



**ORDER NUMBER
F-12-18**

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

and

the Insurance Corporation Act, RSBC 1996, Chapter 228, as amended

Insurance Corporation of British Columbia
Revenue Requirements Application for Universal Compulsory Automobile Insurance
Effective November 1, 2017
Application for Participant Assistance/Cost Awards

BEFORE:

B. A. Magnan, Panel Chair/Commissioner
D. J. Enns, Commissioner
R. D. Revel, Commissioner

on March 9, 2018

ORDER

WHEREAS:

- A. On September 15, 2017, the Insurance Corporation of British Columbia (ICBC) filed an application with the British Columbia Utilities Commission (Commission) for its 2017 Revenue Requirements for Universal Compulsory Automobile Insurance (Basic insurance), seeking a Basic insurance rate increase of 6.4 percent for the policy year commencing November 1, 2017, among other requests (Application);
- B. By Orders G-146-17 and G-156-17, the Commission approved an interim rate increase of 6.4 percent for the policy year commencing November 1, 2017, and established a regulatory timetable for the review of the Application, which included intervenor and interested party registration, one round of information requests (IRs) to ICBC, a procedural conference, and with further process to be determined;
- C. Following the December 5, 2017 Procedural Conference, by Order G-180-17 dated December 11, 2017, the Commission established a regulatory timetable for a second round of IRs to ICBC, a process for submission of intervenor evidence, followed by written final and reply arguments;
- D. On December 18, 2017, the Lieutenant Governor in Council issued Order in Council No. 602 (OIC 602/17) amending Special Direction IC2 to the British Columbia Utilities Commission (Special Direction IC2). OIC 602/17 requires the Commission to issue, for the 2017 policy year, the following orders to ICBC by January 12, 2018, based on the evidence filed with the Commission by December 12, 2017:
 - i. its final general rate change order; and

- ii. any other final orders in respect of ICBC's revenue requirements application that was filed with the Commission on September 15, 2017;
- E. By Order G-192-17A dated December 19, 2017, the Commission amended the regulatory timetable to proceed directly to written final and reply arguments;
- F. On January 12, 2018, the Commission issued Order G-8-18, with accompanying reasons for decision, approving a permanent 6.4 percent Basic insurance rate increase for the policy year commencing November 1, 2017 and directing ICBC to refile for the other approvals sought in its September 15, 2017 application in its next general rate change application, which is scheduled for August 31, 2018;
- G. The following interveners filed Participant Assistance/Cost Award (PACA) applications with the Commission with respect to their participation in the proceeding, and these PACA applications were provided to ICBC for an opportunity to comment:

Date (2018)	Participant	Application
January 4	Movement of United Professionals (MoveUp)	\$10,850.56
January 17	Mr. Richard Landale	\$253.60
January 18	British Columbia Old Age Pensioners' Organization <i>et al.</i>	\$22,099.10
January 18	Mr. Todd Litman	\$14,862.00
January 18 and 31	Toward Responsible Educated Attentive Driving (TREAD)	\$43,259.73

- H. By letter dated February 2, 2018, ICBC provided its comments on the PACA applications;
- I. By February 9, 2018, Mr. Landale, Mr. Litman, MoveUp and TREAD provided reply comments to ICBC; and
- J. The Commission has reviewed the PACA applications in accordance with the criteria and rates set out in the PACA Guidelines attached to Commission Order G-97-17, ICBC's comments regarding PACA applications, as well as participants' responses to ICBC's comments, and make the following determinations on the cost awards.

NOW THEREFORE pursuant to section 118(1) of the *Utilities Commission Act*, the Commission orders as follows:

- 1. Funding is awarded to the following interveners in the listed amounts for their participation in the ICBC 2017 Revenue Requirements Application for Universal Compulsory Automobile Insurance proceeding:

Participant	Award
British Columbia Old Age Pensioners' Organization <i>et al.</i>	\$22,099.10
Movement of United Professionals	\$10,850.56
Mr. Richard Landale	\$257.60
Mr. Todd Litman	\$1,914.00
Toward Responsible Educated Attentive Driving	\$32,491.33

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

DATED at the City of Vancouver, in the Province of British Columbia, this 9th day of March 2018.

