

BRITISH COLUMBIA UTILITIES COMMISSION

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

and

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

And

**Insurance Corporation of British Columbia -
Revenue Requirements Application for Universal Compulsory
Automobile Insurance Effective April 1, 2019**

**Vancouver, B.C.
March 26th, 2019**

Procedural Conference

BEFORE:

K. Keilty,	Panel Chair/Commissioner
R. Revel,	Commissioner
B. Lockhart,	Commissioner
T. Loski,	Commissioner

VOLUME 1

APPEARANCES

P. MILLER	Commission Counsel
M. GHIKAS	Counsel for Insurance Corporation of British Columbia (ICBC)
J. QUAIL	Counsel for Movement of United Professionals (MoveUP)
R. LANDALE	Self
I. MISL	Counsel for British Columbia Old Age Pensioners' Organization, Active Support Against Poverty, Disability Alliance BC, Council of Senior Citizens' Organizations of BC, Together Against Poverty Society and Tenants Resource and Advisory Centre (BCOAPO)
L. WORTH	

INDEX

PAGE

SUBMISSIONS BY MR. GHIKAS 5
SUBMISSIONS BY MR. QUAIL 14
SUBMISSIONS BY MR. LANDALE 15
SUBMISSIONS BY MS. WORTH 27
SUBMISSIONS BY MR. Miller 28
REPLY BY MR. QUAIL 30
REPLY BY MR. GHIKAS 32

1 **VANCOUVER, B.C.**
2 **March 26th, 2019**

3 **(PROCEEDINGS COMMENCED AT 9:30 A.M.)**

4 THE CHAIRPERSON: Please take your seats.

5 Good morning, welcome to this morning's
6 procedural conference. My name is Karen Keilty and I
7 am panel chair for the ICBC's 2019 revenue requirement
8 application. With me today are Commissioners Blair
9 Lockhart, Tom Loski, and Richard Revel.

10 By Order G-57-19, dated March 14, 2019, the
11 BCUC established this procedural conference. In
12 Exhibit A-10 the BCUC outlined that the purpose of
13 this procedural conference is to address the
14 appropriate regulatory process going forward for the
15 review of the application and invited ICBC and
16 registered interveners to make submissions on the
17 following items:

18 One, whether there is a need for further
19 written process beyond the second round of information
20 requests established by order G5719 on any topic and
21 why;

22 Two, whether there is a need for an oral
23 component of the review process on any topics and why;

24 Whether any interveners intend to file
25 intervener evidence and the nature of that evidence;

26 And four, any significant time constraints

1 and/or periods of unavailability which should be taken
2 into consideration when establishing the regulatory
3 timetable;

4 And five, any other relevant procedural
5 matters that parties wish to bring to the attention of
6 the panel that will assist it in the efficient and
7 effective review of the application.

8 Before appearances I would like to ask you
9 to make sure your submissions are directed to the
10 issues I have just outlined together with any other
11 issues you or any of the other participants identify
12 and that the panel accepts as appropriate for addition
13 to the agenda. In identifying any additional issues
14 please bear in mind the purpose of this procedural
15 conference.

16 In the panel's view the issues are most
17 effectively canvassed collectively as opposed to issue
18 by issue. But if anyone disagrees we are prepared to
19 consider any alternative approach that you may
20 suggest. Please address this during your appearances.

21 After appearances the order of submissions
22 with begging with ICBC and then follow the order of
23 appearances. If Mr. Miller has a submission on behalf
24 of the BCUC staff his submission will take place at
25 the end of the intervener submissions.

26 After Mr. Miller is finished, beginning

1 with the last intervener to speak, interveners will
2 have an opportunity to reply to other submissions in
3 reverse order. ICBC will have the final right of
4 reply.

5 I'm now going to ask Mr. Miller to call for
6 appearances. When you enter your appearance please
7 state and spell your name for the record, state the
8 party you represent, and identify any additional
9 issues at that time, and advise whether you prefer the
10 issues to be dealt with all together or whether you
11 recommend a separate round for each issue. After the
12 procedural conference the panel will consider
13 submissions received and issue a further regulatory
14 timetable for the review of the application.

15 Mr. Miller.

16 **Proceeding Time 8:34 a.m. T02**

17 MR. MILLER: Thank you, Madam Chair. The first in the
18 order of appearances is the applicant, the Insurance
19 Corporation of British Columbia.

20 MR. GHIKAS: Good morning, Madam Chair, Commissioners.
21 Mathew Ghikas, G-H-I-K-A-S, appearing on behalf of the
22 Insurance Corporation of British Columbia. With me
23 this morning is Bill Carpenter who is the Vice
24 President of Insurance, and Kelly Amers who is the
25 Chief Actuary Pricing and Regulatory Affairs, and June
26 Elder, the manager of Regulatory Affairs.

1 In terms of additional issues, I had one
2 brief comment to make about the scoping of some of the
3 questions, but other than that, nothing further to
4 add.

5 THE CHAIRPERSON: Thank you.

6 MR. GHIKAS: And I am content to deal with everything
7 all in one.

8 THE CHAIRPERSON: Thank you.

9 MR. MILLER: The next in the order of appearances is
10 MoveUP.

11 MR. QUAIL: Good morning, James Quail appearing.
12 MoveUP, of course, is the union that represents the
13 employees of the applicant. We have nothing to add to
14 the program for this morning and we are quite content
15 to deal with everything in one go.

16 THE CHAIRPERSON: Thank you.

17 MR. MILLER: Mr. Landale?

18 MR. LANDALE: Good morning, my name is Richard Landale,
19 L-A-N-D-A-L-E, I represent myself, and I am very happy
20 with the agenda you've laid out. Thank you.

