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**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER G-165-12**

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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

An Application by the Insurance Corporation of British Columbia to
Vary Order G-109-12 relating to the Revenue Requirements
for Universal Compulsory Automobile Insurance
for the Policy Year Commencing February 1, 2012

BEFORE: A.W.K. Anderson, Panel Chair / Commissioner
M.R. Harle, Commissioner
R.D. Revel, Commissioner

November 5, 2012

O R D E R

WHEREAS:

- A. On December 1, 2011, the Insurance Corporation of British Columbia (ICBC or Corporation) 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 February 1, 2012 (2012 Revenue Requirements);
- B. By Order G-109-12 dated August 16, 2012, the Commission approved the requested Basic Insurance rate increase, and among other things, directed ICBC to comply with all determinations and directives set out in the Decision that was issued concurrently with the Order;
- C. On August 31, 2012, ICBC submitted to the Commission, pursuant to section 99 of the *Utilities Commission Act* (UCA), an application to vary Order G-109-12 (Reconsideration Application), with respect to the directive set out on page 46 of the Decision dated August 16, 2012 (Directive);
- D. By Order G-129-12 dated September 21, 2012, the Commission established a written submission process for the Reconsideration Application. The Commission invited submissions from Interveners who registered for the 2012 Revenue Requirements proceeding, and provided ICBC with a right to reply to those submissions. The Commission also directed ICBC to file Basic Minimum Capital Test (MCT) reporting to be included as evidence on the record;

- E. On September 27, 2012, in accordance with Order G-129-12, ICBC filed the estimated Basic Insurance MCT ratios for the six months ended June 30, 2012, including the 2012 year-end outlook and planned MCT;
- F. The Commission received no Intervener submissions on the Reconsideration Application;
- G. By Letter L-82-06 dated December 19, 2006, the Commission had set out the reporting requirements for quarterly reporting on the MCT;
- H. The Panel has reviewed the Reconsideration Application and related submissions, and considers that it is appropriate to vary the Directive.

NOW THEREFORE pursuant to section 99 of the *Utilities Commission Act* and for reasons set out in the Reasons for Decision attached as Appendix A to this Order, the Commission orders as follows:

1. The Directive's requirements for monthly and two-quarter forward estimates are retracted. Reporting to the Commission will continue on the current quarterly basis, subject to any related directives set out in the attached Reasons for Decision.
2. The Directive's requirement to make a revenue requirements application based on quarterly MCT estimates is removed. ICBC is directed to file a plan with the Commission for the restoration of the MCT to or above the minimum regulatory level in any case where the estimates or outlook for the quarterly and/or year-end MCT level is below 100 %. Any such plan is to be filed within 60 days from the date of this Order and at any other time within 60 days of a quarter end for which ICBC determines that the MCT level is below 100 %. The plan is to include estimates and/or projections of rate indications, and reflect scenarios which would provide for the inclusion of capital build provisions for periods beyond January 31, 2015 aimed at restoring the management MCT target of 130 %.
3. ICBC is directed to file a revenue requirements application by May 31 of each year if ICBC's rate indication estimate is above the upper threshold for the Streamlining process, or at such other time as may be directed by the Commission if the Basic MCT level as at the most recent quarter or year-end is below the regulatory minimum.
4. ICBC is directed to comply with all determinations and directives set out in the Reasons attached to this Order.

DATED at the City of Vancouver, in the Province of British Columbia, this 5th day of November 2012.

BY ORDER

Original signed by:

A.W.K. Anderson
Panel Chair / Commissioner

Attachment



IN THE MATTER OF

**An Application by the Insurance Corporation of British Columbia
to Vary Order G-109-12 relating to the Revenue Requirements
for Universal Compulsory Automobile Insurance
for the Policy Year Commencing February 1, 2012**

REASONS FOR DECISION

November 5, 2012

BEFORE:

A.W.K. Anderson, Panel Chair / Commissioner
M.R. Harle, Commissioner
R.D. Revel, Commissioner

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1.0 INTRODUCTION

1.1 The Reconsideration Application and Approvals Sought

On August 31, 2012, the Insurance Corporation of British Columbia (ICBC) submitted an application to the British Columbia Utilities Commission (Commission), pursuant to section 99 of the *Utilities Commission Act (UCA)*, to vary Order G-109-12 (Reconsideration Application), with respect to a directive set out on page 46 of the Decision attached to Order G-109-12 dated August 16, 2012 (Directive). The Directive provides as follows:

“ICBC is directed to file year-to-date MCT [Minimum Capital Test] ratio calculations, estimated as described in Exhibit B-13, 2012.CP RR BCUCP.9.1-2, not later than 30 days following the end of each calendar month, together with MCT ratio estimates for the following two calendar quarters. In the event that any of the estimates indicate a MCT ratio of less than 100 percent, ICBC is further directed to file with the Commission an application for a rate change to ensure that the MCT ratio is maintained at or above the 100 percent regulatory minimum. ICBC is directed to continue the monthly filings until otherwise directed by the Commission.”

