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Via Email

British Columbia Utilities Commission
Suite 410, 900 Howe Street
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Attention: Ms. Marija Tresoglavic, Acting Commission Secretary

Dear Sirs/Mesdames:

Re: Insurance Corporation of British Columbia (ICBC) - Application in Response to the COVID-19 Pandemic - ICBC Final Submissions

We enclose ICBC's Final Submissions in the above noted matter, in accordance with Order G-143-20.

Yours truly,

FASKEN MARTINEAU DuMOULIN LLP



Matthew Ghikas
Personal Law Corporation

MG/lh
Enclosure.

BRITISH COLUMBIA UTILITIES COMMISSION

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

APPLICATION IN RESPONSE TO THE COVID-19 PANDEMIC

Final Submissions of ICBC

June 16, 2020

FASKEN MARTINEAU DuMOULIN LLP
Matthew Ghikas and Madison Grist

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A. INTRODUCTION

1. The Insurance Corporation of British Columbia (“ICBC”) applies for final approval of three temporary proposals, which were initially approved by the British Columbia Utilities Commission (“BCUC”) on an interim and non-refundable basis, effective April 23, 2020 to June 21, 2020.¹ On June 8, 2020, ICBC amended its Application to extend the end date of the temporary proposals by 60 days, following which the BCUC extended the interim order to August 20, 2020.

2. The temporary measures, which are put into effect by amendments to the Basic Insurance Tariff (“Tariff”), provide relief to customers in response to the crisis caused by the COVID-19 pandemic. They allow ICBC to:²

- Waive cancellation charges on non-fleet owner’s certificates;
- Permit fleet customers to suspend their Basic insurance and obtain a refund without the need to cancel their Basic insurance by amending the use of Rate Class 919 and temporarily transferring fleet certificates to Rate Class 919; and
- Permit customers currently insured in Rate Classes 001, 002, 003, 004, 005, 007, 021, 022, 023, 024, 027, 051 and 055 to temporarily use their vehicles for delivering food and medical products during the pandemic without charging additional premiums or changing rate classes.

The proposed temporary Tariff changes augment other non-Tariff measures that ICBC has put in place to support customers during the pandemic.³

3. The evidence demonstrates that the three temporary Tariff changes are just and reasonable and should be approved on a final basis. As discussed in these Submissions, the measures are:

¹ Order G-92-20, April 22, 2020. Online: <https://www.bcuc.com/Documents/Proceedings/2020/DOC_57861_A-3-G-92-20-RegulatoryTimetable.pdf>.

² Order G-92-20, p. 2.

³ 2020.1 COVID19 IBC.3.4 and 2020.1 COVID19 BCOAPO 3.6-3.9.2.

- beneficial for customers that are affected by the current crisis, consistent with the BCUC's March 23, 2020 letter encouraging ICBC to consider relief measures; and
- consistent with the regulatory framework.

B. ICBC HAS DEMONSTRATED THE NEED FOR, AND THE REASONABLENESS OF, TAKING THE PROPOSED STEPS

4. As Ms. Aimers explained, "at a high level these proposals are meant to provide temporary relief to ICBC customers during these unprecedented times."⁴ ICBC is reacting "as quickly as possible to assist our customers with some temporary relief measures."⁵

5. Each of the measures is designed to remove barriers to help customers and assist those most adversely impacted by the pandemic from an insurance standpoint. The first two measures remove some administrative and cost barriers to assist customers in making the decision to adjust coverage and premium based on their driving requirements during the pandemic. The third measure provides important assistance to businesses that have been forced to change their business model during the pandemic, allowing customers to use their vehicles (in non-delivery rate classes) for delivery of food and medical supplies.

6. While there are foregone revenues associated with these temporary measures, the amounts are small relative to Basic insurance premiums overall. Moreover, there are offsetting factors; ICBC has also observed "declines in traffic volume and claim counts or claim costs".⁶ As discussed below, Ms. Aimers noted the proposed measures directionally align costs and revenues. ICBC expects to collect enough premium to cover costs.⁷

⁴ TR, p. 10, ll. 10-13 (Aimers).

⁵ TR, p. 10, ll. 19-21 (Aimers).

⁶ TR, p. 19, ll. 7-9 (Aimers).

⁷ 2020.1 COVID19 IBC.5.1-8.

C. THE PROPOSED MEASURES ALIGN WITH THE REGULATORY FRAMEWORK

7. *Special Direction IC2* provides that Basic insurance rates must be fixed according to accepted actuarial practice.⁸ As Ms. Aimers confirmed, these temporary measures are consistent with accepted actuarial practice.⁹ We discuss the supporting evidence below.