21 THE CHAIRPERSON: Thank you.

22 MR. MILLER: The last in the order of appearances is
23 B.C. Old Age Pensioners Organization *et al.*

24 MS. MIS: Good morning, my name is Irina Mis, last name
25 M-I-S, we represent B.C. Old Age Pensioners'
26 Organization known in this group as BCOAPO. And with

1 me today is our executive director, Leigha Worth, she
2 is on her way. She is parking right now, she will be
3 here in a couple of minutes. Thank you.

4 THE CHAIRPERSON: Thank you. Mr. Ghikas?

5 **SUBMISSIONS BY MR. GHIKAS:**

6 Thank you, Madam Chair. I can deal with
7 the first two issues together, and that is with
8 respect to the further process. ICBC submits that the
9 record will be sufficient after the second round of
10 IRs, and that a third round of IRs is unnecessary, as
11 is an oral component of the hearing. And we can
12 proceed after the second round directly to written
13 submissions.

14 This would be consistent with how the
15 Commission has considered ICBC's revenue requirements
16 processes in recent years, and in advancing the
17 position that we are this morning, I wanted to outline
18 a couple of broad considerations for the Panel. The
19 first is that this typical type of written process
20 rather than the additional components, it recognizes
21 the nature of ICBC's costs and how they influence
22 rates in the current year.

23 This point in large measure is about how
24 ICBC differs from public utilities that are regulated
25 by the Commission. The rate indication is driven
26 ICBC's case, by and large, by expected loss costs that

1 are forecasted by actuaries, who must adhere to
2 professional standards of accepted actuarial practice,
3 and that require unbiased best estimates. And they
4 certify those calculations and estimates in the
5 application itself.

6 Those standards limit the range of
7 reasonable estimates, and relative to public utilities
8 that are regulated by the Commission, it is notable
9 how little of ICBC's revenue requirements are
10 comprised of operating expenses and amortization from
11 capital. So these really are dominated with actuarial
12 analysis.

13 **Proceeding Time 9:38 a.m. T03**

14 It is also important to understand that the
15 exercise that the actuaries undertake is different
16 from say forecasting gas load or electric load out one
17 year in a test period for a public utility. The
18 exercise that they're undertaking is to look at all of
19 the policies written in this current year, the 2018
20 year, and then determine or estimate the costs that
21 are associated with those policies this year, next
22 year, and so forth out many, many years into the
23 future. And so that exercise requires actuarial
24 assessment and variances from those are of costs so
25 far out in the future are generally understood to
26 occur. And what ICBC's regulatory framework has in

1 place is essentially a closed system for basic
2 insurance. And so when those variances occur, they
3 stay in the system and they effect future years'
4 rates. And so they're not extracted as they would be
5 in the public utility context as a shareholder profit.
6 And this closed system comes into play when, in my
7 submission when the Commission considers what type of
8 process should be put in place for this one year
9 revenue requirement application.

10 The second broad consideration that I would
11 suggest should influence the Commission's
12 determination of the process in this proceeding is the
13 relatively limited ability of the Commission process
14 to affect the basic rates in the current year under
15 the current regulatory framework that applies at
16 present.

17 Highlight two notable aspects of this. One
18 of them is with respect to the building of capital and
19 a Special Direction IC2 determines that in the current
20 year, there should be no capital build provision, so a
21 provision in the rates designed to increase the
22 capital levels of basic insurance. That provision,
23 the capital build provision has been suspended until
24 the end of the next policy year, and so as a result,
25 there is no capital provision associated with building
26 rates in the current year.

1 The second and perhaps most notably this
2 year is that the Commission is operating within a rate
3 change band. And what the rate change band sets out
4 in section 3(1.1) of Special Direction IC2, is that
5 the approved rate change for this year must fall
6 within a band that is 1.5 percentage points of last
7 year's rate change number. So what that means in
8 practice this year is when last year's approved rate
9 change from the Commission was 6.4 percent, this rate
10 change can be no more than 7.9 percent, and can be no
11 less than 4.9 percent. ICBC is applying for a rate
12 increase of 6.3 percent, which is within the band.

13 Now, the existence of the band in and of
14 itself, and coupled with the closed system inevitably
15 reduces the potential benefit of undertaking
16 progressively more and more process associated with
17 the revenue requirements application, beyond that of
18 the standard approach that the Commission has taken,
19 in my submission. And this year we have the
20 additional consideration of what is driving the rate
21 request being very focused on a narrow issue. And
22 that is if -- well let me step back.

23 On page 3(5) of the application you will
24 find a convenient table that breaks out the rate
25 request by driver in percentage point terms.

26

Proceeding Time 9:43 a.m. T04

1 And what you'll see when you look at that
2 in a nutshell is that what is driving the rate number
3 this year is claims costs numbers and then -- that are
4 very significant, approaching 40 percent, and then a
5 significant prospective adjustment that moves the rate
6 back down to 37.4 percentage points to where we find
7 ourselves at 6.3 percent. And what that prospective
8 adjustment is doing is accounting for the product
9 change that is going to be taking affect later this
10 year. And the other components when you look at that
11 are actually contributing very little to the rate
12 change at all, operating costs included.

13 So when we look at those issues the fact
14 that that prospective adjustment is such a significant
15 driver in the current case, that in my submission is
16 an additional reason to suggest that this year it
17 would be unnecessary and inefficient to push the
18 process beyond what the Commission has done in prior
19 years. And I say that because on top of the fact that
20 we have the closed system, a prospective adjustment is
21 undertaken by actuaries as part of the actuarial
22 process in circumstances where a change is occurring
23 in the future that isn't reflected in the past data
24 that they're using to develop their trends.

