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**VIA EMAIL**

January 29, 2014

**ICBC 2013 REVENUE REQUIREMENTS EXHIBIT A-12**

To: Insurance Corporation of British Columbia  
Registered Interveners

Re: Insurance Corporation of British Columbia  
Order G-141-13/Project No. 3698726  
2013 Revenue Requirements Application

This letter provides participants in the above proceeding with information to assist them by explaining the oral hearing process. For others who simply want to observe the proceedings, make a statement about the Application, or submit a Letter of Comment, this document may also be of assistance.

### **WHAT CAN I EXPECT AT THE ORAL PUBLIC HEARING?**

The Hearing will generally proceed in the following order:

The Hearing will be held on **Thursday, February 6, 2014**, commencing at 9:00 a.m. in the Commission Hearing Room, on the 12<sup>th</sup> floor, 1125 Howe Street, Vancouver, BC. The Panel Chair will make an Opening Statement and comment on procedural matters for the Hearing. The Insurance Corporation of British Columbia (ICBC), followed by Interveners, will then be called upon according to the Order of Appearances.<sup>1</sup> When a participant's name is called, the participant or its counsel or representative will come forward stating for the record who they are and whom they represent.

- If any participant has a preliminary matter or motion that it wishes to bring at the commencement of the Hearing, prior to evidence being heard by the Commission Panel, the participant must advise Commission Counsel of that matter or motion by noon, Tuesday, February 4, 2014.
- The Commission Panel may deal with any preliminary matters or motions prior to the hearing of the evidence of the first ICBC panel of witnesses.
- ICBC will make its Opening Statement/Presentation first, followed by any Interveners who wish to make an Opening Statement at the commencement of the Hearing.

<sup>1</sup> The Order of Appearances and Order of Cross-Examination will be co-ordinated by Commission Counsel, in consultation with participants. Commission Counsel is Mr. Paul Miller who can be reached prior to the hearing at (604) 647-4102 or by email at [pmiller@boughtonlaw.com](mailto:pmiller@boughtonlaw.com)

- Counsel for ICBC may then make a further Opening Statement identifying its witness panels and outlining the evidence it expects from those panels. ICBC counsel will then call its first witness panel. The witness panel will be sworn and will then adopt<sup>2</sup> the pre-filed evidence that the witness panel members will be speaking to. Following the adoption of the evidence, one of the witnesses may make a short Opening Statement. **The Opening Statement should not introduce new evidence and written copies should be provided to participants in advance, at least one business day beforehand.**
- Following the Opening Statement of the witness panel, ICBC's witnesses are available for cross-examination. Commission Counsel cross-examines last. After cross-examination by Commission Counsel, the Commission Panel may ask questions.
- Following the questions of the Commission Panel, ICBC's counsel may have some clarification questions in re-examination. This is not an opportunity to supplement evidence or provide new evidence.
- Following the conclusion of any re-examination of the last ICBC witness panel, Interveners who pre-filed evidence will be called in order prearranged with Commission Counsel. The Intervener (or Counsel for the Intervener) may then make a further Opening Statement identifying the Intervener's witness panel(s) and outlining the evidence expected from those panel(s). The Intervener's witness panel members will be sworn, and then asked to adopt the Intervener's evidence and be allowed to make a short Opening Statement. **Once again, the Opening Statement should not introduce new evidence and written copies should be provided to the participants in advance, at least one business day beforehand.** Following any Opening Statement, the Intervener's witness panel becomes available for cross-examination by other parties. Counsel for ICBC cross-examines second from last, followed by Commission Counsel. The Commission Panel may then ask its questions. Following the questions of the Commission Panel, counsel for the Intervener may then re-examine for purposes of clarification or explanation.
- Participants may provide written statements as Letters of Comment to the Commission at any time up to the completion of the evidentiary portion of the Hearing, but are encouraged to provide Letters of Comment no later than the commencement of the Hearing.
- When the oral testimony of all the witnesses has been completed, and subject to any filing of answers to outstanding undertakings made during the Hearing, the evidentiary portion of the Hearing is at an end and the Final Argument phase commences. The schedule of written Final Argument will be in accordance with the Revised Regulatory Timetable as outlined in Order G-193-13.

