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**BRITISH COLUMBIA  
UTILITIES COMMISSION**

**ORDER  
NUMBER** G-117-05

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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 the 2006 Revenue Requirements for Universal Compulsory Automobile Insurance  
and

A filing relating to the Insurance Corporation of British Columbia's Universal Compulsory Automobile Insurance  
Capital Management Plan  
and

An application for approval of refinements to certain performance measures  
and

A filing of information on seven financial allocation functions  
and

An application for approval of changes to certain allocation functions

**BEFORE:** L.F. Kelsey, Commissioner and Panel Chair  
P.E. Vivian, Commissioner

November 7, 2005

**O R D E R**

**WHEREAS:**

- A. On October 6, 2005 the Insurance Corporation of British Columbia ("ICBC") filed a response, marked confidential ("Exhibit No. B-10"), to Information Request 2006.1 43.3, which was issued by the British Columbia Utilities Commission ("Commission") on September 14, 2005; and
- B. On October 25, 2005, the Consumers' Association of Canada (B.C. Branch) filed a letter requesting the Commission to either: i) direct ICBC to resubmit Exhibit B-10 as a public document; or, ii) demonstrate the need for confidentiality in a submission available to all registered intervenors and interested parties; and
- C. The Commission issued Letter No. L-93-05, dated October 27, 2005 (amended by Letter No. L-94-05, dated October 31, 2005), which established a written process to further examine the issue and to determine whether or not the current confidential status of Exhibit B-10 requires to be preserved. As part of this process ICBC was directed to submit evidence, which led ICBC to designate Exhibit B-10 as a confidential document. Registered Intervenors were given an opportunity to submit a reply to ICBC's submission and ICBC was given the opportunity to submit a final reply; and

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- D. ICBC filed its submission on November 1, 2005. Registered Intervenor filed their reply on November 2 and 3, 2005 and ICBC filed its final reply on November 3, 2005; and
- E. The Commission has reviewed and considered all the evidence with respect of the above issue.

**NOW THEREFORE** the Commission directs ICBC to comply with all the orders and directions set out in the Reasons for Decision attached as Appendix A.

**DATED** at the City of Vancouver, in the Province of British Columbia, this 7<sup>th</sup> day of November 2005.

BY ORDER

*Original signed by:*

L.F. Kelsey  
Commissioner and Panel Chair

Attachment

Filings by the Insurance Corporation of British Columbia (“ICBC”)  
for approval of the 2006 Revenue Requirements for  
Universal Compulsory Automobile Insurance (“Basic Insurance”)

and ICBC’s filing of a Confidential Response to Commission Information Request 2006.1 43.3 (Exhibit B-10)

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**REASONS FOR DECISION**

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The Commission Panel has considered the submissions of Family Insurance Solutions Inc., the Consumers’ Association of Canada (B.C. Branch), and the B.C. Public Interest Advocacy Centre (on behalf of BCOAPO et al). In addition we have reviewed the comments from ICBC dated November 1, 2005 (Exhibit B-16) and its reply to the arguments advanced by the Registered Interveners (Exhibit B-17, November 3, 2005).

First, on the relevancy of the Operational Plan to the matters before the Commission Panel in this proceeding, the Commission Panel is of the view that there is a general duty imposed upon the Commission Panel to evaluate all expenditures that give rise to a cost that is allocated to Basic Insurance. The Commission Panel recognizes that the provisions of the governmental directive to the Commission (Special Direction IC2) requires that the Commission must exercise its powers under the Utilities Commission Act in respect of ICBC in such a way as to recognize the expenditures under the Memorandum of Understanding (“MOU”) with the Ministry of Public Safety and Solicitor General (“Ministry”) as valid expenditures that are to be collected as part of Basic Insurance rates.

The scope of the MOU review that the Commission is permitted is limited. The Commission Panel will want to ensure that the provisions of the MOU are being enforced, that there has been consultation between the Ministry and ICBC and that there is feedback from the Ministry to ICBC on the implementation of the various programs and law enforcement initiatives. However, it is not open to the Commission Panel (nor to Registered Interveners in this proceeding) to question the design, efficacy, detailed implementation or reported results of the funded programs.

Members of the Commission Panel have not reviewed Exhibit B-10, which has been held confidential. The Commission Panel’s decision in this Order is based upon the arguments and comments that are cited above.

The Commission Panel is of the view that the material in the Operational Plan may be relevant to the general supervisory responsibility that the Commission must discharge in respect of ICBC and therefore orders that it be made part of the public record in this proceeding subject to what follows.

The Commission Panel accepts the analyses put forward by the Registered Interveners and ICBC as to possible solutions that will provide a degree of openness and transparency and at the same time, give ICBC and the Ministry, the opportunity to review the Operational Plan to isolate any particularly sensitive data, and to remove that data from Exhibit B-10, prior to its publication on the public record.

The Commission Panel adopts the suggestion put forward by ICBC that:

“...the Commission should disclose on the public record only a version that has been severed as a result of consultation between Commission counsel and ICBC and MPSSG counsel to remove all information relating to policing operations not otherwise disclosed to the public; law enforcement, policy advice, policy recommendations or other information of a confidential nature.”

The Commission Panel directs that such consultation take place within a period of seven days from the date of this Order and that ICBC file a version of Exhibit B-10 that will exclude the types of information cited above by no later than November 16, 2005. The Commission Panel notes that the final phrase “other information of a confidential nature” should be given the narrowest of meanings and that only where there is a compelling argument advanced in the consultations that release would be detrimental to some serious public policy objective, should the information be excluded. The objective is disclosure to the greatest extent possible.

The Commission Panel commends ICBC and the Registered Interveners who submitted comments and arguments for their helpful analysis of the statutory and Order in Council provisions and the constructive suggestions for a resolution of the confidentiality issue surrounding Exhibit B-10.