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April 4, 2019

British Columbia Utilities Commission
Suite 410
900 Howe Street
Vancouver, BC V6Z 2N3

Attention: Mr. Patrick Wruck, Commission Secretary and Manager, Regulatory Services

**Re: ICBC 2019 Revenue Requirements Application – Project No. 1598982 –
ICBC’s Response to McCandless’ Request to Panel With Respect to
Confidentiality of 2019.1 RR RM.3.8C**

Dear Mr. Wruck:

Thank you for your letter of April 1, 2019 (Exhibit A-11) providing ICBC with the opportunity to comment on Mr. McCandless’ request to the BCUC to direct ICBC to publicly file the information that was redacted in the response to information request (IR) 2019.1 RR RM.3.8 (provided to the BCUC in the confidential IR response 2019.1 RR RM.3.8C).

After further consideration, ICBC is in agreement that the paid severity information that was redacted in the public version of the response to this information request can be released publicly with the appropriate context provided. ICBC has attached a new version of the response that includes information updated to the third quarter of 2018/19. In reissuing this response, ICBC has also included additional context to ensure that there is information publicly available to explain the usefulness and meaning of the data.

ICBC’s ability to provide additional context is critical to its agreement to make this information available publicly. Without the additional context, ICBC believes that the information provided could be misconstrued by members of the public as being synonymous with the amount that an individual can expect to receive by way of settlement for an injury claim. The claims costs presented are different from settlement amounts or court awards, or the amount that a person actually receives at the end of the day. First, the severity values provided are averages, meaning some files involve greater costs and some are less costly. Second, the nature of the injuries and claims in each category can differ. For example, represented and litigated claims are often more complex, can involve more serious injuries, and take longer to settle than those that are unrepresented. Third, paid severity figures include legal costs and disbursements (including third party costs, third party disbursements including for expert reports, ICBC’s legal costs, and ICBC’s disbursements). Fourth, the amounts received in settlement of a represented injury claim for general damages, wage loss, future care, and future wage loss are subject to a lawyers’ contingency fee (up to 33% of the settlement amount).

In summary, ICBC is in agreement to provide the information that was redacted from the response to information request 2019.1 RR RM.3.8 and has reissued its response with the

requested information and additional context. ICBC has also included a blacklined version of the IR response showing where changes have been made to the original.

Yours truly,

A handwritten signature in black ink that reads "June Elder". The signature is written in a cursive, flowing style.

June Elder
Manager, Corporate Regulatory Affairs
/avg

Cc: Registered Interveners
Bill Carpenter, Vice President, Insurance, ICBC

Attachments

2019.1 RR RM.3.8 Reference: CLAIMS MANAGEMENT

On November 23, 2018, while discussing ICBC’s second quarter financial summary Attorney General Eby stated that the average injury payment for litigated claims for the first six months of 2018/19 was \$121,686. Using the following format, please provide a) the number of closed Basic exposures or claims, b) the total settlement amount and C) the average settlement (severity) amount per exposure or claim.

	2012	2015	2016/17	2017/18	f2018/19
Unrepresented					
Rep. – Not Litigated					
Rep.- Litigated					

Response:

a)

Since each individual claimant on a single BI claim may have a different legal status, the information must be provided on a claim exposure basis. The number of closed BI exposures is provided in Figure 1 below.

Figure 1 below provides information for BI exposures that closed with an amount during the period. As ICBC does not forecast severity according to the format requested, ICBC cannot provide a Fiscal Year 2018/19 forecast. Instead, ICBC has included the year to date actuals to the end of the third quarter of 2018/19 for each of the figures below.

Figure 1 – BI Exposure Counts (Fiscal Year)¹

Exposure Counts ²	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	Q3 2018/19
Unrepresented	22,000	21,000	24,000	24,000	26,000	30,000	30,000	19,000
Represented - Not Litigated	7,000	8,000	10,000	10,000	10,000	14,000	15,000	9,000
Litigated	13,000	12,000	13,000	14,000	13,000	15,000	17,000	11,000

¹ Fiscal year refers to the period from April 1 to March 31. Q3 refers to the period from April 1 to December 31.

² Rounded to the nearest thousand.

b) and c)

Since the amount of Basic insurance coverage applies at the claim level (and not separately for each injured claimant), the related settlement amounts cannot be provided for Basic insurance. Accordingly the information in Figure 2 and Figure 3 is provided on a corporate basis (i.e., includes both Basic insurance and Optional insurance amounts).

