

BRITISH COLUMBIA UTILITIES COMMISSION
IN THE MATTER OF THE UTILITIES COMMISSION ACT
R.S.B.C. 1996, CHAPTER 473

And

Re: Insurance Corporation of British Columbia
2013 Revenue Requirements Application

Vancouver, B.C.
November 19th, 2013

Pre-Hearing Conference

BEFORE:

Bernard Magnan,

Panel Chair/Commissioner

Liisa O'Hara Commissioner

Richard Revel Commissioner

VOLUME 1

APPEARANCES

P. MILLER.	Commission Counsel
M. GHIKAS	Insurance Corporation of British Columbia
J. ELWICK	Canadian Direct Insurance Inc.
R. FINNIE	Pemberton Insurance Corp.
L. MUNN	Insurance Bureau of Canada
S. KHAN	British Columbia Pensioners' and Seniors' Organization <i>et al</i> (BCPSO)
F.J. WEISBERG	Toward Responsible Educated Attentive Driving (TREAD)
G. ADAIR	Self
R. LANDALE	Self
D. MCGREGOR	Automobile Committee of the Canadian Bar Association

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CAARS

VANCOUVER, B.C.

November 19, 2013

(PROCEEDINGS RESUMED AT 9:12 A.M.)

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4 THE CHAIRPERSON: Be seated. I apologize for the delay,
5 ladies and gentlemen. I understand that some people
6 had a challenge in getting here this morning. So we
7 fully respect that.

8 Good morning, ladies and gentlemen. My
9 name is Bernie Magnan. With me are Commissioners
10 Liisa O'Hara and Rich Revel. Welcome to this
11 morning's pre-hearing conference to consider various
12 matters related to the Insurance Corporation of
13 British Columbia's 2013 revenue requirements
14 application for the policy year beginning November 1,
15 2013 and for approval of a new basic insurance capital
16 management plan.

17 This pre-hearing conference is called to
18 address issues regarding the application, including
19 comments on the scope of the Commission's review of
20 the application, comment on the regulatory review
21 options, comment on the Commission staff draft
22 regulatory timetable attached as Appendix A to the
23 letter sent to all participants prior to this hearing,
24 including the dates proposed. The letter is marked
25 Exhibit A-5 on the record. Intervenors' intentions to
26

1 At this stage it is my pleasure to
2 acknowledge and introduce a number of individual who
3 will play an important role in the review of this
4 application. Leon Chung, regulatory analyst, is Lead
5 Staff for this application. The Staff Team is made up
6 of various Commission Staff and Commission
7 consultants. We have Commission Counsel for the
8 proceeding, Mr. Paul Miller, from Boughton Law
9 Corporation. And finally our Hearing Officer is Mr.
10 Hal Bemister.

11 Before Mr. Miller takes over, I'd like to
12 ask you to please make sure that your submissions are
13 directed to the issues that I've just outlined,
14 together with any other issues that you or any of the
15 other participants identify and the Panel accepts as
16 appropriate for addition to the agenda. In
17 identifying any additional issues, please bear in mind
18 that it's not the purpose or the goal of this
19 conference to compare or discuss the merits of the
20 application but to address the issues that I've just
21 described.

22 After appearances, the order of submissions
23 will begin with ICBC and then follow the order of
24 appearances. Once we reach the end of the
25 interveners, beginning with the last intervener to
26 speak, interveners will have a right to reply to an

1 behalf of the Insurance Corporation of British
2 Columbia. I have no further issues to add to the
3 agenda, and I am quite content to deal with all of the
4 issues at once. Thank you.

5 MR. MILLER: Canadian Direct Insurance, Inc.

6 MR. ELWICK: Good morning, Mr. Chair, Commissioners. My
7 name is John Elwick, E-L-W-I-C-K, representing
8 Canadian Direct. We don't have any further evidence
9 or positions to put at this point.

10 I take it I'm going to be able to address
11 the issues after we've -- everybody has been
12 introduced.

13 THE CHAIRPERSON: That's correct, yes.

14 MR. ELWICK: Thank you.

15 MR. MILLER: Pemberton Insurance Corp.

16 MR. FINNIE: Good morning, panel. My name is Roger
17 Finnie. I am president of Pemberton Insurance
18 Corporation. This is the tenth year now that I've
19 appeared before the Commission on certain issues.

20 There are many critical issues here which
21 include items we've identified, including obligation
22 on B.C.'s debt management, the constitutionality of
23 indirect taxation and capital build on the backs of
24 the ratepayers, the disparity of subrogation-based
25 transfer pricing. However, there is one critical
26 piece of information that leapt off the page. After

1 ten years of perseverance, of this data, ICBC has
2 finally been forthcoming. It is the experience per
3 level on the claims rated scale experience modifier.

4 In response to our Information Request,
5 PI.1.6, ICBC revealed that nearly one-half of
6 policyholders --

7 THE CHAIRPERSON: Excuse me. Mr. Finnie.

8 MR. FINNIE: I'll just be one minute.

9 THE CHAIRPERSON: No. This is just to introduce
10 yourselves.

11 MR. FINNIE: Yes.

12 THE CHAIRPERSON: And you can get into details, and to
13 your presentation later.

14 MR. FINNIE: Oh, this just leads -- this is a bit of a
15 preamble into an issue here.

16 That nearly one-half the policyholders, the
17 low-risk drivers, level minus 20, grossly overfund the
18 claims cost. In other words, the good drivers are
19 being shafted. As the law requires that rates be
20 fair, reasonable, appropriate, and equitable, this
21 issue is of urgent and pressing necessity.

22 As such, we believe as interveners there
23 are two courses of action at this juncture, of which
24 we would like to seek the feedback from the Panel. I
25 don't need it right now. Number one, that the BCUC
26 issue an Order as part of these proceedings for the

1 rebalancing of these particular rate classes to
2 normalize them, or alternatively, two, to seek an
3 application for adjournment of these proceedings so
4 that we can instead immediately commence a derivate
5 rate design application, and pick up on the overall
6 rate revenue requirements once that process has been
7 completed. I'll leave that with you. Thank you very
8 much.

9 MR. MILLER: The Insurance Bureau of Canada.

10 MR. MUNN: Commissioners, my name is Larry, last name
11 Munn, M-U-N-N, and I'm here on behalf of the Insurance
12 Bureau of Canada. We're quite prepared to -- no
13 additional issues. Quite prepared to address them in
14 bulk as we go through.

15 THE CHAIRPERSON: Thank you, Mr. Munn.

16 MR. MILLER: B.C. Pensioners' and Seniors' Organization
17 *et al.*

18 MS. KHAN: My name is Sarah Khan, K-H-A-N, and I'm here
19 representing BCPSO *et al.* And we don't have any
20 additional issues, and we're prepared to deal with
21 them all at once.

22 THE CHAIRPERSON: Thank you.

23 MR. MILLER: Toward Responsible Educated Attentive
24 Driving, also known as TREAD.

25 MR. WEISBERG: Good morning, Mr. Chair and Commissioners.
26 My name is Weisberg, initials F.J. I am appearing on

1 behalf of Toward Responsible Educated Attentive
2 Driving, a mouthful of words that I will henceforth
3 refer to as TREAD. We are content to deal with the
4 issues collectively, as has been suggested. Thank
5 you.

6 THE CHAIRPERSON: Thank you, Mr. Weisberg.

7 MR. MILLER: Mr. Adair.

8 MR. ADAIR: Gordon Adair. And I'm here representing
9 myself. And you'll be happy to know I have nothing to
10 say at this time.

11 THE CHAIRPERSON: Thank you, Mr. Adair.

12 MR. MILLER: Mr. Landale.

13 MR. LANDALE: Good morning, Mr. Chairman and
14 Commissioners. My name is Richard Landale. I
15 represent myself. I'm also known as "Dick Tracy".
16 And I have nothing else to add. Thank you.

17 MR. MILLER: Thank you. Is there anyone else in the room
18 who wishes to make submissions to the panel that I
19 didn't call?

20 No further appearances, Mr. Chair.

21 **Proceeding Time 9:23 a.m. T4**

22 THE CHAIRPERSON: Thank you, Mr. Miller.

23 Can we then proceed with Mr. Ghikas?

24 **SUBMISSIONS BY MR. GHIKAS:**

25 MR. GHIKAS: Thank you, Mr. Chairman, Commissioners.
26 Before I launch into my submissions I thought it

1 appropriate first off to introduce some of the people
2 from ICBC who are here who may be new faces to some of
3 you, others who may be well known but I thought that
4 would be useful. And so I'll start over here. Ms.
5 Geri Prior, she's the Chief Financial Officer of ICBC.
6 And behind me is Mr. Philip Leung. He's the Director
7 of Accounting and Reporting who ultimately oversees
8 the regulatory affairs portfolio and other areas. And
9 also most of will probably know Ms. June Elder, who is
10 the Manager of Regulatory Affairs and who controls
11 things on a day-to-day basis very admirably.

12 My letter of November 15th addressed all of
13 the items in some detail, and having filed that it
14 allows me to focus my comments in particular on item
15 number 4 and it would just be process and timetable,
16 and any other comments that I may have on the other
17 issues I will deal with in reply.

18 THE CHAIRPERSON: Thank you.

19 MR. GHIKAS: First of all dealing with the question of
20 whether the proceeding ought to be written or oral or
21 a hybrid of the two. The starting point of the
22 discussion regarding the type of hearing process in
23 any circumstance should be that written hearing
24 processes and oral hearing processes are, as a matter
25 of principle, equally legitimate options and that
26 neither process is inherently inferior or superior.

1 And when the Commission considers which of those two
2 processes it should adopt, it's obviously important
3 for the Commission to consider that -- and to ensure
4 that it has sufficient level of information before it
5 that it can reach a considered decision.

6 But the process, in my submission, must
7 also be efficient. There will always be more
8 questions that can be asked. One can always obtain
9 more information. And the principle of efficiency
10 requires and recognizes that ultimately the basic
11 policyholders are picking up the cost of additional
12 processes, both ICBC's costs, intervener costs, and
13 the Commission costs which, by experience, for an oral
14 hearing, even a relatively short one, can measure into
15 the hundreds of thousands of dollars.

16 So the pertinent question, in my
17 submission, for the Commission in dealing with this
18 issue is not whether an oral hearing would produce
19 additional information but whether an oral hearing
20 would add value. The concept of value accounts for
21 both the completeness of the record and also the
22 principle of efficiency.

23 And with all that being said in the present
24 circumstances, Mr. Chairman, it's ICBC's submission
25 that those principles clearly dictate that a written
26 proceeding is appropriate.

1 My letter sets out a number of
2 considerations that lead to that conclusion, but to
3 highlight them first of all there is the fact that
4 ICBC is asking for a 4.9 percent rate increase by
5 virtue of a legislative requirement when its actual
6 costs suggest an 11.5 percent increase.

7 **Proceeding Time 9:27 a.m. T05**

8 The second consideration is that the range
9 of outcomes on key issues in this proceeding are
10 significantly constrained by legislation. And I
11 highlight for you, Mr. Chairman, the capital
12 provisions for starters in the 2013 rates are actually
13 dictated by virtue of the requirement that the
14 existing capital plan be used in setting rates.