BY ORDER

Original signed by:

B. A. Magnan
Commissioner

Attachment

Insurance Corporation of British Columbia Revenue
Requirements Application for Universal Compulsory Automobile Insurance
Effective November 1, 2017
Application for Participant Assistance/Cost Awards

REASONS FOR DECISION

1.0 Background

The British Columbia Utilities Commission (Commission) received Participant Assistance/Cost Award (PACA) applications from five participants in the Insurance Corporation of British Columbia (ICBC) 2017 Revenue Requirements Application for Universal Compulsory Automobile Insurance (Basic insurance) for the policy year commencing November 1, 2017 (2017 RRA) proceeding. The five participants are as follows:

- British Columbia Old Age Pensioners' Organization *et al.*;
- Movement of United Professionals;
- Mr. Richard Landale;
- Mr. Todd Litman; and
- Toward Responsible Educated Attentive Driving.

ICBC's 2017 RRA was filed on September 15, 2017. By Orders G-146-17 dated September 22, 2017, G-156-17 dated October 10, 2017, and G-180-17 dated December 11, 2017, the Commission established a regulatory timetable for the review of the Application, which included two rounds of information requests (IR), a procedural conference, a process for submission of intervenor evidence, and written final and reply arguments.

On December 18, 2017, the Lieutenant Governor in Council issued Order in Council No. 602 (OIC 602/17) amending Special Direction IC2 to the British Columbia Utilities Commission (Special Direction IC2). OIC 602/17 requires the Commission to issue, for the 2017 policy year, the following orders to ICBC by January 12, 2018, based on the evidence filed with the Commission by December 12, 2017:

- i. its final general rate change order; and
- ii. any other final orders in respect of ICBC's revenue requirements application that was filed with the Commission on September 15, 2017;

On December 19, 2017, as a result of the amendments to Special Direction IC2 as set out in OIC 602/17, the Commission issued Order G-192-17A amending the regulatory timetable for the review of the Application to proceed directly to written final and reply arguments.

The Panel, in its review of the PACA applications, was guided by the PACA Guidelines set out in Commission Order G-97-17, and considered ICBC's comments dated February 2, 2018 and participants' comments received by February 9, 2018.

2.0 PACA Guidelines

The PACA Guidelines set out the eligibility requirements and criteria used in assessing cost awards, including the process for applying for a cost award, eligible costs and rates.

Section 3.1 of the PACA Guidelines outlines the considerations to determine participant eligibility for a cost award. The Commission will consider whether the participant:

- (a) is directly or sufficiently affected by the Commission's decision; or
- (b) has experience, information, or expertise relevant to a matter before the Commission that would contribute to the Commission's decision-making.

Section 3.2 of the PACA Guidelines describes the general characteristics of a participant in a proceeding that would meet the eligibility criteria. Among those to be considered is whether a participant represents the direct interests of ratepayer groups or affected groups in relation to matters that are regulated by the Commission. If the participant is eligible for a cost award, the Panel would then consider the following in determining the amount of a participant's cost award in accordance with section 4.3 of the PACA Guidelines:

- (a) Has the participant contributed to a better understanding by the Commission of the issues in the proceeding?
- (b) To what degree will the participant be affected by the outcome of the proceeding?
- (c) Are the costs incurred by the participant fair and reasonable?
- (d) Has the participant joined with other groups with similar interests to reduce costs?
- (e) Has the participant made reasonable efforts to avoid conduct that would unnecessarily lengthen the duration of the proceeding, such as ensuring participation was not unduly repetitive?
- (f) The funding day calculation for funding in accordance with Sections 4.1 and 4.2, if one is provided.
- (g) Any other matters which the Commission determines appropriate in the circumstances.

3.0 Funding days

Section 4.1 of the PACA Guidelines states for each proceeding for which a cost award is available, the Commission may determine the number of funding days, subject to a funding cap if established for the proceeding. Section 4.2 of the PACA Guidelines provides guidance in determining the number of funding days. For a written proceeding or a written portion of a proceeding, funding days will typically be an estimate of the number of days required for participation in and preparation of written submissions such as information requests, final arguments and letters of comment. For an oral/in-person proceeding or an oral/in-person portion of a proceeding, funding days will typically be determined by the number of proceeding days and may include preparation days on a ratio of 2 funding days per proceeding day.

