

**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER F-13-15**



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IN THE MATTER OF
the *Utilities Commission Act*, RSBC 1996, Chapter 473

and

the *Insurance Corporation Act*, RSBC 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 November 1, 2014

BEFORE: B. A. Magnan, Panel Chair and Commissioner
R. D. Revel, Commissioner
H. G. Harowitz, Commissioner

July 10, 2015

O R D E R

WHEREAS:

- A. *Special Direction IC2 to the British Columbia Utilities Commission, BC Regulation 307/2004 as amended* (Special Direction IC2), requires that the British Columbia Utilities Commission (Commission) must do the following, among others:
- a. beginning in 2014, require the Insurance Corporation of British Columbia (ICBC) to apply annually for a general rate change order by August 31 of the year of the application for rates effective November 1 of that year;
 - b. for 2014 and each following year for which rates are set, the percentage number of a rate change fixed by a general rate change order must differ from the percentage number of a rate change fixed by the previous general rate change order by no more than 1.5, and must not decrease existing rates;
- B. By Letter L-43-14 dated August 12, 2014, the Commission established a preliminary regulatory timetable for the anticipated ICBC 2014 Revenue Requirements Application;
- C. On August 29, 2014, ICBC submitted an application to the Commission for approval of the Revenue Requirements for Universal Compulsory Automobile Insurance (Basic insurance), effective November 1, 2014 (ICBC 2014 RRA);

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- 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 and an intervener evidence process for the review of the ICBC 2014 RRA;
- E. On May 19, 2015, by Order G-81-15 with Decision issued concurrently, the Commission approved a 5.2 percent Basic insurance permanent rate for the Policy Year 2014, among other matters;
- F. The following participants filed PACA applications with the Commission with respect to their participation in the ICBC 2014 RRA:

DATE	PARTICIPANT	REQUEST
April 8, 2015	Quail Worth & Allevato Barristers and Solicitors on behalf of its client, the Canadian Office and Professional Employees Union, Local 378 (COPE)	\$61,644.00
April 16, 2015	British Columbia Public Interest Advocacy Centre on behalf of its client, the British Columbia Old Age Pensioners' Organization <i>et al.</i> (BCOAPO)	\$19,537.52
April 20, 2015	Mr. Richard T. Landale (Mr. Landale)	\$137.40

- G. On June 24, 2015, ICBC submitted comments on the PACA applications by COPE, BCOAPO and Mr. Landale;
- H. The Commission reviewed the PACA applications and ICBC's letter of comment with regard to the criteria and rates set out in the PACA Guidelines in Commission Order G-72-07.

NOW THEREFORE for the Reasons for Decision attached as Appendix A, pursuant to sections 118(1) of the *Utilities Commission Act*, the Commission orders as follows:

1. Funding is awarded to the following interveners for their participation in the Insurance Corporation of British Columbia (ICBC) 2014 Revenue Requirements proceeding:

PARTICIPANT	AWARD
Canadian Office and Professional Employees Union, Local 378	\$30,822.00
British Columbia Old Age Pensioners' Organization <i>et al.</i>	\$19,537.52
Mr. Richard T. Landale	\$137.40
TOTAL	\$50,496.92

2. ICBC is directed to reimburse the above-noted participants in a timely manner.

DATED at the City of Vancouver, in the Province of British Columbia, this 10th day of July 2015.

BY ORDER

Original signed by:

B. A. Magnan
Panel Chair and Commissioner

Applications for Participant Assistance/Cost Awards
in the Insurance Corporation of British Columbia
Application for Approval of the Revenue Requirements
for Universal Compulsory Automobile Insurance
for the Policy Year Commencing November 1, 2014

REASONS FOR DECISION

1.0 BACKGROUND

The British Columbia Utilities Commission (Commission) received Participant Assistance/Cost Award (PACA) applications from three participants who participated in the Insurance Corporation of British Columbia (ICBC) application for approval of the Revenue Requirements for Universal Compulsory Automobile Insurance (Basic insurance) for the Policy Year commencing November 1, 2014 (ICBC 2014 RRA). The three applicants are:

- Canadian Office and Professional Employees Union, Local 378 (COPE)
- British Columbia Old Age Pensioners Organization *et al.* (BCOAPO)
- Mr. Richard T. Landale (Mr. Landale)

The Panel reviewed the three PACA applications while taking into consideration the PACA Guidelines set out in Commission Order G-72-07, and the ICBC letter of comment dated June 24, 2015.

2.0 PACA GUIDELINES

The PACA Guidelines discuss the eligibility requirements and criteria used in assessing the amount of an award, including the process for applying for a cost award and eligible costs and rates.

The Panel first considers whether the participant has a substantial interest in a substantial issue in the proceeding in determining an award of all or any portion of a participant's costs. 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. The principal interest of ratepayer groups will be the rate impacts of the revenue requirements to be paid by the ratepayer participants.

The Panel then considers the following:

- (i) Will the participant be affected by the outcome?
- (ii) Has the participant contributed to a better understanding of the issues by the Commission?
- (iii) Are the costs incurred by the participant for the purposes of participating in the proceeding fair and reasonable?
- (iv) Has the participant joined with other groups with similar interests to reduce costs?
- (v) Has the participant engaged in any conduct that tended to unnecessarily lengthen the duration of the proceeding?
- (vi) Any other matters appropriate in the circumstances.