Figure 2 – Total Paid Amounts (Fiscal Year)¹

Total Paid Amount (\$ millions) ²	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	Q3 2018/19
Unrepresented	\$ 153.5	\$ 123.9	\$ 156.7	\$ 173.7	\$ 190.3	\$ 220.3	\$ 238.5	\$ 149.3
Represented - Not Litigated	\$ 133.6	\$ 144.3	\$ 187.3	\$ 221.8	\$ 234.1	\$ 321.0	\$ 385.9	\$ 235.1
Litigated	\$ 1,180.8	\$ 1,050.8	\$ 1,111.0	\$ 1,291.5	\$ 1,319.6	\$ 1,544.1	\$ 1,836.4	\$ 1,392.0

¹ Fiscal year refers to the period from April 1 to March 31. Q3 refers to the period from April 1 to December 31.

² Represented - Not Litigated and Litigated claims Total Paid amounts include plaintiff and defence legal costs, expert fees, and expenses, and are subject to plaintiff counsel contingency fees.

Paid severity information provided in Figure 3 below is the average of all amounts paid divided by the number of exposures closed during the period. It includes settlement amounts paid to claimants as well as costs incurred for plaintiff fees and disbursements, and other costs that ICBC incurs to investigate and defend claims, such as defence fees and disbursements and costs of medical reports. The paid severity information below is based on different types and severity of injuries, as well as different impacts on individual claimants. Each claim has its own unique set of circumstances; therefore, these amounts should not be misconstrued to represent what any individual can expect to receive by way of settlement of an injury claim, unrepresented or represented.

Legal representation affects claims costs in a number of ways. Claims with legal representation incur more costs with the legal system such as fulfilling legislated compliance requirements for the process, the use of multiple experts, and the length of time it takes to finalize discovery or trial dates. As noted in the response to information request 2019.1 RR BCUC.41.3, litigated claims take an average of five to six times longer to settle than unrepresented claims. In addition,

represented claims can involve more significant injuries meaning: not only does the claim likely have an ultimate higher end value, but there is also often increased utilization of medical services leading to additional overall costs.

It should be noted that settlement amounts on represented claims for general damages, wage loss, future care, and future wage loss are also subject to a lawyer's contingency fee (up to 33% of the settlement amount) or, less frequently, the sum of the hours charged by the lawyer to handle the claim.

Figure 3 – Paid Severity (Fiscal Year)¹

Paid Severity²	2011/22	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	Q3 2018/19
Unrepresented	\$ 7,086	\$ 6,032	\$ 6,515	\$ 7,158	\$ 7,378	\$ 7,466	\$ 8,019	\$ 7,914
Represented - Not Litigated	\$ 19,353	\$ 17,723	\$ 18,724	\$ 22,168	\$ 22,692	\$ 23,682	\$ 26,486	\$ 27,573
Litigated	\$ 93,130	\$ 85,977	\$ 83,717	\$ 92,953	\$ 100,924	\$ 100,798	\$ 107,427	\$ 125,619 ³

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² Represented - Not Litigated and Litigated claims Paid Severity amounts include plaintiff and defence legal costs, expert fees, and expenses, and are subject to plaintiff counsel contingency fees.

³ This number reflects total paid severity (loss amount paid + expense amount paid), and includes \$121,826 for loss amounts (including damages and third party costs and disbursements) as reported in the media, and \$3,793 in expense amounts (including defence counsel fees, expenses, and medical reports).

2019.1 RR RM.3.8 Reference: CLAIMS MANAGEMENT

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b) and c)

~~The responses related to b) the total settlement amount in Figure 2 and c) the average settlement (severity) amount per exposure of claim in Figure 3, have been redacted because of confidential content. Unrepresented and Represented BI severity data is considered confidential. The confidential information, if made public, could influence settlement negotiations with claimants and prejudice ICBC and its Basic insurance policyholders and thereby harm their financial interests. The unredacted version of the response to this information request has been filed confidentially with the BCUC.~~

Since the amount of Basic insurance coverage applies at the claim level (and not separately for each injured claimant), the related settlement amounts cannot be provided for Basic insurance. Accordingly the information in Figure 2 and Figure 3 is provided on a corporate basis (i.e., includes both Basic insurance and Optional insurance amounts).

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