25 So what happens is they estimate what the
26 effect of that change will be, but then as years pass

1 the need for the prospective adjustment drops off. So
2 its effect is actually transient, the effect of what
3 they're forecasting gets picked up in those trends as
4 time progresses. So the effect of that is actually
5 transient in nature. And in the circumstances that --
6 the effect of that prospective adjustment has been
7 estimated by Ernst & Young and used in the rate
8 indication analysis. So it's a relatively discrete
9 issue and it's transient in effect and as a result my
10 submission is that the process that you have set out
11 so far is adequate.

12 I should add that one final consideration
13 is that the fact that ICBC is in the midst of very
14 significant changes in terms of product reform and the
15 like should, in my submission, be given some weight in
16 terms of the amount of process that the Commission
17 puts in place. Primarily because the individuals that
18 are involved should have their undivided attention in
19 terms of implementing the product reform and the
20 changes that are occurring this year and any
21 additional process in terms of oral hearings will
22 inevitably effect their ability to do that.

23 So I can turn, then, to the question of the
24 regulatory timetable. The Commission has asked with
25 respect to any time constrains. The most significant
26 timing constraint from ICBC's perspective is the

1 availability of the external actuaries in place. So
2 there is, in addition to ICBC's internal actuarial
3 department, there is a reviewing actuary, Bill Weiland
4 of Eckler, and there is in this current case Ernst &
5 Young has done the prospective adjustment analysis.
6 And those two, Ernst & Young and Eckler, have some
7 availability constrains between the dates of June 10th
8 and 21st, and on June 28th.

9 **Proceeding Time 9:47 a.m. T5**

10 So in the absence of intervener evidence my
11 expectation is that any oral hearing that the
12 Commission would like to undertake could proceed that
13 period anyway, but if intervener evidence is filed
14 based on our -- based on my rough estimates, any IRs
15 on that evidence or rebuttal evidence that was filed
16 might push an oral hearing, should it occur, until the
17 week following that blackout period effectively that I
18 was indicating, which would put it somewhere on the
19 24th, 25th -- sorry, 25th, 26th or 27th of June, for
20 example. BC Hydro has a procedural conference on the
21 24th, which I suspect some of us will be involved in.

22 Now, if the process was not focused on
23 actuarial matters, and in my submission if you were
24 going to undertake one, you would want to be focused
25 on the matters that are actually driving the rate
26 indication, but if it were to be focused on matters of

1 general financial matters, operating costs,
2 allocation, performance measures and the like that
3 required the involvement of ICBC's acting CFO and
4 corporate controller, then the challenge for ICBC is
5 that those dates I've just identified of the week of
6 June 24th may pose a challenge for that. That the
7 availability of that key personnel would pose a
8 challenge during the week of the 24th.

9 THE CHAIRPERSON: Sorry, was that May?

10 MR. GHIKAS: Sorry, June. So I've just given you
11 conflicting issues. That's our challenge here, is
12 that we have effectively a three week period that is
13 affected in consecutive weeks, but it depends on the
14 subject matter of the hearing as to whether or not
15 certain periods would be affected in that three week
16 bracket.

17 And the only other issue is in late July.
18 There, in the week of July 19th to 26 there are two
19 things. One is that I am schedule to be away, but
20 more importantly ICBC's board meetings are held that
21 week, which will occupy the time of senior people that
22 would be involved in any oral process.

23 In terms of the other issues to address at
24 this time, I just alluded to the issue of the scoping,
25 and in my submission there was really only one area
26 where this came up, but it is an important area, and

1 it was with respect to the trial lawyers. It is
2 important in my submission that the Commission remind
3 the trial lawyers that the scope of this proceeding is
4 with respect to the determination of the revenue
5 requirements for the current year. There were a
6 number of questions that were posed that were dealing
7 with, for example operating costs dating back 10
8 years. All of which are issues that have been
9 canvassed multiple times by the Commission in the
10 interim.

11 There are also a number of questions, the
12 tenor of which were directed at, in my submission,
13 more about whether product reform should proceed, and
14 not about the current revenue requirements. And in my
15 submission, as the Commission has recognized in the
16 past, it is important for the Commission and the
17 participants to take the legislative framework as a
18 given in these proceedings, and the Commission should
19 protect the integrity of the process and ensure that
20 it is devoted to gaining information for the purposes
21 of the application itself and not for another purpose.

22 Finally, I just would like to highlight
23 again, although the TLA is not here, I did want to
24 highlight that in ICBC's cover letter filing the round
25 one IRs, we did make a note that in terms of just
26 simply the execution of how intervenors, new

1 Responding to the specific questions that
2 have been posed, our client does not see a need for
3 any further written process. The issues that our
4 client is chiefly interested in are well defined by
5 the application and the information request process,
6 including the remaining portion of that. And we will
7 be prepared to proceed to argument on the basis of
8 that evidentiary foundation.

9 In my submission there's no need for an
10 oral component review process for the reasons
11 essentially that my friend Mr. Ghikas has given. We
12 have no intention of filing evidence. If there is an
13 oral hearing, just sort of a plea for mercy, my
14 calendar between June 24th and July 17th is brutal, just
15 occasionally coming up for a gasp of air and then back
16 down again. So I know that -- don't expect everything
17 to be organized around my schedule, but if the
18 Commission is disposed to conduct an oral hearing I
19 would be very grateful if that period of time is
20 spared.