15 With respect to Mr. Landale's belief that
16 the transformation program is ill-conceived, that
17 issue is also a decision of government, that
18 government has made, and that is really a decision
19 that is beyond the purview of this hearing. And to a
20 considerable degree, the issues raised by interveners
21 in this proceeding on the future capital management
22 plan are also constrained by the parameters set by
23 legislation. And the Commission is not tasked in this
24 proceeding with assessing the merits of the rates
25 moving framework itself. That is in Special Direction
26 IC-2.

1 The third point that I wish to make in this
2 regard is that investment returns, which is a
3 component of the rate indication, and a favourable one
4 this year, the provision in the rate indication for
5 investment returns is dictated by a formula that's
6 already been approved by the Commission. This year,
7 operating costs are \$50 million lower and are, in
8 fact, contributing positively -- or I should say are
9 having a 0.6 percent -- negative 0.6 percentage point
10 impact on the rate indication. This is a considerable
11 cut in operating expenses and, in my submission, the
12 impacts this year associated with operating expenses
13 suggest that this is not a year that requires an oral
14 proceeding to consider those.

15 And finally, this policy year is only nine
16 months long, and we're expecting another revenue
17 requirements process to be initiated late spring. And
18 in those circumstances, ICBC submits with all of those
19 considerations before the Commission that the point of
20 diminishing returns, and the point -- the value point
21 that we're dealing with here is -- starts after we
22 have had two rounds of IRs in the circumstances. The
23 first round of IRs was very extensive, 900 IRs, in
24 this proceeding. And we anticipate that there will be
25 a significant number of IRs in the second round. And
26 so the point of diminishing returns, as I said, is

1 reached once we have concluded that second round, and
2 in this context an oral hearing of any kind would not
3 add value.

4 Leaving behind that portion of my
5 submission and moving directly to the timetable, ICBC
6 is appreciative of the effort that staff put into
7 preparing a strawman, and understands that it's a
8 strawman timetable, and has proposed changes to it,
9 and has in fact attached an alternate timetable to my
10 letter filed last week.

11 The essence, without going through item by
12 item, the essence of the proposed changes to the
13 timetable is to extend the strawman timetable options
14 to some extent. And I've explained in detail in my
15 letter the rationale for doing so with respect to
16 particular items.

17 **Proceeding Time 9:32 a.m. T06**

18 The point that I want to stress this
19 morning, and is a point that I cannot stress enough,
20 is that if there is to be an oral hearing, then
21 holding that hearing in early January as contemplated
22 by option 2(a) would be fundamentally unfair to ICBC,
23 would be counterproductive to all stakeholders, and
24 goes further than necessary to provide -- to resolve
25 this proceeding in a timely manner.

26 Dealing first with the issue of fairness,

1 it's my submission that holding a hearing in early
2 January is fundamentally unfair, first and foremost
3 because it provides an insufficient opportunity for
4 those involved to adequately prepare. The written
5 record is already very large, and it will get larger.
6 And it's important to understand that the preparation
7 of IRs, which will be concluding just before
8 Christmas, is not the work of the people who appear as
9 witnesses alone. It's the work of dozens of people
10 across the corporation. And when witnesses appear
11 before the Commission, they are speaking on behalf of
12 the Corporation and must understand and be able to
13 digest and speak informatively on IRs that they
14 themselves may not have actually authored. That is a
15 considerable undertaking, to prepare for an oral
16 hearing, and it simply expects too much of those
17 individuals, in my submission, to digest the record,
18 prepare their evidence and organize themselves in the
19 ten working days between filing the second round of
20 IRs and a January 13th commencement date.

21 I would add to that that a key individual
22 that was involved in directing the preparation of the
23 application and handling this application to date is
24 no longer with the Corporation, and it is not an easy
25 task to step in to that role and it provides an
26 additional factor as to why that timetable is simply

too difficult in the circumstances.

1 The second point on the issue of fairness
2 is that ICBC may have to involve other legal counsel,
3 should the proceeding occur at the time, because my
4 current schedule finds me out of the country at the
5 time. I'm not asking for a concession on my own
6 behalf, because I'm out of the country, but rather I
7 am raising it because it is an impediment to ICBC
8 preparing and attending a hearing, to have counsel
9 that is not as familiar with the file as myself. And
10 in the circumstances, I believe that that is an
11 important factor for consideration.

12 My final point in the context of fairness
13 relates to the human element in all of this, and I
14 alluded to that in my letter. But, to put it bluntly,
15 a January 13th start day would ruin the vacation and
16 holiday period of those involved in a hearing process,
17 particularly the witnesses, and those of the
18 regulatory staff that handle all of the preparations
19 for a hearing. This isn't a consideration that
20 necessarily factors into the legal standard of
21 procedural fairness like the previous two factors do,
22 that I have identified. But I would like to think
23 that the regulatory community here is sufficiently
24 small that there would be some sympathy for that
25 factor, for the human element of things, when it can
26

1 be reasonably accommodated. And in my respectful
2 submission, this is a circumstance which can
3 reasonably accommodate those considerations and should
4 accommodate those considerations.

5 The second point that I identified as a
6 basis for not holding a hearing in early January, is
7 that it is counterproductive to do so. And I say that
8 because the whole logic of holding an oral hearing
9 presumably is to provide additional useful information
10 that the Commission can use in its deliberations.

11 **Proceeding Time 9:37 a.m. T7**

12 And it is, to state the obvious, that
13 having witnesses that are well prepared for the
14 hearing is an important aspect of getting those
15 answers in an informed manner that would be useful to
16 the Commission. And so I say as a result that
17 unnecessarily constraining the ability of the
18 witnesses to prepare adequately for the hearing
19 doesn't serve anybody, and so that ought to be a
20 significant consideration in the Commission's
21 deliberations on the timetable.

22 The final point that I made or I alluded to
23 is that the timetables go further than is required to
24 address the timeliness of the proceeding. ICBC
25 understands the desire of the Commission and shares
26 the desire of the Commission to ensure that this

1 proceeding proceeds in a timely manner. ICBC
2 understands that by extending the timeline it places
3 pressures on the Commission Panel in terms of its
4 deliberations and decision writing. And in the
5 circumstances, ICBC submits that there are ways to
6 deal with those considerations that are not ideal, but
7 there are ways that can manage those considerations in
8 the context of the next proceeding where there is a
9 greater time for the process to unfold, a much more
10 significant time because it's a full year revenue
11 requirement rather than a nine month one; and that
12 dealing with those issues, should they occur, whether
13 it be through a need for an evidentiary update or a
14 revised application, while not ideal, is certainly a
15 better option than compromising the fairness of the
16 current proceeding. And faced with perhaps not an
17 ideal circumstance on either side, in my submission,
18 the scale should weigh heavily in favour of ensuring
19 that the current proceeding is fair for all
20 participants.

21 I will leave that submission there for the
22 time being and will provide comments in response to my
23 friends as they make them. I should probably -- I'm
24 not sure if Mr. Finnie will be speaking further on his
25 points or not. I will simply say for now that this is
26 a revenue requirements proceeding and there is nothing

1 that occurs within a revenue requirements proceeding
2 that would preclude pursuing a rate design application
3 at some point in the future. There is absolutely no
4 need and it would be contrary to the practice of the
5 Commission to put a revenue requirements proceeding on
6 hold pending a rate design application. You in fact
7 need a cost base that is certain in order to conduct a
8 rate design application.

9 So in my submission, Mr. Finnie's request
10 for an adjournment is ill conceived in the
11 circumstances and one that the processes are simply
12 unrelated and the Commission ought to give it no
13 further consideration. So I will speak further if Mr.
14 Finnie has any further submissions after he speaks.

15 Subject to any questions from you, Mr.
16 Chairman, Commissioners, I will sit down.

17 COMMISSIONER O'HARA: I have a question, Mr. Ghikas. We
18 have now your sort of alternative dates to those
19 suggested by the Panel, and let's assume that after
20 the Panel has heard all the submissions this morning
21 and then we are still undecided between the options
22 written versus oral, so is there another scenario that
23 the Panel would wait until after reviewing the
24 responses to IR No. 2, but after this proceeding we
25 would all already agree to oral hearing dates as place
26 holders, so at least there would be some certainty,

1 but that would give the Panel some more time to then
2 reflect whether oral hearing would be needed or not?
3 So I'm just testing that as an additional option.

Proceeding Time 9:42 a.m. T8

4 MR. GHIKAS: No, fair enough, Commissioner O'Hara. My
5 response to that would be that that is certainly a
6 better option than having an oral hearing set down in
7 early January. If the dates that you're contemplating
8 are further into the future, that would be better, at
9 least sort of in terms of, you know, being at the end
10 of January.

11 What that does, though, is that it
12 effectively requires ICBC to prepare as if there is an
13 oral hearing, and that's a considerable undertaking
14 involved in that. ICBC has done and will continue to
15 do its absolute best to respond to IRs that are within
16 the scope of the proceeding. And in my submission,
17 based on the size of the record that we have today,
18 there is going to be a lot of evidence on the record
19 and more than enough for the Commission to comfortably
20 make a determination before the Round 2 IRs are in,
21 that the determination can be made in writing.

22 There is a process -- if the concern is
23 that IRs that are asked are not responded to, there is
24 a process for that, and that can be managed by
25 bringing forward IRs to the Commission by the party
26

1 asking them, requesting that ICBC provide further
2 response and allowing ICBC to respond to that
3 submission explaining why the response is adequate, or
4 whatever they may say. And that provides a certain
5 security, in my submission, to the Commission that
6 ICBC will be responding to the IRs appropriately in
7 the circumstances.

8 COMMISSIONER O'HARA: Thank you, Mr. Ghikas.

9 MR. GHIKAS: Thank you.

10 COMMISSIONER REVEL: Yes, just very briefly, you
11 indicated that this in your view is just an RRA
12 application. Now, I also note that you have -- you're
13 requesting approval of the new Basic Insurance Capital
14 Management Plan. Is that considered as part of the
15 RRA?

16 MR. GHIKAS: Yeah, I mean I was using that as the revenue
17 requirements. The capital management plan is a means
18 for calculating the cost effective, the cost component
19 of the rate indication. And so I was using revenue
20 requirements as a shorthand --

21 COMMISSIONER REVEL: In a broader sense.

22 MR. GHIKAS: Yeah, I mean I should have --

23 COMMISSIONER REVEL: So it goes beyond the traditional
24 RRA.

25 MR. GHIKAS: Yeah, well, in the context of what
26 specifically we're asking for. You're absolutely

1 right, we were asking for both of those things. In
2 the bigger scheme, in terms of the differentiation I
3 was making between the current application and the
4 rate design application that Mr. Finnie was raising,
5 certainly whether or not you include a capital
6 management plan inside, within the scope of this
7 application, it is fundamentally apples and oranges
8 with the rate design application. I don't think Mr.
9 Finnie --

10 COMMISSIONER REVEL: I just wanted to get clarity. So
11 the current RRA is based on the existing capital
12 management plan. And in addition, you're requesting a
13 subsequent updated capital management plan approval.
14 Is that correct?

15 MR. GHIKAS: That's correct. So under the Special
16 Direction -- or sorry, there's two pieces of
17 legislation that have come into effect recently. One
18 of them is amendments to Special Direction IC 2, and
19 one of them is a government directive letter to ICBC
20 that the Commission must, according to IC 2, give
21 consideration to -- I forget the wording, but
22 recognize and accept, thank you, the directive to ICBC
23 includes a requirement to use the existing capital
24 management plan for the preparation of the current
25 revenue requirements. And in addition it requires
26 ICBC to bring forward a capital management plan that

1 fits within the new rate smoothing framework that has
2 been prescribed. So ICBC is bringing forward that,
3 but it would have no effect until subsequent years.

