IN THE MATTER OF

the Insurance Corporation Act,
R.S.B.C. 1996, Chapter 228, as amended
and the Utilities Commission Act
R.S.B.C. 1996, Chapter 473, as amended

AND

AN APPLICATION BY
THE INSURANCE CORPORATION OF BRITISH COLUMBIA
FOR APPROVAL OF A FINANCIAL ALLOCATION METHODOLOGY

AND

A FILING BY
THE INSURANCE CORPORATION OF BRITISH COLUMBIA
RELATING TO ROAD SAFETY AND COLLECTION
OF DATA RELATING TO AGE, SEX AND MARITAL STATUS

AND

A FILING BY
THE INSURANCE CORPORATION OF BRITISH COLUMBIA
CONTAINING ACTUARIAL AND 2005 FINANCIAL INFORMATION

DECISION

JANUARY 19, 2005

Before:

Len F. Kelsey, Commissioner and Panel Chair
Nadine F. Nicholls, Commissioner
Peter E. Vivian, Commissioner

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ACRONYMS

ABC	Activity Based Costing
ALAE	Allocated Loss Adjustment Expense
Autoplan MOU	Autoplan Broker Memorandum of Understanding
BCCA	B.C. Chiropractic Association
BCOAPO	British Columbia Old Age Pensioners' Organization, et al.
BCUC or Commission	British Columbia Utilities Commission
CACBC	Consumers' Association of Canada (B.C. Branch)
CDI	Canadian Direct Insurance Inc. (formerly HSBC)
COPE	Canadian Office & Professional Employees' Union, Local 378
ERA	Elenchus Research Associates
FOIPPA	Freedom of Information and Protection of Privacy Act
GAAP	Generally Accepted Accounting Principles
IBC	Insurance Bureau of Canada
IC2	Special Direction IC2
ICA	Insurance Corporation Amendment Act, (2003) and the Insurance Corporation Act (collectively)
ICBC or Corporation	Insurance Corporation of British Columbia
IRs	Information Requests
LGIC	Lieutenant Governor in Council
MCT	Minimum Capital Test
MPSSG MOU	Ministry of Public Safety and Solicitor General Memorandum of Agreement
OIC	Order in Council
OSFI	Office of Superintendent of Financial Institutions
Pemberton	Pemberton Insurance Corporation
RMDM	Retail Markets Downstream of the Utility Meter
RSLM	Road Safety and Loss Management
The Application	ICBC's filings of July 5 and 12, 2004
UCA	Utilities Commission Act
ULAE	Unallocated Loss Adjustment Expense

1.0 INTRODUCTION AND BACKGROUND

1.1 The Application

The Insurance Corporation of British Columbia ("ICBC" or "Corporation") submitted an application on July 5, 2004 to the British Columbia Utilities Commission ("BCUC" or "Commission"). The application seeks approval of a Financial Allocation Methodology under which the Corporation will assign costs to its Basic and Optional Insurance lines of business. This is important to the on-going regulation of ICBC in that the current legislative mandate of the Commission is to review and set premium rates for the Basic Insurance business. Conversely, the Commission has no mandate or jurisdiction to set premium rates for the Optional Insurance business. In addition, material was filed dealing with road safety and loss management programs and the collection and use of data relating to age, sex, and marital status.

Subsequently, on July 12, 2004, the Corporation filed a second volume of evidence that responded to issues raised by the Commission in its Decision of November 12, 2003 including Actuarial and Financial Information and Performance Measures as well as issues raised in the Negotiated Settlement Agreement, approved by Order No. G-49-04.

Also, the Lieutenant Governor in Counsel ("LGIC") had promulgated Special Direction IC2 to the Commission ("IC2", deposited July 7, 2004) that requires the Commission to exercise its powers in respect of ICBC in specific ways. ICBC noted that certain of its actuarial Basic Insurance rate and financial information relating to 2005 would be affected by IC2, and incorporated these anticipated impacts in the material filed on July 12, 2004. IC2 will only be binding on the Corporation, if, as, and when the Commission so orders. Collectively ICBC's filings of July 5 and 12, 2004 will be referred to as the "Application".

1.2 Historical Proceedings Before the Commission

The Corporation was brought within the jurisdiction of the Commission as a result of the passing of the Insurance Corporation Amendment Act, 2003, S.B.C. 2003, c. 35 which passed Third Reading on May 29, 2003 and was brought into force (in part only) by Order in Council ("OIC") No. 0805 on August 12, 2003. In brief, this legislation sets out, in general, the regulatory environment for ICBC and specifies (in section 44) how the Utilities Commission Act is to be applied to ICBC. Parts of Division 3 of the Insurance Corporation Amendment Act dealing with the regulation of the competitive operations of the Corporation in Optional Insurance, have not as yet been proclaimed and therefore are not in force, somewhat limiting the jurisdiction that the Commission would otherwise have, had the legislation been proclaimed in full.

It is common ground among ICBC, the Intervenors in this proceeding, and the Commission that the regulation of ICBC is relatively new, without historical precedents, and an evolving environment that will change and mature over time as the Corporation and the Commission adapt to the legislative changes and as the Commission defines its own expectations and procedures for ICBC.

The Commission Panel notes with appreciation, the efforts of ICBC to respond to the new regulatory environment and to assist the Commission in arriving at a level of regulatory scrutiny that will be practical, efficient, and not impose an undue regulatory burden on the Corporation. Further, the Commission Panel applauds those private individuals and organizations that have participated in the ICBC proceedings before the Commission. In general, participation has been constructive, concise and helpful to the Commission in developing a workable regulatory framework for ICBC. Work continues.

The first proceeding for ICBC before the Commission was an application to have 2004 rates for Basic Insurance approved, taking into account only two specific cost areas: court tariff costs, and premium taxes. The proceeding resulted in the Commission Decision of November 12, 2003. In brief, the rate increase applied for was approved with the exception of amounts related to an anticipated increase in the court tariff costs. This proceeding was carried out as a written process, without the benefit of an oral proceeding and the direct intervenor participation that has proved so useful in this proceeding. In part, this type of process was dictated by the required timing for decision-making by the Commission.

In the context of this first filing, the Commission reviewed many other issues (including most of the issues now before the Commission in this proceeding) and attempted to give guidance to ICBC as to what the reasonable expectations of the Commission were for subsequent filings anticipated in 2004 (Sections 2.4.4, 6.0, 7.2 of November 12, 2003 Decision).

A second proceeding for ICBC before the Commission was a Negotiated Settlement Process. The proceeding dealt with a submission by ICBC dated February 27, 2004, which related to ICBC Performance Measures and Basic Insurance Information Sharing. The Commission approved the May 7, 2004 Negotiated Settlement Agreement in Order No. G-49-04 dated May 20, 2004. There is some outstanding work to be completed with respect to the Negotiated Settlement Agreement, namely the joint development by ICBC and the B.C. Chiropractic Association ("BCCA"), of a Performance Measure associated with bodily injury claims. ICBC reported in its letter of September 28, 2004, that the Corporation and BCCA were continuing to meet with a view to developing a Performance Measure.

1.3 Was the Current Application a Revenue Requirements Application?

It was the common expectation of both ICBC and the Commission in 2003 and early 2004, that ICBC's filing in 2004 would be in the nature of a revenue requirements application. For example, in its letter of transmittal noting approval of the Negotiated Settlement Agreement, the Commission stated that with respect to the 2004 filings:

> "The Commission wishes to alert ICBC to the need to provide full financial information in support of its proposed 2005 rates, whether ICBC seeks to alter the rates or maintain existing rates."

Also, ICBC's proposal for a regulatory agenda for 2004 (a document distributed to all prospective participants in a meeting on December 11, 2003), indicated the then Corporate stance that a full revenue requirements application was anticipated.

Further, the Commission's letter of May 20, 2004 requested full financial information for the Commission to verify whether a rate change would be required for 2005. However, prior to the July 5, 2004 filing by ICBC, the Corporation advised the Commission that it would not be filing for increased Basic Insurance rates.

At the Pre-hearing Conference that was convened for this proceeding on July 29, 2004, the Panel Chair stated that:

> "The Commission is concerned that it may have insufficient evidence, particularly as it applies to revenue requirements, to ensure that ICBC has sufficient revenue to meet its net income target and MCT target. The Commission invites comments from ICBC and the intervenors as to how to resolve the Commission's concerns or what further steps, if any, should be taken by either the Insurance Corporation or the Commission." (Pre-hearing Conference T:12)

Counsel for ICBC replied:

> "It is not the desire nor the intent of ICBC to turn this proceeding into a revenue requirement proceeding." (Pre-hearing Conference T:13, 17)

And later counsel for ICBC added:

> "From the perspective of ICBC, there is a great difficulty in understanding how we should get into an extensive review of actuarial and financial information, in the process of a public hearing if there is no application before the Commission to change the rates. So we undertake an extensive review of this subject for what purpose?" (Pre-hearing Conference T:17)

Further comments were solicited by the Panel Chair (Pre-hearing Conference T:5).

Intervenors were divided in their views on the issue although most thought that the Commission had to investigate the actuarial and financial information filed with a view to assuring itself as to the general financial health of the Corporation. Some were of the view that logistics alone precluded an in-depth review of the revenue requirements for 2005 that would be tantamount to a formal revenue requirements proceeding (Pre-hearing Conference T:42).

In result, the Commission Panel decided that the proceeding would not be structured as a full revenue requirements proceeding but that:

> "Participants shall be entitled to ask information requests and undertake cross-examination with respect to the actuarial and financial information that supports the adequacy of the current rates for continuation into 2005. If the Commission Panel determines that the existing approved rates are not appropriate, it will consider ordering a separate full revenue requirements proceeding at a time dictated by the circumstances." (Transmittal letter of August 4, 2004 covering Order No. G-75-04 which set out the regulatory agenda and list of hearing issues for this proceeding.)

The Commission Panel was of the view that this direction regarding the scope available to the Commission and Intervenors would suffice for present purposes although there was certainly surprise on the part of the Commission Panel that ICBC chose not to submit what would amount to a revenue requirements application as earlier anticipated by the Corporation and the Commission.

1.4 ICBC's Legislative Mandate and Associated Regulation

ICBC is a rather unique Crown corporation in that its roles and objectives serve an amalgam of private sector and public sector purposes. By way of example, the Corporation has a legislated monopoly to offer the universal compulsory insurance (Basic Insurance) required of every vehicle owner in British Columbia, with a third party liability limit of $200,000. It also offers supplementary Optional Insurance in competition with other private sector entities.

Moreover, ICBC carries on activities that in many jurisdictions are considered governmental activities unrelated to the primary role of an insurance undertaking. ICBC administers the licensing bureaus for driver testing and licensing. Finally, ICBC supports a wide range of traffic safety, loss management, road improvement and improved highway traffic law enforcement programs.

As with any corporation, its decision-making must be guided by the legal corporate governance norm that decisions must be taken honestly, in good faith, and in the best interests of the Corporation.

Overlaid on this objective is an evolving array of corporate and regulatory supervision that includes the regulatory supervision of ICBC's Basic Insurance operations by this Commission. From a regulatory point of view, the Commission's decisions will be guided by its statutory mandate. Further, the Commission is given the responsibility to ensure that there is no cross-subsidization of Optional Insurance premiums from Basic Insurance operations and revenues (Division 3, section 49(1) of the Insurance Corporation Act). In addition, the Insurance Corporation Amendment Act 2003, purports to give the Commission certain responsibilities in respect of the operation of the Optional Insurance business with a view to ensuring that competitive market conditions prevail in the offering of optional insurance in British Columbia. These provisions that are found in Division 3 (sections 50, 52), have yet to be proclaimed by the Government and so, the Commission is not yet in a position to exercise this additional jurisdiction spelled out in the legislation.

Additional scrutiny is afforded the Corporation under various provisions of the following legislation:

- Financial Institutions Act;
- Insurance Act;
- Insurance (Motor Vehicle) Act;
- Insurance Corporation Act;
- Motor Vehicle Act;
- Utilities Commission Act;
- Competition Act (Canada);
- Insurance Companies Act (Canada);
- Pension Benefits Standards Act, 1985 (Canada); and
- Protection of Privacy and Freedom of Information Act.

Members of the Board of Directors of the Corporation are appointed by the LGIC and act independently. However, under section 7 of the Insurance Corporation Act, the Board of Directors must receive the approval of the LGIC to direct any change in the fundamental insurance and reinsurance business of the Corporation. Similarly, Commissioners of the BCUC are appointed by the LGIC by way of Order in Council and serve specified terms. The Commission is also subject to the directive powers of the LGIC.

The diversity of objectives and the complex array of corporate and regulatory overview results in a corporate and regulatory environment that is segmented and in part overlapping. It is against this background that the Commission must exercise its jurisdiction with respect to ICBC.

1.5 The Legislative Basis of the Commission's Jurisdiction

For purposes of this proceeding, the jurisdiction of the Commission (and limitations thereon) is drawn primarily from:

- Utilities Commission Act ("UCA");
- Insurance Corporation Amendment Act, (2003) and the Insurance Corporation Act (collectively "ICA"); and
- Administrative Tribunals Act.

For this proceeding, the most relevant legislative provision defining the jurisdiction of the Commission is section 45(i) of the ICA:

> "If the corporation is authorized by the Lieutenant Governor in Council to provide universal compulsory automobile insurance, the corporation must make available universal compulsory automobile insurance in a manner, and in accordance with practices and procedures, that the commission considers are in all respects <u>adequate, efficient, just and reasonable</u>." (emphasis added)

This provision is followed by adequate enforcement and remedial powers for the Commission.

The underlined words above are open to a wide range of factual determinations on the part of the Commission. Pursuant to section 79 of the UCA, a finding of fact in its jurisdiction, is binding on all persons and the courts.

1.6 The Oral Proceeding Process Before the Commission

In its Order No. G-75-04 dated August 4, 2004, the Commission Panel directed that the issues in this proceeding would be examined in an Oral Public Hearing. Given the state of the evolving regulatory environment for ICBC as discussed in section 1.2 above, the Commission Panel was of the view that it was timely to provide an open forum in which ICBC, Intervenors, Commission staff and Panel members could enjoy the benefits of full and frank discussion, disclosure and cross-examination. We believe that expectations have been met in this regard and the Commission Panel notes that extensive evidence has been filed, there is a comprehensive list of Information Requests ("IRs") from the Commission, ICBC and Intervenors, and there has been thorough cross-examination of ICBC and Intervenor Panels. The accumulated record of evidence will serve as a base for improving the knowledge of all participants in the regulatory process for ICBC.

1.7 ICBC's Duty to Defend

As a preliminary matter, the Commission Panel believes it is important to specify and understand ICBC's statutory duty to defend all claims brought against an insured who carries Basic Insurance coverage. This is important to better understand the control and pivotal role that ICBC must discharge in relation to all claims brought against an insured, including claims that exceed the Compulsory Basic third party liability coverage of $200,000. The "duty to defend" has obvious implications for the allocation of claims settlement costs.

As part of the Basic Insurance coverage, ICBC has a statutory requirement to defend in the name of the insured any action for damages brought against the insured (Exhibit B-10, CACBC IR 53). Specifically, this statutory requirement is set out in sections 74(b) and 74.1 of the Revised Regulation (1984) under the Insurance (Motor Vehicle) Act and reads as follows (Exhibit B-10, BCUC IR 6.1):

Duties of corporation

74 On receipt of notice of a claim for damages brought against an insured for which indemnity is provided under this Part and subject to an act or omission by the insured entitling the corporation to raise any question as to whether or not the insured is entitled to indemnity, the corporation, at its expense, shall…

(b) defend in the name of the insured any action for damages brought against the insured.

Rights of corporation

74.1 Upon assuming the defense of an action for damages brought against an insured, the corporation shall have exclusive conduct and control of the defense of the action and, without limiting the generality of the foregoing, the corporation shall be entitled to

(a) appoint and instruct counsel to defend the action,
(b) admit liability, in whole or in part, on behalf of the insured,
(c) participate in any non-judicial process which has as its goal the resolution of a claim, and
(d) compromise or settle the action.

It is noteworthy that ICBC has this primary duty to defend even if there is a private carrier providing excess third-party liability coverage (Exhibit B-10, BCUC IR 6.1).

In carrying out its duty to defend, ICBC incurs defence costs that are comprised of costs for legal services, medical reports, independent adjusters, private investigators, etc. The apportionment of these defence costs depends on whether or not excess liability coverage above the $200,000 Basic Insurance limit is held by the policyholder. If the policyholder carries no excess liability coverage, ICBC proposes that the total defence costs be incurred as part of the Basic Insurance coverage. In the case where the policyholder has excess liability coverage above the $200,000 Basic Insurance limit (either with ICBC's Optional Insurance or a private insurer), ICBC will apportion the total defence costs between Basic Insurance and, depending on the circumstances, ICBC's Optional Insurance or a private insurer. The apportionment is done on a pro-rata basis determined by each insurer's share of the final settlement amount (Exhibit B-10, BCUC IR 6.1).

Finally, Bill 93, The Insurance (Motor Vehicle) Amendment Act, 2003 (not yet proclaimed) has new provisions that would impose a duty to defend on all optional insurers and provides for direction from the courts, as to how to allocate defence duties where two or more insurers have a legislated duty to defend (Bill 93, sections 60, 79). The Commission will be interested in receiving comments from ICBC and other parties on the implications of these provisions, if and when proclaimed.

2.0 THE ISSUE OF THE VALIDITY OF SPECIAL DIRECTION IC2 TO THE COMMISSION

2.1 Background Information

This issue arose as a result of a notice letter to the Commission dated September 28, 2004 (Exhibit C16-5) from the BC Old Age Pensioners Organization *et al*.("BCOAPO") in which it indicated that as a preliminary matter, it would seek to clarify the Commission's jurisdiction with respect to several provisions of IC2. IC2 was issued to the Commission pursuant to two statutory provisions: section 47 of the Insurance Corporation Act and section 3 of the Utilities Commission Act. IC2 purports to be binding upon the Commission but is not binding upon ICBC unless and until it is made so by some determination and order of the Commission.

In particular, BCOAPO brought into question the validity of sections 4(1)(a), 4(1)(b) and 4(1) (c)(i). Given that this matter involved the possibility of a finding by the Commission that the subordinate delegated legislation was invalid, notice was given by BCOAPO to the Attorney General of BC as required under the Constitutional Question Act, section 8(3).

2.1.2 Grounds for Invalidity of IC2 Submitted by BCOAPO

BCOAPO rightly points out that the issue of the validity of specific provisions of IC2 is not really a "constitutional" issue as that term is used in normal legal parlance as dealing with matters of the division of powers (as between the federal and provincial governments) under the Canadian constitution, or Charter rights. Rather, "…the only connection with the "constitution" is the circumstance that the same statute requires notice to the Attorney General of challenges to the validity of a statutory instrument, whether or not the challenge is grounded in the constitution or otherwise – that is, the *Constitutional Question Act.* BCOAPO does not assert that aspects of the Special Direction are "unconstitutional" but that, as a matter of statutory construction, they are not validly made" (Exhibit C16-12, p. 2).

The powers granted to the LGIC under both the Utilities Commission Act and the Insurance Corporation Amendment Act are repeated here for reference:

The Utilities Commission Act, section 3:

Commission subject to direction

3 (1) The commission must comply with any general or special direction, made by regulation of the Lieutenant Governor in Council, with respect to the exercise of its powers and functions.

(2) The Lieutenant Governor in Council may, by regulation, issue a direction to the commission specifying the factors, criteria and guidelines that the commission must or must not use in regulating, and fixing rates for the transmission corporation, as that term is defined in the *Transmission Corporation Act,* and the authority.

(3) The commission must comply with the direction under subsection (2) despite

(a) any other provisions of this Act, or

(b) any previous decision of the commission.

Section 44(1) of the Insurance Corporation Amendment Act, makes section 3 of the Utilities Commission Act applicable to ICBC as if it were a public utility. Subsection (2) goes on to recite that despite subsection (1), the corporation is not a public utility.

The Insurance Corporation (Amendment) Act, section 47 provides:

Commission subject to direction

47 (1) In addition to any other power the Lieutenant Governor in Council may have to issue directions to the commission, the Lieutenant Governor in Council may, by regulation, issue directions to the commission respecting the factors, criteria and guidelines that the commission must or must not use in regulating and fixing rates for the corporation, including, without limitation, one or more of the following directions:

(a) establishing financial outcome targets for the corporation generally and for its optional insurance business in particular, including targets for the corporation's capital base, within the meaning of the *Financial Institutions Act,* and the corporation's profits, and directing the commission to accommodate those targets when regulating and fixing those rates;

(b) identifying circumstances in which the commission is and is not to regulate and fix rates applicable to optional automobile insurance;

(c) establishing criteria on which rates may, and must not, be based;

(d) identifying activities the corporation may or must undertake on behalf of the government or under an enactment, and directing how those activities, and the costs related to them, are to be treated for the purposes of regulating and fixing rates;

(e) directing the commission to consider specified factors or criteria when regulating and fixing rates;

(f) authorizing the commission to determine any factor or criterion the commission considers to be relevant in relation to the regulation and fixing of rates.

(2) In addition to any other power the Lieutenant Governor in Council may have to issue directions to the commission, the Lieutenant Governor in Council may, by regulation, issue one or more of the following directions to the commission:

(a) setting out the basis on which and the manner in which the commission is to perform its obligations under this Part;

(b) directing the commission to require the corporation to prepare a plan, in the manner and form, with the content and at the time or times required by the Lieutenant Governor in Council, of the steps the corporation will take to meet the financial outcome targets referred to in subsection (1) (a);

(c) directing or authorizing the commission to approve and monitor compliance with the plan referred to in paragraph (b) of this subsection;

(d) identifying activities the corporation must undertake on behalf of the government and

(i) establishing requirements as to the manner in which and the practices and procedures in accordance with which those activities are to be undertaken, and

(ii) providing direction to the commission as to how it should regulate those activities to ensure that they are undertaken in accordance with the requirements established under subparagraph (i).

(3) The commission must comply with any direction issued under subsection (1) or (2) despite

(a) any other provisions of the *Insurance Corporation Act* or the *Utilities Commission Act,* or

(b) any previous decision of the commission. [emphasis added]

BCOAPO made three successive submissions in respect of its arguments to strike down the impugned subsections of IC2 (Exhibits C16-6, C16-10, and C16-12). There is extensive statutory analysis by BCOAPO concerning the jurisdiction of the Commission to regulate ICBC and more particularly, a statutory interpretation is put forward that would very much narrow the general jurisdiction of the Commission to regulate the Corporation. BCOAPO notes that at present, the

Commission has no jurisdiction to regulate the rates of the Optional Insurance line of business (see IC2 section 4(1)(d)).

Specifically in respect of the Commission's jurisdiction to regulate Basic Insurance rates, BCOAPO makes the argument that the income and capital base targets set out in IC2 are not "factors, criteria or guidelines" to use in the setting of rates. Further, in adopting these targets and imposing them on the Corporation, the Commission would in result, set a capital base (and hence influence rates) for the Optional Insurance line of business if only in default. The nexus between the setting of a capital base and the result on Optional Insurance rates is not well developed but the argument is that in doing one, you affect the other.

2.2 Legal Issues and Commission Panel Determinations

2.2.1 Must the Issue of the Validity of IC2 be Addressed?

Arguments were presented by ICBC that it was not necessary for the Commission Panel to address the issue of the validity of IC2. First, ICBC states that there is no necessity for the Commission to decide any matter related to the validity of sections of IC2 in that the Application of ICBC does not require the issue to be addressed and settled. In brief, the ICBC Application seeks the Commission's approval of a financial allocation methodology and nothing more. To the extent that IC2 deals with the setting of an Minimum Capital Test ("MCT") for both the Basic and Optional Insurance lines of business and sets an allocation of existing retained earnings as between the business lines, ICBC states that the first is not relevant to matters before the Commission and the second matter (coming from s. 4(1)(c)(i) of IC2) can be decided in the context of the filing of a capital plan for ICBC. The Corporation expects to file such a plan for the consideration of the Commission some time in 2005.