Commission determination

The Panel has considered the events set out in the regulatory timetable, including the amended regulatory timetable because of the amendments to Special Direction IC2 as set out in OIC 602/17, and determines that 6.5 days is the maximum eligible number of funding days for PACA for the 2017 RRA, as shown in the table below:

Date	Action	Number of funding days (Including preparation and participation)
November 2, 2017	IR No. 1 to ICBC	3
December 5, 2017	Procedural conference	1.5
N/A	IR No. 2 to ICBC (started)	1
January 4, 2018	Intervener final argument	1

The Panel did not establish a funding cap for the 2017 RRA proceeding. The Panel finds 6.5 days is a reasonable maximum number of funding days as the regulatory review process consisted of one round of completed IRs, a half day procedural conference, the start of a second round of IRs (after the establishment of G-180-17, but before Order G-192-17A), and one round of written final and reply arguments.

4.0 PACA Applications

The five PACA applications received are summarized as follows:

Participant	Award
British Columbia Old Age Pensioners' Organization <i>et al.</i> (BCOAPO)	\$22,099.10
Movement of United Professionals (MoveUP)	\$10,850.56
Mr. Richard Landale	\$253.60
Mr. Todd Litman	\$14,862.00
Toward Responsible Educated Attentive Driving (TREAD)	\$43,259.73

4.1 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 a cost award of \$22,099.10 based on \$17,001.60 for legal fees (6 days), \$5,087.50 for consultant fees (2.75 days), and \$10 for disbursements, inclusive of applicable taxes.

ICBC notes that the number of proceeding days reported in BCOAPO's PACA application is 1.4 days when the December 5, 2017 procedural conference lasted only half a day. Assuming the additional time was meant to account for preparation time for attendance at the procedural conference, ICBC otherwise has no objection to this amount being reflected in the total PACA amount. BCOAPO did not provide a reply comment.

Commission determination

In its consideration of the PACA Guidelines, the Panel finds that BCOAPO is eligible for PACA funding in this proceeding as it is a ratepayer group. BCOAPO participated in all aspects of the proceeding and the number of days that BCOAPO has claimed for legal and consultant fees is within the Panel's expectation of 6.5 days for full

participation. The Panel considers BCOAPO's application for 1.4 proceeding days with respect to its attendance at the December 5, 2017 procedural conference to be in accordance with Section 4.2 of the PACA Guidelines with respect to an oral/in-person portion of a proceeding and is based on a ratio of 2 funding days per proceeding day. BCOAPO contributed to a better understanding by the Commission of the issues in the 2017 RRA.

For the reasons above, the Panel awards BCOAPO a cost award of \$20,099.10, inclusive of applicable taxes, as applied for.

4.2 MoveUp

MoveUp is the trade union that represents the unionized employees of ICBC's workforce. As such, MoveUp and its members have a direct and material interest in a wide range of issues arising in the regulation of ICBC. MoveUp requests a cost award of \$10,850.56 for legal fees (3.46 days), inclusive of applicable taxes.

ICBC submits that the majority of MoveUp's IRs were narrowly focused on the topic of ICBC's Material Damage (MD) program, particularly in regard to ICBC's Express Repair program, and that MoveUp acknowledged in its final argument that the Express Repair program is a matter which is the subject of an audit commissioned by the provincial government. Accordingly, ICBC submits that the Commission's PACA decision for MoveUp "should reflect both the narrow focus of the MoveUP IRs and the value that they had in contributing to a better understanding of the issues before the Commission in the proceeding."¹

On February 5, 2018, MoveUp provided its written response to ICBC's comments, stating, among other things, that ICBC "inaccurately suggest[s]" that the MD program was the sole focus of MoveUp's participation in the proceeding and provides counterexamples. Furthermore, MoveUp submits that its attention to the MD issue avoided duplication of effort by other interveners, and "the fact that [the provincial] government is also reviewing these issues should not be held against the union."²

Commission determination

In its consideration of the PACA Guidelines, the Panel finds that MoveUp is eligible for PACA funding in this proceeding as it is directly or sufficiently affected by the Commission's decision. MoveUp participated in all aspects of the proceeding and the number of days that MoveUp has claimed for legal fees is within the Panel's expectation of 6.5 days for full participation. The Panel considers that MoveUp asked relevant questions in its IRs which were within the scope of the RRA and that ICBC's MD program was just one of the many topics explored by MoveUp. Therefore, MoveUp contributed to a better understanding by the Commission of the issues in the proceeding.

