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August 21, 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's August 2019 Basic Insurance Rate Design
Update Tariff Amendments Application**

Dear Mr. Wruck:

On August 21, 2019, by Order in Council (OIC) 467/19, the Lieutenant Governor in Council approved the Government Directive of August 16, 2019 with respect to Rate Design Update Tariff Amendments (the August 2019 Government Directive regarding Rate Design Update Tariff Amendments). This Government Directive instructs ICBC to apply to the British Columbia Utilities Commission (BCUC) by August 23, 2019 for approval of the amendments to the Basic Insurance Tariff (Tariff) as set out in the attachment in that Government Directive.

On August 21, 2019, the Lieutenant Governor in Council also approved OIC 468/19, which amends *Special Direction IC2 to the British Columbia Utilities Commission, BC Regulation 307/2004* (Special Direction IC2). The amendments to Special Direction IC2 direct the BCUC to approve the aforementioned Tariff amendments within 10 days of ICBC applying to the BCUC for the rate design amendments, effective September 1, 2019.

In accordance with the above, enclosed is ICBC's August 2019 Basic Insurance Rate Design Update Tariff Amendments Application, which seeks the BCUC's approval by September 1, 2019. The specific order sought is set out in the Draft Order attached as Appendix C of this Application.

Yours truly,

Angela Wright
Manager, Corporate Regulatory Affairs
/lg

Cc: Bill Carpenter, Vice President, Insurance, ICBC



ICBC'S AUGUST 2019 RATE DESIGN UPDATE TARIFF AMENDMENTS APPLICATION



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A INTRODUCTION

1. The Insurance Corporation of British Columbia (ICBC) seeks approval from the British Columbia Utilities Commission (BCUC) for amendments to the Basic Insurance Tariff (Tariff). The Tariff amendments are prescribed by a recently issued government directive to ICBC. The BCUC is directed, by virtue of a new provision of *Special Direction IC2 to the British Columbia Utilities Commission, BC Regulation 307/2004, as amended* (Special Direction IC2), to approve the Tariff amendments effective September 1, 2019. ICBC respectfully requests that the BCUC grant the approvals sought, by September 1, 2019, consistent with these directions.

2. The Tariff amendments requested in this Application relate to matters arising since ICBC's 2018 Basic Insurance Rate Design Application (2018 RDA) filed on August 15, 2018 and 2019 Rate Design Update Tariff Amendments Application filed on May 14, 2019 (the May 2019 RDA Update). These Tariff amendments make changes that exclude at-fault crashes in emergency vehicles from claims payment records, and provide additional time for fleet operators to prepare for the changes resulting from the new rate design.

3. This Application is organized as follows:

- Section B sets out the governing regulatory framework.
- Section C describes the nature of the Tariff amendments.
- Section D describes ICBC's planned communication and change management related to the Tariff amendments.
- Section E is a conclusion.
- Appendix A sets out the Government Directive of August 16, 2019 with respect to Rate Design Update Tariff Amendments approved by Order in Council (OIC) 467/19, August 21, 2019 (the August 2019 Government Directive regarding Rate Design Update Tariff Amendments).
- Appendix B sets out the amendment to Special Direction IC2 approved by OIC 468/19, August 21, 2019.
- Appendix C is a draft of the order sought from the BCUC.

B LEGISLATIVE AND REGULATORY FRAMEWORK

4. ICBC operates in a legislative and regulatory framework that is established by the Legislature and the Lieutenant Governor in Council. This Section provides the overall legal and regulatory framework underpinning this Application, including the two OICs that are the basis for, and determinative of, this Application.

B.1 GENERAL LEGISLATIVE FRAMEWORK

5. ICBC is a provincial Crown corporation first established in 1973 under the *Insurance Corporation of British Columbia Act*, subsequently amended and renamed the *Insurance Corporation Act* (ICA).

6. Under the ICA, ICBC is tasked with operating and administering the universal compulsory vehicle insurance (Basic insurance) for the driving public in BC. ICBC must do so in accordance with the *Insurance Vehicle Act* (IVA) and the *Insurance (Vehicle) Regulation* (IVR). The ICA also establishes the BCUC as the regulator of ICBC's Basic insurance rates and services, and brings ICBC under the purview of specified sections of the *Utilities Commission Act* (UCA).

7. Under this legislative framework, Government, through the Lieutenant Governor in Council, may:

- Specify the terms of a Basic insurance certificate through the IVR.¹
- Provide government directives to ICBC pertaining to Basic insurance, which the BCUC is required to recognize and accept.²
- Provide directions to the BCUC directly, in the form of a Special Direction, as to the manner in which ICBC is regulated.³ This normally takes the form of amendments to Special Direction IC2, which governs the BCUC's oversight of ICBC.

