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**BRITISH COLUMBIA  
UTILITIES COMMISSION**

**ORDER  
NUMBER G-201-15**

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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  
Effective November 1, 2015  
First Round Information Request Dispute

**BEFORE:** B. A. Magnan, Panel Chair/Commissioner  
H. G. Harowitz, Commissioner  
I. F. MacPhail, Commissioner  
December 14, 2015

## **O R D E R**

### **WHEREAS:**

- A. On August 31, 2015, the Insurance Corporation of British Columbia (ICBC) filed a partial application to the British Columbia Utilities Commission (Commission) of the 2015 Revenue Requirements for Universal Compulsory Automobile Insurance (Basic insurance);
- B. On October 15, 2015, ICBC submitted outstanding materials and applies for a 5.5 percent increase in Basic insurance rates for policies with an effective date on or after November 1, 2015, as set out in the application (Application);
- C. By Order G-169-15 dated October 21, 2015, the Commission established a Regulatory Timetable for the review of the Application;
- D. On November 20, 2015, the Canadian Office and Professional Employees' Union, Local 378 (COPE 378) filed intervener information request (IR) No. 1 to ICBC (Exhibit C3-2);
- E. On November 27, 2015, ICBC filed a letter (Exhibit B-4) with the Commission objecting to the following 10 IRs from COPE 378 found in Exhibit C3-2: 19.2, 19.3, 19.4, 19.6 except for g) and h), 19.7 to 19.11 and 19.13, except for 19.13.3 (Disputed IRs);

**BRITISH COLUMBIA  
UTILITIES COMMISSION**

**ORDER  
NUMBER** G-201-15

2

- F. On December 1, 2015, the Commission sought submissions from COPE 378 and ICBC regarding the Disputed IRs (Exhibit A-6). The Commission received a submission from COPE 378 on December 4, 2015 (Exhibit C3-3) and a submission from ICBC on December 9, 2015 in response to COPE 378's submission and regarding the Commission's requested information (Exhibit B-6);
- G. The Commission has considered the ICBC and COPE 378 submissions and determines that the nature of the information requested that pertains to the Disputed IRs has relevance to Basic insurance in the context of a revenue requirements proceeding and should be provided.

**NOW THEREFORE** for reasons set out in Appendix A to this Order, the Commission directs the Insurance Corporation of British Columbia to answer the information requests initially set out in Exhibit C3-2, in a manner and as specified in the reasons for decision, by Thursday, December 31, 2015.

**DATED** at the City of Vancouver, in the Province of British Columbia, this 14th day of December 2015.

BY ORDER

*Original Signed By:*

B. A. Magnan  
Panel Chair/Commissioner

Attachment

An Application by the Insurance Corporation of British Columbia  
for Approval of the Revenue Requirements for Universal Compulsory Automobile Insurance  
Effective November 1, 2015  
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**REASONS FOR DECISION**

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**1.0 BACKGROUND**

On August 31, 2015, the Insurance Corporation of British Columbia (ICBC) filed a partial application to the British Columbia Utilities Commission (Commission) of the 2015 Revenue Requirements for Universal Compulsory Automobile Insurance (Basic insurance). On October 15, 2015, ICBC submitted outstanding materials and applies for a 5.5 percent increase in Basic insurance rates for policies with an effective date on or after November 1, 2015 as set out in the application (Application, 2015 RRA).

By Order G-169-15 dated October 21, 2015, the Commission established a Regulatory Timetable for the review of the Application, which includes one round of information requests (IR) and a procedural conference at which the remainder of the Regulatory Timetable and the nature of the hearing process will be addressed.

On November 20, 2015, the Canadian Office and Professional Employees' Union, Local 378 (COPE 378) filed intervenor IR No. 1 to ICBC (Exhibit C3-2).

**2.0 DISPUTED INFORMATION REQUESTS**

On November 27, 2015, ICBC filed a letter (Exhibit B-4) with the Commission objecting to the following 10 IRs from COPE 378 in Exhibit C3-2: 19.2, 19.3, 19.4, 19.6 except for g) and h), 19.7 to 19.11 and 19.13, except for 19.13.3 (Disputed IRs). The Disputed IRs relate to property damage estimates and billings under the ICBC c.a.r. shop VALET program, also referred to as the Express Repair program, including the procedures and systems used at ICBC.