21 And I have no other matters to be raised at
22 this point, subject to any questions you might have.

23 THE CHAIRPERSON: Thank you.

24 Mr. Landale?

25 **SUBMISSIONS BY MR. LANDALE:**

26 MR. LANDALE: Good morning Madam Chair and Commission

1 Panel, ICBC and Staff, and the BCUC Staff here today,
2 my name is Richard Landale of Surrey, British
3 Columbia, and I represent myself as a retired senior
4 in this hearing, with no affiliations to any
5 organizations or interveners.

6 Today I would like to address the issues
7 outlined in the BCUC Exhibit A-10 of March 20th, 2019,
8 where the Commission Secretary has requested responses
9 to five items. One, where there is a need for further
10 written process, e.g. information requests, beyond the
11 second round of information requests established by
12 Order G-57-19 on any topics and why.

13 In general I believe information requests
14 scheduled -- number 2, scheduled for April 9th, is
15 appropriate in matters arising from the first round of
16 information requests. I particularly refer to ICBC
17 responses to my IRs relating to the continuance and
18 ceasing of various metrics relating to such matter as
19 MCT, indicated rate change increases over time, road
20 safety issues, and various proposed amended
21 performance measures, and customer satisfaction.

22 Having read some of the 1,357 pages of the
23 ICBC information request response to intervenors,
24 Exhibit B-2, I am still a long way from completing.
25 April 9th is coming too soon for me. Will the
26 Commission entertain extending intervenor submission

1 date to April 22nd?

2 **Proceeding Time 9:56 a.m. T7**

3 ICBC addressed the IR numbering system
4 employed by intervenor TLABC. I would like to address
5 the difficult challenges ICBC gave interveners by
6 having us refer to all over the place, other
7 intervenor responses ICBC provided. It may be
8 efficient for ICBC, but I became lost so many times.
9 Surely there are rules to orderly responses for
10 interveners' efficiencies benefit as well.
11 Respectfully, what is good for the goose is good for
12 the gander.

13 Year after year ICBC submits documentation
14 to the BCUC and hearings under the veil of
15 confidentiality. On the pretext of proprietary
16 evidence, details or otherwise to the Commission for
17 your eyes only. If released in the open public
18 hearing would damage their optional insurance business
19 and competitiveness, or words to that affect.

20 This is bogus and obstructive to
21 interveners and to the public *et al.* Especially since
22 over 95 percent of ICBC'S Basic policyholders,
23 including myself, buy optional insurance coverage at
24 the same time of renewal or at the first time
25 purchase. I will come back to this point in items 2
26 and 3.

1 It is characteristically and uncooperative
2 of ICBC by placing all intervenors in a vacuum of
3 pertinent information. For not only basic insurance
4 matters, but how these matters interrelate across
5 corporate ICBC. And into even ICBC's optional
6 insurance business, that the BCUC has no jurisdiction
7 over. This becomes even more vexing going forward to
8 the proposed amended performance measures that
9 apparently align with corporate ICBC.

10 Item 2, whether there is need for oral
11 component of the review process on any topics, and
12 why. Year after year I request the Commission Panel
13 to grant an oral hearing. Today is no different. In
14 prior years ICBC has prevailed over the Commission
15 with the argument for a streamlined process, for
16 expediency and cost saving measures. It appears the
17 voice of intervenors and the public must be muted at
18 all costs. By subverting the course of benefits of a
19 Q & A in a public oral hearing, to test the evidence
20 and to validate the evidence.

21 So why do I specially want an oral hearing?
22 ICBC refuses to answer my letters with specific
23 information regarding insurance premium details. I
24 would like to just interrupt myself here. What I'm
25 about to say has actually been addressed very kindly.
26 So although I've put it in here, I want you to note it

1 has been addressed.

2 ICBC refuses to answer my letters with
3 specific information regarding my insurance premium
4 details as they relate to a senior and my optional
5 insurance premium discounts. Yes, I know my senior
6 discounts for basic insurance, I know how it works and
7 how it is calculated. With thanks to Special
8 Direction IC2 providing for the basic insurance
9 premium discount. Again, why is my optional discount
10 such a secret?

11 I would like to also add the very nature of
12 how ICBC informs the public on an optional insurance.
13 Everything about it is a vacuum, you cannot get --

14 THE CHAIRPERSON: Mr. Landale, we are not here to
15 discussion optional insurance.

16 MR. LANDALE: I appreciate that.

17 THE CHAIRPERSON: So if you could focus on the question,
18 thank you.

19 MR. LANDALE: Thank you very much.

20 This becomes even more relevant going
21 forward as ICBC is proposing to report corporate
22 amended performance measures where customer
23 satisfaction corporately is a measure. Exactly how or
24 what this measure will appear like is as vague as ICBC
25 has described within this application. So I am unable
26 to elaborate further to inform the Commission on this

1 very point. You must take my word as a longtime
2 intervenor.

