



**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER G-174-14**

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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 the Insurance Corporation of British Columbia
for Approval of the Revenue Requirements for Universal Compulsory Automobile Insurance
Effective November 1, 2014
First Round Information Request Dispute

BEFORE: B. A. Magnan, Panel Chair/Commissioner
R. D. Revel, Commissioner
H. G. Harowitz, Commissioner
November 13, 2014

O R D E R

WHEREAS:

- A. On August 29, 2014, 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), effective November 1, 2014, for a 5.2 percent increase in Basic Insurance rates as set out in the application and for approval of a revised formula for the New Money Rate used in the determination of investment income that forms a component of the Basic Insurance rate indication (Application);
- B. On September 10, 2014, ICBC held an Informational Presentation with regard to the Application;
- C. On September 26, 2014, ICBC held a Review Working Session to explain the Application and to address matters of interest from the Commission and interveners;
- D. By Order G-155-14, dated October 8, 2014, the Commission established a regulatory timetable and set out a written hearing process with two rounds of information requests for the review of the Application;

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- E. On October 21, 2014, the Canadian Office and Professional Employees' Union, Local 378 (COPE 378), among other interveners, filed intervener information request (IR) No. 1 to ICBC, and on October 24, 2014, COPE 378 made a correction to its IR No. 1;
- F. On October 27, 2014, ICBC filed a letter with the Commission objecting to answering a number of requests in IR No. 1 from COPE 378;
- G. On October 29, 2014, the Commission sought COPE 378's submission on the disputed IRs as outlined in ICBC's letter;
- H. On November 3, 2014, COPE 378 filed a response on the disputed IRs; and
- I. The Commission has considered the ICBC and COPE 378 submissions and determines that ICBC should provide responses on certain disputed IRs.

NOW THEREFORE for reasons set out in Appendix A to this Order, the Commission orders as follows:

- 1. The Insurance Corporation of British Columbia (ICBC) is directed to answer the information requests as specified in the reasons for decision by Tuesday, November 18, 2014.
- 2. The remainder of the regulatory timetable including the timeline for the second round of information requests will remain unchanged.

DATED at the City of Vancouver, in the Province of British Columbia, this 13th day of November 2014.

BY ORDER

Original signed by:

B. A. Magnan
Panel Chair/Commissioner

Attachments

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REASONS FOR DECISION

1.0 BACKGROUND

On August 29, 2014, 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), effective November 1, 2014, for a 5.2 percent increase in Basic Insurance rates as set out in the application and for approval of a revised formula for the New Money Rate used in the determination of investment income that forms a component of the basic insurance rate indication (Application).

On September 10, 2014, ICBC held an Informational Presentation with regard to the Application and on September 26, 2014, ICBC held a Review Working Session to explain the Application and to address matters of interest from the Commission and Interveners.

By Order G-155-14 dated October 8, 2014, the Commission established a regulatory timetable and set out a written hearing process with two rounds of information requests (IR) for the review of the Application. The Canadian Office and Professional Employees' Union, Local 378 (COPE 378) on October 21, 2014, among other interveners, filed intervener IR No. 1 to ICBC. COPE 378 subsequently made a correction to its IR No. 1 on October 24, 2014.

On October 27, 2014, ICBC filed a letter with the Commission objecting to answering 23 of the IRs from COPE 378.

On October 29, 2014, the Commission sought COPE 378's submission on the disputed IRs as outlined in ICBC's letter. COPE 378 was asked to indicate whether or not it wishes to keep or withdraw the disputed IRs and to provide rationale for each IR it wishes to keep and explain how it is relevant to the Application.

On November 3, 2014, COPE 378 filed a response on the disputed IRs wherein it withdrew 3 of the disputed 23 IRs.

The Commission considered the ICBC and COPE 378 submissions and determines that ICBC should provide responses on certain IRs.

2.0 DISPUTED INFORMATION REQUESTS

2.1 ICBC Submission

In its October 27, 2014 letter (Exhibit B-10), ICBC provided a list of 23 of COPE 378's first round IRs that it submits it should not be required to answer. ICBC disputes the IRs on the basis that they are not probative of issues in the Application. ICBC states that ICBC and COPE 378 are currently engaged in bargaining regarding a new collective agreement and that staffing, workload, and related issues, as they relate to the Claims Division are being negotiated. ICBC submits that the COPE 378 IRs it disputes are more related to ongoing collective bargaining than necessary for the purposes of this proceeding.

Regarding the relevance of the IRs, ICBC cites the 1996 BC Court of Appeal Decision *British Columbia Hydro and Power Authority v. British Columbia Utilities Commission* which states "... the management of a public utility remains the responsibility of those who by statute or the incorporating instruments are charged with that responsibility."

ICBC interprets this to mean that "while the Commission can set Basic Insurance rates and establish performance measures, it has no jurisdiction to dictate how ICBC decides to staff particular areas of the organization or allocate work among employees in order to manage its costs or achieve performance measures."¹ ICBC indicates that the disputed IRs go beyond what is relevant for setting appropriate performance measures and rate setting, rather, the IRs pertain to the day-to-day management of ICBC.

