

**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER F-17-14**

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IN THE MATTER OF
the Utilities Commission Act, R.S.B.C. 1996, Chapter 473

and

the Insurance Corporation Act, R.S.B.C. 1996, Chapter 228, as amended

and

Applications for Participant Assistance/Cost Awards
in the Application by the Insurance Corporation of British Columbia
for Approval of the 2013 Revenue Requirements for Universal Compulsory Automobile Insurance

BEFORE: B.A. Magnan, Panel Chair and Commissioner
L.A. O'Hara, Commissioner
R.D. Revel, Commissioner
July 8, 2014

O R D E R

WHEREAS:

- A. On August 30, 2013, the Insurance Corporation of British Columbia (ICBC) submitted an application to the British Columbia Utilities Commission (Commission) for approval of the Revenue Requirements for Universal Compulsory Automobile Insurance (Basic Insurance) for the policy year commencing November 1, 2013 (Policy Year 2013), and for approval of a new Basic Insurance Capital Management Plan (collectively, the 2013 Revenue Requirements);
- B. By Order G-141-13 dated September 5, 2013, the Commission established an Initial Regulatory Timetable which included a Workshop held on September 24, 2013 and Pre-hearing Conference held on November 19, 2013;
- C. By Order G-193-13 dated November 22, 2013, subsequent to the Pre-hearing Conference, the Commission established a full oral public hearing process for the review of the 2013 Revenue Requirements proceeding. The proceeding also included written information requests;
- D. The Oral Public Hearing was held in Vancouver, BC, commenced on February 6, 2014, and concluded on February 14, 2014;

- E. On March 6, 2014, Mr. Richard T. Landale (Mr. Landale) filed with the Commission a Participant Assistance/Cost Award (PACA) Application with respect to its participation in the 2013 ICBC Revenue Requirements proceeding for the total amount of \$725.88;
- F. On March 21, 2014, the British Columbia Public Interest Advocacy Centre (BCPIAC) filed with the Commission a PACA Application on behalf of its client, the British Columbia Old Age Pensioners Organization *et al.* (BCOAPO) with respect to its participation in the 2013 ICBC Revenue Requirements proceeding for the total amount of \$48,824.48;
- G. On March 25, 2014, BCPIAC, on behalf of BCOAPO, submitted a revised PACA Application for the amount of \$48,324.48;
- H. On April 15, 2014, Mr. Fred J. Weisberg, founder and legal counsel for Toward Responsible Educated Attentive Driving (TREAD), filed with the Commission a PACA Application with respect to its participation in the 2013 ICBC Revenue Requirements proceeding for the total amount of \$44,016.30;
- I. On May 14, 2014, the Commission issued its Decision and accompanying Order G-63-14 approving a 5.2% Basic Insurance permanent rate for Policy Year 2013, among other matters;
- J. By letter dated June 23, 2014, ICBC submitted comments on the PACA Applications by Mr. Landale, BCOAPO, and TREAD;
- K. The Commission reviewed the PACA Applications and ICBC's letter of comment with regard to the criteria and rates set out in the PACA Guidelines in Commission Order G-72-07.

NOW THEREFORE pursuant to sections 118(1) of the *Utilities Commission Act* and for the Reasons for Decision attached as Appendix A, the Commission orders as follows:

- 1. Funding is awarded to the following Interveners for their participation in the Insurance Corporation of British Columbia (ICBC) 2013 Revenue Requirements proceeding:

INTERVENER	AWARD
Mr. Richard T. Landale	\$725.88
British Columbia Old Age Pensioners Organization <i>et al.</i>	\$48,324.48
Toward Responsible Educated Attentive Driving	\$22,041.90
TOTAL	\$71,092.26

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2. ICBC is directed to reimburse the above-noted participants in a timely manner.

DATED at the City of Vancouver, in the Province of British Columbia, this 8th day of July 2014.