## DEFINITIONS

### Applicant

The Applicant is the Insurance Corporation of British Columbia (ICBC). It is up to the Applicant to make its case to the Commission Panel based on all the evidence presented at the Hearing. Subject to any order the Commission Panel may make, the Applicant has the choice of how to present its case, what witnesses it wishes to call and the order of presentation of its evidence. An Applicant's witness panels normally follow each other.

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<sup>2</sup> Adoption of evidence means that you confirm under oath that you have read the evidence you filed and that you adopt it as your own. This process does not enable you to repeat the evidence. The Commission will issue a Pre-filed Exhibit List of the pre-filed evidence that will constitute the start of the public record at the commencement of the hearing.

Exceptions to the usual order may be made where it becomes necessary to accommodate the schedule of an Intervener's out of town witness. In such circumstances Commission Counsel must first be consulted. Commission Counsel will attempt to reach an agreement with counsel for the Applicant, but if no agreement can be reached, an application may be made to the Commission Panel.

### **Application**

On August 30, 2013, ICBC applied to the Commission for approval of the Revenue Requirements for Universal Compulsory Automobile Insurance (Basic Insurance) for the policy year commencing November 1, 2013, and for approval of a new Basic Insurance Capital Management Plan (the Application).

### **Commission Counsel**

Commission Counsel is Mr. Paul Miller and he can be reached at (604) 647-4102 or by email at pmiller@boughtonlaw.com.

Commission Counsel advises the Commission Panel on legal matters, including the conduct of the Hearing. Commission Counsel can also cross-examine the witnesses of ICBC and Interveners in order to obtain evidence needed for the Commission Panel to arrive at a decision. Commission Counsel usually questions witnesses after all other parties have finished their cross-examination. Commission Counsel does not play an adversarial role and does not oppose or support either the Applicant or any Intervener. Commission Counsel is also responsible for any issues related to scheduling of witness panels and the order of cross-examination. Commission Counsel is available to assist participants who have questions related to the Hearing process.

### **Commission Panel**

The Commission Panel hearing the Application comprises Commissioner Bernard Magnan, who is Chair of the Panel, Commissioner Liisa O'Hara and Commissioner Richard Revel. The Commission Panel will hear all the evidence and will decide whether or not to approve the Application. During the Hearing, the Commission Panel may ask questions of the Applicant, the Interveners and others presenting evidence. The Chair will ensure a fair process and an efficient Hearing. During the Hearing, the Chair may make procedural orders and may limit cross-examination and the duration of presentations.

### **Commission Staff**

The Commission Panel has the assistance of Commission staff who advise Commission Panel members on technical matters. Commission staff is also available to assist participants who have technical questions regarding the hearing process.

### **Court Reporters**

The Commission has contracted with Allwest Reporting Ltd. to make verbatim transcripts of the oral evidence at the public hearing. Active Interveners in the Hearing are entitled to receive one hard copy and an electronic copy of each day's proceedings later that same day, at no cost. Electronic copies will be available by email or downloading from the Internet. A copy of the daily transcript of the proceedings will also be available for review in the Resource Area at the Hearing.

Allwest Reporting Ltd. will also be providing audio on-line broadcasting at this public hearing. Participants should contact the service provider directly for details with respect to how to log-on.

**Cross-examination**

Cross-examination is the questioning of another party's witness. The Applicant and Interveners have the opportunity to question the other parties' witnesses. Parties who support the testimony of a witness or a witness panel should not expect to cross-examine that witness or witness panel.