3 **Proceeding Time 10:01 a.m. T08**

4 Reference IR to BCUC 75.1 and BCUC 77.1, 2,
5 3 and 4 starting on page 520. ICBC provides this
6 expression customer satisfaction in terms of feedback
7 from survey results: --

8 THE CHAIRPERSON: Mr. Landale, we're not here to debate
9 the merits of the application --

10 MR. LANDALE: I'm not --

11 THE CHAIRPERSON: -- but to focus on further process. So
12 if you could move it along, please.

13 MR. LANDALE: I'm sorry, I thought I was answering your
14 question number 2.

15 THE CHAIRPERSON: Number 2, the question?

16 MR. LANDALE: "Review the process on any topics and why."
17 That's what I'm talking about.

18 THE CHAIRPERSON: The oral component. Okay, thank you.

19 MR. LANDALE: Yeah. May I continue?

20 THE CHAIRPERSON: Yes.

21 MR. LANDALE: Thank you. To quote:

22 "The customer satisfaction surveys are
23 designed to reflect the customer experience
24 at the transaction level by gathering
25 feedback on each customer transaction with
26 general measures such as satisfaction, but

1 also feedback on firsthand experience with
2 specific process points on ICBC staff.
3 Analysis of these customer satisfaction
4 surveys generates actionable insights that
5 inform ongoing improvements to both
6 processes and staff training."

7 Great words, actually intended to refer to
8 claims. But my customer dissatisfaction is also
9 transactional in terms of premium, it is specific
10 process that is actionable and informing. If only
11 ICBC customer service department had responded
12 positively.

13 This is a follow-up to MoveUP 3.4.2, page
14 705:

15 "ICBC looks more broadly at the contact
16 centre experience to ensure customer and
17 broker inquiries are answered accurately,
18 efficiently, and in a reasonable amount of
19 time. ICBC believes that it should be
20 reporting on performance measures that are
21 leading indicators used in the business and
22 that highlighting other metrics detracts
23 from its central customer focus."

24 I mentioned the voice of intervenors as
25 well as general public voice is being subverted a
26 moment ago by a bogus contention ICBC maintains that
 to release or provide specific answers would harm

1 their optional insurance business in a complete
2 market. ICBC owns the market by more than a 95
3 percent share. How could a five percent share of
4 optional auto insurance market possibly damage ICBC's
5 monopoly? Without such evidence it is bogus.

6 Here is another reason, so far ICBC has ten
7 exhibit filings, B-1 to B-3. Of these ten filings
8 seven are listed as confidential or redacted. This is
9 not open disclosure in an public, open hearing. How
10 does the commission expect interveners with or without
11 expert witnesses to address issues covered by this
12 veil of confidentiality, especially since key data and
13 numbers are redacted? We are unable to challenge or
14 ask information requests or submit counter intervener
15 evidence or argument for the Commission to weigh in
16 the balance of evidence.

17 Madam Chair and panel, this confidentiality
18 veil is not in the public's best interest. ICBC's
19 operating reserve capital has declined with such a
20 pace interveners can only speculate as to their values
21 and their driver factors over these past years of the
22 basic capital reserve decline.

23 This capital decline has reached such
24 magnitude that the provincial government has taken
25 overarching measures to suspend all MCT requirements
26 through to 2022 that would normally impact our basic

1 insurance indicated rate change. Yet ICBC asserts
2 this 6.3 indicated rate change is in accordance with
3 accepted actuarial practice.

4 **Proceeding Time 10:06 a.m. T9**

5 The Commission is now in the awkward
6 position or rubber stamping this rate increase by
7 specific direction from the provincial government yet
8 again. I actually marvel that these proceedings, in
9 this RRA, have reached this calendar point in time as
10 in prior years, the RRA has been virtually suspended
11 by now to intervenor final arguments. We await the
12 pleasure of the government for this year. An oral
13 hearing provides the open transparency necessary to
14 challenge ICBC's assertions that they would be
15 financially harmed or damaged in some way.

16 The Commission in granting an oral hearing
17 to address these issues, and others, could rule,
18 require all participants to sign a confidentiality
19 agreement, thereby addressing ICBC's concerns of
20 global exposure to ICBC's business and their
21 commercial monopoly business.

22 Item 3, whether any intervenors intend to
23 file intervenor evidence and the nature of the
24 evidence. At this time I reserve the right to limit
25 my response to "yes," without having any more time to
26 refine my concerns by completing my review of Exhibit

1 B-2, Information Request No. 1 responses.

2 It is not easy to digest 1,357 pages in
3 order to provide the Commission with a definitive
4 response here today. My respectful apologies. I can
5 say I need to get answers from ICBC regarding my
6 optional insurance premium discounts. I got that
7 today. The letter I received from the Commission --
8 from the customer relations representative of February
9 the 27th was unimaginatively un-informing and
10 deliberately vague. Which brings me back to the
11 subversive manner of ICBC deals with the
12 policyholder's concerns, inquiries, leading to a
13 general disrespect of their customer, me. After all,
14 it was a legitimate inquiry, and I am significantly
15 dissatisfied with ICBC's customer service in this
16 regard. I am almost sure ICBC today will rise, will
17 address this manner in which I speak of this issue.
18 Please do. I welcome the opportunity to reply with
19 evidence.

20 Item 4, any significant time constraints
21 and/or periods of unavailability which should be taken
22 into consideration when establishing the regulatory
23 timetable. I have none. I am available to the
24 Commission's convenience, the privilege of being
25 retired.

26 Item 5, any other relevant procedural

1 matters that parties wish to bring to the attention of
2 the panel that will assist the efficient and effective
3 review of the application. I have none, subject to
4 any matters arising from the procedural conference.

5 But I do have a request. Would the
6 Commission please request ICBC to provide a more
7 definitive synopsis with detail and format of what
8 these new amended performance measures will be?
9 Currently the runout table 1 is so vague. It is
10 difficult to imagine how the marriage of basic,
11 optional and corporate ICBC performance measures will
12 tally up for future RRAs. And can this information be
13 available to the Commission and interveners before
14 Information Request No. 2's scheduled submission date
15 so that more appropriate IRs can be focused on?

