



ORDER NUMBER
G-192-20

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

and

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

and

Insurance Corporation of British Columbia
Application in Response to the COVID-19 Pandemic

BEFORE:

D. M. Morton, Panel Chair
T. A. Loski, Commissioner
B. A. Magnan, Commissioner

on July 17, 2020

ORDER

WHEREAS:

- A. On April 16, 2020, the Insurance Corporation of British Columbia (ICBC) filed an application with the British Columbia Utilities Commission (BCUC) requesting interim and final approval of the following temporary measures to provide relief to universal compulsory automobile insurance (Basic insurance) policyholders in response to the novel coronavirus (COVID-19) pandemic (Application):
1. Waive cancellation charges on non-fleet owner's certificates;
 2. Permit fleet customers to suspend their Basic insurance and obtain a refund without the need to cancel their Basic insurance by amending the use of Rate Class 919 and temporarily transferring fleet certificates to Rate Class 919; and
 3. Permit customers currently insured in Rate Classes 001, 002, 003, 004, 005, 007, 021, 022, 023, 024, 027, 051 and 055 to temporarily use their vehicles for delivering food and medical products during the pandemic without charging additional premiums or changing rate classes;
- B. ICBC states that the Application was filed in response to BCUC letter L-14-20 dated March 23, 2020, requesting that ICBC consider further ways to provide relief to Basic insurance policyholders who may be experiencing financial challenges due to the pandemic;
- C. ICBC proposes that the approvals sought remain in effect for a period of 60 days from the date of BCUC's interim order with the option for ICBC to apply to the BCUC to extend the end date of the temporary measures, as required;

- D. By Order G-92-20 dated April 22, 2020, following a virtual oral hearing held on April 21, 2020, the BCUC approved the Application on an interim and non-refundable basis, effective April 23, 2020 to June 21, 2020. In addition, the BCUC established a public hearing process and a regulatory timetable, which included intervener registration and requested that interveners advise the BCUC of their intent to submit written information requests on the Application;
- E. By Order G-117-20 dated May 19, 2020, following the intervener registration period, the BCUC established a further regulatory timetable for the Application, which included one round of intervener information requests (IRs) and followed by written final and reply arguments;
- F. On June 9, 2020, ICBC filed a letter to the BCUC seeking to change the end date of the three temporary COVID-19 relief measures to August 20, 2020 (Extension Period) and to amend the regulatory timetable established by Order G-117-20. By Order G-143-20 dated June 9, 2020, the BCUC approved the Extension Period on an interim and non-refundable basis and amended the regulatory timetable, among other things; and
- G. The BCUC has reviewed the Application, the evidence and submissions of ICBC and registered interveners and finds that final approval is warranted.

NOW THEREFORE for the reasons attached as Appendix A to this order, the BCUC orders as follows:

- 1. ICBC is granted final approval for the following temporary measures, effective April 23, 2020 to August 20, 2020, as applied for in the Application:
 - i. Waive cancellation charges on non-fleet owner's certificates;
 - ii. Permit fleet customers to suspend their Basic insurance and obtain a refund without the need to cancel by amending the use of Rate Class 919 and temporarily transferring fleet certificates to Rate Class 919; and
 - iii. Permit customers currently insured in Rate Classes 001, 002, 003, 004, 005, 007, 021, 022, 023, 024, 027, 051 and 055 to temporarily use their vehicles for delivering food and medical products during the pandemic without charging additional premiums or changing rate classes.
- 2. ICBC is directed to file amended tariff pages reflecting the final approvals within 20 days of the date of this order.

DATED at the City of Vancouver, in the Province of British Columbia, this 17th day of July 2020.