B.2 GOVERNMENT DIRECTIONS TO ICBC AND THE BCUC

8. The 2018 RDA was the subject of the Government Directive of August 3, 2018 with respect to Rate Design Tariff Amendments approved by OIC 458/18, August 9, 2018 (the

¹ Section 45 of the IVA.

² Section 3(1)(g) of Special Direction IC2: "when regulating and fixing universal compulsory vehicle insurance rates, regulate and fix those rates in a manner that recognizes and accepts actions taken by the corporation in compliance with government directives issued to the corporation."

³ Section 47 of the ICA and section 3 of the UCA. Previously, section 44(1) of the ICA excluded the application of section 3 of the UCA. This is a consequential amendment to section 47 of the ICA as a result of the passing and royal assent of Bill 55, the *Passenger Transportation Amendment Act, 2018*.



2018 Government Directive regarding Rate Design). In accordance with amendments to Special Direction IC2, the BCUC approved the 2018 RDA on September 28, 2018 (Order G-188-18) with an effective date of September 1, 2019 for most of the changes. The BCUC approved subsequent consequential Tariff amendments on December 17, 2018 (Order G-244-18) with the same September 1, 2019 effective date.

9. The May 2019 RDA Update was the subject of the Government Directive of April 18, 2019 with respect to Rate Design Update Tariff Amendments approved by OIC 222/19, May 10, 2019 (the May 2019 Government Directive regarding Rate Design Update Tariff Amendments). These amendments are also effective September 1, 2019. In accordance with amendments to Special Direction IC2, the BCUC approved the May 2019 RDA Update on May 22, 2019 (Order G-109-19).

10. The August 2019 Government Directive regarding Rate Design Update Tariff Amendments provides directions to ICBC with respect to the further Tariff amendments attached to this Government Directive and described in this Application. This Directive is provided in Appendix A of this Application. The Government Directive prescribes September 1, 2019 as the effective date for these further amendments. This date ensures that the prescribed Tariff amendments come into effect at the same time as the rest of the new rate design. Certificates that have already been renewed in the new rate design will have the premium re-calculated and any resulting refunds will be issued to the registered owner.⁴

11. Concurrent with the August 2019 Government Directive regarding Rate Design Update Tariff Amendments, Special Direction IC2 was amended by OIC 468/19, August 21, 2019 with directions to the BCUC. These amendments direct that the BCUC must approve and set the changes to rates as set out in Tariff pages attached in OIC 467/19 within 10 days of ICBC filing an application, effective September 1, 2019, pursuant to the Directive. The amendments to Special Direction IC2 are provided in Appendix B of this Application.

C AMENDMENTS TO THE INSURANCE RATING MODEL

12. In this Section, ICBC explains the Tariff amendments that are included in the attachment in the August 2019 Government Directive regarding Rate Design Update Tariff Amendments, provided in Appendix A of this Application. These amendments represent

⁴ In this Application, any reference to a registered owner also means, in the case of a leased vehicle, the lessee.

improvements to the new rate design that the BCUC approved in Orders G-188-18, G-244-18, and G-109-19.

C.1 EXCLUDING CLAIMS OF EMERGENCY VEHICLE PERSONNEL

13. Amendments to Schedule D of the Tariff resolve an unintended consequence of the new rate design related to how drivers of emergency vehicles are affected by at-fault crashes while driving an emergency vehicle. Specifically, this ensures that the claim payment records of the drivers of emergency vehicles are not affected by emergency vehicle claims, recognizing the public safety and service that emergency responders provide to the province.

14. In the new rate design, a driver could have two separate claim payment records:

- A "claim payment record" which records the chargeable claim payments made in respect of at-fault crashes during the scan period regardless of the rate class of the vehicle that was driven.
- A "personal claim payment record" for drivers that operate personal rate class vehicles, which records the chargeable claim payments made in respect of at-fault crashes during the scan period associated only with personal rate class vehicles.⁵

15. Emergency responders may be required to operate their vehicles at a high speed or under hazardous circumstances in emergency situations in the discharge of their public duties. In the new rate design, at-fault crashes arising from emergency responders operating vehicles in emergency situations would adversely impact the driver's Individual Driver Factor (IDF) by forming part of the driver's claim payment record.