On December 1, 2015, the Commission sought submissions from COPE 378 and ICBC regarding the Disputed IRs (Exhibit A-6). The Commission received a submission from COPE 378 on December 4, 2015 (Exhibit C3-3) and a submission from ICBC on December 9, 2015 in response to COPE 378's submission and regarding the Commission's requested information (Exhibit B-6).

## **2.1 ICBC submission**

In its November 27, 2015 letter (Exhibit B-4), ICBC submits that it should not be required to respond to the Disputed IRs, stating that property damage coverages provided under ICBC's Basic insurance are a small component of the 2015 rate indication. ICBC is of the position that the Disputed IRs are primarily related to ICBC's Optional insurance business, are too granular, and are of little probative value in the 2015 RRA. Specifically, ICBC states:

- All or portions of COPE 378 IRs 19.2, 19.3, 19.4, 19.6 and 19.7 pertain to procedures for drop-in or site visits regarding c.a.r. shop VALET facilities and how ICBC's system categorizes these visits.
- All or portions of COPE 378 IRs 19.2, 19.3, 19.4, 19.6, 19.8, 19.9, 19.10 and 19.11 pertain to the processes c.a.r. shop VALET facilities follow for submitting estimates to ICBC, ICBC's procedures and systems to process these estimates, and how often specific processes are used.
- Portions of COPE 378 IRs 19.2, 19.6, 19.8 and 19.10 ask ICBC to provide considerable detail on these procedures and systems; e.g., "describe in detail all of the procedures" or "provide every iteration of the verification procedures", and some of these ask for tables regarding the number of times procedures were used.
- The level of granularity sought in COPE 378 IRs 19.2 d), 19.9, 19.11, 19.13, 19.13.1 and 19.13.2 exceeds what is tracked in isolation by ICBC's systems or what is normally available without considerable additional work. In some cases, it may not be possible to generate this information regardless of the amount of work invested to do so.<sup>1</sup>

ICBC further submits that the information sought by COPE 378 in the above referenced IRs is insufficiently probative to warrant the work and cost involved in responding to them.

## **2.2 COPE 378 submission**

COPE 378 submits it 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.<sup>2</sup>

In its December 4, 2015 letter (Exhibit C3-3), COPE 378 explains that the Disputed IRs are related to "the efficacy of the measures applied by ICBC to ensure that self-authorized repairs by VALET-rated shops are subject to appropriate oversight." COPE 378 seeks to obtain evidence on the measures taken by ICBC on the cost of VALET shop repairs covered by Basic insurance. It states "If [ICBC] is not applying appropriate and prudent measures to contain the cost of material damage costs, then it cannot be said that its premiums are fully just and reasonable."<sup>3</sup>

COPE 378 expects the evidence requested will demonstrate that material damage costs are increasing as a result of ICBC's delegation of its estimation duties to VALET shops and concurrent decrease in checks and balances to ensure these shops execute those duties in the best interest of policyholders. COPE 378 states that it is "not asking the Commission to dictate to ICBC how it is to itself or how to allocate work amongst those staff but instead the Union is asking the Commission to examine ICBC operations to determine whether it is incurring imprudent MD costs."<sup>4</sup>

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<sup>1</sup> Exhibit B-4, p. 2.

<sup>2</sup> Exhibit C3-1.

<sup>3</sup> Exhibit C3-3, p. 1, COPE 378's reference to material damage also means property damage (PD).

<sup>4</sup> Exhibit C3-3, p. 9.