BY ORDER

Original signed by:

D. M. Morton
Commissioner

Attachment

Insurance Corporation of British Columbia
Application in Response to COVID-19 Pandemic

REASONS FOR DECISION

1.0 Background and Introduction

On April 16, 2020, the Insurance Corporation of British Columbia (ICBC) filed an application with the British Columbia Utilities Commission (BCUC) requesting interim and final approval of three temporary measures to provide relief to universal compulsory automobile insurance (Basic insurance) policyholders in response to the novel coronavirus (COVID-19) pandemic (Application).

ICBC states that the Application was filed in response to BCUC letter L-14-20 dated March 23, 2020, requesting that ICBC consider further ways to provide relief to Basic insurance policyholders who may be experiencing financial challenges due to the pandemic. It proposes that the approvals sought remain in effect for a period of 60 days from the date of BCUC's interim order with the option for ICBC to apply to the BCUC to extend the end date of the temporary measures, as required.¹

On April 17, 2020, the BCUC issued questions to ICBC. On April 21, 2020, the BCUC held a virtual oral hearing to review the Application, wherein ICBC responded to the BCUC questions. On April 22, 2020, the BCUC issued Order G-92-20 which granted interim and non-refundable approval to ICBC for the period April 23, 2020 to June 21, 2020 and established a public hearing process for the review of the Application. On May 19, 2020, the BCUC issued Order G-117-20, which established the remainder of the regulatory timetable.

On June 9, 2020, ICBC filed a letter to the BCUC seeking an extension to the end date of the three temporary relief measures by 60 days to August 20, 2020 (Extension Period). By Order G-143-20, the BCUC granted interim and non-refundable approval of the Extension Period and amended the regulatory timetable.

The review process included intervener registration, intervener information requests (IR) and written final and reply arguments.

Four parties registered as interveners in this proceeding:

- Insurance Bureau of Canada (IBC);
- British Columbia Old Age Pensioners' Organization *et al.* (BCOAPO);
- Mr. Roy Ennis (Ennis); and
- Mr. Richard Landale (Landale).

IBC submitted IRs but did not submit a final argument. ICBC submitted its reply argument on June 25, 2020.

In accordance with the *Insurance Corporation Act* and Special Direction IC2 to the BCUC, BC Regulation 307/2004, as amended (Special Direction IC2), the BCUC's jurisdiction with respect to the regulation of ICBC is restricted to Basic insurance. The BCUC has no jurisdiction over ICBC's Optional insurance business.

¹ Exhibit B-1, p. 1.

2.0 Application and Approvals Sought

In the Application, ICBC requests approval of the following three temporary measures:

1. Waive cancellation charges on non-fleet owner's certificates;
2. Permit fleet customers to suspend their Basic insurance and obtain a refund without the need to cancel their Basic insurance by amending the use of Rate Class 919 and temporarily transferring fleet certificates to Rate Class 919; and
3. Permit customers currently insured in Rate Classes 001, 002, 003, 004, 005, 007, 021, 022, 023, 024, 027, 051 and 055 to temporarily use their vehicles for delivering food and medical products during the pandemic without charging additional premiums or changing rate classes.²

ICBC submits that the measures are beneficial for customers that are affected by the current crisis, consistent with the BCUC's March 23, 2020 letter encouraging ICBC to consider relief measures, and consistent with the regulatory framework. In its view, each of the measures is designed to remove barriers to help customers and assist those most adversely impacted by the pandemic from an insurance standpoint.³

In the current state, there is a \$30 cancellation charge to cover the administrative costs associated with cancelling a non-fleet owner's certificate. ICBC states that the estimated financial impact of waiving the cancellation charge for non-fleet customers is approximately \$2.0 to \$2.5 million for the initial 60 day period. The effect for the Extension Period is approximately an additional \$2.0 million.⁴ In addition, ICBC submits that brokers will need to inform affected customers that prospectively, customers will lose eligibility for the Distance Factor when they re-plate their vehicles if they cancel their insurance because the Distance Factor is based on the prior 12-months of data.⁵

