum 100% MCT ratio, there are significant future affordability issues involved in raising the MCT ratio to the regulatory minimum after the temporary hiatus. The BCUC should be initiating discussions now on what MCT ratio would be appropriate to balance the risk and affordability concerns, and how quickly the reserve can be rebuilt.[9]

3.0 CHARITY: LIMITING SERVICE AND PERFORMANCE INFORMARTION

ICBC is again seeking to reduce the number of standard performance measures to the same measures that ICBC reports in its corporate three-year service plan and annual report. The corporation believes that the BCUC should leave it with the discretion to change or amend the performance measures; in other words, the BCUC (and by extension the public) should rely on the regulated entity to determine what performance measures are necessary to provide an overview of its operations.[10] In essence, the BCUC should rely on the charity of ICBC to determine when a new measure may be appropriate.

The Panel should reject ICBC's proposal to change the current measures and instead undertake a more through review of what service measures and performance indicators should be regularly reported by ICBC. This reporting would be through both the RRA process (linked to annual performance targets) and through the three-year service plans and the annual reports.

In my view this process should begin with a clear explanation of what measures are required; for example, quantitative or service measures as well as qualitative or performance measures.[11] The financial measures for the Basic program should be less abstract than the corporate measures, and should provide enough detail to provide a form of early warning to the BCUC and the public as to the financial management of the Basic program.

[8] See IR 1, RM 1.1-3 Attachment A, https://www.bcuc.com/Documents/Proceedings/2019/DOC_53549_B-2-ICBC-Responses-to-BCUC-Intervener-IR1.pdf (pdf 757).

[9] Perhaps the 100% MCT minimum is too conservative; see for example the discussion in http://www.bcpolicyperspectives.com/media/attachments/view/doc/occasional_paper_no_56_19_april_2018/pdf/occasional_paper_no_56_19_april_2018.pdf

[10] See IR 2, RL 2.4.1 https://www.bcuc.com/Documents/Proceedings/2019/DOC_53895_B-5-ICBC-IR2-Responses.pdf (pdf 219/247).

[11] ICBC states that its proposed performance measures align with performance measures reported in other public documents, but strangely ICBC does not report on service measures (for example, the number of policies sold, or claims incurred) in the three-year service plan or the annual report.

3.1 Opportunity to Review Process for Oversight of Basic Program

ICBC's request to amend the current performance measures should be considered raises the question as to what information does the BCUC require to fulfill its oversight responsibilities and to set the rates for the compulsory program. In my view the BCUC should establish annual service and performance targets that would be achieved at a specified premium revenue level.

ICBC is in the midst of implementing the most significant changes to its Basic insurance program since the establishment of the public auto insurer. The change to a hybrid-tort model, the expansion of the Part 7 benefits, the new claims adjudication process and the massive change to the premium calculation model are expected to reduce claims costs and rebalance the premium revenue between low and higher-risk drivers. Measuring the actual success of the changes compared to the anticipated results is vital to ensure that the planned savings are being achieved.

What constitutes success for each of these initiatives and what measures are required to report on progress? What information does the BCUC require to do its job, especially with regard to the financial management of the Basic program? These fundamental questions have not been adequately discussed in the ICBC proposal. In fact, there is no discussion of how the proposed performance measures relate to monitoring the performance of the Basic insurance program. The whole concept of relating the funding to a level of service (for example, the average time to settle a claim) seems to be foreign to ICBC's preferred approach to managing the RRA process.

The proposed financial performance measures may link to the highly abstract corporate measures, but they are not helpful in guiding a reader to any conclusion as to the causes for any change (either positive or negative). The claims efficiency and the loss adjustment ratios, for example, can indicate a positive trend if the increase in cost of claims exceeds the increase in the cost of administration. But this ignores the real question; why are claims costs increasing? The key measures are the frequency and severity of claims, not the ratio of claims service and general administrative costs to the claims.

3.2 ICBC's Objectives

ICBC says that the more limited number of proposed performance measures are the same as the publicly reported corporate measures in its service plan and annual report. ICBC suggests that the performance indicators should align with corporate indicators that are used to evaluate "how well ICBC is executing against its corporate strategic goals from year to year. They are designed to provide sufficient information for the BCUC to assess whether ICBC's provision of Basic insurance is adequate, efficient, just, and reasonable"[12]

[12] See IR 2, RL 2.5.1; https://www.bcuc.com/Documents/Proceedings/2019/DOC_53895_B-5-ICBC-IR2-Responses.pdf (pdf 220/247).

While this may be a laudable objective for ICBC management, is limiting the key financial performance measures in future rate requests to the rather abstract measures currently used by ICBC actually useful to the BCUC and the public? One would expect that the BCUC would require reporting on service performance measures that are much more specific to the goal of restoring the financial health of the compulsory program. Or is ICBC reducing the number of performance indicators to avoid more scrutiny and questions about its management of the Basic program?

Perhaps the underlying rationale for limiting the performance indicators and raising the level of abstraction is because the Basic program is a monopoly. Not only is there a captive client market, but ICBC management have often stated that it has little or no control over most of the annual expenditures in the short to mid-term. Hence, longer-term financial forecasts are discounted and setting performance targets appears to have little or no value.