BY ORDER

Original signed by:

B.A. Magnan
Panel Chair and Commissioner

Attachment

Applications for Participant Assistance/Cost Awards
in the Insurance Corporation of British Columbia
Application for Approval of the Revenue Requirements
for Universal Compulsory Automobile Insurance
for the Policy Year Commencing November 1, 2013 and
for Approval of a New Basic Insurance Capital Management Plan

REASONS FOR DECISION

1.0 BACKGROUND

The British Columbia Utilities Commission (Commission) received Participant Assistance/Cost Award (PACA) Applications from three participants who participated in the Insurance Corporation of British Columbia (ICBC) application for approval of the Revenue Requirements for Universal Compulsory Automobile Insurance (Basic Insurance) for the Policy Year commencing November 1, 2013 and for approval of a New Basic Insurance Capital Management Plan (2013 Revenue Requirements). The three applicants are as follows:

- Mr. Richard T. Landale (Mr. Landale);
- British Columbia Old Age Pensioners Organization *et al.* (BCOAPO); and
- Toward Responsible Educated Attentive Driving (TREAD).

The Commission Panel reviewed the three PACA Applications while taking into consideration the PACA Guidelines set out in Commission Order G-72-07, and the ICBC letter of comment, dated June 23, 2014.

2.0 PACA GUIDELINES

The PACA Guidelines discuss the eligibility requirements and criteria used in assessing the amount of an award, the process for applying for a cost award and eligible costs and rates.

The Panel first considers whether the Participant has a substantial interest in a substantial issue in the proceeding in determining an award of all or any portion of a Participant's costs. Except in limited circumstances, it is expected that only ratepayer groups will establish a substantial interest in a substantial issue so as to be eligible for an award in revenue requirements proceeding. The principal interest of ratepayer groups will be the rate impacts of the revenue requirements to be paid by the ratepayer Participants.

The Commission Panel then consider the following:

- (i) Will the Participant be affected by the outcome?
- (ii) Has the Participant contributed to a better understanding of the issues by the Commission?
- (i) Are the costs incurred by the Participant for the purposes of participating in the proceeding fair and reasonable?
- (iii) Has the Participant joined with other groups with similar interests to reduce costs?
- (ii) Has the Participant engaged in any conduct that tended to unnecessarily lengthen the duration of the proceeding?

- (iii) Any other matters appropriate in the circumstances.

3.0 DETERMINATION OF FINAL AWARDS

The Commission Panel reviewed the three PACA Applications while taking into consideration the PACA Guidelines set out in Commission Order G-72-07, and the ICBC letter of comment, dated June 23, 2014. For the reasons which follow, the Panel concludes that the three Participants are eligible for PACA funding. The final PACA award for each Participant is described below.

3.1 Mr. Landale

Mr. Landale requested an amount of \$725.88 that largely consists of printing, travel, and meals. ICBC's comments include whether it is necessary for Mr. Landale to print five volumes of materials and whether appropriate receipts had been provided to the Commission for travel and parking expenses. ICBC notes that Mr. Landale was provided hardcopies of the 2013 Revenue Requirements Application at his request.

The Panel notes that the claimed amounts including printing, travel, and parking are out of pocket expenses and Mr. Landale provided receipts where available. The Panel also notes that Mr. Landale did not request other cost reimbursements such as legal fees or consultants. While expense items such as meals and travel are intended for out of town participants, the Panel considers that the overall costs incurred by Mr. Landale are acceptable in order for him to participate in the proceeding.

The Panel therefore awards the full amount of Mr. Landale's claim of \$725.88.

3.2 BCOAPO

BCOAPO's PACA Application consists of counsel and consultant fees. BCOAPO is a group of community-based organizations who collectively represent the interests of low and fixed income residential ratepayers in British Columbia.

On March 21, 2014, the British Columbia Public Interest Advocacy Centre (BCPIAC) on behalf of its client the British Columbia Old Age Pensioners Organization *et al.* (BCOAPO) filed a PACA Application for the total amount of \$48,824.48. On March 25, 2014, the BCPIAC on behalf of BCOAPO submitted a revised PACA Application for the amount of \$48,324.48. ICBC had no comments on BCOAPO's PACA Application.