COPE 378 cites certain sections of the *Insurance Corporation Act* (ICA) and *Utilities Commission Act* (UCA) to support that the issues addressed by the Disputed IRs are within the Commission's regulatory mandate. COPE 378 references sections 44(4) and 45 (1) through (4) of the *Insurance Corporation Act* where the Commission has a supervisory duty in relation to ICBC and includes that ICBC must make available Basic insurance "in a manner, and in accordance with practices and procedures, that the Commission considers are in all respects adequate, efficient, just and reasonable."<sup>5</sup> The UCA also applies to the extent at which the Commission has general supervision of public utilities and fair and reasonable rates.<sup>6</sup> COPE 378 submits that by statute, the Commission may make inquiries into any areas subject to regulation to facilitate the Commission's general supervision over ICBC and to inform what orders it considers necessary or advisable for the convenience or service of the public.<sup>7</sup>

COPE 378 addressed each Disputed IR in its submission. In general, COPE 378 explains that the questions facilitate an examination of the link between ICBC's policies and practices and its rising material damage costs. COPE 378 believes that the information sought in certain IRs is readily available as ICBC's system tracks estimator activities and claims information.<sup>8</sup> COPE 378 withdrew IR 19.11 as the question may be seeking information that is beyond ICBC's control.<sup>9</sup>

### **2.3 ICBC reply submission**

In reply, ICBC is of the position that COPE 378's focus on the Express Repair program is "significantly out of proportion with the potential for that program to affect Basic insurance rates."<sup>10</sup> ICBC submits that "the interests of policyholders are not served by requiring ICBC to invest resources to provide information that has little to no material impact to the Basic insurance rate indication and is of little to no probative value to the 2015 Revenue Requirements Proceeding."<sup>11</sup>

In addition to ICBC's response to COPE 378's submission, the Commission in its December 1, 2015 letter requested ICBC to provide information related to the Disputed IRs on the allocation between Basic and Optional insurance, Basic rate impact, ICBC's Express Repair program and the time and resources needed to respond to the Disputed IRs.<sup>12</sup>

ICBC estimates that out of the proposed policy year 2015 rate indication of +5.5 percent, +0.1 percentage point is a result of the change in Property Damage (PD) claims costs. PD claims cost are about 16 percent of Basic insurance incurred claims costs. The information sought by COPE 378 pertains to a lesser amount as the Express Repair program represents a portion of PD claims costs. Express Repair estimates payments charge to Basic PD represent about half of the total Basic PD claims incurred costs.<sup>13</sup> Under the Express Repair program, costs are charged to Basic insurance when there is an obligation for ICBC's Third Party Liability coverage to pay for vehicle repairs or ICBC confirms that a Hit and Run or Uninsured loss is covered.<sup>14</sup>

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<sup>5</sup> Exhibit C3-3, pp. 4–7.

<sup>6</sup> Exhibit C3-3, pp. 7–8.

<sup>7</sup> Exhibit C3-3, p. 15.

<sup>8</sup> Exhibit C3-3, pp. 13–19.

<sup>9</sup> Exhibit C3-3, p. 18.

<sup>10</sup> Exhibit B-6, p. 4.

<sup>11</sup> Exhibit B-6, p. 5.

<sup>12</sup> Exhibit A-6, p. 2.

<sup>13</sup> Exhibit B-6, p. 2, PD includes losses that are not eligible for the Express Repair program; i.e. non-vehicle damage, commercial vehicles, taxis, total loss vehicles and out of province claims.

<sup>14</sup> Exhibit B-5, p. 3.

Regarding the time needed to answer the Disputed IRs, ICBC states that it is not able to provide the data sought in IRs 19.2 d) and 19.9, and that providing responses to IRs 19.10, 19.13.1 and 19.13.2 would require a total 80 hours of work. ICBC submits that the amount of work involved in responding to these requests would be disproportionate to the value of the data where the Express Repair program has little to no impact on the rate indication.<sup>15</sup>

### **3.0 COMMISSION PAST DECISION**

In the ICBC 2014 Revenue Requirements proceeding (2014 RRA), the Commission by Order G-174-14 with reasons for decision reviewed COPE 378 IRs which were disputed by ICBC. Those disputed IRs in 2014 were related to Claims Division resource levels. In that decision, the Commission discussed the following in its determination:

... 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. [...]