16 Thank you, Madam Chair and Panel, for this
17 opportunity to address you. If you have any questions
18 for me, I am at your disposal and convenience.

19 For the record, I am presenting a copy of
20 this presentation as intervenor exhibit number C1-4 I
21 think is the right number.

22 THE CHAIRPERSON: Okay, the panel has no questions,
23 thank you.

24 MR. MILLER: So, Madam Chair, with regard to marking
25 this as Exhibit C1-4, there has been a practice
26 recently developed by the Commission that you are not

1 entitled to both file a written submission and make an
2 oral submission, but I will leave the matter to you as
3 to whether or not Mr. Landale's written submission
4 should be filed or given an exhibit number and also
5 filed. And I don't know if any of the other parties
6 have any position on it at this time.

7 THE CHAIRPERSON: Mr. Ghikas?

8 MR. GHIKAS: Seeing that Mr. Landale essentially read
9 his submission, ICBC doesn't have a strong position
10 either way. The information in the written document
11 I'm assuming doesn't contain a whole bunch of other
12 evidence and that he read the whole thing. So, if
13 that is the case, we have no objection to it being
14 filed. But by the same token, it eliminates the need
15 to file it.

16 COMMISSIONER REVEL: Mr. Landale, did you read the
17 entire document that you are putting as Exhibit C4?
18 Or did you omit sections?

19 MR. LANDALE: Yes. The only things I added was with
20 respect that ICBC today did answer my concern
21 regarding my optional insurance discount. That was an
22 added item that is not in here.

23 COMMISSIONER REVEL: But there were no omissions?

24 MR. LANDALE: No.

25 COMMISSIONER REVEL: Thank you.

26 MR. LANDALE: Thank you.

1 THE CHAIRPERSON: I think we will leave the oral record
2 as it is transcribed and not add that as an exhibit,
3 thank you.

4 Ms. Worth?

5 **SUBMISSIONS BY MS. WORTH:**

6 Madam Chair, members of the panel. In
7 response to the Commission's questions, I actually
8 would like to start my response to question 1
9 regarding the additional discovery or written process
10 by acknowledging that in our view, ICBC's
11 responsiveness to the questions that were put to it
12 was commendable.

13 **Proceeding Time 9:10 a.m. T10**

14 In our view there's no need beyond the IRs
15 that the Panel has made provision for and in
16 anticipation of question 2, followed by a written
17 argument. Given the time and expense that such an
18 oral hearing would incur, and really the nature of the
19 major cost drivers that we're facing, which are
20 actuarial, the bodily injury and the lack of any
21 anticipated evidence on those particular subjects, I
22 would say that it's definitely in the ratepayers'
23 interest and my clients as ratepayers' best interests
24 to address these through a written process.

25 However, should the Commission Panel be
26 persuaded by Mr. Landale or by another party, or in

1 its own right, feel an oral hearing is called for, we
2 would participate fully in that.

3 I guess I've also answered question 3. We
4 are not anticipating filing any evidence. Certainly
5 not any actuarial evidence. Finding actuaries is
6 rather difficult.

7 And we have no significant time constraints
8 to put on the record at this time, and no other
9 procedural matters that we wish to bring to this
10 Panel's attention.

11 Subject to any questions.

12 THE CHAIRPERSON: Thank you.

13 MS. WORTH: Okay, thank you.

14 THE CHAIRPERSON: Mr. Miller.

15 **SUBMISSIONS BY MR. MILLER:**

16 MR. MILLER: Thank you, Madam Chair. Staff does have
17 one issue to address, that's item number two, and this
18 relates to Staff's belief that the panel may be
19 assisted in better understanding the evidence if
20 there's an oral phase for cross-examination on ICBC's
21 actuarial evidence. In particular, Staff believes
22 that some cross-examination may be warranted on what
23 comprises accepted actuarial evidence. Is there any
24 discretion in determining what accepted actuarial
25 evidence is or may be.

26 Mr. Ghikas referred to assumptions and

1 forecasts being based on best estimates being made by
2 the actuaries. Staff would like to test some of
3 those best estimates, particularly in light and I'm
4 not pointing any fingers or any blame, given the
5 record of what we've seen in the past with regard to
6 ICBC's accepted actuarial analysis, predictions and
7 forecast and what has actually turned out in terms of
8 actual results.

9 So we would like to, or Staff believes the
10 panel would be assisted in some cross-examination to
11 better understand what actually is encompassed within
12 the concept of accepted actuarial analysis, and also
13 test some of the assumptions and predictions being
14 made by ICBC's actuaries in the evidence they've filed
15 in this proceeding.

16 With regard to timing, Staff believes that
17 if an oral phase limited to actuarial evidence was
18 ordered by the panel, then either late May or early
19 June would be acceptable. And Staff has indicated
20 that its actuaries are actually available to conduct a
21 cross-examination at that time.

22 Those are my submissions subject to any
23 questions you may have.

24 THE CHAIRPERSON: Any questions? Thank you.

25 Mr. Landale, any comments?

26 MR. LANDALE: No comments.

1 THE CHAIRPERSON: Mr. Quail?

2 **REPLY BY MR. QUAIL:**

3 MR. QUAIL: I just have a few comments. First in
4 response to Mr. Landale's issues that he's raised, we
5 do not see any need for an extension of time to file a
6 second round of information requests. ICBC filed its
7 responses on March 8th. Intervenors have been given
8 more than a month to look at them and formulate their
9 follow-up questions if they have any.

10 **Proceeding Time 10:17 a.m. T11**

11 It's not a matter that detracts from our client's
12 interest but we see no value from the standpoint of
13 our client in a further extension other than
14 prolonging the process.