4 COMMISSIONER REVEL: Thank you very much. Thank you, Mr.
5 Chair.

6 THE CHAIRPERSON: I don't have any questions, so thank
7 you very much, Mr. Ghikas.

8 MR. GHIKAS: Thank you, Mr. Chairman, Commissioners.

9 THE CHAIRPERSON: Mr. Miller?

10 MR. MILLER: Canadian Direct is next.

11 **SUBMISSIONS BY MR. ELWICK:**

12 MR. ELWICK: Mr. Chair, Commissioners, it's interesting
13 that Canadian Direct's position is going to be fairly,
14 and this is maybe for the first and only time, similar
15 to that of ICBC, in support of a written process for
16 efficiency. Canadian Direct has been involved for the
17 last ten years, I think, since every one of these
18 processes over the last ten years, both oral hearings
19 and written hearings. And so it doesn't take this
20 position lightly, but it feels that the written
21 process is the best.

22 **Proceeding Time 9:48 a.m. T09**

23 I'll just run through very briefly comments
24 on various things. We won't be submitting any
25 evidence, any intervener evidence. We don't believe
26 that oral argument is necessary. The new basic

1 capital management plan does not need to be dealt with
2 by way of separate proceeding, in our opinion. And
3 with respect to the timetable, which has been amended
4 by ICBC recently, if either options B(1), I see it
5 says both B(1), I take it the second one might be
6 B(2), but in any event, if either one is chosen for a
7 written hearing, we would prefer the timeline under
8 option B(1). That is, with the ICBC final argument
9 tentative for February 18th, intervener final arguments
10 tentative for February 25th, and the ICBC reply
11 argument tentative, as they say here, March the 4th.
12 In my submission, this timeline will give more time
13 for all parties to prepare argument and responses to
14 arguments.

15 So that is the position of Canadian Direct.

16 I'm open to any questions.

17 COMMISSIONER REVEL: I have no questions.

18 THE CHAIRPERSON: Thank you very much.

19 MR. ELWICK: Thank you.

20 MR. MILLER: Mr. Finnie?

21 SUBMISSIONS BY MR. FINNIE:

22 MR. FINNIE: Thank you. A couple of issues that have
23 been raised. One is the measures of efficiency with
24 respect to a written process versus an oral hearing
25 process. With respect, counsel for the applicant
26 suggests the outcome for consensus is a foregone

1 conclusion due to legislative constraints. In that in
2 this case then, I suppose ,we're just here, we might
3 as well close our files, and conclude these
4 proceedings. Unfortunately we do not adopt this
5 position.

6 ICBC, we'd like to say, already achieves
7 efficiencies as it now faces a full public hearing
8 process only a few years. So there is intervening
9 periods where the written process steps in. We
10 believe that a full interactive oral public hearing is
11 the only way to fully flesh out all the relevant
12 information for the application.

13 The second issue that was raised was one of
14 timing. And I think this is really revolving around a
15 scheduling issue. But we would agree that holding
16 hearings during the shadow of the calendar year, in
17 early January, places undue pressure on this process
18 and we would inclined to push this to the latter part
19 of January.

20 The foregone conclusion why we're here, the
21 issue of rate design as it's affectionately called,
22 and my earlier comments about order -- an Order to
23 include a rebalancing of these particular rate
24 classes, experience classes, even territorial classes.
25 We actually submit that much of the data is already
26 available and readily accessible to ICBC. In 2007,

1 when the tariff was approved and the rating was moved
2 from the legislative domain to that of the British
3 Columbia Utilities Commission, tables were produced on
4 rate classes and territories. However, the CRS was a
5 blended figure, an average figure in that, so it was
6 obfuscated in that particular data.

7 **Proceeding Time 9:53 a.m. T10**

8 We are of the belief that to add a 4.9
9 percent increase on the backs of 1.2 million
10 policyholders, the so-called low-risk policyholders,
11 who paying approximately 35 percent more in premium
12 than they need to, we believe this is a violation of
13 the law, that law which requires rates to be fair,
14 reasonable, appropriate, and equitable. This is why
15 we believe either an order is necessary to include
16 this rebalancing in the revenue requirements
17 application, or an application to adjourn these
18 hearings and to instead commence a rate design
19 application hearings is of urgent and pressing
20 necessity.

21 Those are our comments. Thank you.

22 THE CHAIRPERSON: Thank you, Mr. Finnie.

23 COMMISSIONER REVEL: Excuse me. Perhaps I could ask a
24 question. If your request is granted would you
25 anticipate filing evidence in support of things such
26 as your claim that there's a 35 percent higher premium

than necessary?

1 MR. FINNIE: I believe the evidence is basically on the
2 table. Currently on the information request that we
3 quoted earlier, the table, the IR response was
4 completed to our satisfaction.

5 COMMISSIONER REVEL: I'm less concerned about the
6 specific, but would you anticipate filing evidence?

7 MR. FINNIE: No, no. That evidence would come from ICBC.

8 COMMISSIONER REVEL: Thank you very much.

9 THE CHAIRPERSON: Thank you very much, Mr. Finnie.

10 MR. MILLER: Mr. Munn?

11 **SUBMISSIONS BY MR. MUNN:**

12 MR. MUNN: Thank you. I'd just like to say that with me
13 this morning from the Insurance Bureau of Canada is
14 Serge Korvay, the Manager of Government Relations, and
15 also Miranda Lee, who's an Information Officer. The
16 third person at the table is one of my articling
17 students, Andrew Dixon.

18 I just, by way of introduction, and some of
19 you may have already heard this, the Insurance Bureau
20 of Canada is a national industry association
21 representing private insurers providing home, auto,
22 and business insurance throughout Canada. That
23 includes providing B.C. optional coverage, which is
24 our interest in these hearings.

25 I believe, Insurance Bureau of Canada has
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1 been an intervener in each of ICBC's previous revenue
2 requirements. The focus for the Insurance Bureau in
3 the course of this application is operating expenses
4 and allocations are of interest to us, actuarial
5 assumptions are of interest to us, road safety and
6 advertising initiative are of interest to us. All
7 those feed into the revenue requirements.

8 In terms of the issues on this application
9 and the scope of the Commission's review, I note that
10 ICBC at page 2 of its letter listed a number of things
11 that are not with our legislative parameters. We have
12 no comment on those. At page 4, though, and this
13 doesn't come up within scope, but ICBC focuses on the
14 fact that this should be -- any oral hearing should be
15 confined to actuarial matters. Whether the process or
16 written is oral or written, and I'll come to that in a
17 minute, it's the Insurance Bureau's position that it
18 should not be so limited so that this Panel is only
19 looking at -- this Commission is only looking at
20 actuarial matters.

21 The Commission has a general oversight
22 obligation regarding ICBC. It's a continuing
23 obligation. The opportunity for hearings for
24 applications for questions coming from interveners is
25 limited to these sorts of processes. And therefore
26 when ICBC submits this morning that the investment

1 returns and what ICBC is recovering on the investments
2 et cetera, that process has already been considered
3 and dictated by the Commission itself, I don't think
4 that takes the investment returns out of the purview
5 of this Commission and this particular Commission
6 appointed today. I think the Commission is still
7 required to at least keep an eye on those things, and
8 consider the issues raised particularly by the
9 interveners. If that were the case, we'd never
10 revisit it, and we have a lot of trouble with that
11 concept.

12 **Proceeding Time 9:58 a.m. T11**

13 Also, this idea that on the operating costs
14 are -- the effect of them is minus 0.06, that's good.
15 But that doesn't mean that the Commission should
16 simply ignore operating costs. I mean, are there
17 further costs to be gained there? Are there operating
18 matters that have been cut unnecessarily that need to
19 be reconsidered? We still believe that operating
20 costs are part of this process.

21 And I also come to Section 49 of the
22 *Insurance Corporation Act*, which is what sets out the
23 jurisdiction of the Commission over ICBC. And I
24 remind this Commission again of the -- as part of its
25 oversight obligation that it must ensure the
26 separation of businesses -- business between optional

1 and basic. The Commission must ensure that the
2 universal compulsory automobile insurance business and
3 the revenue of the corporation, other than revenue
4 form the corporation's optional automobile insurance,
5 are not used to subsidize the corporation's optional
6 automobile insurance business. That subsidization
7 issue has been a key concern of the Insurance Bureau
8 -- my client, since the beginning of these processes,
9 and we remind the Commission that it's part of their
10 ongoing obligation.

11 It's in that light that we say the costs --
12 the operating costs are part of this hearing, and
13 should be considered, that we shouldn't simply focus
14 on actuarial. Likewise, allocators can't simply be
15 assumed to be correct. The Commission should be
16 looking at those on an ongoing basis. Those are not
17 the focus of this hearing, but they should not be
18 taken off the table entirely.

19 The Insurance Bureau is also concerned with
20 what ICBC has called in the past "compliance filings".
21 And in response to the Insurance Bureau's Information
22 Request 19.1-2, we were given the road safety
23 monitoring and evaluation framework which is something
24 that ICBC filed with the Commission at the
25 Commission's request, and it was filed in September.

26 The Insurance Bureau remains concerned that

1 filings such as that are taken outside the -- outside
2 of the purview of the interveners, without an
3 opportunity for questions to be asked or questions to
4 be asked even in terms of how that -- what's filed
5 there might affect rates, et cetera. We believe that
6 it is proper that issues around those compliance
7 filings be raised within the context of a hearing such
8 as this.

9 I come to the oral hearing process. We
10 have a variation on a theme. We propose that we have
11 no second round of IRs, but we move to a oral hearing.
12 The oral hearing need not have oral argument, or the
13 argument can be written, but the ICBC should be
14 putting forward panels. We can assist in that regard
15 by advising the Commission and ICBC where our
16 questions will go for those panels, what we're going
17 to ask in respect of that oral process. What that
18 would do is, it would certainly give ICBC a month and
19 a half, two months, to prepare its panels. We
20 wouldn't be putting ICBC through another round of IRs.

Proceeding Time 10:02 a.m. T12

21 We are concerned that the live process
22 would allow us to get to the answers we need in a much
23 more efficient way. And in that regard I have a
24 couple of examples.

25 Attached to ICBC's letter regarding this
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1 process today was their response to BCUC Information
2 Request 1.2.1, and this had to do with the capital
3 management. And one of the questions was in terms of
4 how soon does ICBC have to know what that capital
5 management plan is before it does the 2014 filing?
6 And ICBC's answer was simply, and I'm reading from the
7 second paragraph in the response to IR 1.2.1:

8 "ICBC needs to have a new basic insurance
9 capital management plan in place
10 sufficiently in advance of filing in order
11 for the 2014 revenue requirements
12 application to reflect the new plan."

13 My question on cross would be please define
14 "sufficiently in advance". I don't need to send out a
15 written IR to get that answer. I just need that
16 answer focused, correct. It's unfortunate that ICBC
17 wasn't a little more particular with some of these
18 issues when they were answering the first round of
19 IRs, but I don't think going through that sort of
20 exercise in a second round of IRs is really going to
21 advance this matter that far.

22 I also point out to the answer we got to
23 IBC's 31.1, and this was asking about the divisional
24 breakdown of base operating costs and the allocation
25 methodologies that were used. And the response from
26 ICBC said:

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“The types of allocators that are typically impacted by changes in the business structures are shared allocators and select average allocators.”