The Panel awards MoveUp a cost award of \$10,850.56, inclusive of applicable taxes, as applied for.

4.3 Mr. Richard Landale

Mr. Landale represents himself as a senior citizen and pensioner. He requests an amount of \$253.60 for out-of-pocket disbursements related to printing/photocopying, travel and meals.

¹ ICBC comments on PACA applications, letter dated February 2, 2018, pp. 1–2.

² MoveUp response to ICBC's PACA comments, letter dated February 5, 2018, pp. 1–2.

ICBC submits that it will accept Mr. Landale's costs, but notes that Mr. Landale has requested reimbursement for both printer cartridge replacement and printing costs, "the latter [which] likely already includes a component for printer cartridge replacement."³

On February 4, 2018, Mr. Landale provided his response to ICBC's comments, asking that ICBC "accept [his] word" as he has no need to "make a profit on paper charges." Nevertheless, Mr. Landale submits that he is willing to accept ICBC's "alternative considerations in this regard."⁴

Commission determination

Section 10.0 of the PACA Guidelines states that disbursements directly related to a participant's participation in the proceeding may be allowed, including travel to an oral/in-person proceeding, up to the rates shown in Attachment B of the PACA Guidelines. The Panel considered Mr. Landale's PACA application and finds the requested amounts to cover Mr. Landale's out-of-pocket is reasonable and that Mr. Landale contributed to a better understanding of the issues. The Panel adjusted the payment for breakfast from \$18 to \$22 in consideration of the rates shown in Attachment B of the PACA Guidelines.

The Panel awards Mr. Landale a cost award of \$257.60, inclusive of applicable taxes.

4.4 Mr. Todd Litman

Mr. Litman represents himself as a BC resident affected by ICBC's insurance price structure. Mr. Litman is a transportation policy analyst. He requests an amount of \$14,862.00 based on \$14,448.00 for specialist fees (6 days), and \$414.00 for disbursements, inclusive of taxes.

In its letter dated February 2, 2018, ICBC questions whether Mr. Litman's qualifies for PACA funding and if yes, whether he qualifies for fees at the level claimed.⁵ Mr. Litman submits that he does, noting that he lives in a car-free household, and "to the degree that insurance pricing can reduce total vehicle travel it improves our safety" he represents an affected group in relation to ICBC's matters regulated by the Commission.⁶ With respect to the fees claimed, Mr. Litman submits that he has provided the necessary information in his resume and request to intervene to support his qualifications as an insurance risk, cost and pricing expert in support of the requested fee.⁷

ICBC believes that some of Mr. Litman's IRs were related to rate design or were of limited value in terms of contributing to a better understanding of the issues before the Commission. In addition, ICBC notes that Mr. Litman introduced new evidence in his Final Argument.⁸ Mr. Litman disagrees, submitting reasons in reply to ICBC's comments as to why his IRs and Final Argument were appropriate and contributed to the proceeding.⁹

³ ICBC comments on PACA applications, letter dated February 2, 2018, p. 1.

⁴ Mr. Landale response to ICBC's PACA comments, email dated February 4, 2018.

⁵ ICBC comments on PACA applications, letter dated February 2, 2018, pp. 2-3.

⁶ Mr. Litman response to ICBC's PACA comments, email dated February 5, 2018.

⁷ Ibid.

⁸ ICBC comments on PACA applications, letter dated February 2, 2018, p. 3.

⁹ Mr. Litman response to ICBC's PACA comments, email dated February 5, 2018.

In consideration of the number of preparation and proceeding days claimed by Mr. Litman, in ICBC's view, the number claimed by Mr. Litman "seems excessive" in relation to other interveners. ICBC suggests that the number of proceeding days awarded to Mr. Litman should be no more than half a day if professional fees are awarded.¹⁰ Mr. Litman does not comment, but notes that travelling from his home in Victoria to Vancouver for a procedural conference requires considerable travel time, so "including that day's preparation requires a full day."¹¹

Commission determination

The Panel disagrees with ICBC and accepts that Mr. Litman is directly or sufficiently affected by the Commission's decision with respect to the 2017 RRA, and is, therefore, eligible for a cost award under Section 3.1 of the PACA Guidelines.