Regarding the probative value of the IRs ICBC states "there is no dispute that there have been transitional effects on service levels associated with Claims Transformation; obtaining information on the allocation of staff and workload during this transitional period does not assist the Commission's determination on 2014 rates or performance measures."² ICBC also submits that transitional impacts and interim performance measures were addressed by the Commission, in its decision on ICBC's 2013 Revenue Requirements, wherein it indicated that it anticipates ICBC will include a full review of performance measures as part of ICBC's 2017 Revenue Requirements Application.

2.2 COPE 378 Submission

COPE 378 is the certified bargaining agent for the majority of ICBC's employees and, as such, has a direct and material interest in the financial and operational conditions of ICBC.³

In its November 3, 2014 letter, COPE 378 states that its principal area of concern in this proceeding is the under-resourcing of several parts of ICBC's operations, and the flawed implementation of its Transformation Project. COPE submits that these issues engage the Commission's jurisdiction in at least two ways:

"The first way is the Commission's statutory oversight of the Corporation's service quality ...

¹ Insurance Corporation of British Columbia 2014 Revenue Requirements Application Exhibit B-10, p. 1.

² *Ibid.*, p. 2.

³ Canadian Office and Professional Employees Union, Local 378 (COPE 378) Exhibit C3-1.

The second way is the setting of just and reasonable premiums, and enforcement of the Corporation's prudency obligations. There is a straightforward path which leads from under-resourcing service operations, to impaired customer service, to declining customer satisfaction, to rising representation rates, to rising claims costs."⁴

COPE 378 submits that the Commission has a duty to satisfy itself that the services delivered by ICBC are of an appropriate quality, and that the management decision in the deployment of resources are not imprudently driving down services and driving up costs and premiums.

COPE 378 states that it is not coming to the Commission seeking outcomes which lie properly in collective bargaining. The union will not seek orders from the Commission that ICBC management make any changes to staffing levels. COPE 378 is raising concerns and documenting problems which are within the purview of the Commission, and asking the Commission to hold ICBC to proper account.

COPE 378 also made submissions regarding the Commission's jurisdiction with respect to ICBC Basic Insurance quality of service, citing certain sections of the *Utilities Commission Act* and *Insurance Corporation Act*, related to general supervision of public utilities, service, rates, practices and procedures.⁵ COPE refutes ICBC's view of the Commission's jurisdiction and states "establishing performance measures is not a self-contained oversight role of the Commission in regulating ICBC's basic insurance. Rather, performance measures are tools the Commission uses in order to perform its oversight role."⁶ COPE further submits that "[t]he *Insurance Corporation Act* confers extensive oversight powers upon the Commission for service delivery and performance by ICBC."⁷

COPE asserts that they are not asking the Commission to micro-manage ICBC and they will not be asking the Commission to direct the day-to-day management of ICBC. Rather, COPE submits that they will show that ICBC's "service quality has deteriorated significantly in several important respects...we will ask the Commission to direct ICBC to rectify those shortcomings...we will not be asking the Commission to make any orders directing [ICBC] to make staffing changes."⁸

Regarding ICBC's argument that the IRs in dispute are not probative to the Application, COPE submits that ICBC is characterizing the decline in service quality as temporary and therefore not relevant to the Application. COPE takes issue with this characterization because "COPE intends to show that the failings of the system are...more ...than corporate teething problems" and "ICBC remains duty-bound to deliver services of a reasonable quality notwithstanding ongoing corporate re-engineering."⁹

COPE 378 submits that the questions it has posed are relevant and reasonable and that ICBC seeks to persuade the Commission to adopt an extremely narrow view of its jurisdiction and its obligations in the oversight of the quality of basic insurance services ICBC provides to the public. COPE 378 asks that the Commission require ICBC to file full and responsive answers to all of the disputed questions, other than those which are now withdrawn, namely 2.2.1, 10.16 and 10.17.

⁴ COPE 378 Exhibit C3-6, p. 1.

⁵ *Ibid.*, pp. 2-6.

⁶ COPE 378 Exhibit C3-2, p. 2.

⁷ COPE 378 Exhibit C3-6, p. 2.

⁸ *Ibid.*, p. 6.

⁹ *Ibid.*, p. 8.

3.0 COMMISSION DETERMINATION

In considering the submissions by ICBC and COPE 378 the Commission Panel is mindful of its role as regulator as opposed to a manager of a business as set out in *British Columbia Hydro and Power Authority v. British Columbia Utilities Commission*, 1996, specifically “...the management of a public utility remains the responsibility of those who by statute or the incorporating instruments are charged with that responsibility.” The Commission Panel agrees with ICBC’s interpretation of this “while the Commission can set Basic Insurance rates and establish performance measures, it has no jurisdiction to dictate how ICBC decides to staff particular areas of the organization or allocate work among employees in order to manage its costs or achieve performance measures.” However the Commission Panel has jurisdiction to identify problems in service and performance levels, identify the apparent causes of such problems and direct improvements in service if necessary. While the Commission cannot direct how ICBC must fix any problems identified, it is entirely within the purview of the regulator to examine and identify such problems. The Commission Panel has reviewed the disputed IRs with this lens.