**Evidence**

Evidence may be in written or oral form. It provides the factual basis for the Commission Panel's decision. The evidence includes the pre-filed evidence from the Applicant and Interveners, responses to Information Requests, documents filed at the Hearing, and the oral testimony of witnesses. Participants may sometimes file rebuttal evidence in response to the evidence of another participant. Oral evidence is usually given under oath. New written evidence can only be filed at the Hearing with leave of the Chair. Any Intervener who has filed evidence is expected to appear at the Hearing to adopt the filed evidence.

Interested Parties who wish to make a statement can do so at the Hearing. Alternatively, individuals can submit written statements as Letters of Comment, which will form part of the "E" class of Exhibits at the Hearing. Individuals making such statements at the Hearing or submitting Letters of Comment are not normally required to do so under oath or undergo cross-examination.

**Examination-in-Chief**

This is the first questioning of a witness by the lawyer or representative who called the witness to testify. Since the evidence will have been pre-filed in these proceedings, the Commission generally limits examination-in-chief to the adoption of the written evidence and the correction of any errors in the written evidence.

**Exhibit List**

The Exhibit List is the list of all the documents that have been filed in the proceeding. Documents are to be filed pursuant to the Commission's Document Filing Protocols. The Exhibit List and the Document Filing Protocols are available on-line and in the Resource Materials Area.

**Final Argument**

Final Argument is made at the end of the evidentiary part of the Hearing (after all witnesses have testified and all the undertakings have been completed). It is a summary of a party's position on the Application, based on the evidence presented. New evidence cannot be introduced in Final Argument.

**Hearing Officer**

The Hearing Officer is in charge of all physical arrangements for the Hearing. He or she receives and records all exhibits, gives the oath to witnesses and generally contributes to the efficient functioning of the Hearing. Mr. Hal Bemister of Allwest Reporting Ltd. is the Hearing Officer for the Hearing.

## Interveners

Interveners are parties to the proceeding who have been granted Intervener status. They have the right to cross-examine witnesses, present their own witnesses, bring motions, and make Final Argument. Interveners should only cross-examine parties who are adverse in interest to them. In a large hearing, Interveners who have similar interests to other Interveners may adopt the views of those with whom they share similar interests.

## Letters of Comment

A Letter of Comment is a letter signed by an individual or on behalf of a group or organization which sets forth the views of the individual, group or organization on an application. Letters of Comment should not include attachments such as newspaper articles or other articles by parties who are not the individual signing the letter or members of the individual's group or organization. If the Letter of Comment includes such attachments, the Commission may place no weight on the attachments in arriving at its decision.

## Opening Statements

Opening Statements fall into four categories. In chronological order, the **first** is the Opening Statement made by a participant or its representative during the identification of issues phase, if any, which takes place prior to the commencement of the oral evidentiary Hearing. The **second** is the Opening Statement of the Chair which outlines the nature of the proceedings and addresses certain procedural matters. The **third** is an Opening Statement made by a participant or its representative either at the commencement of the Hearing and before any testimony is heard or immediately prior to that participant calling its evidence. It outlines the position of the participant on the matters that are to be decided by the Commission and, where the participant intends to call evidence, generally identifies the witness or witness panels that the participant intends to call. The **fourth** category is the Opening Statement of a witness or a witness panel. It is a short statement of the position of the witness or witness panel. A witness or witness panel may choose not to make an opening Statement. **The Commission Panel expects participants to circulate copies of the third and fourth category of Opening Statements in advance, at least one business day before the witness or witness panel is called.**

## Re-Examination

Re-examination provides a limited opportunity for the party calling a witness or witness panel to have the witness clarify or explain matters that have arisen during cross-examination. It is not for the purpose of supplementing evidence or providing new evidence.

## FREQUENTLY ASKED QUESTIONS

### What should I do if I cannot attend on the first day of the Hearing?

On the first day, Commission Counsel will call for appearances from the Applicant and everyone who is registered as an Intervener. If you are unable to be present, you will not be called on in subsequent days for cross-examination, unless you have made other arrangements with Commission Counsel. If you wish to be active in the Hearing but cannot attend the first day or any other day of the Hearing, you should advise Commission Counsel.

