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**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER G-62-12**

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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
for Approval of 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 May 22, 2012
R.D. Revel, Commissioner

O R D E R

WHEREAS:

- A. On December 1, 2011, 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 February 1, 2012 (the Application). The Application seeks Commission approval for an 11.2 percent rate increase in Basic Insurance rates on an interim and permanent basis;
- B. By Order G-221-11, the Commission approved the requested 11.2 percent interim refundable rate increase for implementation with an effective date on or after February 1, 2012, for all new and renewal Plate Owner Basic and Fleet Reporting Policies. The Commission also established an Initial Regulatory Timetable including a Pre-hearing Conference for the review of the Application;
- C. By Order G-21-12, subsequent to the Pre-hearing Conference, the Commission established a Revised Regulatory Timetable attached as Appendix A to that Order to review the Application. The Revised Regulatory Timetable included:
(i) the Oral Public Hearing for actuarial matters only, commencing May 29th and if necessary scheduled to May 31st and
(ii) ICBC and Intervener Oral Final Arguments, and ICBC Oral Reply Argument, commencing June 12th and if necessary scheduled to June 14th;
- D. By letter dated May 15, 2012, the Commission invited comments from ICBC and Interveners to amend the existing Revised Regulatory Timetable regarding the necessity of a limited Oral Public Hearing on actuarial matters only, and potentially replacing the oral argument process with written arguments. Based on the two rounds of Information Requests (IR) and the Commission's review of the ICBC IR responses on actuarial matters, the Commission Panel considered that the information submitted up to that time was generally adequate for the evidentiary phase of the proceeding, subject to any Commission Panel questions on actuarial matters;

- E. By May 18, 2012, the Commission received five submissions from: ICBC, the Automobile Insurance Committee of the Canadian Bar Association (AIC), Insurance Bureau of Canada (IBC), Mr. Frank Duck, and BC Old Age Pensioners Organization *et al.* (BCOAPO). ICBC and most Interveners do not oppose cancelling the limited Oral Public Hearing on actuarial matters, except the AIC is of the view that the oral public hearing should proceed. All parties are in favour of replacing the oral argument process with written arguments, except Mr. Duck who submits that ICBC's Written Final Argument should be eliminated, with provision for only a Reply Argument;
- F. The AIC, in its submission, also requests the Commission Panel to reconsider its earlier decision by letter dated May 14, 2012 (Exhibit A-10) and allow the AIC to admit late evidence;
- G. The Commission has reviewed all submissions received and considers that amendments to the existing Revised Regulatory Timetable are warranted.

NOW THEREFORE the Commission orders as follows:

- 1. As set out in the Reasons for Decision attached as Appendix A to this Order, the regulatory timetable is amended. The remaining regulatory process comprises Commission Panel Information Requests, if any, on actuarial matters; ICBC and Intervener Written Final Arguments; and ICBC Written Reply Argument.
- 2. The Amended Regulatory Timetable for the remaining regulatory process is attached as Appendix B to this Order.
- 3. The Amended Regulatory Timetable will replace both the limited Oral Public Hearing on actuarial matters and the oral argument process included in the Revised Regulatory Timetable under Order G-21-12.
- 4. The AIC request to reconsider the decision to deny the admission of late Intervener Evidence is denied.

DATED at the City of Vancouver, in the Province of British Columbia, this 22nd day of May 2012.

BY ORDER

Original signed by:

A.W.K. Anderson
Panel Chair/Commissioner

Attachments

An Application by the Insurance Corporation of British Columbia
for Approval of the Revenue Requirements for Universal Compulsory Automobile Insurance
for the Policy Year Commencing February 1, 2012

REASONS FOR DECISION

1.0 BACKGROUND AND INTRODUCTION

On December 1, 2011, 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 February 1, 2012 (the Application). The Application seeks Commission approval for an 11.2 percent rate increase in Basic Insurance rates on an interim and permanent basis.

On December 16, 2011, the Commission by Order G-221-11 approved the requested 11.2 percent interim refundable rate increase for implementation with an effective date on or after February 1, 2012 for all new and renewal Plate Owner Basic and Fleet Reporting Policies. The Commission also established an Initial Regulatory Timetable including a Pre-hearing Conference for the review of the Application.

On February 29, 2012, subsequent to the Pre-hearing Conference, the Commission by Order G-21-12 established a Revised Regulatory Timetable attached as Appendix A to that Order to review the Application. The Revised Regulatory Timetable included: (i) the Oral Public Hearing for actuarial matters only, commencing May 29th and if necessary scheduled to May 31st and (ii) ICBC and Intervener Oral Final Arguments, and ICBC Oral Reply Argument, commencing June 12th and if necessary scheduled to June 14th.