Mr. Litman actively participated in the proceeding as an individual participant¹² representing his own interests and not the interests of a group or organization, and contributed to a better understanding by the Commission of certain issues in the proceeding. In accordance with Section 7.11 of the PACA Guidelines, generally, the Commission will limit awards for individual participants to foregone earnings, childcare and disbursements. The Commission may award individual participants professional fees if it deems those fees are warranted for the individual to participate effectively. The Panel considers Mr. Litman's application for a daily rate of \$2,150 per day to be in the nature of an application for foregone earnings for an individual participant. Accordingly, the Panel adjusts Mr. Litman's requested amount to the daily rate for foregone earnings in accordance with the rate schedule in Attachment A of the PACA Guidelines, and **approves PACA funding for foregone earnings of \$1,500.00, which equates to the six funding days Mr. Litman applied for at a rate of \$250 per day.** The Panel has no issues with reimbursing Mr. Litman for disbursements of \$414.00 to travel to the December 5, 2017 procedural conference in Vancouver.

For the reasons above, the Panel awards Mr. Litman a total cost award of \$1,914.00, inclusive of applicable taxes.

4.5 TREAD

TREAD requests a cost award of \$43,259.73 based on \$26,342.40 for legal fees (8.4 days), \$16,835 for consultant fees (9.1 days), and \$82.33 for disbursements, inclusive of applicable taxes. The foregoing amounts reflect a revised consultant's invoice filed by TREAD on January 31, 2018 showing that GST and PST are not applicable.

With respect to TREAD's PACA application, ICBC makes three comments. First, ICBC expresses concerns that some of TREAD's IRs were either repetitive or related to rate design.¹³ TREAD disagrees, noting in its reply comments to ICBC that ICBC did not specifically substantiate which IRs are irrelevant.¹⁴ Second, ICBC submits that "a considerable amount of time was unnecessarily spent" by TREAD discussing matters which were "without merit" and "unnecessary distractions" at the procedural conference.¹⁵ TREAD disagrees. Among its

¹⁰ ICBC's comments on PACA applications, letter dated February 2, 2018, p. 3.

¹¹ Mr. Litman response to ICBC's PACA comments, email dated February 5, 2018.

¹² Exhibit C6-1.

¹³ ICBC comments on PACA applications, letter dated February 2, 2018, p. 3.

¹⁴ TREAD response to ICBC's PACA comments, pp. 2-3.

¹⁵ ICBC comments on PACA applications, letter dated February 2, 2018, p. 4.

views, TREAD considers that the matters raised were within its purview as an intervener and that the appropriate time and place for ICBC to have made this assertion would have been at the procedural conference, and not during this PACA process.¹⁶ Finally, ICBC questions whether certain tasks which were undertaken were done in the most cost effective manner possible.¹⁷ TREAD argues that it is a small organization representing ratepayers, and resourcing constraints play a role. However, TREAD does not object to remunerating the tasks identified by ICBC at a Case Manager's rate, rather than the Consultant's rate as applied for.¹⁸

Commission determination

In its consideration of the PACA Guidelines, the Panel finds that TREAD is eligible for PACA funding in this proceeding as it is a ratepayer group. The Panel considered the IRs asked by TREAD and finds that the questions raised were relevant and generally within the scope of the RRA. Therefore, TREAD contributed to a better understanding by the Commission of the issues in the 2017 RRA. However, the Panel considers that the number of funding days applied for by TREAD to be significantly higher than the Panel's expectations as discussed in Section 3.0 of these Reasons for Decision. Therefore, the Panel adjusted TREAD's number of funding days for legal and consulting fees to the maximum eligible number of funding days of 6.5 days, and **awards TREAD a cost award of \$32,491.32, inclusive of applicable taxes, calculated as follows:**

	Days	Daily Rate	GST	PST	Total (inc. taxes)
Legal fees	6.5	\$2,800	\$910	\$1,274	\$20,384.00
Consultant fees	6.5	\$1,850	N/A	N/A	\$12,025.00
Disbursements					<u>\$82.33</u>
					\$32,491.33

¹⁶ TREAD response to ICBC's PACA comments, pp. 3-4.

¹⁷ ICBC comments on PACA applications, letter dated February 2, 2018, p. 4.

¹⁸ TREAD response to ICBC's PACA comments, pp. 4-5.