As well, when considering the disputed IRs the Commission Panel has considered the apparent workload for ICBC to answer questions versus the expected probative value of the answers. COPE 378 has stated its aim to show the “straightforward path which leads from under-resourcing service operations, to impaired customer service, to declining customer satisfaction, to rising representation rates, to rising claims costs.” The Commission Panel does not wish to limit COPE 378 the opportunity to substantiate its position but the Commission Panel does not see value in asking ICBC to answer IRs that would require extensive work if its appears the answers would not provide information that is more than minimally probative of the issues in the Application.

Based on these two criteria, the Commission Panel allows all disputed IRs except 2014.1 RR COPE 2.2.2; 4.1; 4.2; 4.3; 4.4; a portion of 11.1; 12.8; and 12.9. The remainder of the IRs are allowed because the questions pertain to the identification and examination of service and performance levels. Detailed reasons for why the IRs listed above are disallowed are included in Appendix B to Order G-174-14. **In summary, the Commission Panel determines that ICBC should provide responses to all the disputed information requests except those withdrawn by COPE (2.2.1, 10.16 and 10.17), and the following: 2014.1 RR COPE 2.2.2; 4.1; 4.2; 4.3; 4.4; a portion of 11.1; 12.8; and 12.9 by Tuesday, November 18, 2014.**

Given the number of IRs directed to be answered by ICBC and considering the time for parties to review the responses, the Commission Panel finds that an expedited process without further delays to the existing Regulatory Timetable is warranted. **The remainder of the Regulatory Timetable including the timeline for the second round of information requests will remain unchanged.**

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**COMMISSION PANEL FINDINGS ON
DISALLOWED INFORMATION REQUESTS**

Disallowed Information Requests	Commission Panel Findings
<p>2014.1 RR COPE 2.2.2: Analysis used in the budget planning process showing the projected service level performance based on the shift premiums and overtime allowance to staff statutory holidays allocated to the call centre for budget years 2012, 2013 and 2014.</p>	<p>The Commission Panel finds that this IR is not relevant to the identification of potential service or performance problems; rather, it requests information at a more granular level than is relevant to this regulatory proceeding. ICBC is not required to answer this IR.</p>
<p>2014.1 RR COPE 4.1-4: COPE is informed that ICBC management has instituted a series of procedural changes in the Claims Contact Centre following the full implementation date of April 26, 2014, including instructions to discontinue a number of tasks they formerly performed.</p> <p>4.1 Please file a copy of all email messages sent by management to staff implementing changes in procedure for the handling of calls.</p> <p>4.2 Please file a copy of all email messages sent by management to staff changing the suite of issues that they are expected to canvass with customers.</p> <p>4.3 Why were these changes made?</p> <p>4.4 How does ICBC now obtain the information which is no longer addressed by staff at the Claims Contact Centre when handing calls from customers?</p>	<p>This IR is more directed at work allocation than service or performance levels. The Commission Panel finds that the probative value of the response does not justify the expected work required for ICBC to answer this question. ICBC is not required to answer this IR.</p>

<p>2014.1 RR COPE 11.1: It has been reported to COPE that in order to meet schedule adherence goals, staff are encouraged to log out for breaks on time, even though still actively engaged on after-call work. Therefore, this work is removed from the call workload, making staffing needs look lower, but it does impact shrinkage as staff processing the after-call work offline are still not available to take calls.</p> <p>11.1 Please confirm that staff are encouraged to log out for breaks on time, even though still actively engaged on after-call work. Please file all directions, memoranda or instructions regarding this question.</p>	<p>The Commission Panel finds that the probative value of the information sought in the latter part of 11.1 does not justify the expected work required for ICBC to answer this question. ICBC is required to answer “Please confirm that staff are encouraged to log out for breaks on time, even though still actively engaged on after-call work” but is not required to file all directions, memoranda or instructions regarding this question. The issue of whether staff are encouraged to log out is probative of performance levels but the instructions leading to this are not.</p>
<p>2014.1 RR COPE 12.8: Provide the staffing calculations done to arrive at the number of staff assigned to processing E-Claims work. Describe the staffing process – dedicated reps, reps doing both telephone and E-Claims on a contact-by contact basis (true contact blending), or doing both types of contacts at scheduled blocks of time.</p>	<p>The Commission Panel finds that this IR is not relevant to the identification of potential service or performance problems; rather, it requests information at a more granular level than is relevant to this regulatory proceeding. This IR is directed at work allocation issues rather than service or performance issues. ICBC is not required to answer this IR.</p>
<p>2014.1 RR COPE 12.9: Describe the different skills required to perform the work on telephone calls versus E-Claims. How much time is needed to prepare a telephone rep to switch over to processing E-Claims in a satisfactory manner?</p>	<p>The Commission Panel finds that this IR is not relevant to the identification of potential service or performance problems; rather, it requests information at a more granular level than is relevant to this regulatory proceeding. ICBC is not required to answer this IR.</p>