The Commission Panel finds that it cannot accept ICBC's position, since the Commission has a continuing and broad mandate for the Commission to afford regulatory supervision of ICBC, and it is not constrained to the extent argued by ICBC. In the case at hand, IC2 is binding upon the Commission but not the Corporation. IC2 addresses the present and requires the Corporation (when and if IC2 is imposed upon the Corporation) to make significant changes in its financial statements and in the manner in which it maintains its accounts and carries on business. Uncertainty regarding fundamental accounting matters must be resolved at the earliest possible date so that the Corporation may place its house in order, because the implementation date for these changes is the commencement of fiscal year 2004.

In summary, the Commission Panel concludes that it must respond to the provisions of IC2 and provide the Corporation with some direction.

2.2.2 Does IC2, s. 4(1)(c) if implemented, result in a subsidy?

In its filing before the Commission in 2003, ICBC made the reasonable decision that the retained earnings of the two insurance lines of business, ought to be allocated on some basis. The basis that was chosen by the Corporation was the MCT requirements for the two business lines as would have been defined by the federal Office of the Superintendent of Financial Institutions. This resulted in a split of 58.5 percent to Basic Insurance and 41.5 percent to Optional Insurance (2003 Application, Appendix C, p. 34 and T6:1047).

In addition, in ICBC's testimony in these proceedings (T4:713), it was acknowledged that it was possible to track areas of profitability and loss and that for ordinary reporting purposes to the Board of the Corporation, financial officials reported financial results by line of business. And yet, in these proceedings, ICBC made no attempt to allocate the retained earnings as of the close of 2003 to the two lines of business based upon the rationale that was used in the 2003 Application, or indeed any other rationale. The Corporation proceeded upon the basis that was set out in IC2, notwithstanding that no order had been forthcoming from the Commission requiring ICBC to implement the retained earnings allocation set out in the directive.

This resulted in an allocation of the total retained earnings of about $536 M on the basis of 95 percent to Optional ($509 M) and only 5 percent to Basic ($27 M) (T6:1048). This is a major change from the split chosen by ICBC in its 2003 filing, of 41.5 percent to Optional Insurance and 58.5 percent to Basic Insurance (T6:1047). The difference in result for the

Optional Insurance business line is that the allocation set out in IC2 provides about $287.6 million more to Optional than would have been the case under the allocation used by ICBC in 2003.

The Commission Panel accepts the evidence of the financial officials of ICBC that there can be no definitive calculation of the retained earnings produced by each line of business over the life of the Corporation, but that does not preclude some reasonable allocation as was done in the 2003 filing with the Commission (T6:1053).

Absent evidence to the contrary, and absent any rationale to support the allocation of retained earnings as set out in IC2, the Commission Panel concludes that the allocation of 95 percent of the total retained earnings to the Optional Insurance line of business amounts to a subsidy of the Optional business (to the detriment of the Basic Insurance business). The amount of the subsidy is indefinite notwithstanding the stated current ability of ICBC to identify the profit and loss of the two business lines. The Commission Panel is of the view that a more appropriate allocation of the retained earnings of the company (absent IC2) could and ought to have been made, to preclude the perceived subsidy. Were it not for the enabling provision, section 47 of the ICA, it would not have been be possible for the Commission to implement the Retained Earnings directive of IC2.

The Attorney General makes the argument that there can be no question of a precluded subsidy under section 49 of the Insurance Corporation Act because section 49 came into effect on June 30, 2004 and the directed allocation would take effect on December 31, 2003, at a date prior to the proclamation of section 49 (Exhibit C23-1, p. 22). With respect, the Commission Panel disagrees. The “allocation date” is either the date of the special direction to the Commission (deposited July 7, 2004) or prospectively, the date of the Commission order imposing the provisions of IC2 on the Corporation. The LGIC, by retroactively stating an effective date of an allocation, to a date prior to the proclamation date of section 49, cannot escape the operation of the clause.

2.2.3 The Jurisdiction of the Commission to Decide the Issue of the Validity of IC2

During the course of these proceedings, the sections of the Administrative Tribunals Act, as it pertains to the Commission, were proclaimed. That Act (as Bill 56-2004) received Third Reading on May 19, 2004 but during the period of the oral hearing in this proceeding, remained unproclaimed. The proclamation took place on November 19, 2004 after the oral hearing was complete and the Commission Panel was seized of the issues raised in the submissions of BCOAPO.

The November 19, 2004 proclamation had the effect of bringing into force section 44 of the Administrative Tribunals Act which provides as follows:

> s. 44 The tribunal does not have jurisdiction over constitutional questions.

This legislative turn of events in mid-proceeding precipitated another legal issue for the Commission Panel and that is whether the effect of the proclamation was to render the Commission without jurisdiction in respect of the validity issue as of the date of the proclamation or whether because the Commission Panel was seized of the issue prior to the proclamation of the relevant parts of the Act, the Commission retained jurisdiction to decide the matter.

The Attorney General takes the position that if section 44 is proclaimed at any time before the conclusion of the proceeding, even after the Commission Panel receives submissions on the constitutional issue, it is binding on the Commission (Exhibit C23-1, p. 3.). The Attorney General is reinforced in this argument by reason of the recent amendment to section 44 under the Attorney General Statutes Amendment Act proclaimed on October 21, 2004, which inserts a new provision into section 44 which states (after renumbering the original section 44 as section 44(1)):

> (2) Subsection (1) applies to all applications made before, on or after the date that the subsection applies to a tribunal.

The Commission Panel concludes that the Commission is without jurisdiction to determine the issues brought forward by BCOAPO on the validity of certain sections of IC2. Had the applicable provisions of the Administrative Tribunals Act been proclaimed prior to the submission by BCOAPO, the Commission Panel would not have heard the arguments that were presented and now form part of the record in these proceedings.

Given that the Commission is without jurisdiction to decide the validity of IC2 on the merits, **the Commission Panel will proceed on the basis that for the purposes of this proceeding, IC2 is validly enacted and is binding upon the Commission.**

Prior to reaching this conclusion, the Commission Panel had considered the arguments advanced by BCOAPO. However, we are of the view that the statutory interpretations and construction placed by BCOAPO upon the phrase "factors, criteria, and guidelines" are very narrow and are not justified by the increasingly liberal scope to be afforded legislative provisions in light of modern statutory interpretive guidelines as enunciated by Sullivan & Drieger in their well-known work on statutory interpretation and as cited by several of the participants in argument.

However, that is not an end to the matter of the possible invalidity of IC2. In the normal conduct of its affairs, the Commission always considers itself bound by directives from government as anticipated in the respective granting powers of the two statutes binding upon the Commission (namely the UCA and the ICA). However, to the extent that the provisions of IC2 require the Commission Panel to take action that is in conflict with a specific provision of the primary legislation under which the LGIC receives the regulation-making directive power, there is a possible argument that such conflict itself calls into question the validity of the Special Direction. Participants did not address this issue but the Commission Panel has reviewed case law on the point and in particular, two cases: ***Re Gray,*** **(1918), 57 S.C.R. 150, 42 D.L.R. 1** and ***Re Attorney General of Ontario and Ontario Public School Boards Association et al,*** **151 D.L.R. (4th) 346.** These two cases review and comment on the use of enabling clauses similar to what is found in the UCA and ICA.

While making no comment on the principles discussed in these cases, the Commission Panel encourages the government to re-examine the wording of IC2 with a view to ascertaining the degree to which it is in conflict with section 49 of the Insurance Corporation Act and hence subject to the argument made by the Attorney General that: "[i]t is clear that the *Special Direction*, as a regulation, is subordinate legislation. Thus the statute is paramount to the regulation" (Exhibit C 23-1, p. 14).

3.0 FINANCIAL ALLOCATIONS

3.1 Introduction

A principal reason for ICBC's Application is to obtain Commission approval of a methodology for ICBC to allocate its costs among Basic Insurance, Optional Insurance and Non-Insurance lines of business. In its Final Argument, ICBC states that:

> "Although ICBC only seeks approval of its financial allocation methodology, ICBC's filings on July 5, 2004 and July 12, 2004 also addressed ICBC's Road Safety and Loss Management Programs; ICBC's ability to collect and disclose data relating to age, sex and marital status; and actuarial and financial matters." (Exhibit B-57, p. 1)

All parties recognize that it is vital to the ongoing regulation of ICBC that the integrated costs of its operations be properly allocated among ICBC's lines of business.

In ICBC's 2003 application to the Commission, ICBC proposed a pro-rata allocation methodology which was addressed in detail in the Commission's Decision dated November 12, 2003. The Commission concluded that:

> "While the Commission believes this allocation study has gone a considerable distance to fairly allocate revenues and costs between the Basic and Optional Insurance lines of business, the Commission will require further analyses and testing of the individual allocations in next year's proceeding before finalizing the methodology for future years." (ICBC 2004 Revenue Requirements Decision, p. 43)

In particular, the Commission directed ICBC to provide detailed analyses of the merits of alternative allocation methodologies. In addition, the Commission recognized the difficult problems in allocating joint costs and identified an example of an accident with third-party liability well in excess of the $200,000 limit under the Basic Insurance policy as a case where the pro-rata methodology may not achieve the proper allocation between Basic and Optional Insurance.

Since the issuance of the Commission's 2003 Decision, section 49 of the ICA was brought into force on June 30, 2004 by B.C. Regulation 666/04. That section requires that the Commission ensure that the Basic Insurance business and the revenue of the Corporation, other than the revenue from the Corporation's Optional Insurance business, are not used to subsidize the Corporation's Optional Insurance business. The Commission may issue orders to ensure that ICBC's Optional Insurance business and activities are segregated from the Corporation's other businesses and activities for accounting purposes. In its Final Argument, ICBC asserts that:

> "The pro rata allocation methodology proposed by ICBC will allocate costs and revenues between the Basic, Optional and Non-Insurance business segments in a balanced, equitable and symmetric manner. This will ensure that the Basic insurance business and revenue of the Corporation, other than the Optional revenue, do not subsidize the Optional insurance business; and will also ensure that the Optional insurance business does not subsidize the other businesses of ICBC." (Exhibit B-57, p. 3)

ICBC's Application relied on a review of cost allocation alternatives prepared jointly by ICBC and Elenchus Research Associates ("ERA"). The review had three primary purposes:

1. To determine whether the financial allocation methodology used by ICBC to separate its costs and revenues between Basic and Optional Insurance for 2003 is consistent with generally accepted regulatory principles for allocating costs and revenues.

2. To recommend changes, if appropriate, to the Corporation's financial allocation methodology for purposes of future revenue requirement applications.

1. To respond to the specific alternative approaches identified in the 2003 Decision with respect to ICBC's financial allocation methodology.
(Exhibit B-1, p. 1-3)

Although the Application was developed based on generally accepted regulatory principles and what could be called a fully allocated cost of service methodology used by other public utilities in British Columbia, ICBC identified three significant differences which impacted the Corporation's allocation study. ICBC has far less capital invested in fixed assets compared to public utilities such as Terasen Gas Inc. or British Columbia Hydro and Power Authority; its costs are primarily direct costs which can be directly allocated compared to the primarily common costs (pipes and wires) of an energy utility; and ICBC's claims costs are related to future payments to its customers, whereas an energy utility's large fixed investments are recovered over the life of the assets (Exhibit B-57, p. 4).

3.2 ICBC's Allocation Methodology

ICBC has presented two financial allocation options, both of which are based on the principles of fully allocated costing, a method which has also been referred to in this proceeding as the pro-rata methodology. The objective of fully allocated costing is to determine the costs attributable to each of ICBC's three business segments: Basic Insurance, Optional Insurance and Non-Insurance, so that costs and revenues can be allocated in accordance with the principle of cost causality. ICBC considers approximately 84 percent of its costs to be direct costs, which are exclusively associated with, or "caused by," a single line of business. The remaining costs are indirect or joint costs which must be allocated to ICBC's lines of business on the basis of causal relationships or, where causal links are unclear, in a fair and reasonable manner.

In its Application, ICBC briefly reviews alternative allocation methodologies. The primary alternative is the marginal cost methodology whereby the long-run marginal costs of providing service to customer classes or business segments are estimated. Marginal costing is not commonly used in regulation because of the practical problems that arise in moving from cost allocation to rate design. ICBC points out that if its rates were based on marginal costs, then ICBC would either over- or under-recover its actual revenue requirement, or one business line would recover its marginal costs while the other business line would make up the balance (Exhibit B-1, pp. 1-17, 1-18). ICBC also reviews and dismisses the alternatives suggested by Canadian Direct Insurance Inc. ("CDI", formerly HSBC) and Pemberton Insurance Corporation ("Pemberton"); neither of which, ICBC contends, is supported by the regulatory literature.

ICBC submits that only actual costs should be considered in the allocation methodology. It rejects the idea that "notional" costs should be assigned to Optional Insurance in order to reflect value of service. In response to questions raised in the information requests and in cross-examination, ICBC stated that neither "transfer pricing" nor the 1997 Retail Markets Downstream of the Utility Meter ("RMDM")

Guidelines are appropriate for the allocation of ICBC's costs because ICBC is a single operationally-integrated entity with no flow of services from one entity to another (Exhibit B-10, BCUC IR 1.0, 2.0; T3:542-4).

ICBC also argues that the Commission does not have the jurisdiction to regulate competition in the optional insurance market or to cause ICBC's Optional Insurance business to subsidize its Basic Insurance (Exhibit B-57, p. 6). Section 49 of the ICA requires that the Commission ensure that the Basic Insurance business not subsidize ICBC's Optional Insurance business. ICBC submits that its Optional Insurance cannot be used to subsidize its Basic Insurance either, because to do so could reduce ICBC's Optional Insurance business, erode its economies of scale, and create inefficiencies which, it contends, is contrary to both the public interest and the legislation (Exhibit B-57, pp. 6, 8). ICBC submits that its pro-rata allocation methodology precludes cross-subsidization (Exhibit B-57, p. 3).

ICBC's witness, Mr. Todd of ERA, discussed the difference between cost allocation and rate design, and testified that under cost allocation principles neither side should cross-subsidize the other, but at the rate design level it is appropriate to consider policy issues and to set rates that may deviate from fully allocated costs (T3:459-462). He agreed that any future government direction regarding competition could be dealt with as a policy overlay at the rate design stage (T4:698).

<u>Intervenor Submissions</u>

Most Intervenors agree that a fully allocated costing, or pro-rata, methodology is appropriate for ICBC, although only the two consumer groups and the union accept ICBC's proposed approach.

The Insurance Bureau of Canada ("IBC") agrees with ICBC's use of the pro-rata methodology but is of the view that ICBC should continue to refine and build upon its current methodology (Exhibit C4-20, p. 3). In its submission, IBC lists the allocation changes made since the 2003 application and comments that "presumably more can be made" (Exhibit C4-20, p. 12). IBC is concerned that the results of ICBC's allocations do not make sense on a "feel right basis," and that splitting its costs on a 2 to 1 basis in favour of Basic Insurance is counter-intuitive (Exhibit C4-20, p. 12). IBC suggests that ICBC clarify what are common costs and what costs have a causal relationship (Exhibit C4-20, p. 14). IBC also recommends that ICBC provide more specific explanations regarding its allocators and cost centres. IBC notes that in the Application, ICBC gives misleading titles to allocation functions and does not explain why certain allocators were chosen, deficiencies that made the hearing process less efficient (Exhibit C4-20, pp. 15-18).

An IBC witness Mr. Ross noted the difference between where costs are generated and where ICBC must recover them as a result of government directives, and commented that "[i]t might be interesting to know what the special directions are doing in terms of distorting …what the rates would be if they were truly cost based rates" (T7:1206).

CDI acknowledges that the "level-playing field" concern is not within the purview of the Commission at this time (Exhibit C9-9, p. 2). CDI submits that the pro-rata cost allocation methodology currently used by ICBC is the appropriate cost allocation methodology for the present, although ICBC is applying this methodology in such a manner as to suggest cross-subsidization in certain areas (Exhibit C9-9, p. 12).

CDI suggests that the Commission needs to define what constitutes a cross-subsidy, then examine ICBC's cost allocation methodology to determine whether there is a cross-subsidy (Exhibit C9-9, pp. 2, 3). In determining whether there is a cross-subsidy, CDI contends that the Commission should look beyond the allocation methodology to the practices and structure of ICBC and determine the appropriateness of the allocation of its costs (Exhibit C9-9, p.3). CDI uses the issues of subrogation, duty to defend and the allocation of road safety advertising to argue that ICBC's allocation methodology does not preclude cross-subsidization (Exhibit C9-9, pp. 5-10).

Pemberton questions the credibility of the financial allocation methodology and contends that ICBC's management lacks independence and that its experts are not suitable. Pemberton argues that the generally accepted regulatory principles used in utility regulation are inappropriate for an insurance operation and that Generally Accepted Accounting Principles ("GAAP") should be adopted as the standard of allocation (Exhibit C21-7, pp. 2, 3). Pemberton contends that the proposed methodology results in Basic Insurance subsidizing Optional Insurance, and that additional non-monetary subsidies and privileges benefit Optional Insurance (Exhibit C21-7, p. 4).

Mr. Sykes argues that ICBC has not provided sufficient evidence to support its proposed methodology nor proven that the methodology ensures that there is no cross-subsidization between Basic and Optional Insurance (Exhibit C11-4, pp. 12-15). He considers the RMDM guidelines relevant to ICBC's operations (Exhibit C11-4, p. 12).

In its Reply Argument, ICBC submits that there is no serious objection to the pro-rata methodology amongst Intervenors. ICBC submits that Pemberton's arguments are not supported by any evidence before the Commission, and the Commission should therefore give no weight to those submissions. Similarly ICBC believes the Commission should give no weight to submissions by Mr. Sykes that rely on material from Pemberton. ICBC's Reply states that Pemberton's Argument ignores the fact that the evidence is that pro-rata allocation is the industry standard. ICBC examined financial allocations from an accounting, regulatory and industry perspective and concluded that the pro-rata methodology was appropriate from all perspectives. In response to the submissions from Mr. Sykes, ICBC states that there is no evidence before the Commission supporting an allocation method other than the pro-rata methodology.

Commission Panel Determination

The Commission Panel accepts the submissions of ICBC and most of the Intervenors that a fully allocated costing, or pro-rata, methodology is the most appropriate methodology for allocating costs among the three business lines of Basic Insurance, Optional Insurance and Non-Insurance, and commends ICBC for the improvements made to the allocation methodology since 2003. The Commission Panel's determinations regarding ICBC's simplified and detailed approaches follow in Section 3.3 of this Decision. The Commission Panel's views on cross-subsidization and cost allocation in general are provided below.

It is important to distinguish between cost allocation and rate design. The Commission Panel agrees with IBC's witness, Mr. Ross, who noted that there is a difference between where costs are generated and where ICBC must recover them as a result of government directives. For example, although ICBC operates three lines of business, IC2 requires that ICBC recover its Non-Insurance costs from its Basic Insurance business. Similarly, IC2 has been interpreted by ICBC as requiring ICBC to collect most of its Road Safety program costs from Basic Insurance rates even though some of those costs should, on a causal basis, be allocated to the Optional Insurance business. In the Commission Panel's view, many of the concerns raised by Intervenors about cross-subsidies, notional costs and competition will be addressed more fully during a rate design proceeding.

In this proceeding, ICBC seeks approval of its cost allocation methodology, not its rates. The Commission Panel shares ICBC's view that the allocation methodology should rely on cost causality and should not attempt to incorporate policy considerations. In the Commission Panel's view, policy issues should be addressed at the rate design stage, where a policy overlay resulting either from government directives or legislation, or from policy considerations that the Commission considers relevant, may result in rates that deviate from fully allocated costs.

The LGIC has directed the Commission to ensure that there is no cross-subsidization of Optional Insurance premiums from Basic Insurance operations and revenues (except, presumably, where the government has specifically directed a subsidy). The challenge inherent in the regulatory definition of cross-subsidy is that once an allocation methodology has been established, then it sets the standard for measuring cross-subsidization. Therefore, it is very important to establish a methodology that is fair, reasonable and based as much as possible on cost causality. If there is a bias built into the cost allocation methodology then it will distort the rates. The onus is on ICBC to satisfy the Commission Panel that its cost allocation methodology is based on cost causality and is free of bias.

In order to facilitate the review of future ICBC applications, the Commission Panel expects ICBC to develop clear explanations for its allocators and cost centres. The Commission Panel agrees with IBC that the process to review ICBC's methodology could have been more efficient if ICBC had given more appropriate titles to allocation functions and had explained why certain allocators were chosen. The Commission Panel also recommends that ICBC's future applications include clear indications of which shared costs are true common costs and which have causal links, so that parties can more readily consider the appropriateness of the allocators.

The Commission Panel rejects ICBC's argument that the Commission does not have the jurisdiction to cause ICBC's Optional Insurance business to subsidize its Basic Insurance. ICBC provided no evidence that the chain of events described in its Final Argument would in fact occur if there is any degree of departure from fully allocated cost-based Optional Insurance allocations.

3.3 Simplified Approach versus Detailed Approach

ICBC has presented two financial allocation options, the "high level" or "simplified" approach developed by Elenchus, and the "detailed" approach. ICBC recommends that the Simplified Approach be approved, but submits that the Detailed Approach results in an equally fair allocation of costs, albeit at a higher cost for ICBC to prepare (T3:409, 494).

In its Application, ICBC identified three primary advantages of the Simplified Approach compared to the Detailed Approach. It submitted that the Simplified Approach will reduce regulatory lag by relying on the same cost information as is used to determine the revenue requirement in any test year. The Detailed Approach is believed to be less up-to-date since it relies on the allocation percentages determined through a historic year allocation process. The Simplified Approach will reduce the complexity of undertaking cost allocations. The Simplified Approach relies on three allocators, compared to the many allocators used in the Detailed Approach. ICBC also believes that the Simplified Approach is preferable since it relies on accounting information which is an objective measure which can easily be verified.

The steps in developing the Simplified Approach are detailed in the Application under Section 5.2 of Chapter 1 (Exhibit B-1, pp. 1-58, 1-59). A comparison of the Simplified Approach and the Detailed Approach, using 2003 operating expenditures, indicates only a negligible difference in the total costs allocated to Basic Insurance, Optional Insurance and Non-Insurance categories. The results by major cost category are also very close.

The possibility of using a Simplified Approach for future cost allocation purposes received considerable examination during the course of the Oral Public Hearing. In response to questioning from IBC, ICBC summarized its perspective on the Simplified Approach and Detailed Approach as follows:

> "ICBC's perspective on this is we have two different allocation methods that we feel are equally fair. They come at it from different approaches. One is much more detailed, and for ICBC it would certainly be simpler to go to the simplified method. I think there are pros and cons to each, and we think each of them provide a fair representation of the allocation. We've done a comparison over a number of years. We did the previous year and the current year that we're working on, and we found that they were actually fairly close. But in terms from ICBC's perspective, we're comfortable with either." (T3:409)

ICBC's consultant, Mr. Todd of ERA, seemed much stronger in his defence of the Simplified Approach compared to the Corporation's staff witnesses. He expanded on the benefits identified in the Application, with a focus on the cost savings and objectivity of the Simplified Approach (T3:477-8, 493). In addition, Mr. Todd believes that the Simplified Approach would be more robust in accounting for changes in market share of ICBC's Optional Insurance business. Since the Simplified Approach utilizes general allocators such as premiums written and claims incurred, a reduction in market share would have an automatic impact on the cost allocations (T3:504).