[W]hen 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... 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 it appears the answers would not provide information that is more than minimally probative of the issues in the [2014 RRA].<sup>16</sup>

### **4.0 COMMISSION DETERMINATION**

In this IR dispute process, the Panel is being asked to determine which of the Disputed IRs ICBC must answer and in what level of detail. The Panel reviewed the Disputed IRs and considered the submissions filed by ICBC and COPE 378. This Panel also reviewed the Commission's past decision in Order G-174-14 and finds that the approach the Commission took in that decision is applicable and informative to this IR dispute.

The Panel finds that the minimum threshold to determine whether or not ICBC is required to respond to the Disputed IRs is that the questions must have some relevance to Basic insurance in the context of a revenue requirements proceeding. In reviewing the submissions received, the Panel finds that the Express Repair program is included in the property damage component of the Basic rate indication, and thus the information sought in all of the Disputed IRs (except IR 19.11 withdrawn by COPE 378) meets the minimum threshold that the questions are relevant to Basic insurance and the 2015 RRA.

According to section 45(3) of the ICA, the Commission may determine and set adequate, efficient, just and reasonable standards, practices or procedures to be used by ICBC. To the extent that it relates to Basic insurance, it is within the purview of the Commission to examine the service and performance levels of the Express Repair program and that examination requires a certain level of understanding in ICBC's practices and procedures. To the extent that it relates to rates, the Panel must ensure that Basic insurance rates are not unjust and unreasonable. Consistent with the reasoning which supports Order G-174-14, this Panel does not wish to

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<sup>15</sup> Exhibit B-6, pp. 3-4.

<sup>16</sup> ICBC Application for Revenue Requirements for Universal Compulsory Automobile Insurance Effective November 1, 2014 First Round Information Request Dispute, Order G-174-14 with reasons for decision, p. 4.

limit COPE 378's opportunity to substantiate its position to link ICBC's policies and practices to property damage costs.

The Panel, however, is cognizant of the workload for ICBC to answer questions versus the expected probative value of the answers. Consistent with Order G-174-14, this Panel does not see value in asking ICBC to answer IRs that would require extensive work if the answers would not appear to provide information that is more than minimally probative of the issues in the Application. On the same note, certain Disputed IRs seek confirmation of ICBC's procedures that appear to facilitate some level of understanding of the issue and do not appear to require extensive time to answer. The Panel accepts that ICBC is not able to provide information to respond to COPE 378 IRs 19.2 d) and 19.9 and the extensive amount of time is required to answer COPE 378 IRs 19.10, 19.13.1 and 19.13.2. Based on this consideration, the Panel finds that modification or dismissal of those IRs would be reasonable.

Based on the above considerations, **the Panel directs ICBC to respond to the Disputed IRs as set out in the table below by Thursday, December 31, 2015.**

| COPE 378 IR                     | Direction   | Reason  |
|---------------------------------|---|---|
| IR 19.2, except parts b) and d) | ICBC must respond.  | These IRs seek confirmation and understanding of ICBC's practices and procedures.   |
| IR 19.2 b)                      | Respond on a best effort basis.   | The potential extensive workload to answer does not appear to justify the expected probative value of the answer.                                     |
| IR 19.2 d)                      | Respond on a best effort basis.   | Accepts that ICBC data is available but ICBC must make best efforts to answer this question as they are able.   |
| IRs 19.3, 19.4, 19.7, 19.8      | ICBC must respond.  | Property Damage is not outside of the Commission's jurisdiction on Basic insurance.   |
| IR 19.6                         | ICBC must respond.  | These IRs seek confirmation and understanding of ICBC's practices and procedures.   |
| IR 19.9                         | Respond on a best effort basis.   | Accepts that ICBC data is available but ICBC must make best efforts to answer this question as they are able.   |
| IR 19.10                        | ICBC must respond to "Please confirm that the verification procedures listed in question 8 are the same as those used in 2010." However, ICBC is not required to respond to "If not, please provide every iteration of the verification procedures used by ICBC during that time period." | The IR is modified because the potential extensive workload required to answer does not appear to justify the expected probative value of the answer. |
| IRs 19.13, 19.13.1, 19.13.2     | ICBC is not required to respond.  | The potential extensive workload to answer does not appear to justify the expected probative value of the answer.                                     |