(a) Measures Directionally Increase Alignment Between Basic Costs and Revenues

8. Ms. Aimers explained that, while there are many different aspects to accepted actuarial practice, at a high level it is intended to allow ICBC to collect sufficient revenue to pay its cost for Basic insurance.¹⁰ The overall impacts of this pandemic are currently unknown;¹¹ however, ICBC has observed “declines in traffic volume and claim counts or claim costs”,¹² which are also offset by declines in premium revenue as customers cancel their insurance, drop coverage or change their vehicle use.¹³ Ms. Aimers noted the proposed measures directionally align costs and revenues:

[W]hile ICBC does not have sufficient information at this time to undertake a complete actuarial analysis, as it would with a full revenue requirements application or a rate design application, at a high level the three proposals taken together would in response to COVID-19 help to balance premium revenue with claim costs and expenses for Basic insurance during the period of the pandemic.¹⁴

9. ICBC echoed Ms. Aimers’ testimony in its responses to information requests: “While the absolute impacts are unknown at this time, ICBC has relied on recent data and actuarial judgment to support that the cost of these initiatives will still enable ICBC to collect enough premium to

⁸ BC Reg 307/2004, s. 3(1)(c).

⁹ TR, p. 16, ll. 13-16 (Aimers).

¹⁰ TR, p. 18, l. 23 - p. 19, l.3 (Aimers).

¹¹ TR, p. 10, ll. 14-18 (Aimers).

¹² TR, p. 19, ll. 7-9 (Aimers).

¹³ TR, p. 19, ll. 9-13 (Aimers). See also 2020.1 COVID19 BCOAPO.3.2 and 2020.1 COVID19 BCOAPO.3.3-5. The impact of COVID-19 on claims and premiums is described in greater detail on pp. 3-5 of the ICBC’s May 14, 2020 Report “Impacts of COVID-19 pandemic on ICBC”, which is linked in the response to 2020.1 COVID19 BCOAPO.3.2.

¹⁴ TR, p. 19, ll. 19-26 (Aimers).

cover costs.”¹⁵ ICBC confirmed in the June 8, 2020 extension filing that extending the temporary relief in the manner requested continued to directionally align costs and revenues.¹⁶

10. Ms. Aimers pointed to specific guidance from the Actuarial Standards Board that accounts for the ability of actuaries to exercise professional judgment in circumstances, like this, where models and data are not available due to constraints on time and resources.¹⁷ The provision states:

The actuary should exercise reasonable judgment in applying these standards. A judgment is reasonable if it is objective and takes account of the spirit and intent of the standards, precepts of ethical and professional conduct intended to guide the conduct of the actuary, common sense and constraints on time and resources.¹⁸

Directionally aligning the costs and revenues, which is the result of these measures, is consistent with the spirit and intent of the standards.

(b) Measure 1: Waiving Cancellation Charges for Non-Fleet Customers Helps People Align their Premium to Risk When they Are Not Driving

11. ICBC has temporarily waived the \$30 charge that is normally incurred when a customer cancels their owner’s certificate.¹⁹ This measure removes an impediment to people temporarily cancelling their Basic insurance coverage to more appropriately reflect the risk they represent based on their driving habits over this temporary period. Under the COVID-19 pandemic restrictions, it is expected that a segment of customers are paying insurance premiums while their vehicles remain parked. The risk represented by parked vehicles is lower than the risk

¹⁵ 2020.1 COVID19 IBC.5.1-8.

¹⁶ ICBC’s June 8, 2020 Letter - Extension of ICBC’s COVID-19 Relief Measures. Online: <https://www.bcuc.com/Documents/Proceedings/2020/DOC_58286_B-6-ICBC-Request-Extension-of-COVID-19-Relief-Measures.pdf>.

¹⁷ 2020.1 COVID19 RL.1.

¹⁸ TR, p. 17, l. 24 - p. 18, l. 18 (Aimers).

¹⁹ ICBC’s Basic Insurance Tariff, ss. 2.H.1 and 2.B.1 a). Online: <<https://www.icbc.com/about-icbc/company-info/Documents/bcuc/basic-tariff.pdf>>.

associated with vehicles being driven. By temporarily cancelling their insurance, these customers with parked vehicles bring their premium more in line with their risk during that time period.²⁰

12. The estimated financial impact of waiving the cancellation charge is approximately \$2.0 to \$2.5 million for the initial 60 day period.²¹ The effect for the extension period is approximately an additional \$2.0 million. While ICBC is unable to estimate the exact financial impact resulting from COVID-19, based on the first few weeks of data after the state of emergency began, the combined favourable effect of reduced claims volume, reduced premiums, and customers' choices to remove coverage and change rate classes will still directionally offset this financial impact.²² As such, accepted actuarial practice is respected.