16. The revisions set out in this Application exclude chargeable claim payments from the driver's claim payment record where the driver is at-fault and the claim arises from a crash where the vehicle was rated in emergency motor vehicle rate class 040, 041, 140, or 141. Chargeable claim payments will also be excluded from a driver's claim payment record if the vehicle was not rated in one of the above classes but was an emergency vehicle as defined in the *Motor Vehicle Act* (MVA).

17. Unlike other emergency vehicles, motorcycles do not have a dedicated rate class to reflect their emergency use. Instead, motorcycles are rated based on their engine size (cubic centimetres). In the new rate design, at-fault crashes on a police motorcycle operated as an emergency vehicle would impact the personal claim payment record of the driver. The

⁵ The list of rate classes that are used for a personal claim payment record is shown in Schedule D of the Tariff.

amendments in this Application will remove at-fault crashes from the motorcycle operator's claim payment record when the motorcycles are used as emergency vehicles as defined in the MVA.

C.2 DELAYING FLEET IMPACTS ON CLAIM PAYMENT RECORDS

18. Amendments to Schedule D of the Tariff will allow fleet operators, many of whom have voiced concern with the potential impacts of the new rate design, more time to assess and communicate the changes within their organizations by delaying the date from which at-fault crashes that occur in a fleet vehicle will impact the driver's IDF.

19. In the current Claim-Rated Scale (CRS) model, at-fault crashes that occurred in a fleet vehicle do not form part of the claims history of the driver. Under the new rate design, at-fault crashes that occurred in both non-fleet and fleet vehicles will impact the driver's IDF.

20. The chargeable claim payment scan period in the new rate design is set as the shorter of 10 years or the time period looking back to March 1, 2017. The 10-year scan period is being phased in upon implementation of the new rate design on September 1, 2019. At implementation, the scan period will extend back to March 1, 2017 and will increase by one year every year until the full 10 years is achieved on or after March 1, 2027.

21. Some fleet operators and their employees have expressed concern about crashes occurring during the scan period impacting the driver's claim payment record as of September 1, 2019, given that neither the fleet operator nor the employee may have been aware of this potential consequence when the crash occurred.

22. The amendments in this Application will ensure that only chargeable claim payments with respect to at-fault crashes occurring on or after January 1, 2020 will form part of a driver's claim payment record. This will provide time for fleet operators and those who drive for them to understand and better manage the impacts of at-fault crashes to a driver's IDF.

D COMMUNICATIONS AND CHANGE MANAGEMENT

23. Further to Orders G-188-18 and G-109-19, ICBC has been providing the BCUC with draft external communication materials related to the new rate design and rate design information technology progress reports. The external communication materials include proposed wordings on notices, reminder inserts to customers, information to brokers (Broker News), fact sheets, wording for use by brokers (e.g., broker newsletters), ICBC's webpages,



public/customer campaign materials, online newsletters, interactive online tools for customers, news releases, etc.

24. ICBC intends to continue communicating to customers, brokers, employees, and third-party stakeholders about the new rate design in accordance with the latest ICBC's Communications and Change Management Plan and in the formats that have been submitted to the BCUC. ICBC will incorporate information about these further Tariff amendments into its communications and change management activities and tactics for all audiences once the BCUC has issued its decision.

E CONCLUSION

25. The Tariff amendments set out in this Application and included in the August 2019 Government Directive regarding Rate Design Update Tariff Amendments augment the Tariff amendments previously approved by the BCUC in the 2018 RDA and the May 2019 RDA Update. These Tariff amendments make changes that exclude at-fault crashes in emergency vehicles from claims payment records, and allow further time for fleet operators to understand and manage the impacts of the new rate design for their organization. In accordance with Special Direction IC2, as amended, ICBC respectfully requests that the BCUC issue its order on or before August 30, 2019, making the Tariff amendments effective September 1, 2019.



**Appendix A – Government Directive of
August 16, 2019 with respect to Rate Design
Update Tariff Amendments approved by Order
in Council 467/19, August 21, 2019**

PROVINCE OF BRITISH COLUMBIA

ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. 467

, Approved and Ordered

August 21, 2019


Lieutenant Governor

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that approval is given to the attached government directive issued by the Attorney General to the Insurance Corporation of British Columbia dated August 16, 2019.


Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section: Insurance Corporation Act, R.S.B.C. 1996, c. 228, s. 47

Other: B.C. Reg. 307/2004, s. 3 (4)



August 16, 2019

Joy MacPhail
Chair
Board of Directors, Executive Office
Insurance Corporation of British Columbia
517 - 151 West Esplanade
North Vancouver BC V7M3H9

Dear Joy MacPhail:

I am writing to provide direction to the Insurance Corporation of British Columbia (ICBC) regarding some changes to the upcoming universal compulsory automobile (Basic) insurance rate design. The new Basic insurance rate design was the subject of two previous government directives, dated August 9, 2018 and April 18, 2019. The new Basic insurance rate design was approved by the British Columbia Utilities Commission (BCUC) on September 28, 2018, with consequential amendments approved on December 17, 2018, and additional amendments approved May 22, 2019, all with an effective date of September 1, 2019.