15 Regarding what I understood to be Mr.
16 Landale's complaints about what he feels were
17 inappropriately included as confidential matters on
18 the record, it is open to an intervenor to make an
19 application to the Commission to determine that any
20 evidence on the record should be put on the public
21 side of the record and open to anyone to do that.
22 That doesn't require an oral hearing to do that.

23 So as I understood it appeared to be one of
24 his reasons to want an oral hearing and in my
25 submission, really, that is not the appropriate
26 mechanism to address that question.

1 And the issues raised by my friend, Mr.
2 Miller, on behalf of the staff, I want to echo the
3 echo the tenor of my friend Ms. Worth's comments about
4 actuarial evidence. That frankly it is impenetrable
5 to intervenors. I can say this having intervened in
6 many ICBC proceedings. Trying to find actuarial
7 expertise that doesn't already belong to some
8 interested party somewhere other is a nearly
9 impossible task, having spent a lot of time doing
10 that.

11 So I don't want to go overboard in
12 purporting to speak for other intervenors, but my
13 prediction is that if there is an oral hearing on that
14 subject it will be essentially a matter between
15 Commission Staff and the applicant and if anybody has
16 nothing better to do among the intervenors they can
17 sit in the gallery and listen to the discussion of,
18 you know, provision for adverse developments and
19 things like that. I've spent more hours of my life
20 doing that than really I care to spare.

21 Anyway, I don't want to make light of it.
22 I'm saying that essentially my submission is a
23 question of what the Commission staff might consider
24 necessary but it not something -- subject matter for
25 which we are seeking an opportunity to attempt to
26 participate in that cross-examination.

1 Those are all of my submissions, subject to
2 any question you might have.

3 THE CHAIRPERSON: Mr. Ghikas, do you need any more time
4 or --

5 **REPLY BY MR. GHIKAS:**

6 MR. GHIKAS: I don't believe so. Thank you. I'll just
7 go through with respect to Mr. Landale's submissions
8 first, Madam Chair.

9 With respect to first of all his request
10 for an extension, I would echo my friend Mr. Quail in
11 that regard. There was been a significant amount of
12 time allowed between information requests and there is
13 also the competing value of the interest of the
14 organization obviously in having rates -- permanent
15 rates set earlier rather than later in the course of
16 the year and in my submission that competing
17 consideration should be given weight in the
18 circumstances and to stick with the current timetable.

19 Mr. Landale expressed frustration regarding
20 the practice of cross-referencing other IRs in IR
21 responses. I can tell, Madam Chair, that -- I can
22 tell you that, you know, when engaged in a IR process
23 it's -- for an applicant there's a considerable volume
24 of information that has to be prepared in a very short
25 period of time and the need to have consistency across
26 responses is obviously very important and the practice

1 of cross-referencing is an important part of that.

2 **Proceeding Time 10:21 a.m. T12**

3 You can't have the quality control that you would
4 expect and that the Commission would expect of the
5 applicant if you're repeating the same text time and
6 time again in different places.

7 And I should add that there is value in
8 having -- for everybody, in having that information
9 localized in particular places so that everybody is
10 referring to the same information and not different
11 information as well. So this isn't just an issue of
12 convenience, this is an issue of quality control and
13 ensuring the evidentiary record is appropriate and
14 useable for everybody. And it is consistent with
15 standard practice before the Commission for many
16 years.

17 I want to deal with the issue of
18 confidentiality. My friend, Mr. Quail, made this
19 point but Mr. -- as a reason to have a hearing, the
20 confidentiality concerns that Mr. Landale is raising
21 is not a good reason for having an oral hearing. The
22 same issues that would arise in writing would arise
23 orally at the hearing as well, and so the root cause
24 should be dealt with through the appropriate channels
25 and that would be the process that is designed to
26 allow interveners to request a change of the

1 treatment.

2 Having said that, I would like to emphasize
3 that ICBC's request for confidentiality are focused
4 and are consistent with what has been done in the
5 past, and they are important considerations that
6 should be given weight. Now, if Mr. Landale decides
7 that he wishes to pursue this matter, we will
8 obviously respond in greater detail, but I do think
9 it's worth, with the issue having been raised, just
10 highlighting the reasons why the request for
11 confidentiality has been made in a broader sense.

12 The first one is to protect policyholders -
13 - well, let's start with the easy one. The
14 information is related to the competitive optional
15 business. You've already alluded to the fact, Madam
16 Chair, that the optional business is not regulated in
17 this process, and has always been the case, the
18 Commission has respected the need to maintain
19 confidentiality over competitive information.
20 Regardless of the size of the market share that ICBC
21 has, which is not the number that was quoted by Mr.
22 Landale, but we can park that. But regardless of the
23 size of the market share, it's still competitive
24 information; the Commission still respects that.

25 There's another category which wasn't
26 raised by Mr. Landale, but one of the categories of

1 confidentiality that was asserted by ICBC was with
2 respect to the pricing of future IT projects. The
3 reason that the confidentiality was claimed over those
4 is because there's a desire not to compromise the
5 future negotiations with IT providers with respect to
6 those projects and others, having that budget
7 information out there obviously will influence the
8 bids that come in on that work.

9 **Proceeding Time 10:24 a.m. T13**

10 The third category was with respect to
11 protecting policyholders from harm that would result
12 from disclosing information that could influence
13 settlement negotiations among individual claimants,
14 and so there were several IRs that came from this.
15 Mr. McCandless referenced one in his written
16 submission and the TLA asked -- the Trial Lawyers
17 asked a number questions, not surprisingly, looking
18 for this type of information to be placed publicly on
19 the record.