Cost savings as a result of utilizing the Simplified Approach were not clearly laid out by ICBC. However, ICBC's costs for consultants, actuaries and key ICBC personnel, for 2004 alone, were estimated to be in the range of $1.6 million. This rough estimate was believed to be understated since it did not include many individuals who had smaller involvements in the allocation processes (T3:517). ICBC testified that if it were required to undertake the Detailed Approach on a regular basis it would have to increase its staffing levels.

During the course of cross-examination some confusion arose as to whether the Simplified Approach was a simplified method of approximating the cost allocation that would result from a Detailed Approach, or whether the Simplified Approach was a stand-alone methodology (T3:497). In any event, ICBC clarified its position in Final Argument:

> "ICBC submits that, in the event the Commission is not inclined to adopt the Simplified Approach without additional controls, another way for the Commission to maintain confidence in the simplified approach, without unduly burdening ICBC, is to cross check the results yielded by the simplified approach against a more detailed inquiry approximately every five years." (Exhibit B-57, p. 16)

While ICBC maintains that the Simplified Approach is not a proxy for the Detailed Approach, it believes that this periodic cross-check should provide the Commission with the necessary comfort in the continuing propriety of the Simplified Approach.

Intervenor Submissions

While some Intervenors support approval of the Simplified Approach, others believe that a continuation of the Detailed Approach should occur either for a period of time, or indefinitely.

The BCOAPO and Consumers' Association of Canada (B.C. Branch) et al. ("CACBC") were most supportive of ICBC's proposed use of the Simplified Approach. The BCOAPO is satisfied that the Simplified Approach meets the test of appropriateness and adequacy. It submits that "the cost to ICBC – and ultimately to its customers – of requiring a 'full body scan' every time a cost allocation exercise is called for, would simply not be justified in relation to the cost/benefit analysis grounded in the underlying purposes of the process" (Exhibit C16-11, p. 3). It proposes that a detailed analysis could be undertaken every four to five years to provide the Commission with comfort that the Simplified Approach remains appropriate. The BCOAPO favours the Simplified Approach since it believes it to be far more comprehensible to stakeholders and ultimately yields more useful information (Exhibit C16-11).

CACBC also supports the use of the Simplified Approach and submits that, if approved, the Simplified Approach could be cross-checked with a detailed analysis every five years (Exhibit C14-4).

The Canadian Office & Professional Employees' Union, Local 378 ("COPE") states that it is in "general agreement with ICBC's applications and submissions regarding Financial Allocation Methodology, Performance Measures and Age, Sex, and Marital Status" (Exhibit C10-3, p. 2). However, its submission does not explicitly endorse the Simplified Approach compared to the Detailed Approach.

IBC states in its Final Argument that ICBC has taken steps in 2003 and 2004 to develop a reasonable allocation methodology and should continue to refine and build upon this Detailed Approach. However, IBC believes that the Simplified Approach should not be adopted (Exhibit C4-20, p. 3). IBC acknowledges that at some point in the future a less detailed financial allocation may be appropriate. If so, a detailed allocation should continue to be used periodically as a check on the high-level allocation. IBC notes that Mr. Atkins of Lang Michener, suggested that a check on the high-level approach every two or three years might be appropriate, although he later changed his evidence to five years. In response to a BCUC Information Request, ICBC acknowledged the possibility of a more detailed allocation every five years. IBC does not specify how frequently it believes a detailed review should occur in the event that the Simplified Approach is adopted.

CDI argues that the current methodology should continue to be used until it is clear that ICBC's allocation of costs between its Basic and Optional lines of automobile insurance is a fair and reasonable allocation (Exhibit C9-9, p. 12).

The Pemberton Final Argument is particularly disparaging of the ICBC financial allocation methodology and concludes that the current and proposed financial allocation approaches result in Basic Insurance subsidizing Optional Insurance (Exhibit C21-7, pp. 2, 4).

Mr. Sykes opposes the Simplified Approach since he finds it to be “illogical” (Exhibit C11-4, pp. 8, 16).

ICBC continues to recommend the adoption of the Simplified Approach and submits that “while it might service the interests of IBC and CDI to require ICBC to regularly engage in detailed examination of its costs for cost allocation purposes, it does not serve the interests of policyholders who, ultimately, must bear the costs associated with the significant use of resources required for the Detailed Approach” (Exhibit B-59, p. 6).

Commission Panel Determination

The Commission Panel finds that, in choosing between the Detailed Approach and the Simplified Approach, there is much to commend each alternative.

The Detailed Approach has the advantage that it allows participants to investigate cost allocations at a detailed level which may provide added confidence to all parties that the allocations between the monopoly Basic Insurance and the competitive Optional Insurance are fair and appropriate. It also allows participants to “drill down” into those cost categories where concerns are identified. The advantages of the Simplified Approach include those identified by ICBC: reduced regulatory lag; diminished complexity of using just three allocators; use of accounting information to provide an objective measure which could reduce arguments that work effort measurements might be biased; and cost savings.

At this time the Commission Panel believes that the Detailed Approach to cost allocation remains somewhat of a “work in progress,” although nearing completion. IBC noted a number of changes made since ICBC’s 2003 application, at paragraphs 43 through 45 of its Final Argument. In addition, the Commission Panel is directing further due diligence with respect to certain allocation functions and their underlying cost centres in this Decision.

The Commission Panel does not approve ICBC's proposed Simplified Approach. However, it is the Commission Panel's objective to finalize as many allocators and allocation percentages as possible so that they need not be analyzed from first principles each year. For example, where the Commission determines that a work effort allocator is appropriate and stable, the associated allocation percentages need not be changed for a number of years. The Commission may direct a periodic detailed review of certain allocators as circumstances require.

3.4 Activity Based Costing

ICBC submits that the implementation of Activity Based Costing ("ABC") would not necessarily lead to greater accuracy in allocating costs (Exhibit B-57, p. 18). ICBC states that the evidence before the Commission has not demonstrated any benefit to be derived from the implementation of a fully integrated ABC system, and that the Commission should reject any suggestion that such a system be implemented (Exhibit B-57, p. 19). Responding to IBC's Final Argument, ICBC states that it does not agree that implementing or institutionalizing ABC for any area of ICBC would be appropriate. The Corporation also maintains that IBC's arguments in favour of ABC appear to be another attempt to impose inefficiencies on ICBC (Exhibit B-59, p. 8).

Mr. Ross, an IBC witness, describes ABC as a costing methodology that provides tremendous insight into the true cost and resulting profitability of specific products (Exhibit C4-20, p. 3). Mr. Ross maintains that it may be possible to implement ABC in certain parts of the ICBC operation. Mr. Ross explains that ICBC need not institute an organization-wide ABC system which might cost millions. However, he is concerned that ICBC management itself did not appear to see ABC as a tool that they would use for management purposes (Exhibit C4-20, p. 9).

<u>Commission Panel Determination</u>

Organization-wide implementation of ABC would require that ICBC management view ABC as a useful tool to manage costs by improving the efficiency and effectiveness of work processes. A fully integrated organization-wide ABC system would appear to represent a significant cost, and the benefits have not been demonstrated in this proceeding. The Commission Panel is of the view that some form of implementation for certain parts of the Corporation may be appropriate on a case-by-case basis where the Commission wishes to seek further details or confirm the results of ICBC's work effort studies. **The Commission Panel accepts that the evidence does not justify implementation of a fully integrated organization-wide ABC system at ICBC. Also, the Commission Panel accepts that a formalized ABC system is not required for parts of the ICBC organization unless it is a useful means of generating the specific information directed in Section 3.5.**

3.5 Financial Allocation Issues

As is evident from the line-by-line presentation of the Basic and Optional Insurance allocation of revenues and costs that is provided in the Application at page 1-33, ICBC's main costs are claims incurred, claims services, operating costs, road safety and loss management costs, and premium taxes and commissions. In developing its detailed cost allocation, ICBC started with 577 cost centres which were then grouped as allocation functions. Most of the costs relate to claims which are directly attributable to coverages and business segments. ICBC states that it is able to directly allocate approximately 84 percent of its costs to Basic, Optional or Non-Insurance (Exhibit B-1, pp. 1-35, 1-36, Exhibit B-57, p. 4).

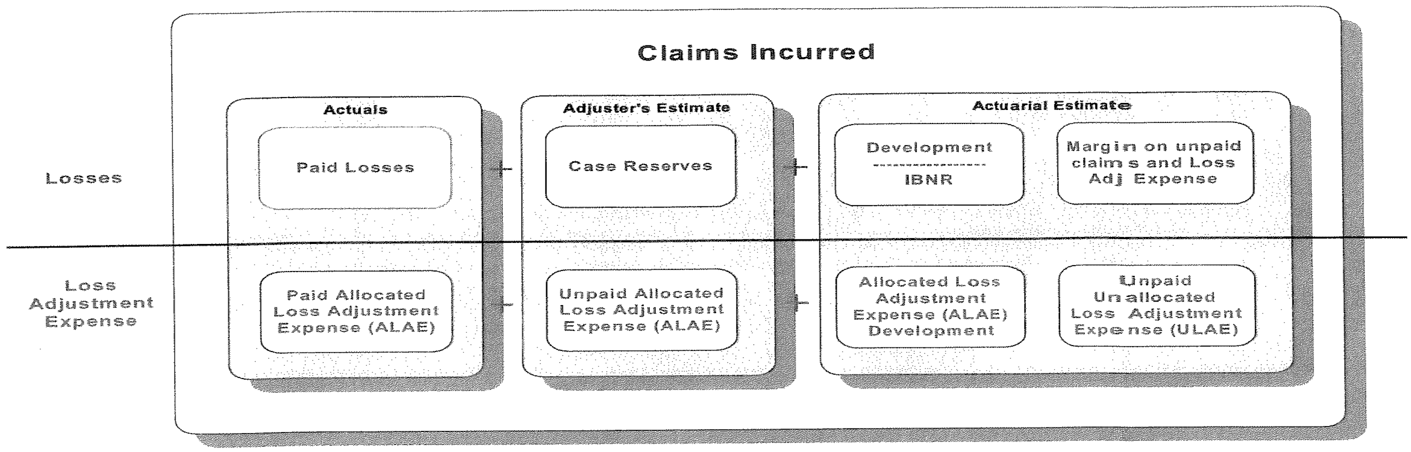
In considering the detailed cost allocations undertaken in the Application, along with the evidence and submissions presented during the course of this hearing process, the Commission Panel has identified a number of significant financial allocation issues which warrant further discussion in this Decision. The following subsections address those issues.

3.5.1 Claims Incurred

The 2003 Claims Incurred Expense of $2.2 billion accounts for approximately 75 percent of the Corporation's annual expenses. Claims Incurred is the actuarial estimate of the total cost that will ultimately be paid by the Corporation to settle claims for events that occurred during the fiscal year. ICBC has included prior years' claim adjustments as part of the claims incurred costs category. ICBC indicates that more than 90 percent of these costs can be directly allocated.

The following schematic indicates the components that make up claims incurred costs.

Figure 1.4 - Claims Incurred Components



Source: (Exhibit B-1, p. I-40).

CDI raised the issue of subrogation of costs in its evidence. This issue is discussed under the next section on claims services, but CDI's evidence and argument is that while it is appropriate to transfer loss payments from Optional Insurance coverage to Basic Insurance coverage, it is inappropriate to transfer Allocated Loss Adjustment Expense ("ALAE") and Unallocated Loss Adjustment Expense ("ULAE") from Optional Insurance to Basic Insurance (Exhibit C9-3, p. 3). In its Final Reply Argument ICBC rejects the CDI argument on the basis that the allocation of costs of ICBC must reflect the integrated business operations of ICBC, and the fact that ICBC is the sole provider of Basic Insurance (Exhibit B-59, p. 9).

During the course of the hearing there was little discussion of claims incurred issues, even though they make up such a large percentage of the overall costs to be allocated. Presumably this is because the overwhelming majority of the costs can be directly allocated to individual claim files and kind of loss.

Commission Panel Determination

The Commission Panel accepts the allocation process for claims incurred and prior years' claims adjustments.

3.5.2 Claims Services

Claims Services is the largest cost category of joint costs which must be allocated between Basic and Optional Insurance using a wide range of allocators. Claims Services includes the cost of processing claims throughout the calendar year, representing items such as staff compensation and benefits, general claims operating expenses, information services costs and facilities.

Exhibit B-1, Appendix 1B tabulates the 23 allocation functions comprising Claims Services and the allocator used for each allocation function. Appendix 1B is reprinted as Appendix E of this Decision for ease of reference. The range of allocation functions and allocators is wide and the allocation percentages are quite disparate. However, it is noteworthy that the first five allocation functions make up 85 percent of the Claims Services costs, with the first, Regional Operations, making up more than 50 percent of the total costs. Of the $236 million of Claims Services costs to be allocated, the Application allocates 63 percent to Basic Insurance, 37 percent to Optional Insurance and a very minor allocation to Non-Insurance.

IBC engaged Ms. Addie of Exactor Insurance Inc. to review certain cost allocation areas of the ICBC Application, including Claims Services. Her review noted that the predominant allocator for the many joint allocation functions in Claims Services was "work effort". She questioned whether a more realistic split should not take into account the greater number of claims incurred under the Optional Insurance coverage. Based on the limited information available to her, she felt that an overall allocation split derived from the customer service (call centre) category would be more reasonable. Applying this allocation to Regional Operations, claims system support and general support, an additional $11,702,000 would be transferred from Basic to Optional Insurance changing the Claims Services ratio to 58.1 percent Basic Insurance, 41.7 percent Optional Insurance and 0.2

percent to Non-Insurance (Exhibit C4-4, p. 8). In its Final Argument, IBC identified its continuing concern that the detailed and high-level allocations by ICBC do not make sense on a "feel right basis." IBC states that ICBC is splitting its costs on a two to one basis in favour of Basic Insurance and IBC notes that this seems counter-intuitive, since, for example, there are significantly more claims in terms of numbers on the Optional Insurance side of the business than there are on the Basic Insurance side of the business. Ms. Addie explained in evidence that the allocations "feel very odd" (T7:1142; Exhibit C4-20, p. 13).

ICBC vigorously pursued Ms. Addie in cross-examination and in its Final Argument. ICBC submits that the report of Ms. Addie has errors and contains proposals that have no factual support. ICBC submits that there is no basis in her evidence for changing any of the allocators that ICBC has developed and the Corporation encourages the Commission to give her evidence no weight (Exhibit B-57, pp. 24, 25). ICBC pointed to Ms. Addie's testimony that her understanding of activities in the call centre function was limited and that she did not undertake a full allocation exercise but merely tried to test the sensitivity of the allocations to possible allocation methods (T7:1150, 1152).

CDI's evidence and Final Argument address the issue of subrogation of costs in the insurance industry. CDI defines subrogation as "the right of an insurer who has paid for a loss to receive the benefit of all the rights and remedies of the insured against third parties which, if satisfied, will diminish or extinguish the loss sustained" (Exhibit C9-3, p. 2). CDI attempted to demonstrate how the principle of subrogation would be applied by a private insurer and how it was apparently being applied by ICBC. CDI argues that while it is appropriate to transfer loss payments from Optional Insurance collision coverage of the driver not at fault, to Basic Insurance coverage of the driver that is at fault, it is inappropriate to transfer ALAE and ULAE from Optional to Basic Insurance. These expenses are considered a cost of doing business. As an example, CDI identified that a private insurer could only recover by way of subrogation from ICBC Basic Insurance the loss relating to repairs of a vehicle together with salvage and towing. It could not, through the principle of subrogation, recover any ALAE, such as expenses for an independent appraiser, or ULAE, such as internal adjustor and examiner costs (Exhibit C9-3, pp. 3-4).

ICBC's Final Argument takes the position that subrogation can arise when there are two or more insurers involved in a claim but that it does not arise when all parties are insured by a single insurer. ICBC differs from private insurers both because in many instances it will be the only insurer involved in a crash that gives rise to claims, and because its status as the sole provider of compulsory third-party liability automobile insurance in British Columbia means that it has a legal duty to defend all claims (Exhibit B-57, p. 21).

In response to the subrogation issue, ICBC reviewed the method it used to allocate the costs of handling collision and property damage claims where liability is contentious and later resolved. ICBC acknowledged that a component of the work effort relating to these types of claims needs to be reflected in both the collision and related property damage claims and it provides its revised allocation methodology in Exhibit B-27. The overall effect of the revised allocation is to change the allocation of Regional Operations costs as set out in Exhibit B-1 from 66.8 percent Basic/33.2 percent Optional Insurance to 65.3 percent Basic/34.7 percent Optional Insurance. As a result, approximately $2 million of Regional Operations' costs moves from Basic Insurance to Optional Insurance. Since the allocation of Regional Operations' costs impacts other allocators, the total cumulative transfer would be approximately $3 million (Exhibit B-57, p. 20).

<u>Commission Panel Determination</u>

The Commission Panel remains concerned with the overall results of the detailed allocation approach and particularly with the work effort assessments in this area. Claims Services is the largest area of joint costs between the integrated operations of ICBC. Many of the largest cost categories are required whether ICBC is in either (or both of) the Basic Insurance business or the Optional Insurance business. Although Ms. Addie had no detailed information to support her feeling that the results were "odd," the Commission Panel also feels uncomfortable with a result which allocates 63 percent of these joint costs to Basic Insurance. For this reason **the Commission Panel directs ICBC to undertake further analyses with respect to the following identified allocators and allocation percentages:**

	Allocation Function	Allocator	Total $'s before allocation	% to Basic
a.	Regional Operations	Work effort	$131,119,000	66.8%
b.	Claims System Support	Weighted Average-Cost Centers	21,873,000	66.0%
c.	General Support	Weighted Average-Cost Centers	15,236,000	62.3%
d.	Claims Litigation-Field Service	Work Effort-Provincial Litigation	8,648,000	95.0%
		Total	$176,876,000	

The Commission Panel wishes to finalize as many allocators and allocation percentages as possible before ICBC files its 2006 Revenue Requirements Application. **Therefore, ICBC is directed to convene a workshop within 60 days of issuance of this Decision to review all details of the allocation process for the allocators and allocation percentages identified above.** The timing and content of the workshop are to be worked out with Commission staff, and all Intervenors at this proceeding are to be invited to participate. Following the workshop, the Commission will establish a written process to complete the allocation review prior to the filing by ICBC of its 2006 Revenue Requirements Application.

For the following allocators and related allocation percentages the Commission Panel does not require the kind of in-depth review prescribed for those listed above. However, the Commission Panel still needs to enhance its level of understanding and comfort with respect to these and therefore **directs ICBC to provide information at a much more detailed level in its next revenue requirements filing.**

	Allocation Function	Allocator	Total $'s before allocation
a.	Customer Service (Liability Resolution)	Direct to Basic	$1,373,000
b.	Customer Service (Call Centre)	Weighted Average-Cost Centers	1,019,000
c.	Salvage	Net Claims Cost-Material Damage	3,099,000
		Total	$5,491,000

3.5.3 Operating Costs – Insurance Services

The attached Appendix E (Exhibit B-1, Appendix 1B) of the ICBC Application identifies 32 allocation functions making up Operating Costs – Insurance Services. The total costs of $51 million are allocated 44.5 percent to Basic Insurance, 19.4 percent to Non-Insurance and 36.1 percent to Optional Insurance. Almost all of these involve joint costs between Basic and Optional Insurance, with certain allocation functions also having joint costs with Non-Insurance. The first ten allocation functions comprise approximately 80 percent of the Operating Costs – Insurance Services.

Twelve of the allocation functions are allocated using variations of the premiums written allocator. For those allocation functions which are solely based on premiums written allocations, Commission counsel questioned ICBC as to whether it would be appropriate to remove the Non-Insurance costs and then calculate the premiums written ratio between Basic and Optional Insurance. ICBC identified that it had not thought about this allocation and it would be a relatively "fine point" (T4:668-71). Mr. Todd added to the discussion that it would be appropriate to maintain Non-Insurance in the calculation if it were part of the activity function. Removal of Non-Insurance costs would reduce the allocation to Basic Insurance from 55.9 percent to approximately 54 percent.

IBC submits that a number of the cost categories identified by ICBC are not self-explanatory and ICBC has not provided full information on what costs are in which cost categories. IBC believes this lack of detail frustrated the work of Ms. Addie and led to some misinterpretations. IBC is also concerned that a greater percentage of costs are allocated to Basic Insurance when most of the costs in this section are joint costs and would be required whether ICBC is in either (or both of) the Basic Insurance business or the Optional Insurance business. IBC is concerned that there may be a built-in bias for ICBC to allocate more to Basic Insurance to improve profitability in Optional Insurance (Exhibit C4-20, p. 13). Although ICBC demonstrated in cross-examination that Ms. Addie had very limited knowledge of ICBC's operating cost categories, she had identified seven cost categories where she thought the allocators should be revised. The impact of the proposed reallocation would shift approximately $3 million from Basic to Optional Insurance (Exhibit C4-4, p. 12).

Commission Panel Determination

The Commission Panel is less concerned about the gross impact of the Operating Costs – Insurance Services allocations between Basic Insurance and Optional Insurance because they are much closer to each other, after deducting Non-Insurance allocated costs (55 percent Basic Insurance to 45 percent Optional Insurance). However, the **Commission Panel directs that ICBC make an adjustment to the premium written ratio cost allocator by removing the Non-Insurance cost, before calculating the premium written ratio between Basic and Optional Insurance. In the case of the cost categories which are allocated by a modified premium written allocator, the removal of Non-Insurance costs from the premium written allocator is to be done before then considering the specific modifications to achieve a proper allocation of those cost categories (e.g. insurance processing, head office support).**

ICBC allocates almost two-thirds of bad debts to Basic Insurance. IBC's witness, Ms. Addie questioned this allocation, suggesting that "it's possible that the Optional would have a greater bad debt ratio in that if you don't have Basic coverage you can't drive your car" (T7:1168). ICBC's explanation for the high allocation to Basic Insurance is that "driver penalty point premium ... goes into the Basic side of the business, and it has slightly higher bad debt experience on it, because, I guess – I'm not totally clear on it, but I believe ...it's tied to the driver license and which comes for renewal every five years, as opposed to insurance, which comes up every year" (T3:480-1).

The Commission Panel is not convinced that bad debts have been allocated on a sound basis.

In addition, the following allocators and allocation percentages are to be included in the previously mentioned workshop and written process:

	Allocation Function	Allocator	Total $'s before allocation	% to Basic
a.	Insurance Allocations	Premiums Written	$7,286,000	55.9%
b.	Bad Debts & Allowances	Weighted Average-Income	4,911,000	66.1%
c.	General Broker Support	Premiums Written	3,138,000	55.9%
		Total	$15,335,000	

For the following allocators and related allocation percentages the Commission Panel does not require the kind of in-depth review prescribed for those listed above. However, the Commission Panel still needs to enhance its level of understanding and comfort with respect to these and therefore **directs ICBC to provide information at a much more detailed level in its next revenue requirements filing.**

	Allocation Function	Allocator	Total $'s before allocation
a.	Marketing	Average of PTE & Advertising Expense	$1,497,000
b.	Insurance Corporate Cost	Finance Shared Service Ratio	1,093,000
c.	Marketing and Underwriting Applications	Insurance Division Average	832,000
d.	Customer Accounting	Weighted Average-Income	1,438,000
		Total	$4,860,000

3.5.4 Operating Costs – Administration and Other

This area of costs includes the largest number of truly joint costs which would be required to some extent if ICBC is going to be in either the Basic or Optional Insurance business. There are 37 allocation functions to be allocated and the first five make up 55 percent of the overall costs. Of the $112 million total cost, 53.9 percent is allocated to Basic, 15.8 percent is allocated to Non-Insurance and 30.3 percent is allocated to Optional Insurance. The most common allocator is “work effort” which accounts for nine allocation functions but their total costs make up only 15 percent or so of the total costs.