While ICBC has gone to some effort linking the proposed performance measures to its four strategic goals discussed in its three-year service plans and annual reports, it does not report on a variety of basic service measures (such as the number of policies written or earned, or the number of claims incurred) in these two public reports. The annual rate request and the public reports would be significantly improved if this basic information was made public using standard definitions (for example, a claim versus an exposure) and in a standard format.

Table 2 shows the actual number of earned policies (excluding Commercial trailers) for the calendar years 2013 to 2015 and the fiscal years 2016/17 and 2017/18. Fiscal years 2018/19 and 2019/20 are forecasts. The Optional percentage is derived from the annual survey (see Section 3.3).

Table 2 – Policies Earned (excluding Commercial trailers)

		2015	2016/17	2017/18	2018/19	2019/20
	BASIC PERSONAL	2,837.7	2,926.3	2,999.3	3,055.5	3,108.6
	% Change	2.7%	3.1%	2.5%	1.9%	1.7%
	BASIC COMMERCIAL	243.7	277.1	291.7	301.6	309.9
	% Change	7.3%	13.7%	5.3%	3.4%	2.8%
	BASIC TOTAL	3,081.4	3,203.4	3,291.0	3,357.1	3,418.5
	% Change	3.0%	4.0%	2.7%	2.0%	1.8%
	OPTIONAL -- % of BASIC	90.4%	90.8%	88.5%	n/a	n/a

Source: RRA 2019, IR1, RM 1.9 (pdf 769) https://www.bcuc.com/Documents/Proceedings/2019/DOC_53549_B-2-ICBC-Responses-to-BCUC-Intervener-IR1.pdf and RRA 2016, IR1, RM 1.3 back to 2010(pdf 612/735) https://www.bcuc.com/Documents/Proceedings/2016/DOC_47830_B-2_ICBC-IR-No-1.pdf Optional percentage (of Basic Personal) from rate requests; 2017 from RRA2019 p. 83-3, 2016 from RRA2017 p. 6B.4, 2015 from RRA2016 p. 6.3 and 2015 from RRA2015 p. 5.4.

This table is an example of a summary of a key service measure – the number of policies earned. ICBC does not report this information in its annual service plan or year-end report. In fact, it does not include such a simple summary in its rate request applications. One must question how forthcoming ICBC really is about its operations when such fundamental information is not routinely presented.

3.3 The Optional Program Information

In keeping with its apparent desire to limit information, ICBC (again) intends to discontinue providing the results of the survey on customers' intentions to purchase Optional coverage either through ICBC or from another insurer.[13] This is the only public source of information on ICBC's share of the Optional market. Because of the importance of the Optional program to the overall financial health of the corporation the Panel should insist that this reporting of customer intentions continue.[14]

Regarding the Optional financial and service information, the BCUC should as a general policy be more suspect regarding ICBC's assertions that any discussion of the Optional program could provide the private competitors with an economic advantage. ICBC argues that providing the Optional financial forecast could be financially harmful because making the forecast "contains competitive and sensitive information on the profitability of the Optional insurance line of business, as well as provides the indication of Optional insurance rates and commissions."[15] This rationale is highly suspect as the private insurers know the Optional rates and commissions for the 2019 policy year.[16]

The BCUC and the public should be provided more financial and service information on the Optional program to ensure that no financial cross-subsidization is taking place. The information could also assist in determining whether the additional financial burden of the Basic program on higher-risk drivers is causing these policyholders to reduce or eliminate their Optional coverage.

It is time to allow some light into the Optional black box.

3.4 Focus More on Mid to Longer-Term Trends

The BCUC should use the opportunity of the major overhaul of the Basic program to examine its approach to the annual review of the Basic rates. Currently the annual rate

[13] See https://www.bcuc.com/Documents/Proceedings/2018/DOC_53062_B-1-ICBC-2019-RRA.pdf p. 8B-3 (pdf 1090/1419). The 2017/18 survey reported that of those policyholders who purchased Optional coverage, 88.5% purchased it from ICBC (compared to 90.7% in the prior year).

[14] In my final argument regarding the 2017 RRA I said; "The customer survey should also be retained to assist in the identification of specific issues, and to retain the ability to monitor the market penetration of the Optional product. Such a regular survey provides important insight into customer attitudes." See https://www.bcuc.com/Documents/Arguments/2018/DOC_50499_12-29-2017_McCandless-Final-Argument.pdf p. 5.

[15] IR 2, RM 1,1 https://www.bcuc.com/Documents/Proceedings/2019/DOC_53895_B-5-ICBC-IR2-Responses.pdf (pdf 228/247).

[16] See for example https://globalnews.ca/news/4823459/auto-insurance-brokers-charge-nearly-20-per-cent-commission-when-safest-drivers-get-optional-insurance/

request is a separate process from the review of the rate design formula. Is this still appropriate?

The current rate review process is heavily focussed on examining in the planned expenditures (often in great detail) for the coming year, including exploring the intricacies of the various statistical forecasting models. Is this level of examination really necessary given the poor claims costs forecasting results of recent years?