Our question on cross would be expand on that word “typically” and just tell us which allocators are impacted. It seems a waste of time for us to start sending out written IRs getting those back.

It has been our experience that the -- and we’ve dealt with this before in front of the Commission, as have other interveners, that the answers to IRs are not sufficiently direct. They include a lot of verbiage that’s not necessarily and don’t necessarily answer the question directly. Yes, we can come to the Commission with a list of IRs that we don’t feel are properly answered, but that puts us through a second round of IRs, a list of IRs from the interveners coming forward to the Commission that we still need to be answered, and then we still have to get the answers.

So thus, in terms of efficiency, we believe, moving to panels would be the more efficient process. We also believe it would be the more transparent process, and the Commission can then see for itself and ensure that it gets the answers it

1 be. We believe our solution of getting rid of the
2 second round of IRs does allow for the oral hearing to
3 happen by the end of January, and then proceed back
4 onto your schedule as set out in option B(1) or option
5 B(2). We're only concerned, but that is -- that's
6 ICBC's issue, really, that they have the answers that
7 they need, and the decision they need before next
8 application need be filed at the end of May.

9 We don't believe that the capital
10 management plan should be spun off and dealt with
11 separately. It's now in front of the Commission.
12 It's there, the material is there. It should be dealt
13 with at this time. Perhaps that decision may be given
14 earlier or later than the decision on the rates.
15 That's at the Commission's discretion.

16 We are concerned -- it's not clear what
17 will happen if there is no decision by May 31st, which
18 is when the next filing must happen. It seems that
19 there needs to be a decision before May 31st.

20 So in summary, we believe that this process
21 should not be limited simply to actuarial issues. We
22 also believe that we should move to oral evidence
23 next, to move this matter along, and that a second
24 round of IRs isn't necessary.

25 Those are my submissions, unless you have
26 some questions.

1 COMMISSIONER REVEL: Mr. Munn, very briefly, I don't
2 recall hearing you address the issue of whether you
3 would file evidence.

4 MR. MUNN: No. Yeah. My apologies, I missed that on my
5 page here. No, the Insurance Bureau is not filing
6 evidence.

7 COMMISSIONER REVEL: Thank you very much.

8 THE CHAIRPERSON: Okay. Thank you, Mr. Munn.

9 MR. MILLER: Ms. Khan?

10 **SUBMISSIONS BY MS. KHAN:**

11 MS. KHAN: This year's revenue requirements application
12 is the first ICBC proceeding following the internal
13 audit and advisory services review of the Corporation.
14 The review raised many serious issues concerning how
15 ICBC manages its business, and we believe that this
16 proceeding provides the Corporation with the
17 opportunity to demonstrate its commitment to address
18 the issues raised in that review.

19 Our clients, of course, are fundamentally
20 supportive of public insurance, and these proceedings
21 in our clients' view are a second-best substitute for
22 market discipline. While ICBC may not enjoy being
23 subjected to scrutiny, being subjected to competition
24 would be much more challenging for the company and its
25 managers.

26 Because ICBC is proposing rate increases

1 that are far in excess of expected inflation, the
2 added real cost of auto insurance in B.C. will pose a
3 hardship for many citizens that we represent. We wish
4 to test whether the increases are as minimal as
5 economically necessary. And as we set out in our
6 letter of November 15th on Friday, some of the key
7 issues that we see need to be -- or should be
8 addressed in this proceeding include the reasons for
9 the increased proportion of legal representation for
10 claims, and what ICBC is doing to determine the root
11 causes of the rise in legal representation.

12 BCPSO is concerned that one reason for the
13 increase in legal representation may be that ICBC has
14 acquired a reputation for having an attitude towards
15 claimants consistent with theoretical expectations for
16 a monopoly service provider.

17 For insurers in competitive markets,
18 insuree defections provide information on customer
19 satisfaction. As ICBC has a monopoly for basic, we
20 wish to explore the extent to which ICBC is aware of
21 whether consumers are receiving good service. We feel
22 that value is an important consideration because of
23 the large rate increases proposed in this application.

24 **Proceeding Time 10:12 a.m. T14**

25 Some of the other issues that we wish to
26 explore include the reasons for the increase in bodily

1 injury claims and what ICBC is doing to determine the
2 root causes of the rise in these claims; whether basic
3 insurance rates consistently reflect stability and
4 predictability and are as minimal as possibly; whether
5 the Corporation's management team is doing as much as
6 possible to reduce claims costs; whether the
7 management bonus structure provides the correct and
8 appropriate incentives; and whether the
9 recommendations contained in the internal audit and
10 advisory services review for ICBC are reflected in
11 this revenue requirements application. This, of
12 course, is not meant to be an exhaustive list, but
13 those are some of the key issues as we see it.

14 We do think that written hearings can save
15 time and cost, but they're only a good substitute if
16 the applicant treats the written information requests
17 as seriously as they would questions arising during an
18 oral examination in a full public hearing. We
19 appreciate that ICBC faces limitations with regard to
20 data availability and awareness of other insurers'
21 operations and practices. However, in many instances
22 ICBC's responses to the first round of IRs were
23 insufficient, and I think Mr. Munn pointed out a good
24 example during his opening.

25 On top of this, ICBC appears to be
26 frustrated by having to answer so many detailed

1 information requests. It is worth noting that the
2 bulk of the requests came from the Commission and in
3 our view, comprehensive requests put forward by the
4 Commission are a sign of healthy regulation. This is
5 particularly important given the litany of
6 recommendations arising out of last year's IAAS
7 review.

8 While we do generally support a written
9 hearing for this process, its success will require
10 ICBC to make every effort to respond to the specific
11 questions it receives through the remainder of the IR
12 process.

13 And so we also don't believe that it's
14 necessary to hive off the proposed capital management
15 plan into a separate proceeding. We think that the --
16 and we do intend to follow up with ICBC during the
17 second round of IRs on a number of responses that we
18 believe weren't fully responded to in the first round.
19 And so while we're generally, I guess -- to try to gel
20 this, we're generally not -- we're generally
21 supportive of a written process for this proceeding,
22 but I also think that the proposal put forward by one
23 of the Commissioners earlier today of potentially
24 looking at whether a full oral public hearing is
25 necessary after the second round of IRs would also be
26 quite acceptable to us. We're not opposed to a oral

1 public hearing. We are concerned that we might end up
2 with some insufficient IR responses, and so that's why
3 I think that suggestion makes sense to us.

4 We don't intend to submit intervener
5 evidence. The dates proposed by the Commission in
6 your -- in the various options that you had put
7 forward are acceptable to us. I have some sympathy
8 for ICBC's managers in terms of having some holidays
9 over Christmas, and that's fine with us to push the --
10 if a hearing takes place that it could take place at
11 the end of January, that's fine with us so long as a
12 decision is released in time for things to proceed
13 smoothly with future regulation.

14 Subject to any questions that you have,
15 those are our submissions.

16 THE CHAIRPERSON: Thank you much.

17 MS. KHAN: Thank you.

18 MR. MILLER: Mr. Weisberg?

19 **SUBMISSIONS BY MR. WEISBERG:**

20 MR. WEISBERG: Mr. Chair, Commissioners, as it's the
21 first time that I'm appearing before you on behalf of
22 TREAD, I will begin my remarks with a short opening
23 statement that hopefully will put some context around
24 our participation in this proceeding.

25 **Proceeding Time 10:17 a.m. T15**

26 TREAD is a customer -- and by "customer" I

1 mean ratepayer -- advocacy group established to give a
2 voice to the majority of British Columbia's licensed
3 drivers who are responsible vehicle operators,
4 educated in matters of driving safety, and attentive
5 on the road, yet are required to bear most of the
6 enormous costs caused by the minority of drivers in
7 B.C. who are irresponsible, may lack driver education,
8 or are distracted while operating a motor vehicle.

9 TREAD's mandate is to intervene in ICBC
10 proceedings to seek reduced rates, and to promote
11 better driving, operating motor vehicles more
12 responsibly, with more knowledge and increased
13 attention. Better driving should result in lower
14 claims costs, and thereby reduce the revenue
15 requirement and enable ICBC to reduce rates.
16 Accordingly, TREAD's focus in this proceeding will be
17 to examine the appropriateness and adequacy of ICBC's
18 costs, particularly for operations or programs that
19 are intended to reduce the frequency or the quantum of
20 claims.

21 A number of ICBC's responses to TREAD IRs
22 assert that the request is related to rate design, and
23 does not relate to the determination of a revenue
24 requirements application. We submit that ICBC has
25 taken a broad-brush approach and has failed to
26 distinguish that while certain issues certainly have

1 rate design implications, they nevertheless also have
2 relevance to the revenue requirement.

3 I'll give you a specific example. TREAD
4 15.1, which was at PDF page 716 of the ICBC responses,
5 made a request related to the claims rated scale, or
6 CRS, discount table. In the response, ICBC said,
7 "ICBC believes that the price signals
8 provided by the levels of its premiums may
9 provide an incentive for drivers to improve
10 driving behaviours and improve road safety.
11 ICBC is looking to replace the current claim
12 rate scale, CRS model, with a risk-based
13 model that more fairly recognizes safe
14 driving and provides an incentive for
15 higher-risk drivers to drive more safely."

16 TREAD submits that to the extent to which
17 price signals provided by the level of ICBC's premiums
18 may motivate drivers to improve driving behaviour and
19 improve road safety, is a relevant revenue requirement
20 issue because it is directly linked to lowering claims
21 costs. In contrast, the fairness of applying
22 different discounts or surcharges among different ICBC
23 customers is properly a rate design issue.

24 So, when ICBC comes at a particular
25 Information Request, I think this is an example of
26 where it's evident that they need to be more

1 discerning about if it has rate design implications,
2 we don't just throw it out. We're going to -- we need
3 to look at it further and say, yes, but it also has
4 revenue requirement implications.

5 If ICBC doesn't do that, or do a better job
6 of it, in the second round of IRs, then I think there
7 is two possible outcomes. One is that we will
8 inevitably face a number of applications for further
9 and better responses. And that's likely to delay the
10 overall timetable, and add to the overall costs of the
11 proceeding. The other alternative, which I think was
12 alluded to nicely by counsel for the Insurance Bureau
13 of Canada, is to simply move on to an oral hearing,
14 provided that option is the one that we go with. Then
15 you don't have to, in all cases at least, go through
16 the additional process step of bringing applications
17 before the Commission to try to seek an order
18 compelling an adequate response, which should have
19 been provided in the first place.

20 **Proceeding Time 10:22 a.m. T16**

21 I'll move on now to comments regarding the
22 issues and the scope of review. TREAD has set out a
23 partial list of issues in its written comments filed
24 in advance of today's proceeding. I won't restate
25 those issues, but they are on the record. That's all
26 my comments then regarding the agenda item number 3.

1 Regarding item number 4, the draft
2 regulatory timetable, TREAD submits that a full public
3 oral hearing of the entire application is necessary.
4 This proceeding, as has been observed already by Ms.
5 Khan before me, provides the first opportunity to
6 conduct a comprehensive open public review of the many
7 serious concerns arising from the internal audit
8 review. By the time of an expected hearing, roughly a
9 year and a half will have lapsed since the release of
10 the August 2012 internal audit review, and we submit
11 that it's a prime opportunity now to examine ICBC's
12 progress in implementing the recommendations made so
13 that the valuable work done by the Ministry of Finance
14 is not squandered or forgotten.