IBC’s consultant reviewed six of the allocation functions and encouraged that “at a minimum, the costs should be allocated based on ‘premiums written’. If this allocation method is used, $1,696,000 would be moved from Basic to Optional” (Exhibit C4-4, p. 13).

Commission Panel Determination

The Commission Panel is very concerned with the results of ICBC’s allocations of Operating Costs – Administration and Other. The result of the allocations is that 64 percent of costs are allocated to Basic Insurance, after deducting costs allocated to Non-Insurance. This is an unacceptable result given that virtually all of the allocation functions are required by a large compulsory insurance business or a large optional insurance business.

After considering the options which might provide the fairest allocations between Basic Insurance and Optional Insurance, **the Commission Panel concludes that the fairest allocation of Operating Costs – Administration and Other is to allocate the costs equally between Basic Insurance and Optional Insurance, after deducting the costs allocated to Non-Insurance.** This results in approximately $13 million being transferred from Basic Insurance to Optional Insurance.

The Commission Panel has considered the evidence of Mr. Chaudry at transcript pages 673 to 675 on this issue before concluding that the equal sharing is the fairest allocation of these costs. These cost categories are overwhelmingly required by both Basic and Optional Insurance and are truly joint costs of the businesses.

4.0 ROAD SAFETY

4.1 Background to the Review of Road Safety

In its 2003 rate filing, ICBC provided high level information on Road Safety and Loss Management ("RSLM") initiatives, related costs and cost allocation methodology. In its Decision of November 12, 2003 the Commission noted that it would like to see additional evidence on ICBC's process to determine the effectiveness of these programs (BCUC Decision November 12, 2004, Section 2.4.4). The Commission also indicated the need for ICBC to establish appropriate operating metrics related to the Basic Insurance business (BCUC Decision November 12, 2003, Section 7.2).

In February 2004 ICBC filed a proposal for performance measures. During the subsequent negotiations leading to a negotiated settlement the matter of Road Safety was discussed and the parties agreed that ICBC's Road Safety programs do not lend themselves to the development of an overall performance statistic. It was agreed that the merits of individual Road Safety programs would be reviewed in this proceeding (Order No. G 49-04 Negotiated Settlement Agreement, 4.3).

On July 5, 2004 ICBC filed an application for approval of a Financial Allocation Methodology and information on several topics including RSLM. The information filing on RSLM was significantly more expansive and informative than in the August 2003 Application. Through the Information Request process and RSLM segment of the Oral Public Hearing spanning October 5 and 6, 2004 considerable additional information on this matter was made available and discussed. The level of detail provided was referenced by one Intervenor as follows:

> "Our clients wish to commend ICBC for the level of detail it has presented about its road safety and loss management programs through its application, responses to information requests and oral testimony at the hearing" (Exhibit C16-11, p. 4).

The current Application is not a revenue requirements filing and the information submitted by ICBC on RSLM was not provided for the purpose of seeking any specific approval from the BCUC. However, the area has proved to be significant in terms of funding levels, potential impact on claims, exposure of ICBC branding, and integration with other public bodies. It is therefore of considerable interest to many Intervenors and the Commission Panel. After reviewing the evidence the Commission Panel has made suggestions and provided directions to ICBC which are to be addressed and/or followed as the case may be in future filings.

4.2 The Authority and Purpose of Road Safety Programs

ICBC involvement in RSLM is authorized in a general sense by the ICA section 7 which states:

> "It is the function of the corporation and it has the power and capacity to do the following:
>
> (i) promote and improve highway safety."

The Act does not define "highway safety" and ICBC in its filing makes reference throughout to road safety rather than highway safety as specified in the Act. In explaining its purpose for such involvement, ICBC explains:

> "ICBC invests in road safety, auto crime prevention and fraud prevention programs to reduce claims costs, thereby helping to control insurance premiums" (Exhibit B-1, p. 2-iv).

In the proceeding COPE expressed the view that the approach taken by ICBC with respect to Road Safety was too narrow. COPE argued that basing RSLM decisions strictly on a financial return on investment policy is too restrictive and not necessarily in the true public interest. COPE takes a much broader interpretation of public interest to include all British Columbians and social values. Further, it is COPE's view that ICBC has the financial resources to consider, and is in the best position (compared to any other public body) to analyze, any road safety initiative that may save lives or reduce injuries. COPE submits that this policy of obligatory financial return should be set aside by the Commission and, further, that the Commission should conclude that the drops in road safety funding are moves away from road safety and away from the public interest (Exhibit C10-3, p. 4).

ICBC replied that:

> "ICBC submits it is appropriate for ICBC to seek to provide a return for its policyholders - who pay for ICBC's Road Safety and Loss Management programs out of insurance premiums – without considering the broader public interest."
> "Increasing Road Safety and Loss Management spending will not necessarily result in a corresponding increase in claims cost reduction benefits and therefore not necessarily provide reduced premiums for policyholders." (Exhibit B-59, pp. 17-18).

BCOAPO's position on the scope of ICBC's RSLM initiatives is similar to that of ICBC, supporting the principle that policyholders who are paying for road safety programs realize a quantifiable net benefit from their investment. Further, BCOAPO expressed concern that spending more money on road safety projects that would not necessarily lead to reduced claims costs for the policyholders, could also create a tendency for municipal and other authorities to offload their responsibility for capital projects onto the shoulders of ICBC and its customers (Exhibit C16-12, p. 5).

A review of the ICA (section 7) demonstrates that ICBC's principal purpose is to engage in and carry on the business of auto insurance – more specifically, universal compulsory and optional. The promotion and improvement of highway safety referenced in this Act would seem to be in support of the insurance business rather than a business mission unto itself. The Commission Panel, therefore, supports the position expressed by ICBC and BCOAPO with respect to the objective of seeking a return on investment for policyholders when investing in Road Safety programs. It is the Commission Panel's position that any RSLM program undertaken by ICBC should have an appropriate expected rate of return as a basis for approval and results should be monitored to record the program's success in achieving the expected return.

4.3 RSLM Operations, Organization Structure and Scope

As stated in the preceding section, ICBC receives its authority for engaging in RSLM programs under section 7(i) of the ICA with specific reference to "highway safety". ICBC generally, throughout the submissions and cross-examination, makes reference to RSLM programs. It makes no reference to "highway safety". ICBC catalogues its programs as follows:

“1.2.1 Road Safety Programs
Enforcement and Regulation Programs
Engineering Programs
Education and Awareness Programs

1.2.2 Auto Crime Prevention Programs and,

1.2.3 Fraud Prevention Programs”

(Exhibit B-1, p. 2-1)

Throughout the submissions and cross-examination RSLM programs and activities are variously described as (not necessarily a complete list):

- loss prevention
- loss management
- road improvement
- fraud prevention and investment (investigation)
- road safety
- education and awareness
- enforcement
- traffic and road safety law enforcement
- auto crime prevention
- enforcement and regulation
- engineering

(Exhibit B-10, BCUC IR 51.8A, 51.8B, 51.8D, 46.1.1, 47.1.1; Exhibit B-1, pp. 2-1, 2-2, 2-4)

Within ICBC, the components of the organization that incur costs for the RSLM programs are described in some detail by ICBC at BCUC IR 51.8 A through D, and summarized as follows. Executive responsibility for RSLM programs rests with the Chief Operating Officer for programs that fall outside the Autoplan Broker Memorandum of Understanding (“Autoplan MOU”). Reporting to the Chief Operating Officer are various Regional Vice Presidents responsible for (in addition to other responsibilities) co-coordinating RSLM activities within their Regions, and a Vice President, Loss Management and Operations Support. Reporting to this latter position and making up the RSLM “department” is a Manager, Road Safety responsible for Road Improvement Strategies, Loss Prevention Strategies and Administration; a Manager, Performance Analysis; and a Manager, Fraud Prevention and Analysis. Designated responsibility for the Autoplan MOU Road Safety Programs reports up through a marketing and business development organization to the Senior Vice President, Insurance.

It is worth noting that the "Corporate" RSLM programs and supporting organization and infrastructure report to one senior executive while the Autoplan MOU Road Safety Programs report to a different senior executive. This separation of responsibility was underscored in cross-examination:

> "The panel members for this panel (Road Safety) aren't significantly involved in the Autoplan Broker Road Safety Program. I think if I can ask you to defer those questions to the panel….able to more effectively respond to any detailed questions or directional questions on the Broker Road Safety Program." (T2:308)

The Commission Panel finds this separation curious and it raises the question of the specific objectives of the Autoplan MOU Road Safety Programs compared to the RSLM programs. ICBC has acknowledged the apparently differing objectives by allocating costs for the "Broker" programs on the basis of premium. This allocation methodology is not used for most RSLM programs.

The scope of programs undertaken by ICBC under the general heading of RSLM and the rather long list of subordinate programs is indeed broad. The scope matrix is multidimensional including, but not limited to, funding level, type of program (education, enforcement, engineering), partnering complexity, budgeting rigor and return on investment.

Several programs are shown to be incorporated into funding agreements with government and have become essentially a pass-through of financial resources to fund enforcement activities with minor planning and activity monitoring by ICBC, and little to no outcome measurement. The new five-year agreement with the Ministry of Public Safety and Solicitor General ("MPSSG MOU") is the largest such agreement, providing a funding stream from ICBC of $17 million in 2005 and 1 percent of Basic Insurance premiums thereafter (estimated to be $16.67 million in 2006 based on October 2004 outlook for 2004 Basic Insurance earned premium). These programs have reached a significant level in terms of the percentage of the total RSLM budget they currently consume.

ICBC retains control of many other programs although the discipline of clear definition of results and measurement of effectiveness varies. As an example, ICBC chooses to invest in specific road improvement projects and provides evidence that it adheres to a strict return on investment discipline and post-implementation review. Decision-making with respect to investment level, initiatives and operations for education and awareness programs, some auto crime prevention programs and fraud prevention and investigation programs generally remains with ICBC. Education and awareness initiatives are typically measured by program activity rather than outcomes (T1:151).

ICBC typically engages in programs through partnering agreements. This strategy provides access to certain target markets, (e.g. school-aged children) and levers ICBC's resources. The Commission Panel considers the scope of programs, all things considered, to be very broad.

4.4 History of Road Safety Programs

ICBC reports an involvement in RSLM for over twenty years, beginning with education and awareness initiatives (Exhibit B-1, p. 2-1). In the 1990's, ICBC began to focus on a more expansive mission with respect to RSLM. In 1996, ICBC began expanding its investment in road safety and fraud prevention significantly to create a safer driving environment throughout the province and reduce incidences of auto crime and fraud. To create a safer driving environment, new programs were developed in the areas of enforcement, engineering, and education. To reduce insurance fraud, ICBC implemented new programs designed to detect and investigate fraudulent claims and vendor fraud (Exhibit B-1, p. 2-1).

The Commission Panel is persuaded by the considerable evidence presented throughout the hearing process that the current focus for ICBC RSLM is on investing in road safety, auto crime prevention, and fraud prevention programs to reduce claims costs, thereby helping to control insurance premiums (Exhibit B-1, p. 2-1).

ICBC reports that funding for RSLM in recent years has ranged from $30 million to $60 million. Funding levels for RSLM costs for 2001-2004 are:

Road Safety and Loss Management Costs 2001 – 2004 ($000's)

Program	2001 Actual	2002 Actual	2003 Actual	2004 Outlook
Enforcement Support	$23,480	$10,192	$8,923	$14,347
Road Improvement Strategies	9,629	9,857	9,879	10,702
Education/Awareness Strategies	7,269	5,796	5,101	6,359
Auto Crime Prevention Strategies	3,500	2,193	3,945	3,657
Fraud Prevention & Investigation	10,455	7,805	7,570	7,611
Research & Administration	4,230	2,463	2,668	3,523
TOTAL	**$58,563**	**$38,306**	**$38,086**	**$46,199**

(Exhibit B-1, p. 2-7, Figure 2.1)

It should be noted that the expenditure for Enforcement Support in 2001 includes support for the final year of the photo radar program which was discontinued thereafter. The costs of the Autoplan Broker Road Safety program are not included in the table as these expenses are classified as Insurance costs and managed by the Insurance Division (Exhibit B-1, p. 2-6).

ICBC reports that it will continue to support the programs described in the above table at a financial level similar to the 2004 outlook, with one exception. The MPSSG MOU provides for funding of enhanced traffic law enforcement programs to increase to $17 million in 2005. As noted previously, this funding will further increase to 1 percent of Basic Insurance premium in 2006 estimated to be $16.67 million based on 2004 projections. The Education and Awareness 2004 outlook and forecast for 2005 have increased with the addition of a program and the reallocation of advertising expense from the Enforcement program.

4.5 RSLM Program Economic Justification

RSLM expenditures in 2005 will be about 3 percent of Basic written premiums, or $50 million. There are differing views on ICBC's ability to fund RSLM initiatives. Presumably, the expansive view as expressed by COPE, is in the context of $1.7 billion in Basic Insurance premiums rather than in the reality of a reported underwriting loss in Basic Insurance (ICBC Annual Report 2003, p. 64). No evidence was advanced as to what the proper level of spending on RSLM should or could be. However, whatever the amount, if properly and fully focused on measurable claims reduction initiatives, these expenditures should lever this investment to provide greater benefit in terms of reduced financial pressure to increase premiums.

ICBC reports that it employs an evaluation process of considerable rigour when considering investments in road improvements and other projects over a funding threshold of $500,000.

> "New Road Safety and Loss Management programs with estimated costs of $500,000 or greater are required to meet established investment criteria. ICBC established a minimum return on investment threshold of 2 to 1 over two years, to ensure that ICBC's policyholders would realize a demonstrable benefit from the Road Safety and Loss Management programs. Individual Road Improvement Program projects are currently required to have a minimum return on investment of 3 to 1 over two years." (Exhibit B-1 p. 2-11, 2.3).
>
> "If the estimated total program costs exceed $500,000, a formal business case is required." (Exhibit B-1, p. 2-10, 2.2).

However, the many projects below this funding threshold are subject to a less strenuous approval process. Such programs are implemented within a department's approved operating expense budget and are reviewed by ICBC's senior management in conjunction with the preparation of ICBC's annual operating expense budget (Exhibit B-1, p. 2-10, 2.3). In cross-examination it was disclosed that multi-year programs that do not exceed the $500,000 business case threshold in a single year are not subject to the discipline of a business case approval process, even if total program costs exceed the threshold (T2:279).

This evaluation and approval process leads the Commission Panel to be to a concerned that while some projects are exposed to very rigourous review, many others (including some that over a number of years could result in considerable expenditure and cross the threshold for a formal business case) are not subject to such rigour. Several examples serve to illustrate this concern.

4.5.1 Program Results

In spite of the "hard- nosed" return on investment criteria and follow-up on results for some programs, ICBC has invested significant sums of money and effort in individual education programs with no specified outcome targets or claims reduction benefits targets. The evidence shows that in these cases the focus is on activity and attitudes rather than measurable outcomes (T1:184-5).

Ference Weickler & Company, ICBC's consultant and expert witness on RSLM program evaluation expressed a concern about this type of "soft" program objectives employed by ICBC.

> "The existing program objectives regarding the changing of attitudes, skills and safe driving behavior should be eliminated because they are difficult to measure and the key program objective should be to reduce crashes by 15%." (Exhibit B-1, Appendix 2D, Assessment of Graduated Licensing Program, p. 3.0-2)
>
> "Unfortunately, professed attitudes are not good indicators of actual behaviour or crash impacts." (Exhibit B-1, Appendix 2A, p. 29)

4.5.2 Program Evaluation

Similarly, on the topic of program evaluation the evidence shows inconsistencies in terms of adherence to a disciplined approach to assuring an impact on claims reduction through expenditures on RSLM. Within the Education and Awareness categories, with the exception of the Community Crash Reduction Challenge project, specific claims/cost-reduction benefits have not been established and therefore, there have been no formal evaluations that have been reviewed by external experts (T1:153).

Ference Weicker & Company, ICBC's consultant and expert witness on RSLM program evaluation noted when making recommendations for improvement in the selection and evaluation of RSLM programs:

> "More education projects should be evaluated. Considerable volunteer effort goes into these programs and this effort should be used to the greatest effect possible. It is recognized that the total cost of the program may be small; nonetheless a portion of the cost of the program could be used for evaluation." (Exhibit B-1, Appendix 2A, p. 34)

4.5.3 Interjurisdictional Involvement

An increasing interjurisdictional involvement may limit ICBC's ability to properly plan and effectively manage programs, and may therefore affect the ability of ICBC to receive its full return on investment in RSLM. The Graduated Licensing Program serves as an example. The Ference Weickler & Company Assessment of the Graduated Licensing Program, when comparing the B.C. program to an ideal graduated licensing program, reports:

> "Some of the specific areas where the B.C. graduated licensing system does not contain the recommended features of an ideal system are as follows:
>
> 2. Does not have a minimum six months learner phase as it may be reduced to three if an approved driver education course is taken. Also, the B.C. program does not abide by the specific recommendation of not allowing time discounts for driver education." (Exhibit B-1, Appendix 2D, Assessment of the Graduated Licensing Program, V, 1.7, 2)

This concern that the requirement to meet the needs of all interjurisdictional stakeholders may be impacting the effectiveness of ICBC RSLM was heightened by the following cross-examination:

> "MS. BAKER: A: …and that evaluation, which was just completed, indicated that in fact there was an increased crash rate associated with that group of new drivers that had participated in an accredited driver training course, and therefore were given a discount on the amount of time that they were required to spend in the learner phase. And this confirms what was learned by Ontario in its evaluation of the Graduated Licensing Program, which was completed after British Columbia's Graduated Licensing Program was implemented.

MR. MUNN: Q: But can you explain to me why has ICBC and the government been so slow to move on this? We have not actually changed the rules to account for that yet, is that correct?

MS. BAKER: A: The evaluation of British Columbia's experience that concluded that the discount for – the time discount for graduated licensing attending an approved training course was just published, and has just -- I believe it was published in July. So there is now consultation ongoing with the driver training industry and traffic safety stakeholders to determine what the next step should be.

MR. MUNN: Q: And is ICBC proposing a next step?

MS. BAKER: A: At this point in time, ICBC is listening and consulting with the driver training industry and the stakeholder groups.

MR. MUNN: Q: And how long do you think before a decision is made there?

MS. BAKER: A: I would expect the decision before next summer.

MR. MUNN: Q: Okay. So it could take up to a year between the time we have the data and the time that the changes are made.

MS. BAKER: A: Yes, that's correct."

(T1:164-166)

From this, and further cross-examination it appears that ICBC has known for some time that a specific element of the graduated licensing program is counter-productive and is, in fact, reported to be delivering a higher claims rate. But, as of October 6, 2004 the remedy for change had yet to commence (T2:294). The Commission Panel is sensitive to ICBC's need to consult with stakeholders, but is concerned that no specific action has occurred, or is expected to occur for some time.

4.5.4 Accountability

The accountability for certain programs in terms of their impact on claims costs has been removed from ICBC although the responsibility for funding has remained.

Through the Enforcement and Regulation Programs, prior to 2003, ICBC provided funding directly to police agencies to increase the levels of traffic law enforcement. Although the respective police agencies had discretion over the operation of those programs, ICBC apparently had discretion over when, where and for what purpose funds would be invested. That situation changed in December 2003 when ICBC and the Ministry of Public Safety & Solicitor General entered into a five-year agreement (the MPSSG MOU) to fund enhanced traffic law enforcement (Exhibit B-1, p. 2-2).

An example of the effect of ICBC's reduced accountability was identified in the Ference Weicker and Human Factors assessment report where it stated:

> "The list of sites at which ISC (Intersection Safety Cameras) was actually deployed by the police was somewhat different from the original list. It is commendable, and certainly consistent with best practices, that ICBC sought to develop and use a formal and rational selection process. That this process was not followed in selecting all of the actual deployment sites may have resulted in smaller safety benefits than may have been achievable." (Exhibit B-1, Appendix 2A, p. 20)

Further, there is a belief that the goals police forces' road enforcement work and the governmental agencies' road improvement work are not based on the goal of reducing insurance claims (T2:214).

Commission Panel Determination

RSLM program activity at ICBC now has a history of over twenty years and has a demonstrated record of successes of a variety of individual programs and initiatives. During this period of time, perhaps not surprisingly, a department and infrastructure of some significance has been established representing an annual expenditure of some $3.5 million, not including considerable field support activities. In the evidence there are indications of an expectation of department continuity and a departure from a tough-minded search for measurable RSLM investment opportunities and rationalization of all existing and new programs.

The Commission Panel recognizes that many RSLM program expenditures are positive investments in claims reduction and contribute in a tangible way to curtail the need for premium increases. The Commission Panel is concerned, however, with the allocation of resources to initiatives that have no clear and measurable connection to a reduction in claims costs. The budgeting process appears to reflect a "money in search of projects" approach, because the budget is established before the individual projects are identified" (Exhibit B-10, BCUC IR 61.5.2). Also, a zero-based budgeting approach to budgeting described in the 2004 Revenue Requirements filing has yet to be implemented in RSLM, although ICBC testified that it may be looked at in future (T2:265-6).

In future filings the Commission Panel will expect to see the use of clear funding tests such as a zero-based budgeting type methodology employed for establishing the budget for RSLM programs. Further, all projects should be targeted to produce measurable claims cost reduction outcomes, and periodic or post- project evaluation should be carried out in a manner appropriate to the program. It is recognized that partnering, including interjurisdictional involvement, is inevitable and at times beneficial to the intended result; however, ICBC must be in a position to manage the project outcomes to ensure the achievement of program objectives thereby maximizing its return on investment. The Graduated Licensing Program is a particularly disturbing example of interjurisdictional inefficiency. In this case, ICBC reports clear evidence that an aspect of the current program model is causing an increase in claims activity but is unable to initiate prompt remedial action.

The Commission Panel has determined that if a program does not have measurable outcome targets, or is not being managed by ICBC to ensure its effectiveness in terms of claims cost savings outcomes, it should not be in RSLM. A more appropriate place for the activity and expense might be to parallel the action taken by ICBC with respect to the Autoplan Broker MOU road safety program and consider such programs primarily a marketing activity and expense.

The Commission Panel is somewhat concerned that the Corporation is losing its ability to control the content, delivery and accountability for certain of its RSLM reduction programs. In particular, we are concerned with the MPSSG MOU and the agreements entered into directly with municipalities for the various "bait car" programs. The Commission Panel questions whether these contracts were negotiated at "arms length" and whether the programs serve the "best interests of the Corporation" as discussed earlier in this Decision.

Further, it appears from the MPSSG MOU that implementation of the programs covered in that agreement is essentially in the hands of the law enforcement agencies, with ICBC's role limited to that of providing funds. As well, the costs of these programs are to be recovered from Basic Insurance rates and premiums (IC2), notwithstanding whatever allocation of costs and benefits might be decided by the Corporation and the Commission Panel.

In the case of programs that are essentially a transfer of financial resources to a level of Government, such programs should not be included as RSLM programs or hidden within Basic Insurance rates. These payments should be included as an expense elsewhere in ICBC financial reporting and shown separately on the Basic Insurance rate forms presented to policyholders. In this way, the policyholder can differentiate between the premiums paid for Basic Insurance and the other charges for Government taxes and enforcement programs.

4.6 Road Safety versus Loss Management

As indicated previously in this Decision, ICBC refers to its RSLM programs under various headings or topics. When referring to these programs collectively, ICBC usually uses the term "Road Safety and Loss Management". ICBC does not draw a distinction however between road safety and loss management (T2:340-1).

While convenient and perhaps a defendable practice in a pre-regulatory environment, this "global" approach does not provide sufficient detail for the proper allocation of costs and administration of special directions.

