

06 January 2021

VIA E-FILING

Marija Tresoglavic
Acting Commission Secretary
BC Utilities Commission
6th Floor 900 Howe Street
Vancouver, BC V6Z 2N3

Our File: 7700.102

Dear Ms. Tresoglavic,

Re: British Columbia Utilities Commission - Inquiry into the Regulation of Safety

We make the following submissions in response to the Commission's Letter dated December 17, 2020 (Exhibit A-3) on behalf of our clients, the group of community-based organizations serving the very large and diverse population of British Columbians known collectively in in this regulatory proceeding as BCOAPO or BCOAPO et al.

The BCUC requested submissions on the following issue:

- Should the scope of the Inquiry include the regulation of safety for ICBC?

The issue arose when MoveUP urged the Commission to include consideration of safety issues at ICBC in the Inquiry¹. MoveUp submitted that the BCUC's mandate of ensuring safe, efficient, cost-effective delivery of regulated services to British Columbians allows the Commission "to address workplace safety squarely in its existing regulatory processes, including as these apply to ICBC".² In particular, MoveUp stated the following:

...where ICBC, like any other regulated utility, inadequately protects employees' workplace health and safety, the resulting costs increase ICBC's overall operating costs which are passed on to basic insurance ratepayers.³

MoveUp submitted that sections 23(g) and 24 of the *Utilities Commission Act* (UCA) apply to ICBC, per section 44 of *the Insurance Corporation Act* (ICA).

¹ Exhibit C5-2, MoveUp Submissions, page 3

² Exhibit C5-2, MoveUp Submissions, pages 3 & 4

³ Exhibit C5-2, MoveUp Submissions, page 3

On November 17, 2020, ICBC filed a letter of comment writing that the sections of the *UCA* that reference safety, in particular section 23(g)(i) of the *UCA*, have been made inapplicable to ICBC by virtue of section 44 of the *ICA*, and that while section 24 of the *UCA* applies to ICBC, it does not reference safety.⁴

Section 44(1) of the *ICA* states the following:

44 (1) Subject to subsections (3), (6) and (7), the Utilities Commission Act, other than sections 5 (4) to (9), 22, 23 (1) (a) to (d) and (2), 25 to 38, 40, 41, 43 (1) (b) (ii), 44.1, 44.2, 45 to 57, 59 (2) and (3), 60 (1) (b) (ii) and (2) to (4), Part 3.1, 97, 98, 106 (1) (k), 107 to 109 and 114, Parts 4 and 5 and sections 125.1 and 125.2 of that Act, applies to and in respect of the corporation as if it were a public utility, and a reference in this Part to the Utilities Commission Act or to a provision of that Act is deemed to be a reference to that Act or provision as it applies for the purposes of this Act.

[Emphasis added]

Accordingly, by our reading of the referenced statutes, sections 23(1)(c), 23(2), 25, 37, 38 of the *UCA* which explicitly reference safety, do not apply to ICBC by virtue of section 44(1) of the *ICA*. Although section 23 (1)(g)(i) of the *UCA* does apply to ICBC, the language of this section is modified by section 44(3)(c) of the *ICA* to exclude the reference to “the safety”.

The original language of section 23(1)(g)(i) of the *UCA* is sited below:

23 (1) The commission has general supervision of all public utilities and may make orders about

...

(g) other matters it considers necessary or advisable for

(i) the safety, convenience or service of the public, or

...

[Emphasis added]

However, per section 44(3)(c) of the *ICA* it is deemed to read as follows:

"(i) the convenience or service of the public, or",

⁴ Exhibit E-3, page 2

BCOAPO submits that based on the interpretation of section 44 of the *ICA*, safety is not within the BCUC's jurisdiction when it comes to ICBC, and should not be included in the scope of the Inquiry.

All of which is respectfully submitted.

BC PUBLIC INTEREST ADVOCACY CENTRE

Original on file signed by

Leigha Worth
Executive Director | General Counsel

Original on file signed by

Irina Mis
Staff Lawyer