



ORDER NUMBER
G-23-17

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

and

the Insurance Corporation Act, R.S.B.C. 1996, Chapter 228, as amended

and

Insurance Corporation of British Columbia
An Application for Approval of the Revenue Requirements for Universal Compulsory Automobile Insurance
Effective November 1, 2016

BEFORE:

D. A. Cote, Commissioner/Panel Chair
B. A. Magnan, Commissioner
R. I. Mason, Commissioner

on February 24, 2017

ORDER

WHEREAS:

- A. On August 25, 2016, the Insurance Corporation of British Columbia (ICBC) filed an application to the British Columbia Utilities Commission (Commission) for its 2016 Revenue Requirements for Universal Compulsory Automobile Insurance (Basic insurance), seeking a Basic insurance rate increase of 4.9 percent for the policy year commencing November 1, 2016 (PY 2016) (Application);
- B. In the Application, ICBC also requests the following:
 - i. Approval of a proposed allocation methodology for the deferred premium acquisition cost (DPAC) between Basic insurance and Optional insurance (DPAC Allocation Methodology);
 - ii. Approval to discontinue the quarterly reporting requirement for government initiatives while continuing to report these initiatives annually as a chapter in each revenue requirements application (Government Initiatives Reporting Requirement);
- C. By Orders G-142-16 and G-163-16, the Commission established a Regulatory Timetable for the review of the Application and approved a Basic rate increase of 4.9 percent on an interim basis for PY 2016, pending approval of a permanent rate;
- D. On December 16, 2016, the Lieutenant Governor in Council issued Order in Council No. 960, amending Special Direction IC2 to the British Columbia Utilities Commission (Special Direction IC2), which adds that for

the PY 2016, the Commission must issue its final general rate change order by January 16, 2017 and the PY 2016 rate change must not exceed 4.9 percent (OIC 960/16);

- E. By Order G-195-16 dated December 20, 2016, the Commission suspended the Regulatory Timetable under Order G-163-16 and advised that an amended regulatory timetable will be issued in due course;
- F. By Order G-2-17 dated January 12, 2017, in accordance with OIC 960/16, the Commission approved a 4.9 percent Basic insurance permanent rate increase for PY 2016;
- G. By letter dated January 16, 2017, the Commission sought submissions from ICBC and interveners on the scope and process for the remaining review of the Application;
- H. By February 6, 2017, the Commission received submissions from ICBC, Mr. McCandless, Mr. Landale, British Columbia Old Age Pensioners' Organization et al. and Toward Responsible Educated Attentive Driving;
- I. The Commission reviewed the submissions received and establishes the scope for the remaining review of the Application and amends the Regulatory Timetable.

NOW THEREFORE the British Columbia Utilities Commission orders as follows:

- 1. For reasons set out in Appendix A of this Order, the remaining process will be scoped to providing argument on the two outstanding requests from the Application: (i) DPAC Allocation Methodology and (ii) Government Initiatives Reporting Requirement.
- 2. ICBC is directed to meet with Commission staff before submission of the 2017 Revenue Requirements Application. ICBC and Commission staff are encouraged to reach consensus on the form and content of the 2017 Revenue Requirements Application, including the results of the Independent Review if those results are available before the August 31 legislated filing date.
- 3. The Regulatory Timetable is attached as Appendix B to this Order.

DATED at the City of Vancouver, in the Province of British Columbia, this 24th day of February, 2017.

BY ORDER

Original signed by:

D. A. Cote
Commissioner/ Panel Chair

An Application by the Insurance Corporation of British Columbia
for Approval of the Revenue Requirements for Universal Compulsory Automobile Insurance
Effective November 1, 2016

REASONS FOR DECISION

1.0 BACKGROUND

On August 25, 2016, the Insurance Corporation of British Columbia (ICBC) filed an application to the British Columbia Utilities Commission (Commission) for its 2016 Revenue Requirements for Universal Compulsory Automobile Insurance (Basic insurance), seeking a Basic insurance rate increase of 4.9 percent for the policy year commencing November 1, 2016 (PY 2016) (Application). In addition, ICBC has also requested the following two approvals:

- i. Approval of a proposed allocation methodology for the deferred premium acquisition cost (DPAC) between Basic insurance and Optional insurance (DPAC Allocation Methodology);
- ii. Approval of a proposal to discontinue the quarterly reporting requirement for government initiatives while continuing to report these initiatives annually as a chapter in each revenue requirements application (Government Initiatives Reporting Requirement);

By Orders G-142-16 and G-163-16 the Commission established a Regulatory Timetable for the review of the Application and approved a Basic rate increase of 4.9 percent on an interim basis for PY 2016, pending approval of a permanent rate.