**What should I do if I only have questions for one witness panel and don't want to be there for the whole Hearing?**

It is not known in advance how long each witness panel will take so it is difficult to predict when each new witness panel will start. You should advise Commission Counsel of the witness panel(s) you want to question prior to entering your appearance on the first day. However, Commission Counsel is not responsible for contacting you to advise you when to attend. You are encouraged to monitor the proceedings by contacting people who are in attendance at the Hearing to see when the witness panel you are interested in might be on the witness stand. Commission Counsel will attempt to accommodate the scheduling of your cross-examination time, but you should be aware that the timing of witness panels is often a fluid matter once a hearing starts.

**Is this Hearing like a trial where the witnesses testify and go through all of their evidence before Interveners can ask questions?**

No. Written "direct" evidence will already have been submitted to the Commission before the Hearing. This helps to streamline the oral phase of the Hearing. Neither the Applicant nor Interveners go through their written evidence again on the witness stand, except to make any necessary corrections to their pre-filed evidence. When a witness is called to testify at the Hearing, the witness adopts the pre-filed evidence under oath. The written evidence then has the weight of sworn evidence. Once the witness takes the stand and adopts his or her evidence with any necessary corrections, and following any Opening Statement from the witness or witness panel, the next step is to allow Interveners to cross-examine in the case of each Applicant's witness or witness panel and the other Interveners and each Applicant's counsel to cross-examine in the case of an Intervener's witness or witness panel. Commission Counsel may then cross-examine, followed by questions from the Commission Panel. Re-examination by the party calling the witness or witness panel then takes place.

**What happens if I can't attend on the day when it's my turn to ask a witness panel questions?**

You must make prior arrangements with Commission Counsel or you may miss your opportunity to cross-examine that witness panel. Although efforts will be made to accommodate the schedules of participants, it may not always be possible given the number of parties in this Hearing. If you are unable to make arrangements for a time to cross-examine that is convenient for you, the Applicant who called the witness panel and the Commission, you may miss your opportunity to cross-examine that witness panel.

**Can someone else ask questions on my behalf?**

Yes. Your representative can ask questions on your behalf but others cannot. However, it is permissible for Interveners to work together on questions and to have one Intervener ask questions that are of interest to a number of Interveners. It does not matter which Intervener asks the question because the questions and answers become part of the evidentiary record regardless of who asks them.

**Can I cross-examine someone who has not filed evidence?**

The purpose of cross-examination is to test the evidence that is on the record. Anyone who has not filed evidence is not normally subject to cross-examination. A party can request that the Commission order a person to attend to give evidence or to produce documents but the party must make a motion on notice to the person (or that person's representative) whose attendance is sought to be compelled and satisfy the Commission that such an order is appropriate.

**What should I do when I disagree with one of the answers I receive when I am cross-examining?**

Since the witness and the person cross-examining are adverse in their interests (i.e. the cross-examiner is opposed to the position of the witness) such disagreement is to be expected. However, it is not appropriate to argue with a witness during cross-examination or to give your opinion to the Commission Panel on the answers you are receiving, unless you are seeking to establish that the answers are not responsive to your questions. Your interpretation of the answers of the witness panel and your opinion on them should be saved for the Final Argument phase of the Hearing.