ICBC is hereby directed to apply to the BCUC by August 23, 2019 for approval of rate design amendments as set out in the amended Tariff pages attached to this letter, to be effective September 1, 2019.

ICBC is directed to incorporate any necessary consequential amendments to the attached Tariff pages and other Tariff pages, for example to reflect any changes to the Tariff approved by the BCUC prior to the effective date of the attached pages.

This letter of direction, including the attached Tariff pages, is a government directive within the meaning of that term defined in Special Direction IC2 to the British Columbia Utilities Commission (B.C. Reg. 307/2004), and augments OIC 458/18 and OIC 222/19.

Yours truly,

A handwritten signature in black ink, appearing to be "David Eby", written over a circular stamp or mark.

David Eby, QC
Attorney General

Attachment

Ministry of
Attorney General

Office of the
Attorney General

Mailing Address:
PO Box 9044 Stn Prov Govt
Victoria BC V8W 9E2
email: AG.Minister@gov.bc.ca
website: www.gov.bc.ca/ag

Telephone: 250 387-1866
Facsimile: 250 387-6411

- (L) a claim under a Fleet Reporting Certificate (APV90);
 - (M) a claim for a vehicle rated in vehicle rate class 030, 035 or 036;
 - (N) a claim where the driver had a learner licence or a non-BC licence at the time of the accident;
 - (O) a repaid claim;
 - (P) a repaid fleet claim in accordance with Schedule I; | C
 - (Q) a claim under a storage policy issued by ICBC or similar coverage provided by another insurer; or | C
 - (R) a claim for a vehicle insured under Fleetplan where the date of the accident occurred prior to January 1, 2020; | N
- (ii) made in respect of an accident where the first payment made in respect of the accident occurs more than 48 months after the time of the accident; or
 - (iii) made in respect of an accident involving the contributory negligence of another person other than a person insured under the certificate where 75% or more of the payment is recoverable from that other person;

or

- (b) where the date of the accident is before September 1, 2019 in respect of death or injury to another person or loss or damage to property of another person or to property to which own damage coverage applies, including for the purposes of Part 3 of the IVR, payment under Part 6 of the IVR in respect of a vehicle providing the motive power where an accident involving a combination of vehicles occurred, but does not include a payment:
 - (i) made in respect of
 - (A) a claim for a hit and run accident occurring on a highway;
 - (B) a claim for accident benefits;
 - (C) a claim under comprehensive coverage;
 - (D) a claim under specified perils coverage;
 - (E) a claim under underinsured motorist protection;
 - (F) a claim under loss of use coverage with respect to a claim under comprehensive coverage or specified perils coverage;

Effective: September 1, 2019

Accepted: _____

Order: _____

Commission Secretary: _____

- (G) a claim for a temporary substitute motor vehicle;
- (H) a claim under Roadstar and Roadside Plus packages or similar coverage to Roadstar and Roadside Plus packages provided by another insurer;
- (I) a claim for a vehicle insured under a garage policy;
- (J) a trailer;
- (K) a claim under an additional product certificate other than a Temporary Operation Permit and Owner's Certificate of Insurance (APV16);
- (L) a claim for a vehicle rated in vehicle rate class 036;
- (M) a claim where the driver had a learner licence or non-BC licence at the time of the accident;
- (N) a claim under a storage policy issued by ICBC or similar coverage provided by another insurer;
- (O) a repaid claim;
- (P) a repaid fleet claim in accordance with Schedule I;
- (Q) a claim where the total amount of:
 1. all chargeable claim payments; plus
 2. \$300 if the claim includes a payment made in respect of loss or damage to property to which own damage coverage applies,

| C

is equal to or less than the amounts set out below:

Date of First CCP	Total Amount
Prior to September 1, 2009	\$1,700
September 1, 2009 to August 31, 2011	\$1,750
September 1, 2011 to August 31, 2013	\$1,800
September 1, 2013 to August 31, 2015	\$1,850
September 1, 2015 to August 31, 2017	\$1,900
September 1, 2017 to August 31, 2019	\$1,950
On or after September 1, 2019	\$2,000

or

- (R) a claim for a vehicle insured under Fleetplan;

| N

Effective: September 1, 2019

Accepted: _____

Order: _____

Commission Secretary: _____

	Circumstance	Start Date	Drivers
4)	reporting a change to add listed drivers	date of reporting the change	added listed drivers
5)	reporting a change of vehicle rate class such that the vehicle rate class which initially was: (a) not within the vehicle rate classes described in the definition of personal claim payment record but was after reporting the change; or (b) within the vehicle rate classes described in the definition of personal claim payment record but was not after reporting the change	date of reporting the change	all listed drivers
6)	reporting a change that a listed driver on a certificate who: (a) was a first-licensed non-BC driver has obtained a BC non-learner licence; or (b) held a learner licence has obtained a BC non-learner licence	date of reporting the change	that listed driver

“claim payment record” means a person’s record of chargeable claim payments made in respect of an accident in which that person was using or operating a vehicle, but excludes accidents where the person was using or operating a vehicle rated in vehicle rate class 040, 041, 140 or 141 or an emergency vehicle as defined in the Motor Vehicle Act.

“driving experience” means the total number of whole years of driving experience attributed to a listed driver in accordance with section 6 for the purposes of determining the driver’s IDF.

“employee” means an employee, director, officer or partner determined at the later of:

- a) issuing a new or renewal certificate, or
- b) a change to add or remove listed drivers from the certificate.

Effective: September 1, 2019

Accepted: _____

Order: _____

Commission Secretary: _____



Appendix B – Order in Council No. 468 (468/19), B.C. Reg. 190/2019 amending Special Direction IC2

PROVINCE OF BRITISH COLUMBIA

ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. 468

, Approved and Ordered

August 21, 2019



Lieutenant Governor

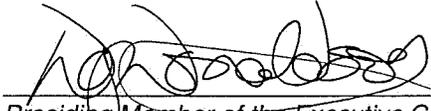
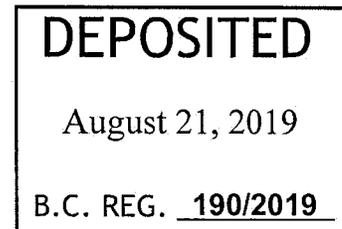
Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that section 3 (1) of Special Direction IC2 to the British Columbia Utilities Commission, B.C. Reg. 307/2004, is amended

(a) *in paragraph (c) by striking out* “paragraphs (g), (j), (k), (l), (m), (n), (o), (p) and (q)” *and substituting* “paragraphs (g), (j), (k), (l), (m), (n), (o), (p), (q) and (r)”, *and*

(b) *by adding the following paragraph:*

(r) despite paragraph (j), within 10 days of the corporation applying in accordance with the government directive dated August 16, 2019 for changes to its rate design, approve and set the changes to rates effective September 1, 2019.



Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section: *Utilities Commission Act, R.S.B.C. 1996, c. 473, s. 3*

Other: *OIC 647/2004*

R10350627



Appendix C – Draft Order



ORDER NUMBER

G-xx-xx

IN THE MATTER OF

the *Utilities Commission Act*, RSBC 1996, Chapter 473

and

the *Insurance Corporation Act*, RSBC 1996, Chapter 228, as amended

Insurance Corporation of British Columbia

August 2019 Basic Insurance Rate Design Update Tariff Amendments Application

BEFORE:

Commissioner
Commissioner
Commissioner

on August ____, 2019

ORDER

WHEREAS:

- A. On August 21, 2019, by Order in Council No. (OIC) 467/19 and 468/19, respectively, the Lieutenant Governor in Council directed the Insurance Corporation of British Columbia (ICBC) to apply to the British Columbia Utilities Commission (BCUC) by August 23, 2019 for approval of rate design amendments as set out in OIC 467/19, and directed the BCUC to approve and set the changes to rates within 10 days of ICBC's application, by September 1, 2019.
- B. On August 21, 2019, in accordance with OIC 467/19, ICBC filed with the BCUC its August 2019 Basic Insurance Rate Design Update Tariff Amendments Application (Application).
- C. ICBC sought approval of the amended Basic Insurance Tariff (Tariff) pages set out in the attachment in OIC 467/19, with an effective date of September 1, 2019.
- D. The BCUC has reviewed and considered the Application in accordance with OIC 467/19 and 468/19, and considers the approval is required as directed.

NOW THEREFORE the BCUC orders as follows:

- 1. The Tariff pages attached in OIC 467/19 are approved, effective September 1, 2019.

DATED at the City of Vancouver, in the Province of British Columbia, this ____ day of August 2019.

BY ORDER

(X. X. last name)
Commissioner

Attachments