3.0 DETERMINATION OF PACA AMOUNTS

The Panel reviewed the three PACA applications while taking into consideration the PACA Guidelines set out in Commission Order G-72-07, and the ICBC letter of comment dated June 24, 2015. For the reasons which follow, the Panel concludes that the three participants are eligible for PACA funding. The final PACA award for each participant is described below.

3.1 COPE

COPE requests an amount of \$61,644.00 and is based on 9 days for counsel at \$1,800 per day (plus applicable taxes) and 30 days for expert witness at \$1,450 per day. COPE is the union that represents employees of ICBC and on page 1 of its PACA application states:

They and their union [employees of ICBC and COPE] have a direct and material interest in ensuring that ICBC maintains efficient and high-quality services to the customers they work with every working day. They have a direct and material interest in ensuring that ICBC devotes sufficient well-deployed resources to its operations so that they are able to serve the public and respond to basic insurance claims in a timely and responsive manner.

COPE's intervention in this proceeding has focused virtually entirely on issues related to the quality of services that ICBC provides to the public in the delivery of its Basic automobile insurance program...

COPE actively participated in the proceeding by way of informational presentation, review working session, information requests and intervener evidence.

In its letter dated June 24, 2015, ICBC submits that COPE's requested cost award is not warranted as COPE is a well-funded organization whose interests are not necessarily aligned with those of Basic insurance policyholders. ICBC summarized its comments as follows:

- First, ICBC and COPE were engaged in collective bargaining during much of ICBC's 2014 Revenue Requirements Proceeding and COPE made little secret of the fact that they intended to leverage the regulatory proceeding for bargaining purposes.
- Second, as COPE itself notes, its intervention in the proceeding focused almost entirely on service delivery, and in particular the Claims Contact Centre. ICBC questions whether some of the matters raised by COPE, particularly in its IRs [Information Requests] and Intervenor Evidence, were probative and contributed to a better understanding of the issues by the Commission. While the information COPE sought and the issues raised may have served COPE's objectives, it is less clear if Basic insurance policyholders were well served.
- Third, ICBC has comments on the amount of costs claimed by COPE and whether they are reasonable in comparison with the 2013 Revenue Requirements Proceeding and the Revenue Requirements Proceeding for the 2012 Policy Year, as well as the amount being claimed by its expert, Ms. Penny Reynolds.

Commission determination

The Panel recognizes the effort COPE has put into the ICBC 2014 RRA by its active participation focusing on certain matters in the proceeding. Service quality was identified as an issue in the ICBC 2014 RRA as ICBC is in a transitional period. COPE has established that it has a substantial interest in a substantial issue by pursuing the service quality issue and the Panel therefore finds that COPE is eligible to receive some level of PACA funding.

The Panel views that the requested rate change is the primary focus of a revenue requirements application. Within the proceeding COPE focused on the issue of service quality which it linked to the requested rate change as follows: "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."¹

The Panel, in Order G-174-14, did not limit COPE's opportunity to substantiate its position. However, when now assessing the cost award, the Panel finds COPE's contribution in the proceeding had limited usefulness to the Panel's Policy Year 2014 overall rate change decision. The Panel views COPE's focus on service quality was too narrow. The information COPE sought in the review working session and information requests, and the material COPE filed as Intervener Evidence went well beyond the level of detail required for the Panel to make a determination and/or observation on the service quality matter. Due to the lack of contribution to a better overall understanding of the rate request and the excessive effort allotted to a narrow focus in the proceeding, the Panel determines that awarding 50 percent of the requested PACA is warranted.

The Panel therefore awards COPE an amount of \$30,822.00 inclusive of applicable taxes.

3.2 BCOAPO

BCOAPO is a group of community-based organizations who collectively represent the interests of low and fixed income residential ratepayers in British Columbia. BCOAPO requests an amount of \$19,537.52, based on \$11,536.00 for counsel fees (6.5 days), \$7,950.00 for consultant fees (9.9375 days) and \$51.52 for disbursements, inclusive of applicable taxes. ICBC had no comments on BCOAPO's PACA application.

Commission determination

The Panel reviewed BCOAPO's PACA application with the PACA Guidelines. The Panel finds that BCOAPO is eligible for PACA funding as BCOAPO is a ratepayer group and contributed to a better overall understanding of the rate request. The description of work and time spent on the proceeding is reasonable.

The Panel therefore awards the full amount of BCOAPO's claim of \$19,537.52 inclusive of applicable taxes.

1.1 Mr. Landale

Mr. Landale requests an amount of \$137.40 that consists of printing, travel and meals. In its letter dated June 24, 2015, ICBC states:

While ICBC does not take issue with the bill presented by Mr. Richard Landale, it again respectfully requests that the Commission provide more specific direction to intervenors who continue to ask questions during regulatory proceedings on matters that are out of scope and that result in inefficiency during the regulatory process.

¹ Exhibit C3-6, p. 1.

Commission determination

The Panel notes that the claimed amounts including printing, travel and parking are out of pocket expenses and Mr. Landale provided receipts where available. While expense items such as meals and travel are intended for out of town participants, the Panel considers that the overall costs incurred by Mr. Landale are acceptable in order for him to participate in the proceeding.

With respect to ICBC's comments, the Panel addressed this matter in the ICBC 2014 RRA Decision dated May 19, 2015, and encourages participants to refer to that decision, particularly Section 7.0 – Other Matters.²

The Panel therefore awards the full amount of Mr. Landale's claim of \$137.40.

² ICBC 2014 Revenue Requirements Decision, dated May 19, 2015. Available at www.bcuc.com.