**What is the difference between cross-examination and argument?**

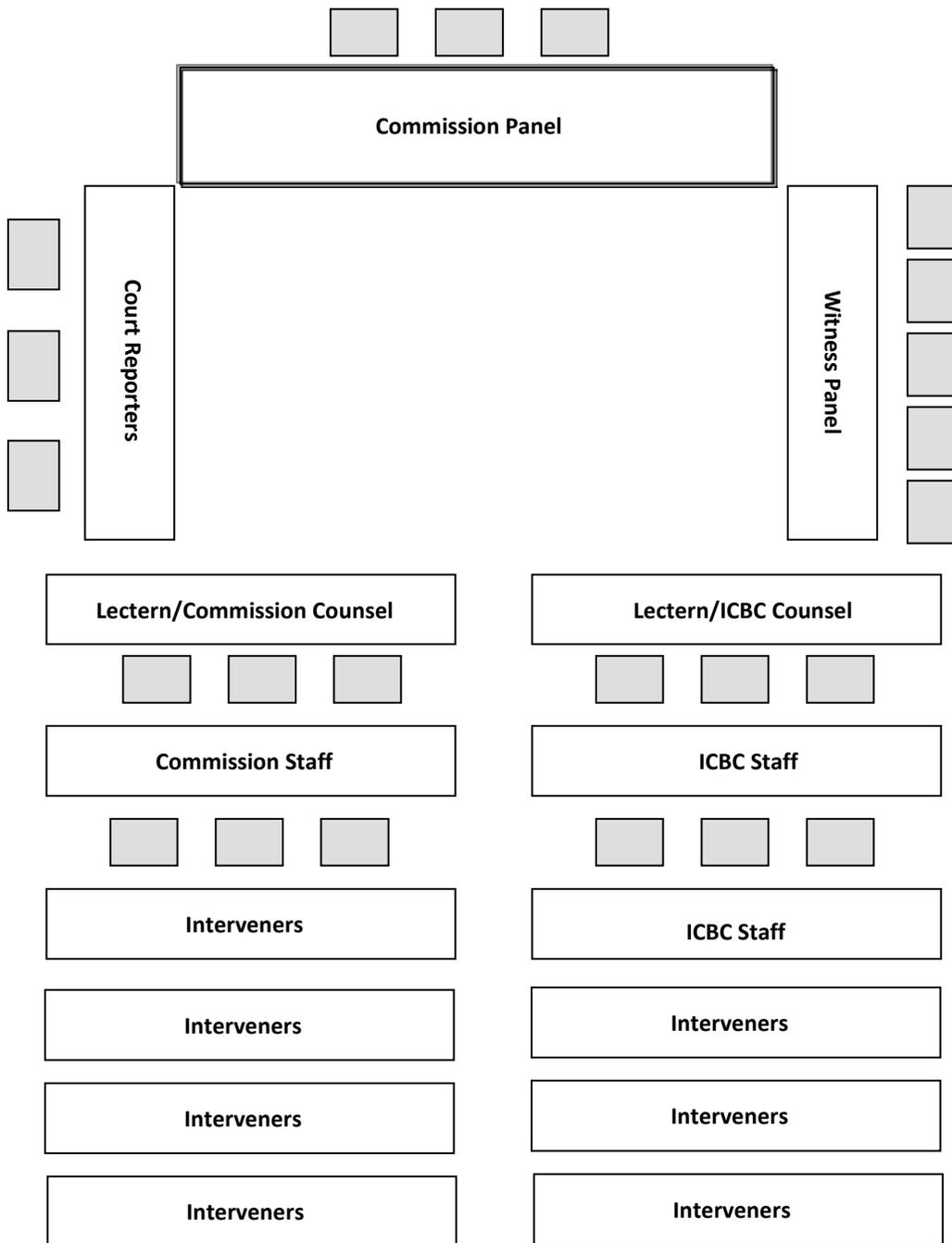
The purpose of cross-examination is to test the evidence of the witnesses who are testifying. This means the witnesses can be asked questions on their evidence and be challenged on its strength and veracity. Argument comes at the end of the Hearing. The purpose of Argument is to present your views and opinions on the evidence to the Commission Panel after the Panel has heard all of the evidence. Therefore, your personal views, opinions and interpretation of filed evidence should be saved for the Argument phase of the Hearing.

Yours truly,

Erica Hamilton

LC/yl  
Attachment

# HEARING ROOM SEATING CONFIGURATION



**Notes:**

Interveners will cross-examine from the lectern in front of the Commission Counsel table.

When Intervener witnesses are giving evidence, their counsel will use the lectern by the ICBC counsel table.