The Panel notes BCOAPO's revised PACA Application is \$500 less than the original PACA Application as it excluded a five percent Goods and Services Tax on its consultant's fees. The Panel reviewed BCOAPO's revised PACA Application including the description of work and time spent on the proceeding and finds them reasonable.

The Panel therefore awards the full amount of BCOAPO's claim of \$48,324.48 inclusive of applicable taxes.

3.3 TREAD

TREAD is a new organization established by Mr. Fred Weisberg. Mr. Weisberg is also legal counsel for TREAD. TREAD's mandate is to "establish a ratepayer advocacy group in order to give an effective voice to the majority of British Columbia's licensed drivers who are responsible, educated and attentive, yet are required to bear most of the enormous costs caused by the minority of BC drivers who are irresponsible, lack adequate driver education, or are distracted while operating a motor vehicle." TREAD notes that it will strive to defend and advance the interests of the type of policyholders that ICBC's currently recognizes as "Road Stars."

TREAD submits that it is difficult and costly to gain sufficient public profile to attract large formal membership without demonstrating the proof of concept by completing a meaningful and effective intervention. TREAD expects to pursue some level of self-funding for subsequent ICBC proceedings as the group becomes established and membership grows, but currently PACA funding is the only available source of funding.

TREAD's PACA Application requests a total amount of \$44,016.30 inclusive of applicable taxes. TREAD's claimed amount is based on Mr. Weisberg's legal fees for 21.8 days at a daily rate of \$1,800 plus applicable taxes on legal fees. TREAD also claimed printing and photocopying expenses of \$67.50.

In its letter of comment, ICBC's comments on TREAD's PACA Application relate to membership and the issues that TREAD pursued in the proceeding. ICBC submits that TREAD does not currently appear to have any significant membership. ICBC does not object to the legal fees in TREAD's cost award application but believes that for future regulatory proceedings TREAD should be able to demonstrate active membership as a precondition to awarding significant PACA funding.

ICBC also submits that while TREAD contributed to productive discussion on a number of issues, some of TREAD's efforts in the proceeding strayed well beyond the scope of the proceeding and certain issues pursued tended to unnecessarily lengthen the duration of the proceeding, including rate design matters and ICBC's communication about the rate increase.

The Panel considered TREAD's PACA Application with the PACA Guidelines and ICBC's letter of comment. The Panel recognizes TREAD's active participation in the ICBC 2013 Revenue Requirements proceeding and is satisfied that TREAD has made a reasonable effort to contribute to the proceeding. As a new Participant in a Basic Insurance proceeding, the Panel understands TREAD's desire to demonstrate that it has the capability to intervene in a meaningful manner. Given TREAD's active participation and contribution in the proceeding, the Panel is persuaded that TREAD should be awarded some level of PACA funding.

While the Panel is satisfied with TREAD's contribution in the proceeding, the Panel is aware that TREAD does not appear to have formal or active membership at this time. The PACA Guidelines state that, except in limited circumstances, it is expected that only ratepayer groups will establish a "substantial interest in a substantial issue" so as to be eligible for an award in a revenue requirements proceeding. Without demonstrating active membership or sufficient level of actual membership, the Panel is not persuaded that TREAD should be awarded the full PACA claim as the Panel is unclear who will actually be affected by the outcome of TREAD's intervention. However, in this limited circumstance, the Panel accepts that some level of funding is warranted to build TREAD's mandate. Such a level of funding would encourage future participation with TREAD's ratepayer group in future Basic Insurance proceedings.

The Panel finds that awarding 50 percent of TREAD's claimed legal fees and that full reimbursement of printing and photocopying expenses of \$67.50 are reasonable. For any future PACA funding, TREAD is advised that future considerations would be subject to TREAD demonstrating that it has a sufficient level of active membership and appropriate governance structure of a ratepayer group.

The Panel therefore awards TREAD an amount of \$22,041.90 inclusive of applicable taxes.