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**BRITISH COLUMBIA  
UTILITIES COMMISSION**

**ORDER  
NUMBER** G-129-12

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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 and Commissioner  
M.R. Harle, Commissioner  
R.D. Revel, Commissioner  
September 21, 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 (the 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 applied to the Commission, pursuant to section 99 of the *Utilities Commission Act*, its 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). The Directive states:

"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.”

- D. By Letter L-82-06 dated December 16, 2006, the Commission had set out the reporting requirements for quarterly reporting on the MCT;
- E. In its Reconsideration Application, ICBC seeks to vary the Directive as follows:
- i. 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;
  - ii. 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
  - iii. File a revenue requirement application by May 31<sup>st</sup> 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;
- F. ICBC also requests that the Directive be suspended pending the conclusion of the reconsideration process;
- G. The Reconsideration and Appeals section of “Understanding Utility Regulation: A Participant’s Guide to the B.C. Utilities Commission,” revised as of July 2002, identifies the criteria the Commission applies to determine whether a reasonable basis exists to allow a reconsideration;
- H. An application for reconsideration with the Commission proceeds in two phases. In the first phase, the applicant must establish a prima facie case sufficient to warrant full reconsideration by the Commission. To advance to the second phase of the reconsideration process, the application must meet the following criteria: (i) the claim of error is substantiated on a prima facie basis; and (ii) the error has significant material implications;
- I. The Commission Panel is of the view that the Reconsideration Application does establish a prima facie case to warrant reconsidering the reporting requirements of the Decision. The original Directive and its variance may have significant material implications to Basic Insurance rate changes. The Commission Panel considers a written process should be established to hear full arguments on the merits of the Reconsideration Application.

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**NOW THEREFORE** pursuant to sections 99 and 100 of the *Utilities Commission Act*, the Commission orders as follows:

1. The Reconsideration will proceed to the second phase where the Commission hears full arguments on the merits of the Reconsideration Application in a written submission process.
2. The scope of the Reconsideration will be confined to the items set out in the Reconsideration Application. Given its relevance to the Reconsideration Application, ICBC is directed to provide Basic MCT reporting to Interveners of the 2012 Revenue Requirements proceeding as evidence for the record by Thursday, September 27, 2012. The Basic MCT reporting is to include the most recent quarter MCT estimate with actuals, the 2012 Outlook and Planned, with appropriate explanations. No additional evidence from new parties is necessary for the reconsideration process.
3. Interveners from the 2012 Revenue Requirements proceeding are invited to file written arguments, if any, on the Reconsideration Application. Submissions should be received by the Commission Secretary and copied to ICBC, in writing or electronic submission, by Wednesday, October 10, 2012.
4. ICBC is to provide its written reply argument, if any, to the Commission by Monday, October 22, 2012.
5. The Reconsideration and Appeals section of "Understanding Utility Regulation: A Participant's Guide to the B.C. Utilities Commission" is attached as Appendix A of this Order.
6. The original Directive cited in Recital C above will be suspended, effective on the date of this Order, pending conclusion of the Reconsideration.

**DATED** at the City of Vancouver, in the Province of British Columbia, this 21<sup>st</sup> day of September 2012.

BY ORDER

*Original signed by:*

A.W.K. Anderson  
Panel Chair and Commissioner

Attachment

**UNDERSTANDING UTILITY REGULATION**  
**A PARTICIPANTS' GUIDE**  
**TO THE BRITISH COLUMBIA UTILITIES COMMISSION**

**RECONSIDERATION AND APPEALS**

An intervener's role does not necessarily end with the announcement of the Commission's decision. If the utility or an intervener believes the Commission made a significant error, they may raise the issue again for further scrutiny by way of a reconsideration or an appeal. It is important to realize, however, that an intervener cannot have a decision reconsidered or appealed merely because he or she is unhappy with the result of the decision. Rather, the intervener must be able to identify a specific error which the Commission made in arriving at its decision.

The *Utilities Commission Act* provides three remedies for parties who wish to challenge a Commission decision. An application can be made to the Commission to reconsider its own decision under sections 99 and 100 of the *Utilities Commission Act*. Under section 101(1), an appeal of the decision can be made to the Court of Appeal for British Columbia on the grounds that the Commission has made an error of law or jurisdiction in reaching its decision. A third remedy is a complaint to the Ombudsman. If a party is dissatisfied with the Commission's procedure, a complaint can be made. However, only procedural issues will be reviewed by the Ombudsman.

**COMMISSION RECONSIDERATION**

An application for reconsideration by the Commission proceeds in two phases. In the interests of both efficiency and fairness, and before the Commission proceeds with a determination on the merits of an application for reconsideration, the application undergoes an initial screening phase. In this phase the applicant must establish a prima facie case sufficient to warrant full consideration by the Commission. The first phase, therefore, is a preliminary examination in which the application is assessed in light of some or all of the following questions:

- Should there be a reconsideration by the Commission?
- If there is to be a reconsideration, should the Commission hear new evidence and should new parties be given the opportunity to present evidence?
- If there is to be a reconsideration, should it focus on the items from the application for reconsideration, a subset of these items or additional items?

The Commission then issues an order which invites registered interveners and interested parties to comment on the application for reconsideration by addressing those questions set out in the order. The order also specifies the process to be followed which is either by written submissions and reply by the applicant or by written submissions and oral argument.

After the first phase evidence has been received, the Commission generally applies the following criteria to determine whether or not a reasonable basis exists for allowing reconsideration:

- the Commission has made an error in fact or law;
- there has been a fundamental change in circumstances or facts since the Decision;
- a basic principle had not been raised in the original proceedings; or
- a new principle has arisen as a result of the Decision.

In addition, the Commission will exercise its discretion to reconsider, in other situations, wherever it deems there to be just cause.

Where an error is alleged to have been made, in order to advance to the second phase of the reconsideration process, the application must meet the following criteria:

- the claim of error is substantiated on a prima facie basis; and
- the error has significant material implications.

If necessary, the reconsideration proceeds to the second phase where the Commission hears full arguments on the merits of the application. The applicant and the interveners may appear before the Commission at this stage to argue why the original decision should or should not be varied or overturned. Finally, after considering these arguments, the Commission renders its decision on the reconsideration application.

*Reference: CHAPTER 4 How to Get Involved in the Commission's Proceedings, pp. 36-37, revised July 2002*