15 TREAD is adamantly opposed to proceeding by
16 way of a written hearing. It simply is not
17 appropriate in the circumstances.

18 Now, ICBC devoted a good part of its
19 written submissions to suggest that a written process
20 is appropriate. And reading through that, you may
21 have been reminded of Hamlet in that oft quoted
22 statement, "The lady doth protest too much, methinks."
23 There was a whole lot of protest about the possibility
24 of an oral hearing, and it seemed to me there was a
25 bit too much protest. Some of the points made need to
26 be responded to. I'll go through the bullet points

provided by ICBC in that respect.

1 ICBC noted that the written record will be
2 very comprehensive and referred to the number of
3 information requests in Round 1. As counsel for
4 Insurance Bureau of Canada said before me, it's not --
5 a comprehensive record is not a function of -- sorry,
6 a comprehensive record is the function of the quality
7 of the responses. It's not simply a statement of the
8 gross quantity of requests. And looking through the
9 responses, many, and this has been noted by other
10 counsel before me, many of the responses simply refer
11 the reader to another IR, repeat the same generic
12 statements, or evade the question.

13 The next point that ICBC made in support of
14 a written process was that it has determined that
15 basic insurance rates are actually required to
16 increase by 11.5 percent but they're seeking 4.9
17 percent instead. That argument surprised me because I
18 see it actually as a reason not to have a written
19 process rather than a reason to have it. How does the
20 requirement for an 11 and a half percent rate increase
21 -- and that is the requirement, they're saying they
22 need that. But how does that, on the heels of an 11.2
23 percent rate increase last year, inspire any
24 confidence in ICBC's ability to control its own costs?
25 We submit that it doesn't, and the costs need the
26

1 closer examination that can be achieved only in a
2 full, open, oral hearing. For the foreseeable future
3 we'll be operating under rates moving legislation, but
4 that fact doesn't excuse the need for a full oral
5 hearing in this case, and nor will it in subsequent
6 proceedings.

7 **Proceeding Time 10:27 a.m. T17**

8 The next point ICBC made in support of a
9 written process was to say that it has cut operating
10 expenses by over \$50 million, to the point where
11 they've having a favourable impact on the rate
12 indication.

13 Well, that is a large reduction, no doubt.
14 The internal audit review leaves no question that
15 costs were simply too high, and a reduction was
16 needed. A full oral hearing is the best way to ensure
17 that all appropriate cost-cutting has been completed.
18 And by the way, in the September 24th public workshop
19 held here, ICBC emphasized that the Commission does
20 not regulate optional rates. That's a given, that's
21 obvious. But they also noted that they expect 51
22 million of savings between the 2013 forecast as
23 compared to the 2011 plan. So that makes it appear
24 that they're reaching back two years to make the
25 savings appear larger, rather than comparing it to --
26 simply to the previous year.

1 They also conceded at the time that about
2 two-thirds of those savings, of that 50 million, is
3 allocated to basic insurance, leaving obviously one-
4 third allocated to optional insurance. So, the
5 relevant cut in operating expenses is not as stated by
6 ICBC. We're here to look at basic insurance rates,
7 and costs that drive those.

8 So, to come in here and to say we've made
9 \$50 million in cuts, and that's a good reason why we
10 shouldn't look any further into the costs behind basic
11 insurance rates, it's at the least misleading.

12 ICBC mentions investment returns having a
13 favourable effect on the rate indication. That
14 appears to be the case. And I think, on that point,
15 they probably deserve kudos, it appears to me. But
16 ICBC knows full well from the Information Requests and
17 the themes and issues that emerge from those, that
18 investment returns are not an issue of significant
19 concern, at least I don't believe they are. The
20 capital maintenance provisions are also mentioned.
21 Again, fine. But it leaves many, many other issues
22 that need to be addressed.

23 ICBC also cites the fact that the premium
24 year will be only nine months long, and that ICBC must
25 file another revenue requirements application in May,
26 2014. All true, but that consideration is far

1 outweighed by the importance of the problems that led
2 to the need for the internal audit review in the first
3 place, and the fact that this is the first opportunity
4 to examine the numerous concerns that were identified.

5 And finally, ICBC references the fact that
6 a new legislative framework is in place, and that a
7 corresponding desire among stakeholders to explore the
8 implications of that framework does not justify
9 holding an oral hearing. Agreed. That alone doesn't
10 justify it. There are certainly going to be
11 parameters that will properly be set on how much
12 exploration, if any, is proper in an oral hearing.
13 But as I have indicated, and some of counsel before me
14 have indicated, that leaves a whole lot of other
15 issues that do richly deserve to be examined in an
16 oral hearing.

17 ICBC's fall-back position, then, is to
18 submit that any oral hearing should be confined to
19 actuarial matters. Frankly, that submission is
20 frivolous. It's just plain silly. ICBC's purported
21 rationale for restricting a 10-chapter application to
22 a single chapter is an affront to its customers. The
23 claims costs management in Chapter 6 is not mentioned
24 in this rationale provided by ICBC. The operating
25 expenses and allocation information in Chapter 7,
26 apparently should be entirely exempt from review, as

if the internal audit review never happened.

1 Reporting on government initiatives, Chapter 8, is
2 presumably not important to ICBC. And ICBC apparently
3 believes that ratepayers have no business inquiring
4 into performance measures set out in Chapter 9.

5 **Proceeding Time 10:31 a.m. T18**

6 And likewise, ICBC believes without support that the
7 general appendices in Chapter 10 should also be
8 excluded from public review. So that begs the
9 question, why bother to file the application when
10 Chapter 3 is purportedly all that matters?

11 The need for a full oral hearing is
12 apparent from the glaring omission of the internal
13 audit review from the application. Surely that
14 document must be considered key evidence of ICBC's
15 cost control issues. The application also omits
16 ICBC's response to the audit, another key document.

17 And as I have alluded to earlier, a number
18 of responses to Information Requests are evasive,
19 suggesting an unwillingness to even acknowledge the
20 existence of any issues. For example, in the response
21 to BCPSO IR 55.2, that was at PDF pages 157 and 158,
22 the response concluded by stating

23 "As well, the possibility of ICBC's net
24 income not meeting financial targets is
25 discussed further in response to information
26

TREAD 19.3."

1 So, what was the substance of that further
2 discussion -- when you read that one response, and it
3 said, "Oh, further discussion over here. Let's look
4 over here." So you go over there to TREAD 19.3, and
5 the 14-word response stated,

6 "It is not ICBC's place to explain the views
7 of the Ministry of Finance."

8 Those 14 words are ICBC's entire
9 explanation of why the financial trigger for allowing
10 bonus payments is corporate net income of \$35 million
11 even though the corporate net income has never been
12 below \$140 million in any of the past five years.

13 The conclusion in the internal audit review
14 is that the target for triggering the bonus plan is
15 unreasonably low. Ask an IR about it; find out
16 nothing. How do you deal with that? You deal with
17 that either with an application to compel an
18 appropriate response to question asked, or you proceed
19 to an oral hearing. Those are the two options.

20 Omission of key documents and evasive,
21 unhelpful responses to legitimate probative
22 information requests adds up to inadequate disclosure
23 of essential evidence. ICBC's approach makes the
24 option of a written hearing completely unworkable.
25 You need the evidence in place so that you can submit
26

1 arguments based on that evidence in written form.
2 Without that first step of having the evidence in
3 place, a written proceeding can't function well.

4 It's abundantly clear that extensive cross-
5 examination will be necessary not only to complete the
6 basic discovery -- and I don't mean discovery of basic
7 insurance, but the very basics of discovery of
8 information, but also to highlight the evasiveness of
9 some of the limited evidence that has been produced,
10 and I've given you just a few examples of that. A
11 full oral hearing, we submit, is the only appropriate
12 procedural option.

13 Moving from that to the question of
14 intervener evidence, TREAD does not intend currently
15 to file intervener evidence. We don't expect that to
16 change, but we would reserve the right to do so,
17 depending on the outcome of round 2 IRs. Accordingly,
18 TREAD's preferred timetable option is staff's A(1).
19 If any other intervener intended to file intervener
20 evidence, which I haven't heard to be the case, then
21 TREAD would not object to timetable option A(2).

22 **Proceeding Time 10:36 a.m. T19**

23 Having said that, we also consider the oral
24 submissions made by counsel for ICBC this morning, and
25 we would not oppose the proposed changes to
26 essentially extend the timetable set out in option

A(1).

1 One other note regarding scheduling is that
2 going forward as the Commission sets and perhaps
3 adjusts the regulatory timetable, I would ask that
4 some consideration be taken for involvement by myself,
5 and I believe counsel for BCPSO in the Fortis PBR
6 proceeding, which is another major proceeding which is
7 relatively closely tracking. So all I am asking there
8 is if possible, at least on dates where a physical
9 appearance is required to take those dates, which are
10 fixed, into consideration.

11 That brings me then to comments to the
12 parties that proceeded me. To my friend Mr. Ghikas,
13 on behalf of ICBC, just one comment in reply. He
14 noted that the range of hearing outcomes is
15 significantly constrained by legislation. That is
16 true. I am sure that is obvious to the Panel. It
17 should be noted, though, that that is not a reason to
18 avoid an oral hearing. Rather, what it calls for is a
19 discipline in the conduct of that hearing. A
20 discipline that I'm sure will be encouraged very ably
21 by my friend Mr. Ghikas, in terms of objections if
22 things stray out of scope or into territory that is
23 the outcome of which is governed by legislation.

24 In response to the submissions of Canadian
25 Direct, which included support for a written process,
26

1 I would just observe that it should be noted who it is
2 that pays ICBC's rates. Canadian Direct does not.
3 Canadian Direct's customers in respect of optional
4 insurance do not. There are people like myself that
5 have basic with ICBC and optional with Canadian
6 Direct. But my point is that when it comes to looking
7 at whether we should proceed by way of an oral or a
8 written process, I think you should give greater
9 weight to the submissions of parties representing
10 policyholders, because it is ICBC's costs that result
11 in higher rates for ratepayers. If you are not a
12 ratepayer, you are not going to have the same reason
13 to be interested in ICBC's costs. And the extent to
14 which you might want to examine them, or lower the
15 cost, is going to be potentially quite different.

16 In response to the submissions of Mr.
17 Finnie, for Pemberton Insurance, TREAD would certainly
18 welcome the prospect of a rate design hearing being
19 held soon. We don't however agree with the process
20 steps that have been suggested by Mr. Finnie to
21 accomplish that.

22 We had a significant degree of alignment
23 with the submissions made by counsel for the Insurance
24 Bureau of Canada. In particular I would say that we
25 agree entirely that a full examination of operating
26 costs must be part of this process.

Proceeding Time 10:41 a.m. T20

1 We agree with his statement that allocators should not
2 be assumed to be correct. We agree with his
3 submissions regarding the difficulty in cost of
4 pursuing inadequate responses to information requests.
5 And the bottom line is that we agree with his
6 submission that everything that impacts rates should
7 be at issue, and I will qualify that only by observing
8 that there are legislative parameters on certain
9 aspects.