(c) Measure 2: Permitting Fleet Customers to Temporarily Move to Rate Class 919 Simplifies the Cancellation Process

13. The second measure is primarily an administrative benefit for customers, and does not impugn actuarial principles.

14. Unlike non-fleet customers, fleet customers do not pay a cancellation charge when cancelling their insurance certificates. However, like all customers, as a result of COVID-19, these customers may wish to cancel the insurance on a vehicle while it is not being used. Under previous processes, this would cause an administratively onerous spike in new fleet submissions when these fleets get back on the road.²³

15. ICBC's proposal mitigates this spike by moving these fleet-customers to Rate Class 919, which is exempt from Basic insurance. Essentially, this is an administrative process and there is no actuarial practice involved with this measure.²⁴ Rather than having these customers go in to a broker and cancel, and then eventually have to re-plate their vehicles, this change allows

²⁰ TR, p. 20, ll. 12-24 (Aimers).

²¹ Exhibit B-1, ICBC Application in Response to COVID-19 ("Application"), p. 2. Online: <https://www.bcuc.com/Documents/Proceedings/2020/DOC_57833_B-1-ICBC-Response-to-COVID-19-Application.pdf>.

²² TR, p. 23, ll. 4-11 (Aimers).

²³ Application, p. 3.

²⁴ TR, p. 21, ll. 8-13 (Aimers).

customers to transfer into Rate Class 919 to temporarily suspend their insurance up to the end of the Extension Period. The rate class can be changed back once the fleet returns to operation.²⁵

(d) Measure 3: Permitting Delivery Use in Non-Delivery Rate Classes Recognizes that those Customers Represent Lower Risk than Professional Delivery Services

16. The third Tariff measure permits customers currently rated in certain rate classes²⁶ to temporarily use their vehicles for delivery of food or medical products on an unrestricted basis (i.e., more than six days in a calendar month), without (a) charging the additional premium associated with Rate Class 013 (the existing delivery rate class) or (b) the need to create a new rate class. There is no change for vehicles currently rated for delivery in Rate Class 013.²⁷

17. The risk represented by the vehicles temporarily engaged in delivery of food or medical products is likely lower than the risk of typical delivery use, but higher than the risk of pleasure use.²⁸ At a high level, the rating decision becomes a choice among three options:

- (a) create a new rate class;
- (b) group these customers with professional delivery customers (e.g., Uber Eats); or
- (c) leave them in their current rate class while allowing temporary delivery use.

18. Moving these customers into professional delivery use rate classes would be unreasonably expensive for those customers given the circumstances, including the positive contribution these customers are making during this challenging time. For example, the Basic premium for Lower Mainland customers currently driving for pleasure use (Rate Class 001) would be 104% higher if they were to be required to move into the delivery use rate class (Rate Class 013).²⁹ For business use drivers (Rate Class 007), their premiums would be 87% higher in the delivery use class.³⁰

²⁵ TR, p. 11, ll. 17-26 (Aimers).

²⁶ Rate classes 001, 002, 003, 004, 005, 007, 021, 022, 023, 024, 027, 051, and 055.

²⁷ Application, p. 4.

²⁸ TR, p. 22, ll. 1-3 (Aimers).

²⁹ TR, p. 44, ll. 10-15 (Aimers).

³⁰ TR, p. 44, ll. 16-19 (Aimers).

19. Accepted actuarial practice recognizes that rating decisions can incorporate various considerations, including practicality. The absence of sound data and time constraints to measure the risk these drivers represent over this temporary period militates against creating a new temporary rate class. Keeping those customers in their current rate class, rather than increasing their premiums dramatically, supports positive contribution to society during this pandemic period. On this point Ms. Aimers stated:

[G]oing back to that rate making principle of ease of administration and practicality, and the fact that we have very little data to measure the segment of risk over what we're expecting to be a short period of time, and the fact that they are giving a positive contribution to our society during this pandemic period, it is my opinion that allowing these customers to remain in their personal use rate class still adheres to accepted actuarial practice.³¹

D. THE FOCUS OF THIS APPLICATION SHOULD BE ON THE PROPOSED RELIEF

20. Interveners asked ICBC about other ways in which customers could have been, or could be, provided with relief during the pandemic. There are a number of other measures that ICBC has implemented in response to the COVID-19 pandemic which are not included in this Application.³² ICBC's responses to information requests discuss the factors that ICBC considered in arriving at the three proposed Tariff measures. The need to act quickly meant limiting the system changes required and developing measures that could be easily communicated within a tight timeline. ICBC ruled out other measures such as immediate automatic rebates, given its current capital position and the uncertainty of the overall financial impact of COVID-19.³³

³¹ TR, p. 22, ll. 4-12 (Aimers).