By letter dated May 15, 2012, the Commission invited comments from ICBC and Interveners to amend the existing Revised Regulatory Timetable regarding the necessity of a limited Oral Public Hearing on actuarial matters only, and potentially replacing the oral argument process with written arguments. Based on the two rounds of Information Requests (IR) and the Commission's review of the ICBC IR responses on actuarial matters, the Commission Panel considered that the information submitted up to that time was generally adequate for the evidentiary phase of the proceeding, subject to any Commission Panel questions on actuarial matters.

By May 18, 2012, the Commission received five submissions from: ICBC, the Automobile Insurance Committee of the Canadian Bar Association (AIC), Insurance Bureau of Canada (IBC), Mr. Frank Duck, and BC Old Age Pensioners Organization *et al.* (BCOAPO). ICBC and most Interveners do not oppose cancelling the limited Oral Public Hearing on actuarial matters, except the AIC is of the view that the oral public hearing should proceed. All parties are in favour of replacing the oral argument process with written arguments, except Mr. Duck who submits that ICBC's Written Final Argument should be eliminated, with provision for only a Reply Argument.

The AIC, in its submission, also requests the Commission Panel to reconsider its earlier decision by letter dated May 14, 2012 (Exhibit A-10) and allow the AIC to admit late evidence.

For the Reasons which follow, the Commission Panel is amending the regulatory timetable. The remaining regulatory process comprises Commission Panel Information Requests, if any, on actuarial matters; ICBC and Intervener Written Final Arguments; and ICBC Written Reply Argument.

The Amended Regulatory Timetable for the remaining regulatory process is attached as Appendix B to this Order.

The Amended Regulatory Timetable will replace both the limited Oral Public Hearing on actuarial matters and the oral argument process included in the Revised Regulatory Timetable under Order G-21-12.

The Commission Panel denies the AIC's request to reconsider the decision to deny admission of late Intervener Evidence.

2.0 COMMENT SUBMISSION PROCESS TO AMEND THE EXISTING REVISED REGULATORY TIMETABLE

By letter dated May 15, 2012, the Commission Panel requested ICBC and Interveners to submit their letters of comment regarding the necessity of the limited Oral Public Hearing on actuarial matters only, and potentially replacing the oral argument process with written arguments. The following options were presented in the letter to amend the existing Revised Regulatory Timetable:

- OPTION A: Establish further written process comprising Commission Panel IRs (if any) on actuarial matters, ICBC and Intervener written Final Arguments, and ICBC written Reply Argument to replace both the limited Oral Public Hearing on actuarial matters and the oral argument process. Commission staff Draft Amended Regulatory Timetable Option A was attached as Appendix A to the letter.
- OPTION B: Retain the limited Oral Public Hearing on actuarial matters only in the existing Revised Regulatory Timetable as per Order G-21-12. Replace the oral argument process with written arguments. Commission staff Draft Amended Regulatory Timetable Option B was attached as Appendix B to the letter.

By May 18, 2012, the Commission received five submissions from: ICBC, the AIC, IBC, Mr. Frank Duck, and BCOAPO.

2.1 Submissions Regarding the Necessity of a Limited Oral Hearing on Actuarial Matters

In their submissions, ICBC and most Interveners do not oppose cancelling the limited Oral Public Hearing on actuarial matters, except the AIC is of the view that the oral public hearing should proceed.

ICBC submits that it would be a reasonable approach to have a full written process, and supports the Commission's Option A including the timetable. IBC submits that it will accept Option A since it was not intending to ask questions at the oral public hearing. Mr. Duck submits that Option A is preferable.

BCOAPO submits that it does not oppose timetable Option A although it is somewhat of a concern that, in BCOAPO's view, the Government directive of November 25, 2011 with respect to Basic Rate Stability and Capitalization approved by Order in Council 560/11, November 30, 2011, remains somewhat of an underdeveloped issue on the record.

The AIC is of the view that the oral public hearing should proceed. The AIC submits that "Foreclosing the ability of the interveners and the Panel to question ICBC in an open and public forum would, in our view, entirely remove the ability of the parties to test the credibility of the underlying assertions which form the basis for ICBC's application."

2.2 Submissions for Written Arguments to Replace Oral Argument Process

All submissions received from ICBC and Interveners are in favour of replacing the oral argument process with written arguments, except Mr. Duck who submits that ICBC's Written Final Argument should be eliminated, with provision for only a Reply Argument.

BCOAPO supports the replacement of the oral argument with a written submission process. BCOAPO submits that in cases where regulatory processes touch on technical as well as policy matters, oral arguments are a difficult and unwieldy proposition for intervenor groups that do not have the funding to have experts conversant with each aspect of their issues attending to offer real time input and advice. This lack of resources can compromise intervenor ability to contribute fully to the process and to the Commission's understanding of the issues.

IBC submits that it believes written arguments would be more effective and efficient in the circumstances and the date of Friday, June 15, 2012, for Intervener Final Written Arguments is acceptable.