It is clear however from the evidence provided that a distinction can be made between road safety initiatives and loss management initiatives in terms of objectives, outcomes and benefits to lines of business. Where there are benefits to both road safety and loss management it appears that at least in some instances the programs have an identifiable primary and secondary purpose. In the case of the Bait Car program, ICBC acknowledges that the main benefit accrues to Optional Insurance by reducing comprehensive claim costs (T2:341; Exhibit B-1, Appendix 2G, p. 1).

ICBC does recognize business line beneficiaries and allocates accordingly in two instances. Fraud prevention is an activity managed under the umbrella of RSLM. ICBC acknowledges that fraud prevention is primarily a loss management activity benefiting both business lines. Following analysis of the financial returns to both Basic and Optional Insurance, ICBC allocates 67 percent of the cost to Basic Insurance (Exhibit B-10, IR 49.3). The Autoplan Broker Road Safety program, while not managed by the RSLM Department, is another example where costs are allocated between Basic and Optional Insurance.

Certain initiatives have been described by ICBC as benefiting both ICBC Optional Insurance and the competing products of other insurance companies. ICBC submits that where that occurs, the entire cost of the program should be a cost to Basic Insurance. In ICBC's view, the allocation of those costs to Basic Insurance avoids a subsidization of the private insurers by ICBC's Optional Insurance and recognizes that there are benefits of such programs that extend beyond their primary purpose (Exhibit B-59, p. 14).

4.6.1 Road Safety

ICBC reports that to create a safer driving environment, it developed new programs in the areas of enforcement, engineering, and education (Exhibit B-1, p. 2-1). ICBC currently considers education and awareness programs, for example, on a case-by-case basis to account for longer-term benefits (Exhibit B-59, p. 18). In cross-examination, ICBC reaffirmed its objective that all Road Safety Programs will provide a benefit but acknowledged that some programs have a long-term attitudinal change benefit that cannot be quantified on a year-to-year basis (T1:185).

4.6.2 Loss Management

ICBC has no specific mandate by way of legislation or special direction to engage in loss management activities other than as a prudent process supporting its engagement in automobile insurance as provided for in the ICA. The management of the risk environment or loss management in the general insurance industry was not explored in this hearing. Several comments from CDI during cross-examination do provide some insight however.

> “[W]e were one of the first companies in British Columbia to initiate and offer a discount for security devices within a car, again as an effort to reduce auto theft, which is a continued problem in British Columbia.” (T6:1102)
>
> “The latest program that we’re very proud to become sponsors of is in relationship to the RCMP Bait Car Program. We’re currently – we’ve made a commitment to the RCMP to participate in the Bait Car Program during our 2005 fiscal year.” (T6:1102-3)

It is reasonable to assume that reducing claims costs by managing down risk by way of specific programs and supporting investment is not an uncommon business practice in the industry. It comes as no surprise therefore that ICBC is engaged and should continue to be engaged in risk mitigation or loss management programs to achieve this purpose. As examples, ICBC reported involvement in parking lot patrols to reduce theft and vehicle break-ins, thereby benefiting ICBC’s Optional Insurance business. The bait car program is another example of a loss management initiative which largely benefits Optional Insurance.

In its Final Reply, ICBC reminds all parties that it is necessary to recognize that there are benefits of such programs that extend beyond the reduction in auto crimes (Exhibit B-59, p. 14). In its Application, ICBC reported road engineering initiatives that delivered significant and quantifiable return on investment, presumably with immediate and measurable benefits to both product lines.

Commission Panel Determination

The Commission Panel has determined that a distinction must be made between road safety and loss management programs. Making this distinction serves several purposes. Such a distinction would encourage a more precise definition of expected outcomes or goals particularly when those goals are related to loss management. A more appropriate and accurate allocation of costs to lines of business would also be possible. A clearer definition of which programs or portions of programs fall under legislation and special directions would also be a beneficial outcome.

As a suggestion, to assist in the definition of road safety programs, programs that are intended to modify driving behavior or that contribute to a safer driving environment by way of general improvements to infrastructure should in the Commission Panel's view be road safety programs. Typically the costs would be considered an investment as the benefit would materialize over a longer period of time (although the analysis for the investment in infrastructure, as is the case currently with road improvements would require a short payback period). Another qualifying condition could be measurable improvements in causal factors affecting claims costs frequency and/or severity. As a final criteria the main beneficiary of the claims cost saving would probably be Basic Insurance.

To assist in the definition of loss management programs, the Commission Panel suggests that programs, including certain focused road infrastructure improvements intended to impact directly and in the short term on claims costs, should be loss management programs. Such programs could benefit Basic Insurance, Optional Insurance or to varying degrees, both lines of business.

While the Commission Panel has outlined methods for distinguishing between road safety and loss management programs, these are only suggestions. **In complying with this direction, ICBC should develop a defendable methodology that will achieve the desired distinction and be understandable and practical, and should explain and incorporate this methodology into its future filings.**

The Commission Panel has considered ICBC's argument that certain initiatives benefit both ICBC Optional Insurance and the competing products of other insurance companies and that is reason to allocate the entire cost of the program to Basic Insurance. While the Commission Panel recognizes the benefit to private insurers it rejects the suggestion that this is sufficient reason why the entire cost should be allocated to Basic Insurance. However, to the extent that a "subsidy" to private optional insurers results from these programs it may be reasonable that a portion of the cost, perhaps based on an estimate of market share of these insurers, be charged to Basic Insurance.

4.7 Program Advertising and Branding

An association of the various ICBC brands with RSLM programs predates the regulation of ICBC. As a result of a lengthy involvement in RSLM and the related branding it is ICBC's view that ICBC has gained considerable credibility with respect to road safety issues (T1:193). The subject of branding was of some interest to intervenors who had differing views on the effect of ICBC brand association with ICBC RSLM activities.

From the perspective of ICBC RSLM personnel, the objectives of branding and advertising ICBC RSLM initiatives appear to relate primarily to advancing the RSLM cause. ICBC witnesses stated:

> "MR. McPHERSON: Q: ICBC undoubtedly does benefit from the notoriety involved in road safety, would you agree with that?
>
> MR. WITHENSHAW: A: We are encouraging the public recognition that ICBC is involved, so that they know to come to our Website to get additional information. So if there's a benefit attached to that, I would say yes." (T2:235-6).

<u>Intervenor Submissions</u>

IBC expert witness Mr. Weir explained his view that use of the ICBC brand in connection with RSLM programs and the resulting enhanced effectiveness of RSLM programs, equates to brand value:

> "From everything that I've looked at, and from the nature of some of their own responses, those from a Ms. Baker in particular, they seem to acknowledge that there is added value to the content of their programs by virtue of it being authored by ICBC. My conclusion from that, as it would be in any product category, is that added value is what we would call brand value. That there's a source authority attached to the content, because it's ICBC." (T5:745)

In the current regulated business environment the use of the brands and the credibility of ICBC as identified by the brands was considered by some to have commercial benefits. IBC takes the position that the same brand value that ICBC links with RSLM programs also benefits ICBC products (Exhibit C4-4 (ii), p. 5, T5:752).

CDI holds a position similar to that taken by IBC on the commercial value of ICBC's branding of RSLM activities.

> "CDI believes that ICBC's Optional coverage is receiving a benefit and this coverage is being subsidized through such advertising." (Exhibit C9-9, p. 11).

IBC is of the view that ICBC is a significant and highly active participant in consumer marketing and branding; is itself an established brand by definition; is a brand receiving continuous direct marketing support; and is a brand that is actively seeking to maintain a climate of acceptability to obtain commercial value and competitive gain. IBC contends that the nature of ICBC's communications and marketing activities appear to be definitive examples of brand building, and are comparable to similar activities pursued by other, recognized marketing organizations and brands (Exhibit C4-4 (ii), p. 4).

A suggestion was advanced that would have the effect of removing the perceived branding benefit. That suggestion would see the creation of a new brand, not related to ICBC, for RSLM programs. BCOAPO does not support this suggestion, and considers a new brand for road safety advertising purposes to be neither cost-effective nor productive. Its view is that "to the extent that this association [of ICBC with road safety] may put the extra-provincial private industry at a competitive disadvantage, that is an entirely extraneous consideration for the Commission" (Exhibit C16-11, p. 7).

Further, although no evidence was advanced that ICBC employs RSLM programs and the positive public relations benefits derived therefrom as a competitive business strategy, Mr. Weir an expert witness for IBC explained the results of a recent study into changes in how consumers make brand choice in Canada. That study revealed that, from the consumers' point of view, it was important that the brand or service or company that they deal with scores well on ethical questions, on issues of whether or not they have the consumers' interests at heart, and whether or not they are good corporate citizens. Such companies are identified by the advertising industry as "white hat" companies. Companies that do not exhibit these values are reported to be described as "black hat" companies. Mr. Weir reported that it is absolutely the case from the study, that Canadians are increasingly looking at white hat companies (T5:765).

Mr. Weir expressed his view on ICBC's activities:

> "Mr. Weir: A: I believe that the Road Safety and Driver Tip programs that ICBC pursue with the comprehensiveness that I saw on their website, would help establish them to be a white hat company." (T5:765-6)

The IBC witness also raised a related issue:

> "In addition, the cumulative effect of their efforts - if successful - will in our opinion be to create a climate of acceptability (see Glossary) for the corporation. This will have a number of benefits, perhaps most critically in the context of facilitating sales of optional, supplemental insurance products. The climate of acceptability created will tend to promote and sustain customer inertia - a lack of consumer belief that there is any need to consider or investigate alternatives." (Exhibit C4-4 (ii), p. 7)

The BCOAPO acknowledged that:

> "[A] lot of the evidence we've heard this morning would come into play if and when Section 50 of the Insurance Corporation Act were to be proclaimed." (T5:769)

ICBC replied to the arguments of CDI and IBC, stating:

> "Neither CDI nor IBC provides a specific means by which the Commission should so allocate road safety advertising costs to ICBC's Optional insurance. ICBC submits that the Commission cannot, and should not, allocate road safety advertising costs to its Optional insurance. No specific means for the allocation of road safety advertising costs to Optional is proposed by either CDI or IBC because any such allocation would be contrary to the Special Direction." (Exhibit B-59, p. 11)

<u>Commission Panel Determinations</u>

While the Commission Panel agrees with the BCOAPO position on this matter from a competitive perspective, it disagrees from the point of view of the proper allocation of costs. The Commission Panel is persuaded that over time the various ICBC brands have built brand value from the publicity and goodwill involved in road safety. The use of the various ICBC brands in RSLM communication and promotion may have a positive effect on certain RSLM programs; however, such use also benefits ICBC's business lines. It is therefore appropriate for ICBC to allocate a portion of the cost of this advertising to the business lines on some reasonable basis.

The Commission Panel agrees with ICBC that no specific means for allocating road safety advertising costs were proposed by Intervenors, but does not agree that any such allocation would be contrary to the IC2. **The Commission Panel determines that to the extent that advertising and the use of the brands add value to loss management initiatives, those costs should be allocated to the product line beneficiaries of those expenditures.**

To the extent that expenditures on advertising and branding cannot be shown to directly and positively affect their respective RSLM programs, they should be considered "white hat" investments and be allocated on some reasonable basis between Basic Insurance and Optional Insurance. In complying with this direction, ICBC should develop a defendable methodology that will achieve the allocation as directed and be understandable and practical in its application. Future filings should explain and incorporate this methodology.

4.8 Other Issues

During the course of the hearing a number of related issues were raised. The evidence on Provincial road safety coordination, multi-year planning and participation by private insurers in RSLM programs was particularly noteworthy.

4.8.1 Provincial Road Safety Coordination

Various points of view were expressed about the concept of a Provincially-coordinated approach to road safety. The CACBC took the position that Provincial coordination of road safety has thus far been inadequate.

Mr. Ference, ICBC's consultant on Road Safety, made a specific recommendation with respect to the coordination of road safety on a province-wide basis and in cross-examination referenced his recommendation and spoke to the shortcomings of the current approach.

> "In our report one of our recommendations was to establish an overall province wide stakeholder committee that looks at all road safety initiatives. There are a number of these kinds of province-wide committees that are established now, but they look at specific initiatives such as impaired driving, but they don't look at all road safety. So I think there's some merit, and best practices would dictate the establishment of such an organization or committee." (T2:233)

ICBC responded that "the evidence is ICBC coordinates its efforts to implement Road Safety and Loss Management programs with stakeholders including municipalities, the provincial government, non-profit organizations, and private industry" (Exhibit B-59, p. 22).

In considering its role in RSLM, ICBC expressed the concern that other stakeholders might reduce their road safety efforts in the mistaken belief that ICBC has assumed their responsibility for road safety (Exhibit B-59, p. 22).

Commission Panel Determination

The Commission Panel is of the view that ordering such a broad province-wide stakeholder committee is beyond the jurisdiction of the Commission. However, several points raised during the hearing, as this topic relates to ICBC RSLM, are relevant to the filing at hand. The formation of an overall province-wide stakeholder committee which includes ICBC would, in the Commission Panel's view, assist in establishing province-wide targets and strategies for road safety; clarify jurisdictional issues; and identify where ICBC could contribute in a way that supports its mandate and business objectives. ICBC is in a position to be the catalyst for the development of this provincial, coordinated approach.

4.8.2 Multi Year Planning

Within the context of the discussion on Provincial Road Safety coordination CACBC suggested that ICBC should file with the Commission a five-year RSLM plan to, among other things, demonstrate improved Provincial coordination. ICBC objected to this suggestion, expressing the view that ICBC coordinates its efforts to implement RSLM programs with stakeholders including municipalities, the Provincial Government, non-profit organizations, and private industry (Exhibit B-59, p. 22).

Commission Panel Determination

The Commission Panel is of the view that such a report, particularly if it were to detail ICBC's plans, role and responsibility within a broader Provincial context, would be difficult to develop in the absence of an official coordinating body. There is merit, however, to the development of a more long range approach to ICBC's RSLM activities, detailing loss issues and RSLM responses. This planning process should be integrated with the changes to the budgeting process detailed above.

4.8.3 Private Insurers Involvement in RSLM

IBC, speaking on behalf of its members, indicated a desire to engage in joint RSLM activities.

> "IBC encourages the involvement of more stakeholders in Road Safety programs. In cross-examination Ms. Baker recognized various parties that could be included in a Road Safety stakeholder committee, including various government entities and various parties from the private sector. She specifically stated that 'if there are other insurance companies in British Columbia that would like to participate in traffic safety activities, and participate on the stakeholder committee, I could certainly see them there.' IBC welcomes this invitation and would like to see a specific recommendation from the Commission that ICBC follow up on the invitation." (Exhibit C4-20, p. 37)

CDI filed evidence showing that it sought involvement in ICBC RSLM activities a number of years ago (Exhibit C9-4), and states that:

> "It appears that ICBC is content to operate and pay for road safety programs and advertising itself, which gives the impression it is not interested in working with other insurers in this area." (Exhibit C9-9, p. 11)

ICBC stated that no private insurers have approached ICBC in the past approximately seven years about Road Safety and Loss Management programs. ICBC indicated that it would be pleased to see private insurers become involved in RSLM programs going forward but was of the view that private insurers must take some initiative to demonstrate their level of commitment (Exhibit B-59, p. 23).

Commission Panel Determination

There would appear to be many benefits from private insurers' involvement in RSLM activities either on their own initiative or in partnership with ICBC. Clearly, the financial resources available to private insurers in terms of their market share is limited; however, ICBC has demonstrated that at least on some of its programs, the financial returns can be compelling. The private insurers have also presented a convincing argument that the marketing and public image benefits of being involved in RSLM activities are significant.

CDI provided evidence that it offered to participate in certain road safety initiatives a number of years ago; however, the overture does not appear to have been followed up by either party. ICBC is waiting for the private insurers to show some initiative. The "chicken and egg" game of who asked first will not serve anyone's interest however. ICBC has expressed an interest and a willingness to involve private insurers in RSLM programming. The IBC indicates it welcomes this invitation. The Commission Panel suggests that IBC contact ICBC to establish a meeting date to explore the possibilities of joint involvement. **The Commission will expect the outcome of this exploratory meeting and any subsequent outcomes to be reported in ICBC's next revenue requirements filing.**

5.0 ACTUARIAL AND 2005 FINANCIAL INFORMATION – BASIC INSURANCE

5.1 Introduction

ICBC filed the actuarial and 2005 financial information largely in response to the transmittal letter dated May 20, 2004, which accompanied Order No. G-49-04 (Exhibit B-57, p. 40). The letter states that:

> "…the Commission wishes to alert ICBC to the need to provide full financial information in support of its proposed 2005 rates, whether ICBC seeks to alter the rates or maintain existing rates. Such information will allow the Commission and other participants to evaluate the revenue needs and proposed rates for ICBC in 2005."

Order No. G-75-04 dated August 4, 2004, which established the regulatory process, timetable and issues for review included the review of actuarial and 2005 financial information as one of the six hearing issues.

ICBC engaged Eckler Partners Ltd. to perform the actuarial analysis of the adequacy of its current rate level for Basic Insurance. In Exhibit B-2, Exhibit Q.1 the indicated change in average rate level (for Total Basic Insurance) is an increase of 0.5 percent (the total dollar impact of this percentage increase equates to $9.388 million). Despite this indicated change in average rate level, ICBC is not applying for a revision to its rates for Basic Insurance (Exhibit B-1, Tab Application, p. viii).

ICBC advised in a letter dated August 24, 2004 to the Commission Panel and Registered Intervenors that "…it has come to our attention that an error was made in the actuarial calculation" (Exhibit B-7). Subsequently on August 27, 2004 ICBC filed a letter with an attached letter from Eckler Partners Ltd. that "…provides the documentation necessary to correct a mistake that has been discovered and which affects the size of the rate level indication" (Exhibit B-8). The letter revealed that the indicated change in average rate level for total Basic Insurance increased from 0.5 percent to 1.1 percent (total dollar impact increased to $18.576 million). Notwithstanding this additional increase in the actuarial rate level indication, ICBC states that "…ICBC is still not applying for a revision to its rates for Basic insurance" (Exhibit B-8).

The following subsections address the principal subject areas of the actuarial and 2005 financial information. The Commission Panel findings regarding the issue of whether or not a separate full revenue requirements proceeding for the 2005 policy year is required, are presented at the conclusion of this Chapter.

5.2 Claims Incurred

Claims Incurred cost is primarily comprised of claims losses and loss adjustment expense. ICBC forecast 2005 Claims Incurred costs of $1,446,013,000 (Exhibit B-10, BCUC IR 84.5) which increased by $26 million or 2 percent over the updated 2004 Outlook amount of $1,420,000,000 (Exhibit B-56).

Intervenor Submissions

Intervenors, with the exception of IBC, had no comment on these costs. IBC states that "the actuarial data presented by ICBC appears to be reasonable" (Exhibit C4-20, p. 28). However, IBC also goes on to state a number of concerns pertaining to the matter of actuarial data, and suggests there should be a requirement for more information regarding the trend model, and a requirement for a "peer to peer review" with respect to ICBC's actuarial information.

5.3 Controllable Expenses

5.3.1 Planning and Budgeting Process

The regular budgeting process for ICBC occurs during the period of July to November. To develop the 2005 financial information contained in Exhibit B-2, which was filed on July 12, 2004, ICBC commenced a high-level budgeting process in April 2004. ICBC describes this high-level approach as follows:

> "The first step was to examine early premiums and claims trends for the current year in order to begin assessing the trends for the following year. ICBC also developed high level estimates of the major types of operating costs for 2005. The overall approach for developing the estimate of 2005 controllable costs has been to start with the 2003 actuals and the 2004 outlook, and then to identify any significant anticipated cost changes for 2005.
>
> Based on the above analysis, ICBC determined the controllable cost outlook for the current year and set a target for 2005. This corporate target was shared with the senior management and executives to guide their more detailed divisional planning and budgeting processes and to enable them to better set their divisional targets for 2005" (Exhibit B-2, p. 4-II-1, 4-II-2).

In 2003 ICBC introduced a modified zero-based budgeting approach towards expenditures, which featured more stringent requirements for consideration of business changes and other discretionary spending (Exhibit B-2, p. 4-II-1). Mr. Withenshaw, Vice President, Loss Management and Operations Support provides further insight on the status of this approach within ICBC when he states "the modified zero base budgeting is a process which is just unfolding within ICBC, and I would say it's just that it's an introductory phase of zero base budgeting." He goes on to state "…that as we get more familiar and knowledgeable outside of the Finance Division on the parameters of what zero base budgeting is, we'll be looking at the applicability to the Road Safety and Loss Management Programs" (T2:265-6).

5.3.2 Road Safety and Loss Management Services

These expenditures are discussed in detail in Section 4.4.

5.3.3 Claims Services Costs

Claims Services captures the costs of processing claims and primarily consists of staff compensation and benefits, and other general claims operating expenses. These costs relate to major activities within the claims handling process such as reporting of a claim, interviewing the claimant and assessing the claim, rehabilitating the claimant and internal litigation (Exhibit B-2, p. 4-II-7).

These costs are accounted for as corporate costs and the Basic Insurance portion is derived using ICBC's financial allocation methodology. A three year comparison of claims services costs is shown below.

	Actual (000's) 2003	Outlook (000's) 2004	Forecast (000's) 2005
Total corporate claims services costs (Exhibit B-1, pp. 1-85, 1-100 and 1-101)	$236,143	$241,942	$244,873
Allocated to Basic Insurance (Note 1) (Exhibit B-2, p. 4-II-5)	$148,686	$152,832	$155,049
Allocated to Non-Insurance (Note 1) (Exhibit B-1, pp. 1-85, 1-100 and 1-101)	$ 529	$ 577	$ 0

Note 1: allocated using the current allocation method

ICBC states that Claims Services are holding the line on expenses (Exhibit B-2, p.4-II-7). Total corporate Claims Services costs have increased by 2.5 percent from 2003 to 2004 and by 1.2 percent from 2004 to 2005.

Intervenor Submissions

Most Intervenors did not specifically comment on Claims Services costs. Mr. Sykes makes a general comment with respect to ICBC's controllable costs when he states: "BCUC ought to probe aggressively into ICBC's 'controllable costs'. In particular, BCUC should evaluate the bases and amounts paid to ICBC management, other employees and contractors – as compensation including incentives, bonuses and profit-sharing" (Exhibit C11-4).

5.3.4 Insurance Operating Costs

Insurance Operating Costs are divided into two major classifications: operating costs-insurance services and operating costs-administration and other services (Exhibit B-1, pp. 1-86, 1-88). Insurance services include functions such as underwriting, broker management and administration of the insurance product. Administration and other services include corporate shared support services such as finance, human resource management, information systems development and support, planned program and system changes, facilities, and governance and audit functions (Exhibit B-2, p. 4-II-7).

These costs are also accounted for as corporate costs and the Basic Insurance portion is derived using ICBC's financial allocation methodology. A three-year comparison of insurance services costs and administration and other services costs is shown in the figures below.

	Actual (000's) 2003	Outlook (000's) 2004	Forecast (000's) 2005
Total corporate insurance services costs (Exhibit B-1, pp. 1-85, 1-100 and 1-101)	$51,100	$60,015	$59,454
Allocated to Basic Insurance (Note 1) (Exhibit B-1, pp. 1-85, 1-100 and 1-101)	$22,765	$26,967	$26,646
Allocated to Non-Insurance (Note 1) (Exhibit B-1, pp. 1-85, 1-100 and 1-101)	$9,893	$11,487	$11,500

Note 1: allocated using the current allocation method

	Actual (000's) 2003	Outlook (000's) 2004	Forecast (000's) 2005
Total corporate administration and other services costs (Exhibit B-1, pp. 1-85, 1-100, 1-101)	$112,123	$111,162	$120,375
Allocated to Basic Insurance (Note 1) (Exhibit B-1, pp. 1-85, 1-100, 1-101)	$60,421	$62,861	$69,061
Allocated to Non-Insurance (Note 1) (Exhibit B-1, pp. 1-85, 1-100, 1-101)	$17,758	$17,800	$17,800

Note 1: allocated using the current allocation method

Intervenor Submissions

Intervenors had no specific comments with respect to operating costs – insurance services and operating costs – administration and other services.