On December 16, 2016, the Lieutenant Governor in Council issued Order in Council No. 960, amending *Special Direction IC2 to the British Columbia Utilities Commission (Special Direction IC2)*, which adds that for PY 2016, the Commission must issue its final general rate change order by January 16, 2017 and the PY 2016 rate change must not exceed 4.9 percent (OIC 960/16).

By Order G-195-16 dated December 20, 2016, the Commission suspended the Regulatory Timetable under Order G-163-16 and advised that an amended regulatory timetable will be issued in due course.

By Order G-2-17 dated January 12, 2017, in accordance with OIC 960/16, the Commission approved a 4.9 percent Basic insurance permanent rate increase for PY 2016.

2.0 SUBMISSIONS ON REMAINING PROCESS

2.1 Commission letter dated January 16, 2017 seeking submissions

On January 16, 2017, the Commission sought submissions from ICBC and interveners on the scope and process for the remainder of the review of the Application. In its letter, the Panel noted that the Ministry of Transportation and Infrastructure issued a news release announcing that it directed ICBC's board to commission a third-party review with a goal to produce a range of options for ICBC to increase fairness, affordability and sustainability in Basic insurance rates (Independent Review). The news release also indicated that ICBC's board expects some or all of the work will be completed in time to support the next rate filing process.¹

¹ Exhibit A2-2, p. 2.

In consideration of the final rate order for PY 2016 being determined on a permanent basis and the Independent Review announcement by the Ministry of Transportation and Infrastructure, the Panel sought submissions from ICBC and interveners as follows:

1. Should the remainder of the 2016 Revenue Requirements Application (RRA) proceeding focus only on the two outstanding requests?
 - a. If not, recognizing that the final rate order for PY 2016 is now approved and the anticipated Independent Review will support the next rate filing process, please identify any other matters which might require additional exploration in this 2016 RRA proceeding and justify why these matters are relevant and beneficial to be addressed in the current 2016 RRA proceeding instead of future proceedings.
2. In regard to the submissions on item 1 above, propose a regulatory process (i.e. action items and dates) for the completion of the review of the 2016 ICBC RRA.

2.2 Submissions by ICBC and Intervenors

By February 6, 2017, the Commission received submissions from the following participants:

- ICBC;
- Mr. McCandless;
- Mr. Landale;
- British Columbia Old Age Pensioners' Organization et al. (BCOAPO);
- Toward Responsible Educated Attentive Driving (TREAD);

ICBC

ICBC submits that the Commission should focus on the two requests and there is sufficient information for the Commission to make its decision and no further process is necessary. In light of the Independent Review, ICBC asserts that any other matters can more effectively be dealt with in future regulatory proceedings.

However, if the Commission determines that final arguments are necessary on ICBC's two remaining requests, ICBC proposes that its submission be filed by February 15, 2017, intervener arguments by February 22, 2017, and ICBC's reply submission by March 1, 2017.²

Intervenors

Mr. McCandless points out that the Commission, as the Basic insurance regulator, "has a major interest in the recommendations of the proposed review". He submits that the Commission should ensure that certain key products of the Independent Review are incorporated in the Policy Year 2017 (PY 2017) rate request. It is Mr. McCandless' position that "the balance of the current review should be used by the Panel to formulate concerns regarding the affordability and sustainability of the finances of the Basic program, and to provide direction to ICBC concerning the scope and format of the PY 2017 review". Specifically, Mr. McCandless recommends that the Commission should require ICBC, in its PY 2017 rate application, to report on multi-year rate and capital reserves forecast, Optional insurance capital reserves ratios in light of the capital transfers to Basic insurance, and policy and fiscal year comparisons.³

² Exhibit B-13, pp. 1-2.

³ Exhibit C1-6, pp. 1-2.

Mr. McCandless provided no submissions on regulatory process.

Mr. Landale proposes a regulatory process to allow for the filing of intervener evidence in addition to final arguments affording the intervener “the submission of opinion in light of the application, the information requests, ICBC’s rebuttals and any summary amplification of prominent evidence”. He asserts that his evidence does not interfere with either order [OIC 960/16 and Order G-2-17], but it does discuss the issues surrounding the OIC and General Order. His evidence will cover topics in the application, including the regulatory timetable, indicated rate change by order, legislative framework, Canada Pension Plan, impact on seniors, premium escalation, minimum capital test, public consultation, BC weather, and ICBC reporting.⁴

Mr. Landale expresses concerns that the Independent Review has any meritorious influence on the remaining process. It is his opinion that the Independent Review should not form any basis for a decision on the remaining process because it is not evidence from within the application or submitted by an intervener. Mr. Landale requests that Exhibit A2-2, an exhibit containing the news release from the Ministry of Transportation and Infrastructure announcing the Independent Review of ICBC, be removed from the proceeding record.⁵