The AIC is agreeable to the oral argument process being replaced with written arguments.

With respect to activities comprising the written arguments process, Mr. Duck proposes that the Commission should consider elimination of ICBC Written Final Argument. Mr. Duck submits that "This [ICBC Written Final Argument] would seem, after a voluminous proceeding to date and the apparent lack of intervener evidence, an unnecessary step for ICBC to regurgitate what is already on the record as it is presumed no new evidence could be advanced at this ICBC Written Final Argument stage."

In response to the submission by Mr. Duck, ICBC disagrees with the suggestion that the step of ICBC's Written Final Argument is redundant and should be eliminated. ICBC believes its Written Final Argument will be a concise summation of the significant evidence put forward in what Mr. Duck described as "a voluminous proceeding to date." ICBC submits that the applicant's Written Final Argument is consistent with standard regulatory procedure.

2.3 Submissions Pertaining to Other Matters

Included in its submission, the AIC also requests the Commission Panel to reconsider its earlier decision and allow the AIC to admit Mr. Mansfield's report into evidence. The AIC submits that while it recognizes there must always be a balance between fairness and efficiency, the former should never be lost for the sake of the latter. The AIC also submits that not allowing the AIC to admit this expert evidence would seriously undermine its ability to put forward its case and would, in the AIC's view, be a breach of procedural fairness.

3.0 COMMISSION DETERMINATIONS

The Commission Panel has reviewed and considered all submissions received regarding amendments to the existing Revised Regulatory Timetable. The Commission Panel has also reviewed the AIC's request to reconsider the decision of denying admission of late Intervener Evidence. The Commission Panel's findings and determinations follow.

The Commission Panel notes that majority of submissions prefer the proposed Option A that was presented in the May 15, 2012 letter (Exhibit A-11), which is to establish a further written process comprising Commission Panel IRs (if any) on actuarial matters, ICBC and Intervener written Final Arguments, and ICBC written Reply Argument to replace both the limited Oral Public Hearing on actuarial matters and the oral argument process. The Commission Panel also notes that all parties are in favour of replacing the oral argument process with written arguments, except Mr. Duck who submits that ICBC's Written Final Argument should be eliminated, with provision for only a Reply Argument. The Commission Panel shares similar views that written arguments could be an acceptable process without generating any significant delay to the overall regulatory timetable. The Commission Panel is also concurrently considering any Commission Panel IRs on actuarial matters.

The Commission Panel acknowledges the AIC's concerns regarding the limited Oral Public Hearing. The Commission Panel views that the regulatory schedule from January 23rd to May 2nd has provided all participants a reasonable and sufficient timetable to review the Application, which included a Commission Workshop, a Pre-hearing Conference, two rounds of IRs from the Commission and Interveners, and an opportunity for any Intervener Evidence. The Commission Panel considers that amending the regulatory timetable for remaining activities in this proceeding would continue to maintain a fair, transparent, and efficient review process.

The Commission Panel rejects Mr. Duck's proposal to eliminate ICBC Written Final Arguments. The Commission Panel sees no reason to vary the normal Commission process and enabling ICBC to state its case in final written argument, followed by argument from the Interveners and Reply Argument from ICBC.

The Commission Panel denies the AIC's request to reconsider the decision to deny admission of late Intervener Evidence. The Commission Panel considers that Interveners, including the AIC, were provided with ample time and opportunities to ask ICBC questions and file Intervener Evidence in accordance with the regulatory timetable established following the Pre-hearing Conference in February. The AIC must have known prior to the established date that its evidence would be late, yet the AIC made no effort to address this issue until a week following the deadline, when it requested yet a further week delay. The Commission Panel notes that the AIC did not take advantage of the opportunity to submit questions for the

second round of Information Requests. The Commission Panel also notes that the AIC has not specified exactly what actuarial issues it would pursue at an oral hearing.

Accordingly, the Commission Panel is amending the regulatory timetable. The remaining regulatory process comprises Commission Panel Information Requests, if any, on actuarial matters; ICBC and Intervener Written Final Arguments; and ICBC Written Reply Argument.

The Amended Regulatory Timetable for the remaining regulatory process is attached as Appendix B to this Order.

The Amended Regulatory Timetable will replace both the limited Oral Public Hearing on actuarial matters and the oral argument process included in the Revised Regulatory Timetable under Order G-21-12.

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AMENDED REGULATORY TIMETABLE

ACTION	DATE (2012)
Commission Panel Information Request on Actuarial Matters (if any)	Thursday, May 24
ICBC Responses to Commission Panel Information Request (if necessary)	Thursday, May 31
ICBC Written Final Argument	Friday, June 8
Intervener Written Final Argument	Friday, June 15
ICBC Written Reply Argument	Thursday, June 21