20 But the gist of this is that when the
21 public or the Trial Lawyers or other parties have
22 access to information about individual claims and
23 about aggregate claims amounts when things are broken
24 into represented and unrepresented amounts even in
25 aggregate, that information has the potential to
26 influence how people approach ICBC when negotiating

1 their claims.

2 They see -- they have the potential to see
3 averages as a benchmark or as an entitlement. They
4 have the potential to look at individual settlement
5 offers and the amounts awarded at trial as indicative
6 of what they may obtain in the future. And for an
7 insurance company, generally speaking, that's the type
8 of situation that we want to avoid.

9 But if you step back and you think about
10 the position that my friend Mr. Quail alluded to, that
11 really there are some significant challenges facing
12 ICBC. The last thing that we want to do is compound
13 the problem by introducing evidence into the public
14 that could be, you know, misinterpreted and used
15 against the -- to the detriment of policyholders
16 generally. So in my submission there is a compelling
17 rationale for maintaining that practice.

18 I would note that some of the -- with
19 respect to that issue, this is a tried and true issue
20 that the lawyers groups have raised in the past and
21 although it wasn't the Trial Lawyers specifically in
22 the 2013 revenue requirements, the very same questions
23 that they were raising, the Commission actually dealt
24 with this issue at the hearing and I'll simply note it
25 for the record in case the Commission is interested in
26 how it was approached back then.

1 But the decision was delivered orally in a
2 hearing, transcript Volume 6 from the 2013 Revenue
3 Requirements Application, page 952 and that passage
4 references the arguments that were made and filed at
5 the time. But this is an old issue and the desire of
6 the lawyers to have this information made public only
7 speaks to the need to keep it confidential, in my
8 submission.

9 **Proceeding Time 10:28 a.m. T14**

10 With respect to the discussion on Mr.
11 Landale's desire or withholding his -- reserving his
12 rights with respect to filing of intervener evidence.
13 In my submission, it is incumbent on interveners to be
14 able to take a position on whether or not they are
15 going to file evidence, and to have some indication
16 and provide it to the Commission, about, even about
17 the topic that they intend to file it on. The generic
18 response that "I may file intervener evidence" is not
19 sufficiently helpful to the Commission to include a
20 procedural step on that basis, particularly when the
21 other participants are all generally aligned that the
22 standard process of two rounds of IRs are appropriate.

23 One of the reasons identified by Mr.
24 Landale as wanting more information seems to be about
25 -- leaving aside about his personal questions about
26 his personal coverage on optional, the issue of

1 performance metrics. The issue of performance
2 metrics, there is an entire chapter devoted to that in
3 the application. There have been a number of IRs on
4 it, and I my submission it is very close to being
5 crystalized after round 1, the issues. There may be
6 disagreements about what is the right approach and
7 what is not the right approach, but in terms of
8 gathering more evidence, in my submission, having
9 another opportunity in that second round to ask
10 further questions, that issue will be crystalized
11 fully after that opportunity. And there is a very
12 limited benefit and significant downside that would
13 come from holding an oral hearing to deal with issues
14 related to the performance measures.

15 Now, with respect to Staff's position,
16 obviously I've outlined ICBC's belief that the
17 proceeding can be handled in the standard way. As I
18 understood Staff's submission, it was primarily
19 related to actuarial matters, what constitutes
20 actuarial practice and whether there is any discretion
21 in it. The issues of accepted actuarial practice are
22 actually discussed in the application, and there has
23 been a number of IRs on the topic of whether
24 alternative assumptions could or could not be used in
25 the establishment of the actuarial rate indication.
26 And ICBC has put forward views on whether or not

1 certain assumption substitutions or sensitivities
2 would be consistent with accepted actuarial practice.

3 In my submission, having another round of
4 IRs to explore the specific issues that my friend Mr.
5 Miller identified should be sufficient to canvas what
6 the parameters of accepted actuarial practice are.

7 **Proceeding Time 10:31 a.m. T15**

8 And whether or not standards had to put on the record,
9 and the like, there is an opportunity to deal with
10 that in writing equally well.

11 Now, to the extent that the Commission is
12 minded to adopt some form of oral format, in my
13 submission the technical nature of what is being
14 contemplated by Staff would suggest, in my respectful
15 submission, more of a streamlined review process
16 because it would inevitably, I think as my friend Mr.
17 Quail put, it would inevitably involve technical
18 conversation or discussions, and I believe he even
19 expressly said the questions would be put forward by
20 the actuary. That, in my submission, lends itself
21 more to a format where there's more of a discussion
22 rather than a formal cross-examination and the like.

23 So if the Commission is minded to do that,
24 and our submission is that it's unnecessary, that that
25 format would be much more conducive to the subject
26 matter.

1 That's it for my submissions, Madam Chair,
2 unless there's any questions.

3 THE CHAIRPERSON: No questions.

4 Mr. Miller, anything else?

5 MR. MILLER: Madam Chair, there's nothing further that
6 I'm aware of.

7 THE CHAIRPERSON: Okay. Thank you all for
8 participating today and we will issue our further
9 regulatory process order shortly. Thank you.

10 **(PROCEEDINGS ADJOURNED AT 10:33 A.M.)**

11

12

13

14

15

16

17

18

19

I HEREBY CERTIFY THAT THE FORGOING
is a true and accurate transcript
of the proceedings herein, to the
best of my skill and ability.

20

21

22

23

24

25

26



A.B. Lanigan, Court Reporter

March 26th, 2019