BCOAPO submits that interveners should have the opportunity to make final arguments on the two requests by ICBC in the Application and the scope should permit interveners to address incidental issues raised in the two rounds of IRs, as has been the practice in past ICBC applications. BCOAPO anticipates addressing compliance issues raised in IRs.⁶

BCOAPO points out that interveners will not be participating in the Independent Review and if interveners are denied the opportunity to make final arguments, the effect of OIC 960/16 will be to completely shut out interveners from a contemporaneous review of ICBC in PY 2016.⁷ BCOAPO is content with the ICBC proposed regulatory timetable should there be a final argument process.⁸

TREAD states that the remainder of the 2016 RRA should not be limited to focus only on ICBC’s two outstanding requests. TREAD’s position is that the Independent Review will potentially have significant and far-reaching consequences on Basic insurance and the role of the Commission as a regulator. TREAD submits that the remaining process of the 2016 RRA must include an examination of work that ICBC’s Board expects will be completed in time to support the next rate filing. This would include:

- Information regarding the selection of third party reviewers, as well as the scope, costs, terms of reference and timing of the Independent Review;
- The costs that will be incurred as a result of the review;
- The scope and nature of the work to be completed by ICBC in the Independent Review; and
- The specific work that will be completed in time for the next filing process.⁹

TREAD proposes that the Commission hold a workshop to address questions and issues related to the Independent Review, rate design matters, OIC 960/16, and other procedural matters.¹⁰

⁴ Exhibit C2-8, p. 2.

⁵ Exhibit C2-8, p. 1.

⁶ Exhibit C3-6, p. 2.

⁷ Exhibit C3-6, p. 2.

⁸ Exhibit C3-6, p. 3.

⁹ Exhibit C5-6, pp. 2-3.

¹⁰ Exhibit C5-6, p. 4.

ICBC Reply

ICBC asserts that the Commission has already fixed rates for PY 2016 and only two matters requiring approval remain. In ICBC's view, the interveners who seek a broader scope and protracted process gave insufficient recognition to the Commission's determinations and the value of waiting for the outcome of the Independent Review. In response to intervener suggestions to expand the scope to incorporate content related to the Independent Review, ICBC states that it is not being conducted with Commission oversight. ICBC further states that items raised by TREAD like the terms of reference and consultant selection are matters for ICBC's Board of Directors. ICBC advises that the Commission will be able to consider the Independent Review output in future regulatory proceedings.¹¹

ICBC notes that Mr. McCandless' submissions do not refer to ICBC's two requests nor do they respond directly to the questions posed by the Commission. ICBC considers Mr. McCandless' proposal to provide direction for the 2017 RRA content to include certain key products of the Independent Review as unnecessary "and the Independent Review should be allowed to unfold consistent with the government's expectations". However, it does note that Commission direction on these matters would not require additional evidence.¹²

With respect to Mr. Landale's intent to file evidence, ICBC submits that most of the proposed topics appear to be related to either the Basic insurance rate for PY 2016 which is already determined or the legislative framework within which both the Commission and ICBC must operate. ICBC's position is that in the interests or regulatory efficiency, intervener evidence should be ruled out of scope unless directly related to the two outstanding issues requiring a Commission determination.¹³

Panel determination

Based on the submissions of ICBC and the interveners there are a number of issues the Panel needs to address in making its determination on further process. These are as follows:

- i) Should the Commission be providing direction to the ICBC board with respect to the Independent Review?
- ii) What relevance if any does the Independent Review have in determining further process for PY 2016 RRA?
- iii) Should provision be made in the remaining regulatory timetable for intervener evidence?
- iv) What is the appropriate scope of the remaining process for PY 2016 RRA?

Direction to the ICBC board

None of the interveners expressed concern with the ICBC's board's decision to initiate an independent review of ICBC's Basic insurance business. However, a number of interveners seemed to express the view that the Commission had a role to play with respect to the Independent Review process. Mr. McCandless has indicated that the remainder of the PY 2016 RRA review should be used to formulate concerns regarding the affordability and sustainability of the Basic insurance program. TREAD submits that the remainder of this review must include examination of the work that ICBC's board expects to be completed prior to the next rate filing and has laid out a number of information requirements and a workshop as a means to address questions and issues related to the Independent Review. ICBC disagrees arguing that the Commission has no oversight of the Independent Review and the matters raised by TREAD are under the purview of the ICBC board. The Panel agrees. The ICBC

¹¹ Exhibit B-14, pp. 1-2.

