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**BRITISH COLUMBIA  
UTILITIES COMMISSION**

**ORDER  
NUMBER F-22-14**

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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**

**An Application by Toward Responsible Educated Attentive Driving  
Participant Funding/Cost Award Reconsideration Application – Order F-17-14  
for the Insurance Corporation of British Columbia 2013 Revenue Requirements Application**

**BEFORE:** B.A. Magnan, Panel Chair/Commissioner  
L.A. O'Hara, Commissioner  
R.D. Revel, Commissioner

September 5, 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, and for approval of a new Basic Insurance Capital Management Plan (2013 Revenue Requirements);
- B. On July 8, 2014, the Commission issued Order F-17-14 with Reasons for Decision awarding Toward Responsible Educated Attentive Driving (TREAD) a Participant Funding/Cost Award (PACA) in the amount of \$22,041.90 for its participation in the 2013 Revenue Requirements Application;
- C. On July 23, 2014, TREAD filed an Application for Reconsideration (Application) of Order F-17-14. In its Application, TREAD seeks reconsideration of the \$21,974.40 portion of the total \$44,016.30 claimed;
- D. 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;

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- E. On July 28, 2014, the Commission invited ICBC's comments on whether the Application satisfies the reconsideration criteria. TREAD was also invited to respond to ICBC's submission;
- F. The Commission received ICBC's submission on August 7, 2014 and TREAD's response on August 18, 2014;
- G. The Commission reviewed the Application and the submissions received.

**NOW THEREFORE** pursuant to section 99 of the *Utilities Commission Act*, for the Reasons for Decision attached as Appendix A, the Application for Reconsideration from Towards Responsible Educated Attentive Driving (TREAD) is denied.

**DATED** at the City of Vancouver, in the Province of British Columbia, this 5th day of September 2014.

BY ORDER

*Original Signed By:*

B.A. Magnan  
Panel Chair/Commissioner

An Application by Toward Responsible Educated Attentive Driving  
Participant Funding/Cost Award Reconsideration Application – Order F-17-14  
for the Insurance Corporation of British Columbia 2013 Revenue Requirements Application

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**REASONS FOR DECISION**

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**1.0 APPLICATION FOR RECONSIDERATION**

On July 8, 2014, the British Columbia Utilities Commission (Commission) issued Order F-17-14 with Reasons for Decision awarding Toward Responsible Educated Attentive Driving (TREAD) a Participant Funding/Cost Award (PACA) in the amount of \$22,041.90 for its participation in the Insurance Corporation of British Columbia (ICBC) 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).

On July 23, 2014, TREAD filed an Application for Reconsideration of Order F-17-14 (Application). In its Application, TREAD seeks reconsideration of the \$21,974.40 portion of the total \$44,016.30 claimed.

**1.1 Background**

In Order F-17-14, the Panel considered TREAD's original PACA application dated April 15, 2014 with the PACA Guidelines. The Panel stated:

*"Given TREAD's active participation and contribution in the proceeding, the Panel is persuaded that TREAD should be awarded some level of PACA funding";*

*"... the Panel is aware that TREAD does not appear to have formal or active membership at this time... 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...";*

*"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."*

(Order F-17-14, Reasons for Decision, pp. 3-4)

**1.2 Reconsideration Criteria**

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. As per the Reconsideration Criteria, after the first phase evidence is received, the Commission generally applies the following criteria to determine whether or not a reasonable basis exists for allowing a reconsideration:

1. The Commission has made an error in fact or law;
2. There has been a fundamental change in circumstances or facts since the Decision;
3. A basic principle had not been raised in the original proceedings; or
4. A new principle has arisen as a result of the decision.

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

## **2.0 SUBMISSIONS BY THE PARTIES**

### **2.1 TREAD**

In its July 23, 2014 letter, TREAD raises the issue of formal membership as the Commission's reason for determination in Order F-17-14 for TREAD's PACA award. TREAD also raises concerns regarding the Commission's comment on organizational structure. In summary, TREAD's submissions are as follows:

#### Formal Membership

- The PACA Guidelines don't include or imply any threshold group size related to participant eligibility for PACA funding. TREAD states:

"It's clear that the Guidelines contemplate that even a small group is not a prerequisite – a lone individual can (and often has) qualified for PACA funding." (July 23, 2014 letter, p. 2);
- Substantial interest, substantial issue – the PACA Guidelines states:

"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."

TREAD refers to its mandate that it 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..."

TREAD claims that it advocated on behalf of two-thirds of ICBC's Basic ratepayers, which is approximately 1.5 million ratepayers. (July 23, 2014 letter, pp. 3-4);

- TREAD notes that the "limited circumstances" exception would make PACA funding a possibility even if TREAD is considered to be only an individual. TREAD claims that it is not an individual. (July 23, 2014 letter, p. 4);
- "the legitimacy of the interest does not arise from proof of formal membership in TREAD. Conversely, TREAD's apparent lack of significant formal membership in no way lessens the legitimacy of the ratepayer interests addressed through its intervention and submissions." (July 23, 2014 letter, p. 5); and
- What level of membership is sufficient for purposes of fully qualifying for PACA funding? (July 23, 2014 letter, p. 6).

### Organizational Structure

- TREAD submits that tying PACA funding too closely to a focus on formal membership or organizational structure of a group will tend to continue to give ICBC an unfair financial advantage in regulatory proceedings. (July 23, 2014 letter, p. 6); and
- Determination of the existence of a “significant interest in a significant issue” does not and should not require membership counts or assessments of a group’s organizational structure. (July 23, 2014 letter, p. 11).

## **2.2 ICBC**

In its August 7, 2014 letter, ICBC states that it agrees with the Commission’s Reasons for Decision in Order F-17-14. ICBC notes that TREAD does not bring forward new evidence in the Reconsideration Application. However, the Commission may consider just cause to determine whether a reconsideration is warranted.

## **2.3 TREAD Response**

In TREAD’s response dated August 18, 2014, TREAD submits that a *prima facie* case has been established to warrant a full reconsideration of Order F-17-14. TREAD’s submissions include:

- The Panel appears to have erred in precluding any future PACA funding, and perhaps reducing TREAD’s current PACA funding, on the basis of new criteria that are not included in the “...criteria established in Section 1 of the Guidelines...” (August 18, 2014 letter, p. 3);
- The two new criteria introduced by Order F-17-14 appear to have been given retroactive effect, notwithstanding that they are not included or implied in the PACA Guidelines necessarily relied upon by ratepayers. TREAD submits that any criteria that may be fatal to PACA eligibility must be expressly included in the Guidelines. (August 18, 2014 letter, p. 3); and
- The Panel appears to have erred in the apparent introduction of two new criteria that could provide the sole basis for a denial of retrospective PACA funding but are not defined with sufficient precision to enable ratepayers to reasonably predict in advance whether they will be able to meet the criteria. (August 18, 2014 letter, p. 3).

## **3.0 COMMISSION DETERMINATION**

The Commission Panel assessed TREAD’s Application for Reconsideration, ICBC’s submission, and TREAD’s response to ICBC’s submission. The Commission Panel finds that TREAD restated information already submitted in the original PACA application and included no new substantive information that meets the reconsideration criteria. Therefore, the Commission Panel finds no reasonable basis to allow a reconsideration of Order F-17-14.

**Accordingly, the Commission Panel denies TREAD’s Application for Reconsideration.** The Commission Panel confirms its findings in Order F-17-14.