5.3.5 Non-Insurance Costs

Non-Insurance costs include costs for vehicle and driver licensing services, vehicle registration, government debt collection and funding for commercial vehicle compliance. A comparison of total Non-Insurance costs for the years 2003 to 2005 inclusive is shown below.

	Actual (000's) 2003	Outlook (000's) 2004	Forecast (000's) 2005
Total (Exhibit B-10, BCUC IR 84.5)	$86,516	$90,593	$89,597
Add:			
Acquisition Costs (Exhibit B-10, BCUC IR 84.5)	16,085	16,000	16,000
Total	$102,601	$106,593	$105,597

IC2 directs the Commission to include these costs as part of the revenue requirements for Basic Insurance and their subsequent recovery through Basic Insurance premiums.

ICBC collects fees/revenues (i.e. other than premiums) related to the delivery of Non-Insurance services; however, the majority of these fees/revenues are not taken into account for setting premiums for Basic Insurance since they are remitted directly to the Province.

These fees/revenues that are remitted directly to the Province amounted to $419.8 million, $444.0 million and $457.2 million for Actual 2003, Outlook 2004 and Forecast 2005, respectively (Exhibit B-10, BCUC IR 92.1).

Intervenor Submissions

Intervenors, with the exception of BCOAPO, did not specifically address Non-Insurance costs. BCOAPO submitted several information requests to ICBC regarding this matter including the following:

> "Does the requirement to remit non-insurance revenues to the government and the Special Directive requirement of non-insurance costs being borne by Basic insurance result in a direct cross subsidy of non-insurance costs by Basic insurance?"
> (Exhibit B-10, BCOAPO IR 8.b)

ICBC replied that it does not consider this to be a cross-subsidy as IC2 requires Non-Insurance costs to be funded by Basic Insurance premiums.

5.4 Capital Requirements

ICBC determined that a provision of $25 million is appropriate for inclusion in the 2005 Basic Insurance rate level indication to build retained earnings and make progress toward the elimination of the projected Basic Insurance capital deficiency by December 31, 2014 (Exhibit B-2, p. 4-III-4, 4-III-6).

Please refer to Chapter 6.0 for a full discussion of the Minimum Capital Test, the projected capital deficiency, and the Capital Management Plan.

Commission Panel Determinations

The Commission Panel acknowledges ICBC's introduction of a modified zero-based budgeting approach. ICBC is encouraged to continue to actively pursue and expand this approach to budgeting to all operational areas within the company. The Commission expects to be kept informed of ICBC's progress in this regard and the Corporation's next revenue requirements filing should include full details pertaining thereto.

The Commission Panel is also aware of innovative claims handling programs such as Glass Express, which allows policyholders to save time by not having to call ICBC Dial-A-Claim or attend a claim centre. ICBC is strongly encouraged to continue to innovate in the area of Claims Services by identifying and exploring additional opportunities that would enable policyholders to process more types of claims directly with service providers such as body and repair shops. The Commission Panel expects, of course, that the benefits arising from such innovations will further enhance customer service and produce savings in Claims Services costs.

The 2005 Corporate Operating Costs – administration and other services are forecast to increase by 8.3 percent over 2004 costs. A one percent decrease is projected for these costs between the years 2003 and 2004. The Commission Panel notes that these costs are exhibiting a marked increase in 2005 (i.e. when compared to what is projected to occur between 2003 and 2004). The Operating Costs – Administration and Other services will be subjected to a rigourous examination when ICBC submits its next revenue requirements filing.

The costs for the Information Services Division appear to comprise a major portion of the total Corporate Operating Costs – administration and other services. For example, for the year 2003 the gross costs (before charge-back of IT infrastructure costs to the lines of business) equate to $56,919,000 (Exhibit B-41, Attachment 2). The Commission will examine, in particular, the area of Information Services at the time of ICBC's next revenue requirements filing and, with this in mind, ICBC should ensure that detailed supporting information for these expenditures is provided.

The Commission Panel recognizes that the major portion of the fees/revenues relating to Non-Insurance services are not available to directly offset the costs incurred in providing the services. Consequently, the Commission Panel urges ICBC to vigorously seek out creative means to reduce the cost of delivery of Non-Insurance services by exploring all potential options for enhancing the efficiency and effectiveness of service delivery processes.

The Commission Panel considers that the forecast 2005 allocated costs and revenues of ICBC Basic Insurance are reasonably in balance, even after adjusting for the revised allocations directed in this Decision. While the changes will largely benefit the Basic Insurance line of business and offset the forecast revenue deficiency, the Commission Panel does not direct ICBC to file a separate full revenue requirements application for the 2005 policy year. Any revenue surplus that may occur will improve ICBC's retained earnings and affect the future Capital Management plan. However, ICBC is directed to file a comprehensive Revenue Requirements Application for 2006 Basic Insurance Premiums later in 2005 at a date to be determined by the Commission.

6.0 CAPITAL REQUIREMENT – BASIC AND OPTIONAL INSURANCE

6.1 Special Direction IC2

Among the various items addressed in IC2, the matter of the capital requirement is particularly prominent. In section 1, IC2 provides the reference for the definition of the MCT.

> section 1
>
> "MCT" means MCT as that term is defined in
> (a) the regulations and guidelines made under section 515 (2) of the Insurance Companies Act (Canada), and
> (b) the Guidelines for Minimum Capital Test (MCT) for Federally regulated Property and Casualty Insurance Companies number A-1 dated July, 2003 issued by the Office of Superintendent of Financial Institutions.

In sections 3(1) (b) and 4(1), (b) and (c), IC2 gives specific directions to the Commission for what it must do with respect to ICBC's capital requirement. These sections are reproduced as Appendix A of this Decision for ease of reference.

The MCT is a risk-based formula that determines the capital available to meet the capital requirements of the business. The relationship between the capital available as qualified by MCT and the capital requirements is expressed as a percentage.

Capital available generally consists of the following:

- Equity (including retained earnings);
- Subordinated debt; and
- Recognition of a portion of the excess of the market value of investments over book value.

(Exhibit B-2, p. 4-III-1)

Capital required generally is comprised of the following:

- Capital for on-balance sheet assets;
- Margins for premiums;
- Margins for unpaid claims liabilities;
- Catastrophe reserves;
- Amount for reinsurance ceded to unregistered reinsurers; and
- Capital for off-balance sheet exposures.

(Exhibit B-2, pp. 4-III-1, 4-III-2)

Commission Panel Determination

The Commission Panel directs ICBC to fully comply with all requirements set out in IC2 and in making the required calculations for the MCT to take into account the direction given in the following Sections.

6.2 Capital Requirement and Capital Management Plan

6.2.1 Introduction

IC2 in section 4 (1) (c) (i) directs that the Commission must require the Corporation as at the beginning of the Corporation's 2004 fiscal year, to allocate to the Corporation's Optional Insurance business that portion of the Corporation's retained earnings for its 2003 fiscal year that is necessary to allow the Corporation to achieve, in its 2004 fiscal year, capital available in relation to the Corporation's Optional Insurance business equal to 170 percent of MCT. Following the above, in subsection (c) (ii) it further directs the Commission to allocate to the Basic Insurance business, as at the beginning of the Corporation's 2004 fiscal year, the balance of the Corporation's retained earnings for its 2003 fiscal year.

The subsequent subsections first discuss the matter of capital requirement and MCT as it pertains to the Basic Insurance business, and then follow up with the same discussion as it pertains to Optional Insurance business. This order is used because the Commission's primary regulatory responsibility is to the Basic Insurance business.

6.2.2 Basic Insurance Line of Business

ICBC applies the MCT to determine the capital available of $135.2 million, the minimum capital required of $611.5 million (at 100 percent of MCT) and the resulting capital deficiency of $476.3 million as at January 1, 2004 (Exhibit B-10, BCUC IR 111.1, p. 2). Expressed in another way, the $135.2 million of capital available is equal to 22 percent of minimum capital required, leaving a shortfall of 78 percent.

To determine the above capital available of $135.2 million, ICBC first allocates the corporate retained earnings as at December 31, 2003 ($535.9 million, Exhibit B-2, p.4-III-5) between the Basic ($25 million) and Optional ($510.9 million) Insurance lines of business in accordance with the requirement in section 4 (1) (c) of IC2.

Next, the market value adjustment for investments is calculated as $121.5 million (Exhibit B-10, BCUC IR 111.1, p.3). This amount is calculated in accordance with the Office of Superintendent of Financial Institutions ("OSFI") guidelines (i.e. only 50 percent of the market value adjustment is recognized to account for costs incurred when realizing a gain, including the effect of income taxes), although it is noted that as a Crown corporation ICBC is not subject to income tax.

Lastly, the adjustment for assets with a capital requirement of 100 percent is determined as a reduction of $11.3 million (Exhibit B-10, BCUC IR 111.1, p. 3).

The $611.5 million capital required is comprised of the following line items (Note: ICBC did make a minor correction during the hearing and reduced this amount by $1.3 million as detailed in Exhibit B-47):

•	Balance sheet assets	$208.0 million
•	Margin for unpaid claims	336.4 million
•	Margin for premiums	66.8 million
•	Off balance sheet exposures	0.3 million
	Total	$611.5 million

(Exhibit B-10, BCUC IR 111.1, pp. 3, 5)

It is ICBC's accounting policy not to reflect the time value of money (discounting) when stating unpaid claims balances. Currently it is accepted practice under GAAP to record unpaid claims balances in this manner. Under accepted actuarial practice however, the unpaid claims balances should reflect the time value of money and consequently the Corporation's actuary has qualified his Actuary's Report included with the Corporation's Annual Report for 2003 (Exhibit B-1, Appendix 1H, p. 44). ICBC also states in its Final Argument that "discounting in the manner suggested by Commission counsel would also be in accordance with GAAP" and that "OSFI requires that claims liabilities be on a present-value basis (discounted)" (Exhibit B-57, p. 45).

ICBC has for many years held an explicit margin for conservatism as part of its unpaid claims balances. The margin exists because ICBC has been very thinly capitalized. ICBC states that "this margin is 5 percent of unpaid losses and allocated loss adjustment expenses. The margin for conservatism is held for claims liabilities that will potentially develop unfavourably…" (Exhibit B-1, p. 1-41). In its response to BCOAPO'*s* Information Request No. 10.a (Exhibit B-10), ICBC also makes it clear that "in determining premium rates ICBC does not include the margin which is held as part of the unpaid claims for financial reporting purposes." ICBC further states that "…as Basic insurance approaches the 100 percent MCT level, there will be less need for a full 5 percent margin level" (Exhibit B-10, BCUC IR 114.1).

To enable ICBC to calculate the Basic Insurance capital requirement for the 2005 rate level indication, the projected capital deficiency as at December 31, 2004 is computed by subtracting the Basic Insurance Outlook net loss of $19.8 million (Exhibit B-2, p. 4-III-4) from the capital available amount of $135.2 million. Consequently, the capital available as at December 31, 2004 is projected to decrease to $115.4 million, the capital deficiency increases to $496.1 million and the capital available is now equal to 18.9 percent of minimum capital required (Exhibit B-2, p. 4-III-4).

ICBC revised its 2004 Basic Insurance Outlook net loss in the fall of 2004 and now projects a net income of $24 million (Exhibit B-56). Inserting this revised amount yields a projected amount of capital available of $159.2 million, a capital deficiency of $452.3 million and capital available is equal to 26 percent of minimum capital required.

IC2 requires that any Basic Insurance capital deficiency must be eliminated by December 31, 2014 (i.e. Basic Insurance capital available must be at least equal to 100 percent of MCT).

In its Final Submission, ICBC states that: “[it] is proceeding to develop a capital management plan to address this deficiency in the capital available for Basic Insurance, and to ensure ICBC is on track to meet the future capital requirements imposed by IC2. The capital management plan will be presented to the Commission in 2005” (Exhibit B-57, p. 43).

The Corporation further submits that “[it] does not disagree that the ICBC capital management plan will have to take into account the unique characteristics of ICBC…” (Exhibit B-59, p. 28). ICBC includes a capital amount of $25 million in the 2005 rate level indication. This amount is intended to commence the funding for and the eventual elimination of the capital deficiency referred to above.

6.2.3 Optional Insurance Line of Business

ICBC applies the MCT to determine the capital available of $583.3 million, the minimum capital required of $317.0 million (at100 percent of MCT) and the resulting capital excess of $221.3 million as at January 1, 2004 (Exhibit B-10, BCUC IR 113.1). Expressed in another way, the $583.3 million of capital available is equal to 170 percent of minimum capital required.

To determine the capital available of $583.3 million, ICBC followed the same procedures it applied to the Basic Insurance line of business and previously described in Section 6.2.2 above.

The minimum capital required of $317.0 million is comprised of the following line items:

• Balance sheet assets	$124.8 million
• Margin for unpaid claims	113.7 million
• Margin for premiums	52.0 million
• Catastrophes	25.0 million
• Off balance sheet exposures	1.6 million

(Exhibit B-10, BCUC IR 113.1).

The above amounts were also calculated in the same manner as those for the Basic Insurance line of business and previously described in Section 6.2.2. IC2 requires that the Optional Insurance line of business achieve a ratio where capital available is at least equal to 200 percent of minimum capital required, by December 31, 2010.

Intervenor Submissions

BCOAPO states that "[t]he most significant financial issue in these proceedings is ICBC's capital deficiency in relation to its Basic line of business…". BCOAPO further submits "that a proper analysis both of the legal status of the Special Direction and of the information before the Commission shows that the deficiency may be substantially smaller than the $496.1 million projection for December 31, 2004" (Exhibit C16-11, p.7).

In its Final Argument, BCOAPO addresses several specific matters pertaining to the determination of the Basic Insurance capital requirement. Included among these are: the 5 percent margin on unpaid claims balances; ICBC's tax-exempt status and MCT; Optional Insurance capital base and return on investments; beta; and discount rate.

With respect to the 5 percent margin on unpaid claims balances, BCOAPO argues that ICBC's solution of phasing out the 5 percent margin as the Corporation approaches the 100 percent MCT target for Basic Insurance is not the most useful approach. BCOAPO submits:

> "When it comes to measuring the amount of daylight between the actual capital cushion and the 100 percent target for Basic, it is clear that [the] 5 percent margin is properly a part of that equation." and

> "The appropriate way to take the margin into account in the context of ICBC's capital sufficiency, and obtain an accurate picture of the Corporation's capital position, is to roll it directly into the Basic capital base so that it can be tallied in the MCT process." (Exhibit C16-11, p. 11)

On the matter of MCT and the tax-exempt status of ICBC, BCOAPO submits that "[t]he underlying purpose of the Special Direction requires the Commission to adapt the test (i.e. MCT) to take into account the very significant difference between ICBC and the private industry arising from the Corporation's tax status, so that equivalency of meaning of the test's results is achieved" (Exhibit C16-11, p. 12).

The CACBC argues that "ICBC should review the elimination of the five percent margin on all unpaid claims sooner than achieving its goal of 100 percent MCT…" and that "ICBC should move to discounting of its claims liabilities as part of its capital management plan…" (Exhibit C14-4, p. 11)

CACBC further states:

> "The Minimum Capital Test applied by the federal regulator is to ensure that insurers do not go insolvent. The CACBC encourages government to allow the Commission to work with ICBC to ensure that capital levels are in the public interest and suitable to the uniqueness of ICBC and not used to the benefit of private insurers and their desire for better market share." (Exhibit C14-4, p. 11) and,
>
> "ICBC may be correct that the Commission cannot alter the MCT for ICBC based on the Special Direction of Government (# 146-148). No doubt, Mr. Chaudry is also correct in his evidence that the federal regulator (OSFI) does not adjust its test, but adjusts the target levels for the differing circumstances of each company it regulates. Despite the direction of government, the Commission should direct ICBC to seek advice from OSFI as to how it views its needs for MCT targets as a way of ensuring that the Cabinet imposed targets are correct." (Exhibit C14-4, pp. 11-12)

Mr. Sykes in his Final Argument states: "It has been difficult to get ICBC to admit that its Unpaid Claims (a liability shown on its Balance Sheet) contained a 5 percent margin figure…" He further asserts that "ICBC's Unpaid Claims balance is materially overstated." (Exhibit C11-4, p.37)

On the matter of discounting of claims liabilities Mr. Sykes states that discounting liabilities is GAAP and actuarial practice (Exhibit C11-4, p. 38). He recommends that " (the) BCUC should order ICBC to use discounting to state the carrying values of ICBC's liabilities on its Balance Sheet published as part of ICBC's Annual Report (ICBC's external auditor will give an unqualified opinion if discounting is used)" (Exhibit C11-4, p. 39).

It is ICBC's position that the margin and the appropriateness of discounting claims liabilities would be reviewed as part of the development of a capital management plan (B-59, pp. 30-31).

With respect to the matter of income taxes and the calculation of MCT, ICBC states in its Final Argument:

> "ICBC submits that the Commission may not modify the MCT when applying it in the calculation of ICBC's capital available. Special Direction IC2 prescribes the use of the MCT in the determination of ICBC's capital available." and
>
> "The MCT Guidelines issued by OSFI establishes what is MCT, and how a Minimum Capital Test is to be undertaken, for the purposes of Special Direction IC2. The Special Direction does not grant to the Commission the discretion to modify the MCT." (Exhibit B-57, p. 46)

ICBC further states in its Final Reply Argument:

> "The facts in evidence demonstrate that the 100% MCT level of capital for Basic insurance is not unwarranted for insurers; it is well below the supervisory targets and internal targets used by OSFI. If the provincial government had intended ICBC's tax status to be taken into account, then presumably it has already been reflected in Special Direction IC2, as the standard OSFI targets have not been adopted in the Special Direction." (Exhibit B-59, pp. 31-32)

Commission Panel Determinations

The Commission Panel generally accepts, except for the matters raised in the following paragraphs, ICBC's submission that issues relating to ICBC's capital deficiency in relation to its Basic Insurance line of business are not to be determined in this proceeding. The same will apply for the Optional Insurance line of business. These issues will be considered in the review of ICBC's capital plan.

The Commission Panel shares the concerns expressed by several Intervenors about the manner in which certain items have been treated by ICBC for purposes of the MCT and the determination of capital available and capital required. These items are highlighted in the sections above and, for reference, include the continued application of the 5 percent margin on unpaid claims and the use of non-discounted claims liabilities. These two practices serve to overstate the capital deficiency for the Basic Insurance line of business. Exhibit B-46 serves to illustrate this overstatement, although it is recognized that the elimination of income taxes is also reflected in this exhibit.

The use of these two practices could have a similar effect for the Optional Insurance line of business as they may serve to slow the achievement of the 200 percent capital target required for December 31, 2010.

The Commission Panel directs ICBC to prepare a comprehensive capital management plan for the Corporation as a whole and for both the Basic and Optional Insurance lines of business. The Commission Panel anticipates that key aspects of this plan would first demonstrate the derivation of the capital deficiency/excess at the beginning of each policy year, starting with January 1, 2004, and second, detail the strategy and tactics for achieving the prescribed capital targets (i.e. 100 percent for Basic Insurance, 200 percent for Optional Insurance, and 110 percent for the Corporation) by the future dates specified in IC2. Specifically, with respect to the derivation of the capital deficiency/excess at the beginning of each policy year, **the Commission Panel directs ICBC to treat the 5 percent margin on unpaid claims balances and the discounting of claims liabilities in the exact same manner as demonstrated in Exhibit B-46.**

The Commission Panel has considered the evidence and arguments with respect to the matter of income taxes and the calculation of MCT, and has determined that the matter is inconclusive at this time. Consequently, **the Commission Panel directs ICBC to comply with the OSFI guidelines with respect to income taxes when calculating MCT for the 2004 policy year.**

The Commission Panel further directs ICBC to seek clarification from OSFI on whether or not it would be appropriate for ICBC, as a tax exempt Crown corporation, to modify the calculation of MCT for the effect of income taxes. Further ICBC is directed to seek clarification from the Province as to whether the tax status of ICBC was taken into account when setting capital targets, and if not, whether the capital targets should be reviewed in this light. ICBC should report on the results of these discussions and incorporate resulting changes, if any, in their comprehensive capital management plan.

A formal process to review the comprehensive capital management plan will be established following its receipt.

7.0 MISCELLANEOUS MATTERS

7.1 Collection of Data on Age, Sex, and Marital Status

The issue of data collection arose from Commission concerns about ICBC's interpretation of its ability to collect and use data on age, sex, and marital status. The Commission understood ICBC's position to be that legal principles and a government direction prohibit the Corporation from gathering insurance statistics on the basis of age, sex and marital status. The Commission was concerned that this restrictive view would prevent the Corporation from having access to data required to target and evaluate some of its RSLM programs, and to assess the validity of discounts for drivers over the age of 65.

The collection of personal data by ICBC touches upon several other dependent issues that include:

i) Whether the Corporation has the legal right to collect personal information and if so, which legislative authorities permit such collection;

ii) What internal use ICBC can make of personal information collected, either in non-aggregated or aggregated form;

iii) Whether ICBC has developed adequate alternative indicators of risk; and

iv) What data disclosure is permitted, either voluntarily or under the provisions of Freedom of Information and Protection of Privacy Act ("FOIPPA").

It became clear from its testimony and responses to information requests that ICBC does in fact collect personal information in its Non-Insurance business under the authority of s. 25 of the Motor Vehicle Act (T2:359), at least insofar as age and sex are concerned. ICBC also revealed that it used such data to evaluate RSLM programs and to provide discounts to older drivers.

It is common ground among hearing participants and the Commission that the Corporation is bound as a public body by the provisions of the FOIPPA. Further, there is agreement that ICBC is precluded from using demographic data relating to age, sex and marital status for rating purposes in setting Basic Insurance rates with the exception that there may be a discount for those 65 years of age or greater (IC2, s.3(1)(d), (3)).

ICBC takes the position that, because it is precluded from using the proscribed personal information for rate-setting purposes, it is also precluded from collecting any such data. ICBC is supported in this view by a support letter filed by the Office of the Information and Privacy Commissioner (Exhibit C22-1).

While ICBC is precluded from using data related to age, sex and marital status for rate-setting purposes, the Commission Panel is of the view that there are provisions in the FOIPA that would permit the Corporation to collect such information and to disclose it so long as the collection and disclosure of the information served some consistent purpose associated with the collection of the information, or was for statistical and research purposes (FOIPPA sections 34-35). In its statutory mandate, ICBC has broad scope that transcends the narrow business of an insurance undertaking. This scope translates into a reasonably broad mandate to collect and disclose personal information under the FOIPPA.

This test should be easier to meet in ICBC's case, where the data would in all likelihood only be disclosed in aggregate form. Throughout discussion of this issue, there is no question of disclosing any personal data traceable to an individual although employees of ICBC do have access to such data in non-aggregated form (T2:376). While there is some legal uncertainty, the Commission Panel would encourage ICBC to seek a legal opinion on the matter to define the scope of the extent to which ICBC may be able to make use of subsections 34 and 35 of the FOIPPA with a view to clarifying what is within the realm of the possible. In this regard, an opinion might be sought from the Office of the Information and Privacy Commissioner as well.

The data that is gathered by the Non-Insurance business line is used by ICBC for valid business purposes in evaluating Road Safety and Loss Management programs (such as the Graduated Licensing Program). The data available should be looked upon as a valuable tool with which the Corporation and others with interests, can test assumptions and target areas worthy of attention by way of education traffic safety and loss management.