I suggest that the BCUC and the interveners should rebalance their efforts and focus more on examining longer-term issues and trends. Questions such as what is an appropriate MCT ratio, or should the compulsory program be restricted to only injury coverage, might be considered for examination. The process would also benefit by adopting some of the best practices from the review process in Saskatchewan and Manitoba.

4.0 OTHER ISSUES

4.1 Abuse of the Confidentiality Rationale

ICBC has asserted that the public disclosure of the average injury claim cost (severity) by the representation level (unrepresented, represented but not litigated, and represented and litigated) or by the type of claim (minor, not minor and catastrophic) could cause the corporation financial harm. This argument was accepted by the BCUC for the 2017 RRA when it agreed to keep certain "segmented" severity information confidential.[17]

In the 2019 rate request ICBC again withheld certain severity data, both for actual paid claims and for anticipated claims for the 2019/20 year. It argued that the disclosure could influence claim settlement negotiations and presumably increase the total injury claim awards compared to what the total awards would be without the disclosure.

ICBC did not provide any specific examples to justify this assertion. In fact, the argument is contrary to the common understanding that the amount of a pecuniary claim is specific to the individual's injury, while the non-pecuniary (pain and suffering) awards are generally based on well-established norms as determined by the courts.

When challenged on redacting the historic segmented severity information ICBC dropped its objection and publicly filed the information on 4 April 2019.[18] Yet, within a month after conceding that withholding the historic segmented severity information was unwarranted ICBC again redacted historic injury claim severities.[19] It seems that ICBC

[17] See BCUC Decision G-8-18 Appendix A; https://www.bcuc.com/Documents/Proceedings/2018/DOC_50574_01-12-2018_G-8-18_ICBC-2017-RRA-Reasons-Decision-WEB.pdf p. 7.

[18] https://www.bcuc.com/Documents/Proceedings/2019/DOC_53742_B-4-ICBC-Response-to-McCandless-Request.pdf

[19] See IR 2, BCUC 101.1 https://www.bcuc.com/Documents/Proceedings/2019/DOC_53895_B-5-ICBC-IR2-Responses.pdf (pdf 41/247).

has decided that some historic information can be made public, but a slight variation of the same information must remain confidential. This is practice highlights the need for the BCUC to provide clear direction on where to assertion of potential financial harm is permitted.

The Panel should not accept the claim of potential financial harm as a reason for withholding the segmented severity data, especially when reviewing the assumptions for the 2019/20 severities is fundamental to developing confidence in the forecasted injury claims savings, and by extension in the net 6.3% rate request. Are we to expect that the segmented severities will be redacted in the next rate request thereby making a detailed analysis of the planned and actual injury claims savings all but impossible?

ICBC has also claimed that disclosing the severity assumptions could result in financial harm to the Optional program. Presumably the logic is that the injury severity includes the total Basic and Optional payments, and making the average public could give competing insurers in the Optional market some sort of advantage. This is, I suggest, absurd.

4.2 Fiscal Year and Fiscal Loss Year

The 2019 rate request is the first where the fiscal year aligns with the policy year, which greatly aids the analysis of the financial request. In the previous rate requests, where the policy year was not aligned to the fiscal year, the forecast revenue or expenditures were compared to the previous revenue or expenditures from the prior year's request. It was not possible to compare to the audited results from prior years because the policy and fiscal years were not aligned (and the formatting also not compatible).

However, the financial information presented in the rate request is not completely comparable to the fiscal year information because the claims costs for the policy year can span two fiscal years. ICBC has labeled this period as the Fiscal Loss Year (FLY).

While it is necessary to monitor and set the rate change to cover costs of the FLY, in reality the year-over-year difference between the FLY required rate change and the fiscal year change should be quite minor.

The BCUC should require ICBC to explain and justify future rate requests on the basis of fiscal year changes, then provide a reconciliation to the FLY rate change. This process would simplify the process and make comparisons and other analyzes of the information much simpler. ICBC already presents the non-claims financial request on a fiscal year basis, and the performance measures are also presented on the basis of the fiscal year.

4.3 Savings from Limiting Expert Reports

In February 2019, the attorney general announced changes to the Supreme Court civil court rules which would immediately limit the number of expert reports.[20] It was estimated that this change would reduce the unpaid claim liability for 2018/19 by $400

[20] OIC 40/19 of February 11, 2019.

million, and result in annual litigation savings of $30 million annually. About a month later the government announced that the changes to the court rules respecting motor vehicle litigation would not take effect until January, 2020.[21]

ICBC's final argument mentions the anticipated $400 million one-time saving for 2018/19 and the $30 million in future year saving, but fails to note that the whole limitation initiative was postponed by almost a year.[22]

One is again left with the suspicion that ICBC is not being completely forthcoming to the Panel or the public about its expenditure forecasts. Apparently there is always next year to tidy up the numbers.

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[21] OIC 131/19 of March 22, 2019.

[22] https://www.bcuc.com/Documents/Arguments/2019/DOC_53995_2019-05-14-ICBC-FinalArgument.pdf p. 14.