ICBC submits that the financial impacts associated with fleet customers switching to Rate Class 919 are unknown as a full financial analysis cannot be undertaken until these fleets put their vehicles back on the road. Additionally, the financial impact from foregone premium associated with allowing customers to deliver food and medical supplies in their current rate classes is also unknown because it is not possible for ICBC to know the number of customers that would make that change with their broker.⁶

Positions of Interveners

BCOAPO submits that the proposed measures do not adequately address the needs of policyholders.⁷ Although BCOAPO does not oppose the applied-for measures, BCOAPO argues that more relief measures, such as discounts reflecting the current decreased risk of driving or prorated insurance premiums for capped days driving, are needed. It requests that the BCUC direct ICBC to examine additional forms of relief using actuarial evidence so that "ratepayers and the Commission can be assured that all reasonable forms of relief have been undertaken" and will be implemented.⁸

² Exhibit B-1, pp. 2–4.

³ Transcript Volume 1, p. 11; ICBC Final Argument, pp. 1–2.

⁴ *Ibid.*, p. 5.

⁵ Exhibit B-1, p. 2; Transcript Volume 1, pp. 34–35. The Panel notes that the Distance Factor is often referred to as the low kilometre discount.

⁶ Exhibit B-6, p. 2.

⁷ BCOAPO Final Argument, p. 2.

⁸ *Ibid.*, pp. 4–6.

Ennis submits that ICBC sought “appropriate and sufficient remedy” with respect to waiving cancellation fees, but that ICBC should have asked for that measure to be applied retroactively to the date that the BC provincial state of emergency was declared.⁹ Ennis does not comment on either of the other two temporary relief measures sought.

With regards to waiving cancellation fees, Landale agrees with Ennis that ICBC should be ordered to backdate all fees.¹⁰ Landale also submits that policyholders should not lose the Distance Factor, in that it should be based on actual vehicle distance factor usage for the policyholder’s respective policy renewal year, rather than the 12-month rule.¹¹

In terms of the Application review process, Landale questions why interveners were not afforded the opportunity to participate in the virtual oral hearing nor interim approval of the Extension Period to August 20, 2020.¹²

Landale concludes his argument by stating that a portion of the approved 2019 Basic insurance rate increase of 6.3 percent should be refunded to customers. In addition, ICBC should be directed to provide actual traffic volume and claims data for the period from March 18, 2020 to June 21, 2020.¹³

ICBC Reply Argument

In its reply argument, ICBC addresses the submissions by Ennis and Landale to backdate waiving cancellation fees by stating that it must legally observe the terms and conditions of services of the Basic insurance tariff in effect on the date of cancellation. ICBC submits that it does not otherwise have the legal authority to refund cancellation charges retroactively. In its view, ICBC acted promptly to bring forward the Application after the public announcement made by the Attorney General on April 8, 2020 that the provincial government was looking at waiving cancellation charges and ICBC sought interim approval to ensure the earliest possible effective date for the relief measures.¹⁴

ICBC responds to BCOAPO stating that the types of proposals advocated by BCOAPO would involve in-depth analysis and forecast of the overall impacts from COVID-19 and system changes, which were identified as an impediment to prompt implementation of temporary relief. ICBC submits its intent in this Application was to provide quick temporary financial relief to customers. While ICBC understands BCOAPO’s desire to accelerate a review of potential customer benefits due to the pandemic, ICBC submits that the planned timing of its review (i.e., at fiscal year-end) best recognizes ICBC’s practical and financial constraints. It also provides more time for ICBC to understand the full financial impact from the COVID 19 pandemic – both the positive and the negative impacts.¹⁵

With regards to the regulatory review process, ICBC replies to Landale that the expedited process adopted in this proceeding is explicitly contemplated in section 91 of the *Utilities Commission Act* (UCA). ICBC submits that the process facilitated issuing an interim order as soon as possible, which was desirable from the perspective of customers and is a sound rationale for the BCUC adopting such a process. ICBC states that the BCUC has

⁹ Ennis Final Argument, p. 1.