However, the Corporation has expressed a valid concern that such personal information in aggregate may be used (particularly by competitors) to set rates or to gain a competitive advantage in the optional insurance marketplace. The Commission Panel is sensitive to this concern and believes that ICBC should continue to have wide discretion to turn down any such request for information where there is a reasonable apprehension on the part of ICBC that the request for information is generated by competitive, not altruistic motives (T2:376). In a similar vein, the data collected by the Non-Insurance Business line should not be available to ICBC's Optional Insurance line for any competitive purpose including rate-setting or setting territorial rate differentials. These are issues that will properly be explored further in a rate design proceeding.

In this regard, it might be useful for ICBC to develop guidelines under which personal data would be released in aggregate for valid purposes. Further, the Corporation should not treat every request for information as an application under FOIPPA. There is nothing to preclude ICBC from volunteering to disclose any information in its possession provided the safeguards in FOIPPA are met (T2:380).

The Commission Panel notes that historically, ICBC has used age, sex and marital status as rating variables (T2:351) but no longer does so. However, on the Optional Insurance side, the Corporation does offer a discount to a household if there is no driver with less than 10 years' driving experience (T2:371) and presumably there is a close relationship between age and driving experience. While no evidence was produced, it was generally understood that private sector insurers in this and other jurisdictions continue to use age, sex and marital status as a rating parameter (T2:354). However, there is a growing trend away from using such parameters for rating purposes in accordance with the direction given by the Supreme Court of Canada in the Zurich Insurance Company Case (1992). Again, the Commission Panel will be interested in the extent to which ICBC has developed other rating parameters as substitutes or proxies for age, sex and marital status and this will be examined in a rate design proceeding.

Overall, ICBC's corporate conduct with respect to the collection, use and disclosure of personal information is appropriate. However, we believe that there may be innovative uses that could be made of the various data sets held by ICBC (by the Corporation and others) and that these data sets should be considered a valuable corporate asset available upon reasonable terms to interested parties, for valid applications.

7.2 Broker Distribution

During the hearing, two issues arose concerning ICBC's requirement for policyholders to renew their Basic Insurance policies through Autoplan brokers. The first issue related to whether there might be more convenient and cost-effective ways of renewing policies, and the second issue related to the allocation of costs between the Basic and Optional Insurance.

ICBC argues that brokers provide advice to customers and add "value in terms of ensuring a proper rating, proper use, principal operator, correct territory etc." (Exhibit B-57, p. 51). ICBC expressed concern over the possibility raised by Commission counsel, of renewing policies over the internet, citing unknown costs and the potential for fraud if decals are mailed (Exhibit B-57, pp. 51, 52).

The allocation issue was discussed briefly during the hearing (T1:89, 90; T4: 639-41) and the suggestion was made that if brokers were trying to sell Optional Insurance to customers who were purchasing Basic Insurance policies, then some of the cost of the Basic Insurance renewal should be allocated to the Optional Insurance line of business. ICBC stated that the entire Basic Insurance commission is allocated to the Basic Insurance line of business.

The Commission Panel is not convinced that ICBC's customers require a broker's assistance to confirm where they live or who drives their vehicle, and notes that matters of greater complexity and value are handled through the mail and internet by many consumers. However, the Commission Panel agrees with ICBC that the corporation should not be directed to change the manner in which it distributes insurance without further public review. The Commission Panel expects ICBC to be prepared to address the matter more thoroughly in its next revenue requirements application and to provide enough information for the Commission to determine whether there are acceptable, cost-effective alternatives to renewals through brokers. The Commission will then be in a better position to determine whether the costs associated with the present distribution system, and the allocation of those costs, are reasonable.

8.0 NEXT STEPS IN THE ICBC REGULATORY PROCESS

This decision directs ICBC to:

1. Convene a workshop within 60 days of issuance of this Decision to review all details of the allocation process for the identified cost categories.

2. Prepare a comprehensive capital management plan for both the Basic and Optional Insurance lines of business and submit the plan to the Commission.

DATED at the City of Vancouver, in the Province of British Columbia, this 19th day of January 2005.

Original signed by:

L.F. Kelsey
Panel Chair and Commissioner

Original signed by:

N.F. Nicholls
Commissioner

Original signed by:

P.E. Vivian
Commissioner

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BRITISH COLUMBIA UTILITIES COMMISSION

ORDER NUMBER G-9-05

TELEPHONE: (604) 660-4700
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IN THE MATTER OF

the Insurance Corporation Act, RSBC 1996, Chapter 228, as amended
and
the Utilities Commission Act, RSBC 1996, Chapter 473, as amended

and

an Application by the Insurance Corporation of British Columbia
for Approval of a Financial Allocation Methodology

and

a Filing by the Insurance Corporation of British Columbia relating to Road Safety and Collection of Data Relating to Age, Sex and Marital Status

and

a Filing by the Insurance Corporation of British Columbia containing Actuarial and 2005 Financial Information

BEFORE:	L.F. Kelsey, Commissioner	)	
	and Panel Chair	)	January 19, 2005
	N.F. Nicholls, Commissioner	)	
	P.E. Vivian, Commissioner	)	

O R D E R

WHEREAS:

A. On July 5, 2004, the Insurance Corporation of British Columbia ("ICBC") submitted an application for approval of the Financial Allocation Methodology and a filing relating to Road Safety and Collection of Data relating to Age, Sex and Marital Status ("Submission 1"). On July 12, 2004, ICBC submitted a filing ("Submission 2") containing Actuarial and 2005 Financial Information for Universal Compulsory Automobile Insurance ("Basic Insurance"). Submissions 1 and 2 are in response to directions issued by the British Columbia Utilities Commission ("BCUC, Commission") in its Decision dated November 12, 2003 and the Negotiated Settlement Agreement, approved by Order No. G-49-04; and

B. ICBC advised that it is not applying for a revision to its rates for Basic Insurance; and

C. The Province of British Columbia ("the Province") issued Order of the Lieutenant Governor in Council ("OIC") No. 647, dated June 30, 2004, with the attached Special Direction IC2 to the BCUC. This OIC also repealed Special Direction IC1 to the BCUC. OIC No. 647 with the attached Special Direction IC2 was subsequently amended by OIC No. 678, dated July 6, 2004; and

D. The Province issued OIC No. 666, dated June 30, 2004, which ordered that the part of section 9 of the Insurance Corporation Amendment Act, 2003, S.B.C. 2003, c. 35, that enacts section 49 of the Insurance Corporation Act, is brought into force; and

E. As per Order G-66-04, a Pre-hearing Conference was held on July 29, 2004 in Vancouver, B.C. to discuss the major issues to be examined, and the steps and timetable for the Oral Public Hearing process. Registered Intervenors and ICBC made their submissions for consideration by the Commission; and

F. The Commission, by Order No. G-75-04 dated August 4, 2004, established a Regulatory Agenda and Timetable, and a List of Hearing Issues for the Oral Public Hearing process; and

G. By letter dated September 28, 2004, the B.C. Old Age Pensioners Organization *et al.* advised the Commission and all Parties of Record that it would seek clarification regarding the Commission's jurisdiction in the matter of the validity of certain provisions of Special Direction IC2 to the British Columbia Utilities Commission, BC OIC 647, amended by OIC 678; and

H. The Commission held an oral public hearing, which commenced on October 5, 2004 in Vancouver, B.C. and, which addressed matters related to Submissions 1 and 2 and the matter raised by the B.C. Old Age Pensioners Organization *et al.*; and

I. The evidentiary phase for the Oral Public Hearing process concluded on October 14, 2004; and

J. Written Final Arguments and Reply Arguments were completed on November 22, 2004; and

K. The Commission Panel has considered Submissions 1 and 2, the matter raised by the B.C. Old Age Pensioners Organization *et al.*, and all the related evidence and arguments.

NOW THEREFORE the Commission orders as follows:

1. The Simplified Approach to the financial cost allocation methodology is not approved.

2. ICBC is directed to implement the provisions of Special Direct IC2 as detailed in the attached Decision.

3. ICBC is directed to comply with all determinations and instructions set out in the Decision that is issued concurrently with this Order.

DATED at the City of Vancouver, in the Province of British Columbia, this 19th day of January 2005.

BY ORDER

Original signed by:

Len Kelsey
Commissioner and Panel Chair

APPENDIX A

Special Direction IC2

Exhibit No. B-3

PROVINCE OF BRITISH COLUMBIA

ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. 678 *, Approved and Ordered* JUL - 6 2004

Lieutenant Governor

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that Special Direction IC2 to the British Columbia Utilities Commission, B.C. Reg. 307/2004, is amended as set out in the Schedule.

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DEPOSITED
JUL 7 2004
B.C. REG. 313/2004

P. Geoff Plant
Attorney General and Minister Responsible for Treaty Negotiations

Presiding Member of the Executive Council

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

Authority under which Order is made:

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

Other (specify):- *Utilities Commission Act*, R.S.B.C. 1996, c. 473, s. 3; oic 647/2004

July 5, 2004

914 /2004/7

SCHEDULE

1 *Section 3 of Special Direction IC2 to the British Columbia Utilities Commission, B.C. Reg. 307/2004, is amended*

(a) by repealing subsection (1) (b) and substituting the following:

(b) require the corporation to achieve, by December 31, 2014, and to maintain, after that date, capital available equal to at least 110% of MCT, and, for that purpose,

(i) the commission must, in determining capital available in relation to the corporation generally, treat the corporation's optional automobile insurance business capital available as being equal to 170% of MCT, and

(ii) the commission must set rates for the corporation's universal compulsory automobile insurance business in a way that will allow the corporation to achieve, by December 31, 2014, and to maintain after that date, capital available in relation to its universal compulsory insurance business equal to at least 100% of MCT;, and

(b) in subsection (1) (c) (iii), by striking out "2004" and substituting "2005".

2 *Section 4 (1) is repealed and the following substituted:*

(1) With respect to the exercise of its powers and functions under the Act in relation to the corporation's optional automobile insurance business, the commission

(a) must, for 2004, set a net income target of $0 for the corporation's optional automobile insurance business,

(b) must require the corporation to achieve by December 31, 2010 and to maintain, after that date, capital available in relation to the corporation's optional automobile insurance business equal to at least 200% of MCT,

(c) must require the corporation to do the following:

(i) as at the beginning of the corporation's 2004 fiscal year, allocate to the corporation's optional automobile insurance business that portion of the corporation's retained earnings for its 2003 fiscal year that is necessary to allow the corporation to achieve, in its 2004 fiscal year, capital available in relation to the corporation's optional automobile insurance business equal to 170% of MCT;

(ii) as at the beginning of the corporation's 2004 fiscal year, allocate the balance of the corporation's retained earnings for its 2003 fiscal year to the corporation's universal compulsory insurance business;

(iii) advise the commission of those allocations, and

(d) must not fix rates applicable to optional insurance.

APPENDIX B

List of Exhibits

EXHIBIT LIST

Exhibit No.	Description
COMMISSION DOCUMENTS	
A-1	July 9, 2004 Letter and Order No. G-66-04 setting down the 2005 Financial Allocation Methodology Application for an Oral Public Hearing.
A-2	July 26, 2004 Letter to assist participants in preparation for ICBC Workshop and Pre-hearing Conference.
A-3	August 4, 2004 Letter and Order No. G-75-04 establishing the regulatory process, timetable and issues for review of ICBC's Submissions 1 and 2 and related materials.
A-4	August 12, 2004 Commission Information Request No. 1 to ICBC.
A-5	September 2, 2004 Letter stating specific information regarding Oral Public Hearing.
A-6	September 2, 2004 Letter requesting ICBC to response to the Pemberton Insurance Corporation Information Request No. 2 on a "best efforts" basis.
A-7	September 10, 2004 Commission Information Request No. 2 to ICBC.
A-8	Letter No. L-47-04 dated September 15, 2004 - reply to Pemberton Insurance Corporation Information Request Item no. 3.1.
A-9	September 17, 2004 Letter to CACBC regarding ICBC Response to IR.
A-10	September 24, 2004 Information Request No. 1 to Insurance Bureau of Canada.
A-11	September 29, 2004 Letter to Participants setting out the Hearing Process.
A-12	Office of the Information & Privacy Commissioner regarding Order 02-06 dated January 31, 2002 - Submitted October 13, 2004.
APPLICANT DOCUMENTS	
B-1	Application Volume 1 –2005 Financial Allocation Methodology Application.
B-2	Application Volume 2 – 2005 Financial Allocation Methodology Application.
B-3	Facsimile dated July 7, 2004 filing a copy of Order in Council 678, 2004 amending Special Direction No. IC2 to the British Columbia Utilities Commission

EXHIBIT LIST

Exhibit No.	Description
B-4	Application Volume 1 – Chapter 1 Retained Earnings Addendum
B-5	Application Volume 2 – Performance Measures Addendum.
B-6	Errata dated August 12, 2004.
B-7	Actuarial calculation error dated August 24, 2004.
B-8	Explanation of actuarial calculation error (Exhibit B-7) and revision of affected actuarial exhibits dated August 27, 2004.
B-9	Response to Exhibit A-3 Answering Information Requests dated September 1, 2004.
B-10	September 10, 2004 Responses to Information Requests from: • BC Utilities Commission • BC Chiropractic Association • BC Old Age Pensioners Org et. al. • Canadian Direct Insurance Inc. • Canadian Office & Professional Employees' Union, Local 378 • Coalition Against No-Fault • Consumers' Association of Canada • Family Insurance Solutions Inc. • Insurance Bureau of Canada • Pemberton Insurance Corporation (4 Binders)
B-11	Response to BCUC Information Request 122.0 dated September 17, 2004.
B-12	Letter to BCUC regarding Errata IR's dated September 22, 2004.
B-13	Information Request No. 1 to Canadian Direct Insurance Inc. dated September 24, 2004.
B-14	Information Request No. 1 to Insurance Bureau of Canada dated September 24, 2004.
B-15	Information Request No. 1 to Pemberton Insurance Corporation dated September 24, 2004.
B-16	September 28, 2004 Letter stating ICBC Witness Panel's and Direct Testimony at Oral Hearing.
B-17	Affidavit for Notice of Pre-Hearing Conference and Notice of Oral Public Hearing

EXHIBIT LIST

Exhibit No.	Description
	Process dated September 21, 2004.
B-18	Letter dated September 29, 2004 to BCUC regarding Errata IR's in Volume IV of IV.
B-19	Opening statement by Mr. Goble, Chief Operating Officer, ICBC dated September 30, 2004.
B-20	Letter and Glossary of Terms from ICBC to BCUC dated October 4, 2004.
B-21	Follow-up request to Insurance Bureau of Canada's response to ICBC Information Request 17.0 – October 6, 2004 Submission by ICBC.
B-22	Breakdown/estimate of the 2003 spending for the 5 categories of Fraud Programs – October 6, 2004 Submission by ICBC.
B-23	List of programs under the Autoplan Broker Road Safety Program – October 6, 2004 Submission by ICBC.
B-24	Description of two Road Safety programs cancelled in recent years – October 6, 2004 Submission by ICBC.
B-25	Copy of "Driver Survivor Youth Campaign, Greater Vancouver Region" proposal – October 6, 2004 Submission by ICBC.
B-26	Response to Information Request by Commissioner P. Vivian regarding inquiries by the Competition Bureau – October 6, 2004 Submission by ICBC.
B-27	Allocation Methodology Update – October 7, 2004 Submission by ICBC.
B-28	Response to Commission Counsel Request regarding "Who owns Counter Attack" trade mark – October 7, 2004 Submission by ICBC.
B-29	Response to Commission Counsel Information Request regarding "roadsafety.ca" domain – October 7, 2004 Submission by ICBC.
B-30	Response to Family Insurance Information Request regarding total deductibles for auto theft – October 6, 2004 Submission by ICBC.
B-31	Response to Commission Counsel Information Request regarding amount of fine revenue for Intersection Safety Cameras in 2003 – October 7, 2004 Submission by ICBC.

EXHIBIT LIST

Exhibit No.	Description
B-32	Response to Insurance Bureau of Canada Information Request regarding monthly report for a Road Safety program as referenced in IBC 37 – October 7, 2004 Submission by ICBC.
B-33	Response to BCOAPO Information Request regarding branding cost allocation in Manitoba – October 8, 2004 Submission by ICBC.
B-34	Response to Commissioner P. Vivian's Information Request regarding specified employees in the Business Intelligent Department within Road Safety having access to personal information on an individual level – October 12, 2004 Submission by ICBC.
B-35	Response to Insurance Bureau of Canada's Information Request regarding number of applications ICBC has made to the Trademarks office in Ottawa to register brands, logos, names or words used in its advertising – October 12, 2004 Submission by ICBC.
B-36	Response to the Commission Panel's Information Request regarding the calculation of the Finance shared services ratio – October 12, 2004 Submission by ICBC.
B-37	Response to Commission Counsel's Information Request regarding Basic: Optional split for the transactions listed in Exhibit B-27, page 3 – October 12, 2004 Submission by ICBC.
B-38	Response to Commission Counsel's Information Request regarding Nanaimo Street Corridor project – October 12, 2004 Submission by ICBC.
B-39	Response to Commission Counsel's Information Request regarding information for the Driver Survivor Program – October 12, 2004 Submission by ICBC.
B-40	Response to Insurance Bureau of Canada's Information Request regarding provision of input on Bill 93 – October 12, 2004 Submission by ICBC.
B-41	Response to Commission Counsel's Information Request regarding Cost Centre details for the first 5 functions for Claims Services and the first 6 functions for Administration and Other Services – October 12, 2004 Submission by ICBC.
B-42	Response to Insurance Bureau of Canada's Information Request regarding allocation costs in the 1980's – October 13, 2004 Submission by ICBC.
B-43	Response to BCOAPO regarding retained earnings available at December 31, 2003 – October 13, 2004 Submission by ICBC.

EXHIBIT LIST

Exhibit No.	Description
B-44	Response to Information Request from Commission regarding full copy of EOI on IT Infrastructure Alternative Sourcing – October 14, 2004 Submission by ICBC.
B-45	"Top Canadian Insurance Frauds of 2003" by Insurance Bureau of Canada-Investigative Services – October 14, 2004 Submission by ICBC.
B-46	Response to Information Request from Commission Counsel – October 14, 2004 Submission by ICBC.
B-47	Response to Information Request from Commission – October 14, 2004 Submission by ICBC.
B-48	Response to Information Request from Coalition Against No Fault – October 14, 2004 Submission by ICBC.
B-49	Response to Information Request from Commission Counsel – October 14, 2004 Submission by ICBC.
B-50	Response to Information Request from Insurance Bureau of Canada – October 14, 2004 Submission by ICBC.
B-51	Response to Information Request from Commission – Dated October 24, 2004 Submission by ICBC.
B-52	Response to Information Request from Commission – Dated October 26, 2004 Submission by ICBC.
B-53	Response to Information Request from Commission Counsel – Dated October 26, 2004 Submission by ICBC.
B-54	Response to Information Request from Commission Counsel – Dated October 26, 2004 Submission by ICBC.
B-55	Response to Information Request from Commission Counsel – Dated October 24, 2004 Submission by ICBC.

INTERVENOR DOCUMENTS

C1-1	James S. Cormack, **McCarthy & Associates** - Notice of Intervention dated July 8, 2004.

EXHIBIT LIST

Exhibit No.	Description
C2-1	Peter G. Thrower, **Family Insurance Solutions Inc. –** Notice of Intervention dated July 9, 2004.
C2-2	Letter dated August 6, 2004 from Family Insurance Solutions Inc. requesting that List of Issues include Collection of Vehicle Information.
C2-3	Information Request No. 1 from Family Insurance Solutions Inc. dated August 19, 2004.
C3-1	Carla Terzariol, **Trial Lawyers Association of British Columbia –** Notice of Intervention dated July 12, 2004.
C4-1	Lindsay Olson, **Insurance Bureau of Canada –** Notice of Intervention dated July 9, 2004.
C4-2	Information Request No. 1 from the Insurance Bureau of Canada dated August 19, 2004.
C4-3	CV for Michael J. Ross dated September 20, 2004.
C4-4	Submission of Evidence from Insurance Bureau of Canada dated September 17, 2004
C4-5	Response to Commission Information Request No. 1 from Insurance Bureau of Canada dated October 1, 2004.
C4-6	Response to ICBC Information Request No. 1 from Insurance Bureau of Canada dated October 1, 2004.
C4-7	Response to BCOAPO *et al* Information Request from Insurance Bureau of Canada dated October 1, 2004.
C4-8	Response to ICBC Information Request Question No. 39.0 from Insurance Bureau of Canada dated October 4, 2004.
C4-9	2002 Motor Vehicle Traffic Collision Statistics from Transport Canada – October 6, 2004 Submission by Insurance Bureau of Canada.
C4-10	“More than just a Road Check” pamphlet – October 6, 2004 Submission by Insurance Bureau of Canada.

EXHIBIT LIST

Exhibit No.	Description
C4-11	Traffic Camera Offences from British Columbia Government – October 6, 2004 Submission by Insurance Bureau of Canada.
C4-12	"Parties with a Punch" ICBC pamphlet – October 6, 2004 Submission by Insurance Bureau of Canada.
C4-13	Family Fun! Activity Book – October 6, 2004 Submission by Insurance Bureau of Canada.
C4-14	Road Sense Team trading cards – October 6, 2004 Submission by Insurance Bureau of Canada.
C4-15	Price WaterhouseCoopers – Financial Allocation Methodology Examination – October 7, 2004 Submission by Insurance Bureau of Canada.
C4-16	Additional information regarding ICBC Information Request 17.0 Dated October 8, 2004 – October 12, 2004 Submission by Insurance Bureau of Canada.
C4-17	Response to ICBC Information Request of October 14, 2004 – October 26, 2004 Submission by Insurance Bureau of Canada.
C4-18	Response to ICBC Information Request of October 14, 2004 – October 26, 2004 Submission by Insurance Bureau of Canada.
C4-19	Letter regarding further testimony to ICBC Information Requests Dated October 26, 2004 from the Insurance Bureau of Canada.
C5-1	Cort Elliott, **Canadian Northern Shield Insurance Company –** Notice of Intervention dated July 12, 2004.
C6-1	Gordon Adair, **Coalition Against No-Fault in BC –** Notice of Intervention dated July 14, 2004.
C6-2	Information Request No. 1 from the Coalition Against No-Fault in BC dated August 19, 2004.
C7-1	Phil Wynne, **ING Insurance Company of Canada –** Notice of Intervention dated July 16, 2004.

EXHIBIT LIST

Exhibit No.	Description
C8-1	Patricia Stirling and Heather Prizeman, **BCAA Insurance Corporation –** Notice of Intervention dated July 16, 2004.
C9-1	Karen L. Hopkins-Lee, **Canadian Direct Insurance Inc. –** Notice of Intervention dated July 19, 2004.
C9-2	Information Request No. 1 from Canadian Direct Insurance Inc. dated August 19, 2004.
C9-3	Position of Canadian Direct Insurance Inc. dated September 27, 2004.
C9-4	Submission regarding approaches to ICBC in connection with joint funding and partnership projects relating to road safety – Submitted October 12, 2004 by Canadian Direct Insurance.
C9-5	Response to Information Requests from ICBC – Submitted October 13, 2004 by Canadian Direct Insurance.
C9-6	Accounting guideline AcG-3 financial reporting by property and casualty insurance companies – Submitted October 13, 2004 by Canadian Direct Insurance.
C9-7	Response to Information Request from Commissioner P. Vivian – Submitted October 14, 2004 by Canadian Direct Insurance.
C9-8	Response to Information Request from ICBC – Submitted October 14, 2004 by Canadian Direct Insurance.
C10-1	Jerri New, **Canadian Office of Employees' Union, Local 378 –** Notice of Intervention dated July 20, 2004.
C10-2	Information Request No. 1 from the Canadian Office of Employees' Union, Local 378 dated August 18, 2004.
C11-1	**Russell Sykes –** Notice of Intervention dated July 22, 2004.
C11-2	Letter to Commission Counsel from Mr. R. Sykes dated October 4, 2004.
C11-3	Letter to Commission Counsel From Mr. R. Sykes dated October 11, 2004 requesting this letter as "notice".