³² 2020.1 COVID19 IBC.3.4

³³ 2020.1 COVID19 IBC.3.1, 2020.1 COVID19 IBC.3.2 and 2020.1 COVID19 IBC 4.1-2. 2020.1 COVID19 BCOAPO.3.2 includes a link to ICBC's May 14, 2020 Report "Impacts of COVID-19 pandemic on ICBC", which describes ICBC's current financial position as follows: "Finally, unlike other insurers, between 2011-2017, ICBC's capital reserves were depleted as a result of basic rates being directed below the level needed to cover costs, transfers of capital to government, and a greater emergence of large and complex claims. The result has been that there is no financial "cushion" to absorb significant volatility and uncertainty from crashes, claims and investment earnings."

21. ICBC's May 14, 2020 report, "Impacts of COVID-19: Pandemic on ICBC", confirms that customers will benefit if ICBC's financial position is better than anticipated as a result of COVID-19:

If ICBC's net income results are better than forecast for 2020/21, any additional net income will benefit customers. Any decisions on the use of additional net income of ICBC for the year due to lower claims resulting from the pandemic will be made at the end of the fiscal year. Options on use could include rebuilding financial capital health of ICBC to reduce longer-term pressure on rates, providing one-time direct relief to customers, or any combination thereof.³⁴

E. RETROACTIVE APPLICATION OF THESE MEASURES WOULD BE INAPPROPRIATE

22. Mr. Ennis and Mr. Landale suggest that ICBC's response to COVID-19 was slow. The evidence demonstrates that ICBC has, in fact, acted promptly. The Attorney General noted on April 8, 2020 that ICBC and the provincial government were looking at waiving cancellation charges. ICBC submitted its Application to the BCUC for these changes only eight days later.³⁵

23. Mr. Ennis is also critical of the fact that ICBC would not provide him with the benefit of the waiver of the cancellation charge, since he had already cancelled his certificate of insurance prior to the Application. ICBC's response was appropriate because it could not have lawfully given Mr. Ennis what he is requesting. ICBC must observe the terms and conditions of service in the Tariff in effect on the date of cancellation. The applicable sections of the UCA are quoted below, where the UCA applies to ICBC as if it were a public utility³⁶, a "rate" is any term and condition of service in the Tariff³⁷, and a "schedule" is a page of the Tariff:

³⁴ 2020.1 COVID19 IBC.3.2.

³⁵ 2020.1 COVID19 RE.1.

³⁶ *Insurance Corporation Act*, R.S.B.C. c. 228, s. 44(1).

³⁷ The definition of "rate" in the UCA has been modified by s. 44(3)(a) of the *Insurance Corporation Act* such that it reads:

"rate" includes

(a) compensation of the Insurance Corporation of British Columbia, other than any fee or other remuneration to which that corporation is entitled for any activity it undertakes under section 7 (g), (h) or (i) of the *Insurance Corporation Act*,

(b) a rule, practice, measurement, classification or contract of a public utility or corporation relating to a rate, and

(c) a schedule or tariff respecting a rate;

61 (3) The rates in schedules as filed and as amended in accordance with this Act and the regulations are the only lawful, enforceable and collectable rates of the public utility filing them, and no other rate may be collected, charged or enforced.

...

63 A public utility must not, without the consent of the commission, directly or indirectly, in any way charge, demand, collect or receive from any person for a regulated service provided by it, or to be provided by it, compensation that is greater than, less than or other than that specified in the subsisting schedules of the utility applicable to that service and filed under this Act.

There is no provision in ICBC's Tariff to allow it to refund cancellation charges retroactively and ICBC has no legal authority to do so.³⁸

24. Order in Council (OIC) No. 175 (175/20)³⁹ temporarily authorizes ICBC to not apply the \$18 plate fee to any British Columbians who have new plates on or after April 16, 2020. The OIC does not authorize the retroactive waiver of the \$30 charge.

F. CONCLUSION

25. The BCUC should find that these temporary measures are just and reasonable. They provide needed support for policyholders during this unprecedented time and are aligned with accepted actuarial practice. ICBC submits that the BCUC should thus grant final approval of the Tariff amendments.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

Dated: June 16, 2020

[original signed by Matthew Ghikas]

Matthew Ghikas

Counsel for ICBC

³⁸ 2020.1 COVID19 RE.1.

³⁹ OIC 175/20, effective April 16, 2020 :<http://www.bclaws.ca/civix/document/id/oic/oic_cur/0175_2020>.

Dated:

June 16, 2020

[original signed by Madison Grist]

Madison Grist

Counsel for ICBC