¹⁰ Landale Final Argument, p. 4.

¹¹ *Ibid.*, p. 6.

¹² *Ibid.*, pp. 2, 4.

¹³ *Ibid.*, p. 6; Landale Final Argument Amendment, p. 2.

¹⁴ ICBC Final Argument, p. 8; ICBC Reply Argument, pp. 2–3.

¹⁵ ICBC Reply Argument, pp. 1–2.

provided interveners with a full opportunity to participate prior to the BCUC making its final decision, submitting that the process has been “fair, efficient and effective.”¹⁶

In response to Landale regarding the scope of the proposed measures, ICBC states that it must work collaboratively with Government on initiatives of this nature.¹⁷

Panel Determination

The Panel grants final approval to ICBC for the three COVID-19 temporary measures as applied for in the Application, effective April 23, 2020 to August 20, 2020.

The Panel notes that interveners generally support ICBC’s three proposed measures. Interveners’ recommendations primarily focused on extending the length and scope of the proposed customer relief, additional relief measures, and the fairness of the regulatory review process. The Panel finds that based on the Application and evidence, the three proposed measures result in rates which are not unjust, unreasonable or unduly discriminatory as they directionally increase alignment between Basic insurance costs and revenues and are consistent with accepted actuarial practice.¹⁸

With respect to the desire for an earlier effective date for the waiver of cancellation charges for non-fleet owner’s certificates, the Panel is sympathetic. However, the Panel declines to take action noting that the approval of the recommendation would result in retroactive ratemaking; establishing rates to replace or substitute rates which were charged during a past period. Retroactive ratemaking is generally prohibited, and the Panel finds no compelling reason to deviate from this common law principle in the current Application. The Panel accepts that ICBC sought interim approval to ensure the earliest possible effective date for the relief measures, considering the logistics of implementing the systems.¹⁹

Regarding Landale’s submissions on the Distance Factor, the Panel makes no determination on the design of the Distance Factor in this proceeding. The Distance Factor concerns ICBC’s Basic insurance rate design, which the BCUC was directed by Government, in August 2018, to review and approve provided it met the factors, criteria and guidelines established by the government.²⁰ The BCUC did not find any evidence that the Distance Factor was inconsistent with government-stated objectives, thus it was approved.²¹

Regarding the BCOAPO’s proposal for additional customer relief, the Panel agrees with ICBC’s proposed approach to review the overall financial impacts from COVID-19 at fiscal year-end. In the Panel’s view, the scope of the Application is not to consider all possible ways in which ICBC could provide relief to Basic insurance policyholders, but rather to assess the merits and appropriateness of the three measures proposed. Considering uncertainties in the ways which COVID-19 is affecting British Columbians, the Panel accepts that certain financial impacts will not be known until a later time and that a more holistic approach to reviewing the financial impact impacts to ICBC is preferred.

Finally, regarding the regulatory process, the Panel supports the reasons provided by ICBC for why the BCUC adopted an expedited review process for interim approvals. In holding a publicly transcribed virtual oral hearing, the Panel considers that the process accommodated for the earliest possible effective date of the relief

¹⁶ Ibid., pp. 3–4.

¹⁷ Ibid., p. 3.

¹⁸ ICBC Final Argument, pp. 3–4.

¹⁹ Transcript Volume 1, p. 59.

²⁰ [Order in Council 459/18](#).

²¹ Order [G-188-18](#).

measures on an interim basis. The Panel also notes that a number of interveners referenced the oral hearing transcript in IRs and final arguments and therefore we do not consider any parties to have been disadvantaged by this process. The regulatory timetable which was established after the virtual oral hearing provided interveners with an opportunity to participate and ask questions on the Application without prejudice, prior to the Panel rendering its final decision. Similarly, the approval of the Extended Period was granted on an interim basis and the regulatory timetable was again amended to allow time for intervener final arguments on the Application.