In the Reconsideration Application, ICBC submits the Commission should vary the Directive to require ICBC to:

- continue the present quarterly reporting in its current form, rather than introducing monthly reporting and two-quarter forecasts, because the quarterly reporting is the most appropriate basis upon which the Commission can determine an appropriate course of action;
- file a plan within two months of ICBC determining the actual Basic MCT is below 100% (in the present circumstances this would mean filing by October 31, 2012) to address capital levels, rather than file for a rate increase without consideration of alternative approaches that may be more in line with the interests of Basic policyholders and the Corporation; and
- file a revenue requirements application by May 31st of each year if the rate indication is above the upper threshold for the Streamlining process and Basic capital as of the previous calendar year-end is below the regulatory minimum.

ICBC also requested that the Directive be suspended pending the conclusion of the Reconsideration Application. That request was granted by Order G-129-12 dated September 21, 2012.

1.2 Legal Context

Special Direction IC2 to the British Columbia Utilities Commission is relevant and applicable when considering the issues in the Reconsideration Application. *Special Direction IC2* provides in subsection 3(1)(b) that the Commission must “set rates for the corporation’s universal compulsory insurance business in a way that will allow the corporation to maintain capital available in relation to its universal compulsory insurance business equal to at least 100% of MCT.”

Also, Order in Council No. 560 dated November 30, 2011, approves a letter of direction dated November 25, 2011 issued by the Minister of Public Safety and Solicitor General to ICBC, regarding ICBC’s use of Basic capital to bring greater stability and predictability in Basic Insurance rates (2011 Government Directive).

1.3 Reconsideration Process

By Order G-129-12 dated September 21, 2012, the Commission established a written hearing process to hear arguments on the Reconsideration Application. The Commission invited submissions from Interveners in the ICBC 2012 Revenue Requirements proceeding, and provided ICBC with a right to reply to those submissions. The Commission also directed ICBC to file Basic MCT reporting to be included as evidence on the record.

On September 27, 2012, in accordance with Order G-129-12, ICBC filed the second quarter ending June 30, 2012, MCT ratios for the Basic Insurance line of business.

The Commission did not receive any Intervener submissions relating to the Reconsideration Application.

2.0 PANEL DISCUSSION

In the Reconsideration Application, ICBC includes Additional Evidence (Exhibit B-1, Attachment A) describing the workings of its current reporting procedures and the information that would and would not be reflected in the reporting required under the Directive. The Panel accepts ICBC's evidence with respect to the timing and reporting complications as sufficient evidence at this time to support retracting the monthly and two-quarters forward reporting requirements of the Directive.

In the Additional Evidence, ICBC states that "...ICBC's actuaries are of the view that a rate change should be based on consideration of the key factors influencing the rate, not just the capital in isolation." ICBC goes on to state that "The Commission's directive creates the potential for ICBC to have to apply for a rate increase to build capital in circumstances where the main elements affecting rates could be improving." (Exhibit B-1, Attachment A, p. 4) The Panel does not disagree with these views but considers that, absent offsetting factors, a MCT ratio below the regulatory requirement of 100 % brings subsection 3(1)(b) of *Special Direction IC2* into play. In order meet the requirements of *Special Direction IC2*, the Commission must rely on ICBC to provide timely and appropriate information.

This all brings into sharp focus the need for ICBC to have business systems and processes in place capable of providing prompt and accurate reporting using the most current information available. The Panel notes that the most recent quarterly reporting reflects, for example, claims information as of the end of May 2012, recognized to June 2012 for second quarter report filed August 31, 2012, three months after the May 2012 claims information. (Exhibit B-1, Attachment A, p. 2) The Panel is concerned that the quarterly reporting is prepared using information which is not fully current and is not available to the Commission until two full months after the quarter end. **ICBC is directed to inform the Commission, within 60 days of the date of the Order accompanying these Reasons, of any plans it has in place or is developing to improve the currency of the data used for the filing of quarterly reports. ICBC is further directed to explain to the Commission why the quarterly reports cannot be prepared using claims costs as at the quarter end rather than as at the end of the month preceding the quarter end.**

2.1 Revenue Requirements Applications

In the Reconsideration Application, ICBC proposes filing a revenue requirements application by May 31 of each year when certain conditions have been encountered with respect to both the rate indications and the MCT level as at the end of the prior year. The Panel notes that the 2011 Government Directive requires ICBC to determine its Basic Insurance revenue requirements using the most recent quarter Basic Insurance MCT level rather than using the MCT at the end of the previous calendar year.