10 Regarding the submissions of Ms. Khan on
11 behalf of BCPSO, we're grateful for the helpful list
12 of issues that were pre-filed ahead of today's
13 proceeding. I believe they provide some useful
14 guidance for what should be explored. And we key on
15 her observation in her written submissions that a
16 written process is only a good substitute for an oral
17 hearing if the applicant treats the IR process
18 seriously and approaches it as a way to effect full
19 and true information discovery. And I've already
20 addressed what I believe were the shortcomings in that
21 process to date.

22 Finally on the Commission's agenda item
23 number 5, other matters, as noted in our written
24 filings, we don't believe that there's any need to
25 have anything off from the main proceeding and
26

1 effectively conduct a separate proceeding or a series
2 of proceedings.

3 Subject to any questions from the Panel,
4 those are my submissions. Thank you.

5 COMMISSIONER REVEL: Mr. Weisberg, I'm a bit confused on
6 a couple of your submissions. You gave an example of
7 road safety and rate design and it links to RRAs.
8 Just how widely are you proposing that this hearing
9 investigate into that rate issue?

10 MR. WEISBERG: I'm proposing, I think -- perhaps one of
11 the best responses I can give you is to refer you back
12 to the statement made by ICBC in that first part of
13 the response. I actually, I agree with that
14 statement. So that was to say that ICBC believes that
15 the price signals provided by the level of its
16 premiums may provide an incentive for drivers to
17 improve driving behaviour and improve road safety. So
18 to that extent that we look at something like what
19 price signal arises out of the premiums, look at the
20 claim rated scale, I want to explore if there are
21 shifts in that -- and I don't want to -- I'm not
22 suggesting that in this proceeding I will lunge into
23 what numbers should populate that table.

24 COMMISSIONER REVEL: Not the full rate, not a full rate.

25 MR. WEISBERG: No.

26 COMMISSIONER REVEL: No, okay.

1 MR. WEISBERG: Does that answer your question?
2 COMMISSIONER REVEL: Yes, it does. Thank you very much
3 and I do have one more. You raised the issue of the
4 recent internal audit and suggest that this hearing
5 should investigate into all of the recommendations of
6 it. Did you really mean all of the recommendations to
7 that internal audit, or just those related to the RRA?
8 MR. WEISBERG: Perhaps I was overly broad. I accept that
9 there are many parameters --
10 COMMISSIONER REVEL: Yes.
11 MR. WEISBERG: -- on what is acceptable to explore within
12 an RRA. And I think considering my remarks, I no
13 doubt left you with an incorrect impression that I
14 would --
15 COMMISSIONER REVEL: You're not looking for a full
16 fishing expedition.
17 MR. WEISBERG: Oh, I will fish, sir, but I know there'll
18 be people standing on the dock ready to lunge at --
19 okay, I won't go further with this.
20 COMMISSIONER REVEL: Thanks, Mr. Weisberg.
21 MR. WEISBERG: Thank you.
22 THE CHAIRPERSON: Thank you very much, Mr. Weisberg.
23 MR. WEISBERG: Thank you.
24 MR. MILLER: Mr. Chair, I note the time.
25 THE CHAIRPERSON: Yes.
26 MR. MILLER: There are two further interveners yet to

1 speak, Mr. Adair and Mr. Landale, so we're in your
2 hands.

3 THE CHAIRPERSON: So I also note the time and I don't
4 know how long Mr. Landale and Mr. Adair are going to
5 take.

6 MR. MILLER: Mr. Adair has indicated he'd be very short.

7 MR. ADAIR: No more than ten minutes.

8 THE CHAIRPERSON: Okay, well, maybe we should take a bit
9 of a break at this juncture. Fifteen minutes. We'll
10 be back again at five after.

11 **(PROCEEDINGS ADJOURNED AT 10:57 A.M.)**

12 **(PROCEEDINGS RESUMED AT 11:05 A.M.) T21/22**

13 THE CHAIRPERSON: Please be seated.

14 Mr. Miller?

15 MR. MILLER: Mr. Chair, just a matter of procedure. The
16 Automobile Committee of the Canadian Bar Association,
17 they are listed as an intervener, would like to make a
18 submission. So I'm going to suggest that we put them
19 after Mr. Landale, and it's Mr. Dale McGregor, M-C-
20 capital G-R-E-G-O-R, will be speaking on behalf of
21 that entity.

22 THE CHAIRPERSON: Thank you, Mr. Miller.

23 MR. MILLER: Mr. Adair?

24 **SUBMISSIONS BY MR. ADAIR:**

25 MR. ADAIR: It's Gordon Adair. As I said, I keep it
26 short. I support TREAD's position that we can -- we

have oral submissions.

1 THE CHAIRPERSON: Thank you. Do you have any questions?

2 No. Thank you, Mr. Adair.

3 MR. MILLER: Mr. Landale?

4 **SUBMISSIONS BY MR. LANDALE:**

5 MR. LANDALE: I'm not going to read from this.

6 Thank you, Mr. Chairman. My name is
7 Richard Landale, of Surrey, British Columbia. I'm a
8 retired senior citizen representing myself. I'd like
9 to take a moment to thank the BCUC and the Chair for
10 hosting this pre-hearing conference, and your staff's
11 work in the preparations. Well done, and thank you.

12 I would also like to thank ICBC for the
13 mind-bending 1,038-page application. And the enormous
14 3,151 pages of IR responses. ICBC has surely produced
15 a hair-pulling experience, at least for me. I
16 understand Pacific Blue Cross, my medical insurance
17 plan, does not cover this calamity. ICBC -- does ICBC
18 offer basic insurance coverage for this contingency?

19 Before I address my interest in the
20 application, I feel obliged to comment that my remarks
21 today cannot address ICBC's responses to my IRs,
22 number one. Just too little time to extricate myself
23 from the swamp of ICBC's IR response. 2(b). With
24 your permission, first, I would like to outline in
25 broad terms the key issues I have with ICBC's 2013
26

1 revenue requirement application as articulated in some
2 detail within my Information Request number 1.

3 Secondly, since this is my first
4 opportunity as an intervener, I would like with your
5 permission, Mr. Chairman, to address a few issues,
6 procedures, as an inexperienced intervener in regard
7 to the application and some of the exhibits I wanted
8 to submit.

9 Three, turning to the key issues I
10 mentioned earlier in reference to my IR No. 1, I would
11 like the Commission and ICBC to understand that I am
12 -- that if I am mute on any issue or point, or
13 exhibit, it should not be construed that I am in
14 agreement, condone or in denial of that issue, point
15 or exhibit. It should be understood that I have not
16 had enough time to explore this point to form a
17 response. After all, I do not have paid VPs, managers
18 and staff to support me. Poor me. Give me two people
19 and an office, and I'll respond with 2,000 pages.

20 Within the limits of my understanding of
21 the Commission's scope, procedures, terms of
22 reference, I have no further comment to this
23 invitation. Although I will address eight key issues
24 in my Information Request. They are:

25 (1) Claims transformation program. (2)
26 Minimum capital target. (3) Basic premium policies

1 and B.C. population. (4) B.C.'s population and basic
2 insurance premium inflation. (5) To the BCUC, re
3 B.C.'s stats versus Stats Canada.

Proceeding Time 11:09 a.m. T23

4 (6) B.C. Government review of ICBC's August 12th, 2012
5 BCUC Exhibit A2-9. (7) B.C. Government review of
6 ICBC's August 2012 5-2 compensation, page 28. (8)
7 Chapter 7, Appendix 7D, cost allocation tables, pages
8 7D-1 to 7D-7.

9 There is one other issue I would like to
10 add that was not included in my IR, that being letters
11 of comment received by the BCUC, and in particular Mr.
12 Arthur Entlich's letter to the BCUC filed October the
13 15th, 2013. I then prepared and submitted an IR
14 addendum to the Commission, which was subsequently
15 rejected by Staff as a late filing. I have no problem
16 with that, save to say some comments I will address in
17 my 4C comments herein.

18 I would like to add, Mr. Chairman, I wish
19 to use Mr. Entlich's letter as evidence in support of
20 my first key issue, the claims transformation program,
21 and I will come back to this point as I address item
22 4B in the BCU open letter to ICBC and registered
23 interveners of November the 4th, 2013.

24 This concludes the key issues I will be
25 addressing at the appropriate time. I do hope,
26

1 though, as I note in my draft initial regulatory
2 timetable, I still have some time to explore other
3 issues within the application that I may or may not
4 bring to oral hearing. Family commitments are
5 limiting my available time to a fully involved IR 2
6 deadline.

7 Four, in the matter of the regulatory
8 timetable and the four options, I note looking
9 backwards to the 2011/2012 process, this initial draft
10 timetable is in fact an evolving option process, which
11 I like. It demonstrates the Commission is open to
12 appropriate alternatives within given limits, with
13 timing and calendar being apparently key elements.

14 Item 4(a), in my Information Request 1 I
15 recommended the following key issues be bifurcated.
16 What a great word. I never used it before. Along
17 with the related evidence, (1) claims transformation
18 program; (2) capital management program. In my humble
19 opinion, and I like that too, although these issues
20 are very important in themselves, they are standalone
21 elements. The CTP is work in progress that merits
22 scrutiny from the beginning to the end, which will be
23 when? And the CMP is purely outrageous in my way of
24 thinking. I could take up hours of your time to
25 express my disdain while challenging components within
26 the CMP point by point. From a scheduling point of

1 view I would want a full hour of oral discussion and
2 another X number of hours in rebuttal to ICBC's
3 responses and perhaps those of the Commission and
4 other interveners if appropriate.

5 4(c). I like the 11-step process. It's
6 encouraging to see this open, respectful opportunity
7 for all participants to have the time to prepare,
8 review and exchange information. In particular I like
9 the opportunities for Information Request 2 and the
10 oral hearing. Oral hearings bring the human element
11 alive, and if I may say in a positive frame, in your
12 face. Oral hearings bring animation to the
13 presentation and to the rebuttal in context, giving
14 credence to the discussion and the evidence in a one-
15 to-one basis, where written submissions are so muted.

16 I would like to note a couple of timing
17 issues the Commission may like to address. One, who
18 works over Christmas and the New Year period? This
19 affects the allotted time for ICBC's IR No. 2 response
20 envelope and intervenor IR responses on intervenor
21 evidence. Please see my revised suggestions for
22 revised timetable, e.g. at no cost to the overall
23 calendar extend the timeline for these two steps, so
24 that 12-day period between January the 16th and January
25 the 27th is partially utilized.

26 **Proceeding Time 11:15 a.m. T24**

1 Two, I note the 11 steps -- the timelines
2 overlap the weekends. Who is paying the overtime?
3 And is that overtime reflected in any manner within
4 the basic premium rates? And further, weekends are
5 when I get some respite to play from pulling the
6 remaining hairs out of my head.

7 All joking aside, options B(1) and B(2),
8 while they shorten the calendar timeline, they totally
9 circumvent option A(1). At a cost, I believe, that
10 can only hurt the interests of all British Columbians
11 who currently have to pay over-inflated basic
12 insurance premiums. In the case of option A(2), any
13 time the process chops a presentation of evidence and
14 rebuttal opportunities, the process becomes
15 handicapped and slanted with unaddressed issues,
16 evidence or verification. This could lead to an
17 inappropriate assessment of the application,
18 intervener commentary and evidence, snowballing to
19 inappropriate and hasty conclusions, and subsequent
20 decisions by the BCUC.