EXHIBIT LIST

Exhibit No.	Description
C12-1	Don Nixdorf, **B.C. Chiropractic Association –** Notice of Intervention dated July 26, 2007.
C12-2	Information Request No. 1 from BC Chiropractic Association dated August 19, 2004.
C13-1	Chuck Byrne, **Insurance Brokers of British Columbia –** Notice of Intervention dated July 26, 2004.
C14-1	Bruce Cran, **Consumers' Association of Canada –** Notice of Intervention dated July 26, 2004.
C14-2	Information Request No. 1 from the Consumers' Association of Canada dated August 19, 2004.
C14-3	Concerns regarding ICBC responses to Information Requests - dated September 14, 2004.
C15-1	Lesley H.H. Maddison, **Credit Union Insurance Services Association –** Notice of Intervention dated July 26, 2004.
C16-1	Jim Quail, **BC Public Interest Advocacy Centre** and Joyce Poon, **Econalysis Consulting Services Inc. –** Notice of Intervention dated July 27, 2004.
C16-2	Information Request No. 1 from the BC Old Age Pensioners Organization *et al*. dated August 19, 2004.
C16-3	Information Request from BC Old Age Pensioners Organization et al. dated September 24, 2004 to the Insurance Bureau of Canada.
C16-4	Preliminary issue raised on behalf of BC Old Age Pensioners Organization et al. dated September 28, 2004.
C16-5	Challenge Special Direction IC2 on behalf of BC Old Age Pensioners Organization et al. dated September 29, 2004.
C16-6	Letter to Commission regarding Special Direction IC2 Argument on behalf of BC Old Age Pensioners Organization et al. dated October 1, 2004.

EXHIBIT LIST

Exhibit No.	Description
C16-7	Special Direction IC2 Argument on behalf of BC Old Age Pensioners Organization et al. dated October 1, 2004.
C16-8	Public Utilities Board Decision dated November 16, 2001 – an Application by Manitoba Public Insurance – October 12, 2004 Submission by BCOAPO.
C16-9	Expression of Interest 24028– IT Infrastructure Alternate Sourcing – October 12, 2004 Submission by BCOAPO.
C17-1	Robert Clarke, **Automotive Retailers Association –** Notice of Intervention dated July 27, 2004.
C18-1	Deana Grinnell, **Union of BC Municipalities –** Notice of Intervention dated July 28, 2004.
C19-1	Allan Lamb, **BCAA Traffic Safety Foundation –** Notice of Intervention dated July 28, 2004.
C20-1	Todd Klapak, **ING Insurance Company of Canada –** Notice of Intervention dated July 28, 2004.
C21-1	Roger Finnie, **Pemberton Insurance Corporation –** Notice of Intervention dated July 12, 2004.
C21-2	Information Request No. 1 dated August 19, 2004 from the Pemberton Insurance Corporation.
C21-3	Information Request No. 2 dated August 31, 2004 from the Pemberton Insurance Corporation.
C21-4	Response requested of ICBC to Information Request item no. 3.1 as very relevant dated September 3, 2004 from Pemberton Insurance Corporation.
C21-5	Exhibit C21-5 has been refiled as Exhibit E-1!
C21-6	Response to ICBC Information Request from Pemberton Insurance Corporation dated October 4, 2004.

EXHIBIT LIST

Exhibit No.	**Description**
C22-1	Jay Fedorak, **Office of the Information and Privacy Commissioner for BC –** Letter dated September 1, 2004 requesting Late Intervenor status.
C22-2	Submission by OIPC dated September 17, 2004.

INTERESTED PARTY DOCUMENTS

D-1	Ruth Abrahamson, **CADRI –** Notice of Interested Party Status dated July 26, 2004.

LETTERS OF COMMENT

E-1	Submission from Pemberton Insurance Corporation dated September 17, 2004.

APPENDIX C

List of Appearances

APPEARANCES

P. MILLER	British Columbia Utilities Commission, Counsel
C. JOHNSON M. GHIKAS	Insurance Corporation of British Columbia
L. MUNN	Insurance Bureau of Canada
J. ELWICK A. NORTHEY	Canadian Direct Insurance Incorporated
P. THROWER	Family Insurance Solutions Inc.
R. FINNIE	Pemberton Insurance Corporation
G. ADAIR	Coalition Against No-Fault in B.C.
P. STIRLING H. PRIZEMAN	BCAA Insurance
D. McPHERSON S. TOOMEY	Canadian Office and Professional Employees' Union
D. NIXDORF	B.C. Chiropractic Association
C. BYRNE	Insurance Brokers Association of British Columbia
G. BASHAM	Consumers' Association of Canada (B.C. Branch)
L. MADDISON	Credit Union Insurance Services Association
J. QUAIL S. KHAN P. COCHRAN	B.C. Old Age Pensioners' Organization et al. (Council of Senior Citizens' Organizations of B.C., Federated Anti-Poverty Groups of BC., Senior Citizens' Association of B.C., West End Seniors' Network)
D. DUNNE	BCAA Traffic Safety Foundation
R. SYKES	On his own behalf

APPENDIX D

List of Witnesses

INDEX OF WITNESSES

ICBC Panel 1	DONNIE WING WILLIAM LEONARD GOBLE
ICBC Panel 2 – Road Safety and Loss Management	LAURIE BAKER MARK WITHENSHAW DON FERENCE
ICBC Panel 3 – Age, Sex and Marital Status Panel	DONNIE WING HARRY PYLMAN SHELLEY RUSSELL
ICBC Panel 4 – Financial Allocation	GERI PRIOR ANWAR CHAUDHRY JOHN DOUGLAS TODD DAVID ATKINS
ICBC Panel 5 – Financial and Actuarial Panel	ANWAR CHAUDHRY GERI PRIOR WILLIAM WEILAND MARK WITHENSHAW
IBC Panel 1	MARTYN WEIR
IBC Panel 2	MICHAEL ROSS BARBARA ADDIE
IBC Panel 3	RONALD MILLER
CDI Panel 1	KAREN HOPKINS-LEE

APPENDIX E

Exhibit B-1, Appendix 1B

Appendix 1B: Allocation Functions

Claims Services

The following is a functional breakdown of the Claims Services expenses found in Section 4.2.2. Explanation of the allocators may be found in Appendix 1A.[54]

Claims Services	Allocator	$ in thousands				Allocation %			
		Basic Insurance	Non-Insurance	Optional Insurance	Total	Basic Insurance	Non-Insurance	Optional Insurance	Total
Regional Operations	Work Effort	87,597	-	43,522	131,119	66.8%	0.0%	33.2%	100.0%
Claims System Support	Weighted Average - Cost Centres	14,436	-	7,437	21,873	66.0%	0.0%	34.0%	100.0%
Call Centre Department	Newly Opened Exposures - TCD	6,700	-	11,912	18,612	36.0%	0.0%	64.0%	100.0%
General Support	Weighted Average - Cost Centres	9,488	193	5,554	15,236	62.3%	1.3%	36.455%	100.0%
Claims Litigation Field Service	Work Effort - Provincial Litigation	8,215	-	432	8,648	95.0%	0.0%	5.0%	100.0%
Centralized Estimating Facilities	Net Claims Cost - MD	2,610	-	4,082	6,692	39.0%	0.0%	61.0%	100.0%
Material Damage Support	Net Claims Cost - MD	2,056	-	3,215	5,271	39.0%	0.0%	61.0%	100.0%
Head Office Claims	Net Claims Cost - HOC	1,937	-	2,567	4,504	43.0%	0.0%	57.0%	100.0%
Ongoing Claim Services	Net Claims Cost - OOP MD	1,990	-	2,336	4,326	46.0%	0.0%	54.0%	100.0%
Rehabilitation	Directly attributable to Basic	3,475	-	-	3,475	100.0%	0.0%	0.0%	100.0%
Salvage	Net Claims Cost - MD	1,209	-	1,891	3,099	39.0%	0.0%	61.0%	100.0%
Call Centre Support	Weighted Average - Cost Centres	1,309	280	1,424	3,013	43.4%	9.3%	47.3%	100.0%
Heavy Equipment	Net Claim Cost - HE	467	-	1,401	1,869	25.0%	0.0%	75.0%	100.0%
Out of Province BI	Directly attributable to Basic	1,405	-	-	1,405	100.0%	0.0%	0.0%	100.0%
Claims Litigation Support	Work Effort - Provincial Litigation - Modified	1,105	-	276	1,381	80.0%	0.0%	20.0%	100.0%
Customer Service (liability resolution)	Directly attributable to Basic	1,373	-	-	1,373	100.0%	0.0%	0.0%	100.0%
Customer Service (low value BI)	Directly attributable to Basic	1,036	-	-	1,036	100.0%	0.0%	0.0%	100.0%
Customer Service (Call Centre)	Weighted Average - Cost Centres	572	56	391	1,019	56.1%	5.5%	38.3%	100.0%

[54] Rounding may affect allocation percentages.

Claims Services	Allocator	$ in thousands Basic Insurance	Non-Insurance	Optional Insurance	Total	Allocation % Basic Insurance	Non-Insurance	Optional Insurance	Total
Head Injury	Work Effort	762	-	191	953	80.0%	0.0%	20.0%	100.0%
BI Support	Work effort	812	-	43	855	95.0%	0.0%	5.0%	100.0%
Structured Settlement	Directly attributable to Optional	-	-	161	161	0.0%	0.0%	100.0%	100.0%
Provincial Claims Ops	Net Claims Cost - HOC	67	-	89	157	43.0%	0.0%	57.0%	100.0%
Customer Service (litigation)	Work Effort - Provincial Litigation	65	-	3	69	95.0%	0.0%	5.0%	100.0%
Total Claims Services		148,686	529	86,928	236,143	63.0%	0.2%	36.8%	100.0%

Disclosure on Statement of Operations				
Claim Services	148,686		86,928	235,614
Included in Non Insurance		529		529
	148,686	529	86,928	236,143

Road Safety and Loss Management

The following is a functional breakdown of the Road Safety and Loss Management expenses found in Section 4.2.3. Explanation of the allocators may be found in Appendix 1A.

Road Safety and Loss Management	Allocator	$ in thousands Basic Insurance	Non-Insurance	Optional Insurance	Total	Allocation % Basic Insurance	Non-Insurance	Optional Insurance	Total
Road Safety Initiatives	Directly attributable to Basic	30,020	-	-	30,020	100.0%	0.0%	0.0%	100.0%
Road Safety Project Ops	Road Safety Division Average	461	-	34	495	93.1%	0.0%	6.9%	100.0%
Fraud Management	Weighted Average - Cost Centres	4,996	-	2,574	7,570	66.0%	0.0%	34.0%	100.0%
Road Safety and Loss Management		35,478	-	2,608	38,086	93.2%	0.0%	6.8%	100.0%

Operating Costs

The following is a functional breakdown of Operating Costs found in Section 4.2.4. Explanation of allocators may be found in Appendix 1A.

Operating Costs Insurance Services	Allocator	$ in thousands Basic Insurance	Non-Insurance	Optional Insurance	Total	Allocation % Basic Insurance	Non-Insurance	Optional Insurance	Total
Registration and Licensing	Directly attributable to Non-insurance except for some minor costs that are allocated based on transaction volume		7,380	47	7,426	0.0%	99.4%	0.6%	100.0%
Insurance Allocations	Premiums Written	4,073		3,213	7,286	55.9%	0.0%	44.1%	100.0%
Field Broker support	Work Effort	2,233	558	2,791	5,582	40.0%	10.0%	50.0%	100.0%
Bad Debts & Allowances	Weighted Average - Income	3,246	-	1,666	4,911	66.1%	0.0%	33.9%	100.0%
General broker support	Premiums Written	1,754		1,384	3,138	55.9%	0.0%	44.1%	100.0%
Chief Underwriter	Premiums Written - Product Development	1,331	-	1,325	2,657	50.1%	0.0%	49.9%	100.0%
Insurance Project Expenses	Insurance Division Average	1,376		915	2,291	60.1%	0.0%	39.9%	100.0%
Marketing	Average of FTE & Advertising Expense	898	-	599	1,497	60.0%	0.0%	40.0%	100.0%
Customer Accounting	Weighted Average - Income	1,007	345	86	1,438	70.0%	24.0%	6.0%	100.0%
Garage & Fleet	Weighted Average - FTE	894	57	468	1,418	63.0%	4.0%	33.0%	100.0%
Insurance Corporate Cost	Finance Shared Services Ratio	688		405	1,093	63.0%	0.0%	37.0%	100.0%
Ins. Business Analysis	Weighted Average - Cost Centres	412	247	417	1,075	38.3%	22.9%	38.8%	100.0%
Insurance Broker Team	Directly attributable to Basic	996	-	-	996	100.0%	0.0%	0.0%	100.0%
Specialty Lic & Ins	Weighted Average - Special Coverages	227	339	414	980	23.2%	34.6%	42.2%	100.0%
Head Office support	Premiums Written - HO Support	490		426	917	53.5%	0.0%	46.5%	100.0%
Actuarial	Weighted Average - FTE	360	-	540	901	40.0%	0.0%	60.0%	100.0%
Product Development	Premiums Written	500	-	395	895	55.9%	0.0%	44.1%	100.0%
Market Research	Weighted Average - Projects	101		765	867	11.7%	0.0%	88.3%	100.0%
Marketing and Underwriting applications	Insurance Division Average	500	-	332	832	60.1%	0.0%	39.9%	100.0%
Insurance Planning	Work Effort	260	260	260	781	33.3%	33.3%	33.3%	100.0%
Insurance Processing	Premiums Written - Insurance Processing	274	252	195	721	38.0%	35.0%	27.0%	100.0%
Regional Marketing	Work Effort	168		505	673	25.0%	0.0%	75.0%	100.0%
Internet Services	Premiums Written - Proxy	327		284	611	53.5%	0.0%	46.5%	100.0%
Competitive Products	Directly attributable to Optional	-	-	491	491	0.0%	0.0%	100.0%	100.0%
ADP Technical	Premiums Written	263	-	207	470	55.9%	0.0%	44.1%	100.0%
Insurance Support	Weighted Average - Cost Centres	68	332	56	456	14.9%	72.9%	12.2%	100.0%
Insurance Business Support	Weighted Average - Cost Centres	35	95	32	162	21.6%	58.5%	19.8%	100.0%

Operating Costs Insurance Services	Allocator	$ in thousands Basic Insurance	Non Insurance	Optional Insurance	Total	Allocation % Basic Insurance	Non Insurance	Optional Insurance	Total
Funds Management	Premiums Written - Proxy	88	-	58	146	60.0%	0.0%	40.0%	100.0%
Premium Financing Plan Operations	Premiums Written	70	-	55	125	55.9%	0.0%	44.1%	100.0%
Product Research	Premiums Written	63	-	50	113	55.9%	0.0%	44.1%	100.0%
Mgr. of Comm. Lines	Commercial Vehicle Premiums Written	58	-	38	96	60.2%	0.0%	39.8%	100.0%
Collector Vehicle Program	Weighted Average - FTE	6	28	23	57	10.0%	50.0%	40.0%	100.0%
Total Insurance Services		22,765	9,893	18,442	51,100	44.5%	19.4%	36.1%	100.0%

Operating Costs Admin & Other Services	Allocator	$ in thousands Basic Insurance	Non-Insurance	Optional Insurance	Total	Allocation % Basic Insurance	Non-Insurance	Optional Insurance	Total
ISD Shared Services: Insurance, Claims , Non Insurance	Corporate Shared Services Ratio	15,045	3,511	8,848	27,404	54.9%	12.8%	32.3%	100.0%
Facilities Management	Square Footage	6,772	655	4,033	11,460	59.1%	5.7%	35.2%	100.0%
Corporate Costs	Finance Shared Services except for some costs that are directly attributable	6,578	(45)	4,370	10,903	60.3%	-0.4%	40.1%	100.0%
Human Resources Division	Corporate Shared Services Ratio	4,268	996	2,510	7,773	54.9%	12.8%	32.3%	100.0%
Infrastructure Expenditure	Finance Shared Services Ratio	4,615	-	2,714	7,329	63.0%	0.0%	37.0%	100.0%
Regional Claims, Road Safety and Licensing Administration	Weighted Average - Cost Centres	3,345	442	1,539	5,327	62.8%	8.3%	28.9%	100.0%
Finance Shared Services - Insurance Operations	Finance Shared Services Ratio	3,342	-	1,966	5,308	63.0%	0.0%	37.0%	100.0%
Customer Contact Call Centre	Premiums Written	2,962	-	2,337	5,299	55.9%	0.0%	44.1%	100.0%
Customer Collections	Weighted Average - Transactions	2,556	1,022	1,534	5,112	50.0%	20.0%	30.0%	100.0%
ISD Non-Insurance Vehicle Application	Directly attributable to Non-insurance	-	4,534	-	4,534	0.0%	100.0%	0.0%	100.0%
Facilities Management (Victoria)	Work effort	171	3,254	-	3,425	5.0%	95.0%	0.0%	100.0%
Supply Management Department	Work effort	2,551	193	576	3,320	76.8%	5.8%	17.4%	100.0%
Document Services	Square Footage	1,941	188	1,156	3,285	59.1%	5.7%	35.2%	100.0%
Executive Office	Finance Shared Services Ratio	1,817		1,068	2,885	63.0%	0.0%	37.0%	100.0%
Freedom Of Information Department	Work effort	1,794	-	769	2,563	70.0%	0.0%	30.0%	100.0%
General Counsel	Work effort	1,483	314	449	2,246	66.0%	14.0%	20.0%	100.0%
Finance Division Banking Operations	Work effort	1,249	-	833	2,082	60.0%	0.0%	40.0%	100.0%
Investment Portfolio Mgmt	Investment Income Ratio	1,077	-	550	1,626	66.2%	0.0%	33.8%	100.0%
Corporate Management Reporting	Work effort	737	-	737	1,474	50.0%	0.0%	50.0%	100.0%
Government Revenue Adminstration	Directly attributable to Non-insurance	-	1,465	-	1,465	0.0%	100.0%	0.0%	100.0%
External Corporate Communications	Work effort	499	130	341	969	51.5%	13.4%	35.2%	100.0%
Claims Training	Claims Division Average	575	2	336	913	63.0%	0.2%	36.8%	100.0%
Regulator Costs	Directly attributable to Basic	798	-	-	798	100.0%	0.0%	0.0%	100.0%
Claims General Support	Weighted Average - Cost Centres	450	101	225	775	58.0%	13.0%	29.0%	100.0%

Operating Costs Admin & Other Services	Allocator	$ in thousands Basic Insurance	Non-Insurance	Optional Insurance	Total	Allocation % Basic Insurance	Non-Insurance	Optional Insurance	Total
Communication - Government relations	Work effort	243	160	236	639	38.0%	25.0%	37.0%	100.0%
Project Management Services costs	Finance Shared Services Ratio	386	-	227	613	63.0%	0.0%	37.0%	100.0%
ISD Insurance Systems Support	Insurance Division Average	360	-	240	600	60.1%	0.0%	39.9%	100.0%
Vehicle Records	Directly attributable to Non-insurance	-	466	-	466	0.0%	100.0%	0.0%	100.0%
Material Damage telephone claims training	Net Claims Costs - MD	174		271	445	39.0%	0.0%	61.0%	100.0%
Corporate Strategic Services	Corporate Shared Services Ratio	235	55	138	428	54.9%	12.8%	32.3%	100.0%
Insurance & Telephone Claims Training	Insurance Division Average	257		171	428	60.1%	0.0%	39.9%	100.0%
Insurance Support	Weighted Average - Cost Centres	62	129	54	245	25.5%	52.6%	21.9%	100.0%
Fair Pracitices Review	Work Effort - Provincial Litigation	187	-	10	197	95.0%	0.0%	5.0%	100.0%
Non-Insurance (Victoria) Telephone Education	Directly attributable to Non-insurance		163		163	0.0%	100.0%	0.0%	100.0%
Distribution Services	Directly attributable to Non-insurance	-	24	-	24	0.0%	100.0%	0.0%	100.0%
Material Damage Fees	Net Claims Costs - MD	(1,494)	-	(2,338)	(3,832)	39.0%	0.0%	61.0%	100.0%
Interest on Receivables	Weighted Average - Income	(4,612)	-	(1,956)	(6,569)	70.2%	0.0%	29.8%	100.0%
Total Admin and Other Services		**60,421**	**17,758**	**33,944**	**112,123**	**53.9%**	**15.8%**	**30.3%**	**100.0%**

Operating Costs Premium Financing Plan Recoveries	Allocator	$ in thousands Basic Insurance	Non-Insurance	Optional Insurance	Total	Allocation % Basic Insurance	Non-Insurance	Optional Insurance	Total
Premium Financing Plan Recoveries	Premiums Written	(14,819)		(11,690)	(26,509)	55.9%	0.0%	44.1%	100.0%
Total Premium Financing Plan Recoveries		**(14,819)**	**-**	**(11,690)**	**(26,509)**	**55.9%**	**0.0%**	**44.1%**	**100.0%**

Total Operating Costs		**68,367**	**27,651**	**40,696**	**136,714**	**50.0%**	**20.2%**	**29.8%**	**100.0%**

Disclosure on Statement of Operations				
Operating Costs	68,367		40,696	109,063
Included in Non Insurance		27,651		27,651
	68,367	27,651	40,696	136,714

Premium Taxes and Commissions

The following is a functional breakdown of Premium Taxes and Commissions found in Section 4.2.5. Explanation of allocators may be found in Appendix 1A.

Commissions & Premium Taxes	Allocator	$ in thousands Basic Insurance	Non-Insurance	Optional Insurance	Total	Allocation % Basic Insurance	Non-Insurance	Optional Insurance	Total
Commission	Direct except for allocation between Basic and Non-insurance.	32,353	16,085	162,962	211,400	15.3%	7.6%	77.1%	100.0%
Premium Taxes	Premiums earned	63,968	-	47,982	111,950	57.1%	0.0%	42.9%	100.0%
DPAC Adjustment		(1,364)	-	(31,062)	(32,426)	4.2%	0.0%	95.8%	100.0%
Total Commissions & Premium Taxes		94,957	16,085	179,882	290,924	32.6%	5.5%	61.8%	100.0%

Disclosure on Statement of Operations: Section 4				
Premium and Commission Expenses	94,957	-	179,882	274,839
Included in Non Insurance		16,085	-	16,085
	94,957	16,085	179,882	290,924

Non-Insurance Costs

The following is a functional breakdown of Non-insurance Costs found in Section 4.4. Explanation of allocators may be found in Appendix 1A.

Non-Insurance Costs	Allocator	$ in thousands Basic Insurance	Non-Insurance	Optional Insurance	Total	Allocation % Basic Insurance	Non-Insurance	Optional Insurance	Total
Claims Services & Operating Costs	87% Directly attributable/ 13% Allocated to Non-insurance	-	28,180	-	28,180	0.0%	100.0%	0.0%	100.0%
Commercial Vehicle Services	Directly attributable to Non-insurance	-	5,783	-	5,783	0.0%	100.0%	0.0%	100.0%
Payment to the Province for Compliance Operations	Directly attributable to Non-insurance	-	16,888	-	16,888	0.0%	100.0%	0.0%	100.0%
Driver Services	Directly attributable to Non-insurance	-	35,665	-	35,665	0.0%	100.0%	0.0%	100.0%
Non-Insurance Operating Costs		**-**	**86,516**	**-**	**86,516**	**0.0%**	**100.0%**	**0.0%**	**100.0%**
Commission		-	16,085	-	16,085	0.0%	100.0%	0.0%	100.0%
Total Non-Insurance Costs		-	102,601	-	102,601	0.0%	100.0%	0.0%	100.0%

APPENDIX F

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