The Panel considers that the 2011 Government Directive requirement to use the most recent quarter Basic Insurance MCT level, in conjunction with the Commission's obligation under *Special Direction IC2*, requires ICBC to estimate its revenue requirements, reflecting other factors as described by ICBC, following any quarter in which MCT has fallen below 100 %. **Accordingly, ICBC is directed to provide the Commission with an estimate of the annualized rate indication impact of any regulatory MCT deficiency, other factors considered, with the quarterly report.**

The Directive required ICBC to file a revenue requirements application following any quarter when the MCT ratio fell below 100 %. ICBC's Additional Evidence discusses options to address capital and improve rate stability and predictability. ICBC's Reconsideration Application seeks to replace the revenue requirements application component of the Directive with a proposal to "file a plan within two months of ICBC determining the actual Basic MCT is below 100%... to address capital levels, rather than file for a rate increase without consideration of alternative approaches that may be more in line with the interests of Basic policyholders and the Corporation."

The Panel notes that the 2011 Government Directive requires ICBC to exclude any capital build provision from its Basic Insurance rates from February 1, 2012 to January 31, 2015, provided that Basic capital remains above the regulatory minimum. Beyond January 31, 2015, the Panel considers that ICBC should include capital build provisions in its longer range revenue requirements planning with a goal of achieving the management target MCT ratio of 130 %. The Panel considers this to be an important goal in order to provide a cushion of capital to mitigate Basic policyholders' risks of exposure to future 'adverse events' such as ICBC is currently experiencing.

The Panel has considered the evidence and submissions with respect to this issue, and considers that ICBC's proposal to file a plan rather a revenue requirements application is reasonable and pragmatic. This approach will provide an appropriate timeframe to determine the appropriate steps to restore ICBC's MCT level to or above the regulatory minimum. The Directive will be modified accordingly.

2.2 Monthly Reports and Two-Quarter Estimates

The Directive required ICBC to provide monthly MCT calculations and two calendar quarter MCT ratio estimates. The Panel notes Letter L-82-06 had set out reporting requirements for quarterly reporting on the MCT. ICBC seeks to continue the present quarterly reporting in its current form, rather than introducing monthly reporting and two-quarter forecasts. ICBC's evidence and submissions have informed the Panel respecting the complications and impacts of the Directive's requirements. The Panel determines that the current quarterly reporting, subject to any modifying directives in these Reasons, is adequate. The Directive will be modified accordingly.

3.0 COMMISSION DETERMINATIONS

The Panel has considered ICBC's Reconsideration Application and related submissions, and concludes that it is appropriate to vary the Directive. The Panel also has concerns with respect to ICBC's ability to identify, analyze and respond to issues impacting MCT and the related revenue requirements on a timely and effective basis. These concerns have been discussed previously in these Reasons.

Accordingly, the Panel determines that the Directive be varied as follows:

- 1. The Directive's requirements for monthly and two-quarter forward estimates are retracted. Reporting to the Commission will continue on the current quarterly basis, subject to any related directives set out in these Reasons.**
- 2. The Directive's requirement to make a revenue requirements application based on quarterly MCT estimates is removed. ICBC is directed to file a plan with the Commission for the restoration of the MCT to**

or above the minimum regulatory level in any case where the estimates or outlook for the quarterly and/or year-end MCT level is below 100 %. Any such plan is to be filed within 60 days from the date of the accompanying Order and at any other time within 60 days of a quarter end for which ICBC determines that the MCT level is below 100 %. The plan is to include estimates and/or projections of rate indications, and reflect scenarios which would provide for the inclusion of capital build provisions for periods beyond January 31, 2015 aimed at restoring the management MCT target of 130 %.

3. ICBC is directed to file a revenue requirements application by May 31 of each year if ICBC's rate indication estimate is above the upper threshold for the Streamlining process, or at such other time as may be directed by the Commission if the Basic MCT level as at the most recent quarter or year-end is below the regulatory minimum.