21 4(B). The first issue I have is in
22 reference to the November the 4th letter. I do not
23 follow the overlapping timetable as described. I
24 think some information may be missing in this letter.
25 I refer to my attached Excel spreadsheet. That's this
26 -- if you had a chance to see it.

1 To enunciate for the record the spreadsheet
2 shows the 11-step process for option A(1). That all
3 11 step target dates are sequential. I do not see the
4 overlap referred to in the letter. I must be missing
5 something.

6 I hope you will forgive me, Mr. Chairman,
7 but I have been presumptuous within this timetable
8 based on the wording of item 5 of the November 4th
9 letter. In my spreadsheet I have bifurcated the CTP
10 and the MCP elements in a manner that sequentially
11 follows the main draft timetable steps of these two
12 items. I have for -- I have also for general
13 expediency truncated those steps to some degree,
14 because to some degree everybody to this point
15 probably have formed their positions ahead of this
16 timeline. The statements and evidence with respect to
17 the application. By bifurcating these two elements,
18 and adjusting the timeline as shown, we can all refine
19 our attentions to these two elements over shortened
20 steps given therein.

21 I also added one more item -- at least of
22 my reference. And that is the ICBC 2004 revenue
23 requirement application, which I believe comes due
24 May, 2014.

25 The second issue I have has -- sorry, I'll
26 start again. The second issue has to do with the

1 submission of intervener evidence. As I alluded
2 earlier in these comments, Mr. Entlich's letter and my
3 IR No. number 1, I would like to bring forward Mr.
4 Entlich's letter in evidence to support my opinion in
5 the matter that claims transformation program
6 described in the ICBC application. Along with this
7 letter, I also described a family member's experiences
8 to further amplify my concerns with the CTP. The
9 issue is how do I file -- how do I do this while
10 following the BCUC's procedures?

11 The third issue I would like to inquire
12 about is Ms. Hamilton, the Commission secretary,
13 informed me in her letter of October the 21st that the
14 Commission does not answer questions raised to the
15 Commission from within Information Requests about the
16 applicant's evidence. Without the ability to request
17 information via a question, receive a response or
18 gather the Commission's opinion, how can I or others
19 verify the Commission has understood the full extent
20 of the submission, leading to the question.?

21 **Proceeding Time 11:20 a.m. T25**

22 Or whether the Commission will seek more information
23 and clarification purposes and ultimately receive a
24 reply to the question. Not wishing to sound
25 provocative but in some instances we may wish to
26 question the Commission as to say a high level, for

1 example. Suppose we wish to challenge the legal
2 requirement the Commission has to follow an order in
3 cabinet, perhaps as it relates to the minimum capital
4 test. By receiving the Commission's answer, we may
5 then accept the outcome.

6 The fourth issue relates to a minor
7 procedural item, the timing and submission of our
8 expense claim due November the 28th. Given the initial
9 regulatory timetable provisions for Options A(1) and
10 A(2) of an oral hearing being either January the 28th
11 or January the 13th respectively, perhaps rescheduling
12 expense claims should follow one of these dates.

13 4(c). Enclosing the Option A(1), draft
14 initial regulatory timetable, is quite satisfactory to
15 me, with the caveat reference I made to the statutory
16 holidays. I am exclusively interested in Option A(1).
17 In regard to other matters, I've responded to this
18 item in my 4(a) herein. I know while riding the
19 Skytrain home following this pre-hearing, I will have
20 a moment of enlightenment. In that event I will
21 address it during the information requests process.

22 May I continue by a response to ICBC's
23 comments this morning?

24 THE CHAIRPERSON: Yes, you may.

25 MR. LANDALE: Thank you. They will be brief.

26 The transformation program is an ongoing

1 process that started in early 2013 with the completion
2 date in the future. I believe it is suggested to be
3 2017. Having said this, how can the Commission make
4 an appropriate determination or decision based on work
5 in progress? There is incomplete filing in the
6 current application. Hence my recommendation to
7 bifurcate the transformation program.

8 My second comments are ICBC is suggesting
9 an oral hearing is too much for Staff to respond
10 appropriately to IRs without having sufficient time to
11 prepare. Really? ICBC thinks it's appropriate to
12 file 3,000 pages of IRs in just -- 11 days ago. If
13 the timing constraints are good for the goose, ICBC,
14 then it's good for the gander, interveners and the
15 Commissioners. Regardless, ICBC has the staff to fit
16 the schedule as shown.

17 Thank you very much. If you have any
18 questions?

19 THE CHAIRPERSON: Commissioner O'Hara?

20 COMMISSIONER O'HARA: I have a couple of follow-up
21 questions, Mr. Landale, just to clarify. You talk
22 about the claims transformation program?

23 MR. LANDALE: Yes.

24 COMMISSIONER O'HARA: Do you mean by that the same as in
25 the application ICBC talks about claims cost
26 management?

1 MR. LANDALE: They have developed a new claims
2 transformation program that covers quite a wide
3 spectrum of services and procedures, allocations of
4 where staff will be, how they'll be used and employed.
5 And quite frankly, they've only had a few months to
6 see whether it's working. They've also indicated
7 there that that could be changed because of ongoing
8 initial -- I think the word was initial evaluations.

9 The point being is that the entire program
10 should be reviewed in first how it was planned, the
11 conceptions of it and the rationale. I understand the
12 government have requested such a thing, but we -- it
13 has come to our attention and the Commission's
14 attention through their current application. If they
15 didn't want us to look at it, why put it in the
16 application? It's there in front of us to be looked
17 at.

18 **Proceeding Time 11:25 a.m. T26**

19 The fact that it's, again to repeat myself,
20 work in progress, nobody can evaluate how it's
21 working, least of all ICBC. So how can the
22 Commission, respectfully asking, how can you make any
23 determination whether you agree with it, condone it,
24 endorse it, want to take something out, add something
25 in? How can you do that?

26 COMMISSIONER O'HARA: Okay, thank you. Second question,

1 that was on page 5 of your submission you talked about
2 the second issue which relates to this Mr. Entlich's
3 letter --

4 MR. LANDALE: Yes.

5 COMMISSIONER O'HARA: -- which you would like to file.
6 And I think you have options there. You can file it
7 as intervener evidence, but you could also file it as
8 letter of comment. Do you think you would be --

9 THE CHAIRPERSON: If I may, Commissioner O'Hara, that
10 letter is already in evidence.

11 MR. LANDALE: Yes, it is.

12 THE CHAIRPERSON: It is B-10. So it's already been
13 submitted, so --

14 COMMISSIONER O'HARA: Okay, so that's taken care of, yes.

15 THE CHAIRPERSON: I was going to say later --

16 MR. LANDALE: So I could reference it as I --

17 THE CHAIRPERSON: Yes, you can reference it. It is
18 submitted as evidence and it's already on the web
19 page.

20 MR. LANDALE: Thank you very much.

21 COMMISSIONER O'HARA: Thank you, Mr. Chair. I'm done.

22 COMMISSIONER REVEL: Yes, I'd like to pick up a couple of
23 points if I may, too. Commissioner O'Hara has picked
24 up the point of Mr. Entlich's letter. At the moment
25 it's filed as A-10, which is a letter of comment,
26 which is not testable. What I wanted to ask you, are

1 you proposing that you adopt Exhibit B -- E-10, pardon
2 me, as your evidence and you are prepared to have it
3 tested as your evidence?

4 MR. LANDALE: I wish to use his remarks and some of the
5 experiences that he explains in his letter and say I
6 can parallel those. And because of the transformation
7 program as it is, they're not addressing the customer,
8 you and me. We pay for basic insurance.

9 COMMISSIONER REVEL: Yes, I understand, I understand.

10 Let me --

11 MR. LANDALE: I want to use elements of his --

12 COMMISSIONER REVEL: You're not proposing to adopt it as
13 your evidence though, is that correct?

14 MR. LANDALE: I can't, no.

15 COMMISSIONER REVEL: Okay, thank you, that's good.

16 Just one more general question, Mr.
17 Landale. At the end you made reference to things,
18 matters in the application that seem not to be desired
19 to be part of the hearing. Is it your position that
20 if it is in the application, that is should be tested
21 and examined?

22 MR. LANDALE: As a whole, yes. But my suggestion is is
23 by bifurcating those two elements, ICBC could proceed
24 with the revenue requirement application. The
25 Commission as a whole could make its determinations as
26 it applies to the 4.9 percent application increase

regardless of those two elements.

1 COMMISSIONER REVEL: Thanks very much.

2 THE CHAIRPERSON: Thank you, Mr. Landale.

3 MR. MILLER: Mr. McGregor?

4 **SUBMISSIONS BY MR. MCGREGOR:**

5 MR. MCGREGOR: Good morning, my apologies to the
6 Commission. I'm Dale McGregor. I'm here on behalf of
7 the Canadian Bar Association, the Automobile Insurance
8 Committee. It's a group of trial lawyers essentially
9 that have experience in these areas and we've now
10 intervened in this matter.

11 I just wanted to identify myself for the
12 benefit of the record, as well as indicate that we do
13 have an intention of possibly introducing evidence,
14 actuarial evidence in this proceeding. We have
15 retained an individual and whether that individual
16 will go ahead and provide a report that we will
17 submit, and then produce him for the purposes of cross
18 if necessary, is something that is yet to be
19 determined because it will depend on the other
20 evidence that we see. But Mr. Miller had asked that I
21 stand as a matter of procedure and ensure that you are
22 aware of that possibility.

23 From a procedural perspective, I think that
24 the points that have been made so far this morning
25 associated with the oral hearing, at least with
26

1 suggestion regarding a possible adjournment, and
2 commencing a rate design application. So, rate design
3 and revenue requirements are two different things. A
4 rate design application, if done properly, should be
5 revenue neutral. So, I don't understand why we would
6 adjourn. Even if he had rate design issues he wanted
7 to address, I don't understand why we would adjourn
8 the revenue requirements application. The company
9 needs a certain amount of money. Rate design is who
10 pays the proportion of the money it needs.

11 With respect to the items on the agenda,
12 Mr. Chair, Staff has no preference on a written or
13 oral hearing. The only matter that Staff is quite
14 insistent on is, they want another round of IRs,
15 irregardless of whether we go written or oral. It's
16 been our experience that even if it is oral, a further
17 round of IRs will cut down on the amount of time
18 needed in the oral hearing, and hone the issues much
19 better for all involved.

20 And I will deal with Mr. Landale off-
21 record, and try and enlighten him as to why the
22 secretary, Commission Secretary, won't answer the
23 questions that he's asking. But I'll do that off
24 record.

25 THE CHAIRPERSON: Thank you very much, Mr. Miller.

26 MR. MILLER: Thank you.

1 THE CHAIRPERSON: Then can we --

2 MR. MILLER: So now, Mr. Chair, I believe it would be
3 appropriate if anyone -- if the interveners have a
4 comment to submissions made after they first spoke, it
5 would be appropriate for them to come back. So, are
6 there any interveners that wish to make a comment
7 relating to matters that have been addressed after you
8 spoke?

9 Mr. Munn has indicated he would like to
10 make a comment.

11 THE CHAIRPERSON: Okay, thank you.

12 **REPLY BY MR. MUNN:**

13 MR. MUNN: Yes, very briefly on behalf of the Insurance
14 Bureau. If there is a second round of IRs as the
15 Commission Staff has suggested, we'd urge you, then,
16 to still keep the oral hearing in place. Not
17 necessarily oral argument but an oral hearing. And
18 for want of a better metaphor, it's to keep the feet
19 to the fire and get the questions answered.