¹² Exhibit B-14, pp. 1-2.

¹³ Exhibit B-14, p. 3.

board has been directed by the Minister of Transportation and Infrastructure “...to commission a third-party review with a goal to produce a range of options for ICBC to increase fairness, affordability and sustainability when it comes to Basic insurance rates...”¹⁴ The directive makes no mention of the Commission and any role it may play. As pointed out by ICBC, the Commission, as the regulator, will have access to the completed report and consider the findings in future regulatory proceedings. **Therefore, the Panel rejects TREAD’s submission that there is a need for additional process regarding ICBC board decisions related to conducting the Independent Review. Moreover, issues related to rate design and procedural matters in past proceedings are not part of the scope of this proceeding and are likewise rejected. The Panel also rejects Mr. McCandless’s submissions regarding the need for the remainder of this proceeding to address the affordability and sustainability of the Basic program.** As noted in Exhibit A2-2 that is a directive the ICBC board has been directed to fulfill.

Relevance of Independent Review

Mr. Landale has expressed concern that the Independent Review should not form any basis for a decision on the remaining process. The Panel disagrees and finds it to be highly relevant in guiding the Panel in its determination of further required process for this proceeding. The Independent Review has been directed by the Minister of Transportation and Infrastructure and is expected to produce a range of options which if implemented would increase fairness, affordability and Basic insurance sustainability. The Panel considers this to be very important with the potential to shed light on many of the issues affecting rates both now and in the future. To ignore this important undertaking and conduct the balance of this proceeding as if it were not occurring would be inefficient and irresponsible. The costs of undertaking a proceeding are substantial and must be considered when determining a process. If there are factors at play such as this Independent Review, they must be considered by the Panel in determining the need for further process. **The Panel rejects Mr. Landale’s request that Exhibit A2-2 be removed from the record.**

Intervener evidence

Mr. Landale has proposed that the regulatory process allow for the filing of intervener evidence explaining that his evidence does not interfere with either OIC 960/16 or Order G-2-17. He does, however, state that he intends to discuss issues surrounding both OIC 960/16 and Order G-2-17 and provides a listing of topics he intends to present evidence on. Mr. Landale has provided no explanation as to why these matters are relevant and need to be addressed in the current proceeding where the PY 2016 permanent rate has already been determined rather than be deferred to the next RRA. The Commission in its letter of January 16, 2017 specifically requested this justification. **Given this lack of justification of the need for further process, the Panel rejects Mr. Landale’s proposal to file intervener evidence.**

Scope of the remaining process

BCOAP and other interveners have taken the position that the Commission should be liberal in setting the scope of issues that may be addressed in final submissions. ICBC disagrees and argues that matters other than the two applied for requests can be more effectively addressed in future regulatory proceedings pointing out that interveners have given insufficient value to the of waiting for the outcome of the Independent Review. **The Panel agrees with ICBC and determines that the scope for the remainder of the proceeding be restricted to providing argument on the two outstanding requests from the Application: (i) DPAC Allocation Methodology and (ii) Government Initiatives Reporting Requirement.** While there are certainly issues that could be addressed within this proceeding, interveners have not provided sufficiently compelling reasons as to why it is beneficial to address these issues immediately rather than waiting for the next RRA. While the results of the Independent Review cannot be predicted, it is reasonable to assume that at a minimum it will provide additional

¹⁴ Exhibit A2-2.
Orders/G-23-17_ICBC_2016 RRA Remaining process

context to many of these issues and allow for more effective regulatory review and decision-making. Moreover, ICBC's PY 2016 permanent rate has been set by Order G-2-17.

The Panel notes that some interveners would like the Commission to provide ICBC direction on the scope and format of the PY 2017 review. ICBC states that the Independent Review should be allowed to unfold. The Panel agrees there is value in addressing requirements for PY 2017 as it could potentially reduce the number of information requests thereby providing greater regulatory efficiency. However, the Panel is not persuaded that addressing this matter prior to issuance of the Independent Review report will provide optimum results since there is no way to know what that report will say or its implications. Further, the Panel acknowledges that the 2016 RRA has developed an extensive record of information, which may be relevant and useful in further proceedings. **Therefore, the Panel directs ICBC to meet with Commission staff before submission of the 2017 RRA and encourages them to reach consensus on the form and content of the 2017 RRA, including the results of the Independent Review if those results are available before the August 31 legislated filing date.**

The revised regulatory schedule is attached to these reasons for Decision as Appendix B.

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REGULATORY TIMETABLE

ACTION	DATE (2017)
ICBC Final Argument	Monday , March 6
Intervener Final Argument	Thursday, March 16
ICBC Reply	Monday, March 27