20 THE CHAIRPERSON: Okay. Thank you, Mr. Munn.

21 MR. MILLER: Are there any other interveners that wish to
22 make a comment before ICBC has the final word in
23 reply?

24 No one has shown any indication, so it
25 would now be up to Mr. Ghikas.

26 THE CHAIRPERSON: Okay. Mr. Ghikas?

REPLY BY MR. GHIKAS:

1 MR. GHIKAS: Thank you, Mr. Chairman.

2 I have three points, essentially, that I
3 wish to address. The first one is the theme that we
4 heard from some of the interveners this morning, that
5 there would be no point in even having a process of
6 any kind were the Commission to accept ICBC's
7 submissions as I had presented earlier today. And
8 what I'm alluding to specifically, Mr. Chairman, is
9 first of all my friend Mr. Finnie indicated that --
10 and my notes have him indicating essentially that ICBC
11 by saying that the range of outcomes and the issues
12 are circumscribed by virtue of the regulatory
13 constructs in place, that we might as well pack up and
14 go home. And this -- a similar comment, although
15 perhaps without the rhetorical flourish, from Mr.
16 Munn, was seeking -- submitting that investments
17 shouldn't be excluded from the Commission review just
18 because the Commission had established a formula
19 previously.

20 **Proceeding Time 11:34 a.m. T28**

21 That, of course, alluding to my comment that the
22 Commission had established a formula, essentially, for
23 calculating the investment income portion of the rate
24 indication.

25 And finally, Mr. Weisberg, with rhetorical
26

1 flourish, that ICBC thinks that the other chapters of
2 the application, other than the actuarial one, are not
3 important and that ICBC would be suggesting that
4 policyholders have no business inquiring into them.
5 Mr. Chairman, with respect to my friends, these
6 submissions are off base. First of all, ICBC's
7 submissions this morning, so that it is abundantly
8 clear, related to the choice of process and not
9 whether or not the Commission would consider issues at
10 all. ICBC fully expects that the Commission will,
11 regardless of the process chosen, give full
12 consideration to all of the issues that are relevant
13 to this application and determine them appropriately.

14 The submissions I found somewhat surprising
15 in the sense that if one considers that most BCUC
16 proceedings are resolved by written proceeding, it
17 would be a novel view to interpret that as the
18 Commission somehow saying that these issues were not
19 worth trouble over, having an oral hearing. That's
20 not the case at all. Of course, as I indicated at the
21 outset of my submissions this morning, the Commission
22 evaluates both -- evaluates the need for an oral
23 hearing in the context of what value it would add to
24 the proceeding, and it doesn't always add value. It
25 may add information, but it doesn't always add value.
26 And of course the Commission recognizes that most

1 proceedings are fine to proceed in a written format.
2 And all that ICBC was submitting this morning is that
3 this proceeding falls within that category that can
4 appropriately be resolved in writing.

5 The second comment -- the second point of
6 response that I wish to deal with is the comments of
7 my friend, Mr. Weisberg, with respect to the
8 government review and the 51 or \$50 million of
9 operating costs savings. And his suggestion, and I
10 have him indicating that it was somewhat disingenuous
11 for ICBC to be portraying those as the savings
12 incurred because only a portion of those are reflected
13 in basic rates. And of course, the Commission will
14 understand that ICBC operates on an integrated basis,-
15 does not operate on an -- operationally with two
16 silos, operating in parallel. They operate on an
17 integrated basis. And what happens with operating
18 expenses is that they are incurred on a corporate
19 basis and then allocated. And that is what ICBC was
20 referring to with respect to the \$50 million. There
21 are \$50 million in corporate savings and, yes, they
22 are allocated. But to suggest that ICBC is being
23 disingenuous is a very strong overstatement, in my
24 respectful submission.

25 The third point relates to the quality of
26 IR responses. This was a very common theme this

1 morning, and it is -- it can be said this morning, and
2 I can say with great confidence, that ICBC recognizes
3 that the quality of responses is important, and it's
4 not just a matter of the Commission counting how many
5 IRs were responded to, or how many pages were provided
6 in response, if the quality is poor. Of course that
7 -- it is relevant to whether or not -- what type of
8 proceeding you have, as to whether or not the
9 information that's been provided is of value, has the
10 ability to complete the record in a way that the
11 Commission can make an informed decision. ICBC takes
12 no issue with that.

13 What I do want to make submissions about is
14 the -- is that in my respectful submission, for the
15 interveners to stand up and make a general comment
16 about being dissatisfied with responses, it's their
17 prerogative to do that. But it is singularly
18 unhelpful to the process for them to make general
19 comments of that nature without identifying specifics.
20 And in these circumstances there have been specifics.

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21 The interveners have pulled out specific
22 notable instances where they think that the responses
23 that were provided were inadequate for their purposes.
24 But I want to deal with those because in my
25 submission, if we look at those specific responses,
26

1 the implications from those responses that the
2 Commission should be gleaning is exactly the opposite
3 of what the interveners are suggesting. And if these
4 are the types of issues that are being identified as a
5 problem with the record, that it underscores why it's
6 important for the interveners to pursue the process
7 that the Commission has put in place to deal with
8 disputed IRs, which involves an informal resolution
9 and a formal process to follow. Because there are
10 answers to these.

11 It's not enough for an intervener to stand
12 up and require ICBC to prove a negative. That's
13 effectively what they're doing. They are throwing out
14 there that the answers are insufficient and requiring
15 ICBC to stand up here this morning and prove why they
16 are sufficient. In my respectful submission, that is
17 just not enough.

18 And if I can take you first of all to the
19 IR that my friend Mr. Munn cited, which was attached
20 to my submission, and it was BCUC IR 1.2.1. Mr. Munn
21 raised this in the context of saying that he had -- or
22 that it had been asked, "How soon do we have to have a
23 decision on the capital management plan?" And Ms.
24 Khan reiterated that this was a good example of an
25 inadequate response.

26 Mr. Chairman, I would have some sympathy

1 for that point if that was in fact the question that
2 was asked. But it was not the question that was
3 asked. The question was

4 "What is the impact on the 2014 revenue
5 requirements application if the new basic
6 capital management plan is not approved or
7 is only partially approved in this
8 application?"

9 And I would urge the Commission to read that response
10 and I suggest to you that this response answers the
11 question that was posed. It may not have answered the
12 one that Mr. Munn wanted it to say, but that was the
13 answer to the question that was posed.

14 The second example that was raised was
15 raised by my friend Mr. Weisberg. It was BCOAPO 55.2
16 and it referenced the incentive pay and the parameters
17 around incentive pay at the Corporation, and took
18 issue with the fact that it cross-referenced, in that
19 respect, TREAD IR 19.3 and its 14-word response.
20 Well, the 14-word response is in fact in 19.3, but
21 what that reflects is that ICBC actually referred to
22 the wrong IR. If Mr. Weisberg had turned the page to
23 19.4, he would see a much longer answer than 14 words
24 and he would see an attachment with respect to the
25 incentive plan, and he would also, I would note, that
26 the original BCOAPO 55.2 IR had another cross-

1 reference in it, not just to the 14-word answer but to
2 BCUC 123.1, which is an 8-page answer on that very
3 point.

4 So while ICBC can be faulted, in my
5 respectful submission, Mr. Chairman, for citing the
6 incorrect reference and making it difficult for Mr.
7 Weisberg to find the right answer in a 3,000 page IR
8 document, that is fundamentally different than not
9 providing the information and putting it on the record
10 at all.

11 So these types of circumstances are tailor
12 made for the IR dispute resolution process, which has
13 an informal aspect and then a formal aspect. These
14 types of issues are the ones that should be brought
15 forward through that process.

16 The third IR that was cited, Mr. Chairman,
17 was TREAD IR 15.1 and this was the IR that Mr.
18 Weisberg cited as a request related to the claims
19 rated scale, which is more colloquially known as the
20 percentage of discount people get on their rates and
21 you're at a certain level on the claims rated scale
22 and a lot of people are at the 40 percent level and
23 they get their 40 percent discount. That's what Mr.
24 Weisberg is referring to.

25 And his complaint as I understand it is
26 that ICBC declined to provide a fulsome response to

1 that, on the basis that it was a rate design issue.
2 And his submission as I understood it was that the
3 extent to which price signals may motivate people to
4 do certain things is directly related to the revenue
5 requirement. And the issue that's related to rate
6 design was the fairness of it.

7 **Proceeding Time 11:44 a.m. T30**

8 Another way of phrasing what Mr. Weisberg
9 is saying is, should we change the price signal in the
10 rates because of how they impact rates? And there is
11 no doubt in my mind, Mr. Chairman, and there should be
12 no doubt in the Commission's mind, in my respectful
13 submission, that that is a rate design issue. And
14 rate design principles -- I was somewhat surprised at
15 Mr. Weisberg's submission because rate design
16 principles include both fairness, as he suggested, but
17 they also include incentives. Fundamental rate design
18 principles, we refer to Bonbright all the time. In
19 those principles, whether or not incentive -- whether
20 or not customers are incented to do particular things
21 as a result of rate design is a core aspect of rate
22 design. That's what it's all about.

23 So in my respectful submission ICBC was
24 within its right to object in those circumstances, and
25 by doing so made this process more efficient for what
26 it's actually supposed to be dealing with, which is a

revenue requirements application.

1 So if we were to take the comments this
2 morning, it would leave the Commission with the
3 impression that ICBC was not responding to IRs, was
4 providing incomplete responses to IRs. ICBC objected
5 to only a very small number of IRs out of the 900 IRs
6 filed, and the complaints that the Commission has
7 heard today regarding the IRs, the anecdotal evidence
8 that interveners have brought forward as good examples
9 this morning, demonstrate the importance of why
10 interveners must bring forward concrete examples in
11 these processes, because there are answers to these
12 and there are answers to other ones too, Mr. Chairman.
13 And in my submission it is not enough to try to have
14 ICBC prove a negative in this procedural conference.

15 With respect finally to addressing disputed
16 IRs based on whether or not they're relevant, which is
17 particularly the issue of rate design that my friend
18 Mr. Weisberg raised, questions that are irrelevant or
19 unreasonable in the IR process are still going to be
20 unreasonable and irrelevant in an oral hearing
21 process. And I will stand up and I will make the same
22 objection in that proceeding that I would on the basis
23 of an IR that is irrelevant and objectionable. And in
24 my submission, using those bases as an argument in
25 favour of oral hearing sets us up for an inefficient
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1 oral hearing and does not make sense. That's what the
2 process is for for resolving IRs. That's why it's
3 there, because if it's not appropriate in IRs it's not
4 going to be appropriate at an oral proceeding. And in
5 my submission there is simply no merit to the position
6 that the interveners have advocated this morning with
7 respect to the quality of the IRs.

8 Those are my submissions, Mr. Chairman.

9 THE CHAIRPERSON: Thank you, Mr. Ghikas.

10 MR. GHIKAS: Thank you.

11 THE CHAIRPERSON: Mr. Miller?

12 MR. MILLER: Mr. Chair, subject to whatever comments the
13 Panel may have to make, I believe that should conclude
14 today's proceedings.

15 THE CHAIRPERSON: So I'd like to thank all the
16 interveners and ICBC for coming out this morning, and
17 this hearing is now adjourned.

18 **(PROCEEDINGS ADJOURNED AT 11:49 A.M.)**

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