



ORDER NUMBER
F-34-21

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
Revenue Requirements Application for Universal Compulsory Automobile Insurance Effective May 1, 2021
Participant Assistance/Cost Award Application

BEFORE:

A. K. Fung, QC, Panel Chair
K. A. Keilty, Commissioner
B. A. Magnan, Commissioner

December 17, 2021

ORDER

WHEREAS:

- A. On December 15, 2020, the Insurance Corporation of British Columbia (ICBC) filed an application with the British Columbia Utilities Commission (BCUC) for its 2021 Revenue Requirements for Universal Compulsory Automobile Insurance (Basic insurance), seeking a Basic insurance rate decrease of 15 percent for the policy year commencing May 1, 2021 (PY 2021), among other requests (ICBC 2021 RRA);
- B. By Orders G-12-21, G-134-21 and G-221-21, the BCUC established, among other things, a regulatory timetable for the review of the ICBC 2021 RRA, which included public notice, intervener registration, a workshop, and two rounds of BCUC and intervener information requests to ICBC, followed by written final and reply arguments;
- C. On October 28, 2021, by Order G-307-21 with decision issued concurrently, the BCUC approved a decrease in Basic insurance rates by 15.0 percent on a permanent basis for the 23-month policy year commencing May 1, 2021;
- D. The following participants filed Participant Assistance/Cost Award (PACA) applications with the BCUC with respect to their participation in the proceeding:

Date	Participant	Application
September 7, 2021 and revised on November 4, 2021	Movement of United Professionals (MoveUP)	\$6,359.36
October 7, 2021	The Fournier Auto Group	\$3,780.00

- E. In accordance with Section 14 of the BCUC's PACA Guidelines approved by Order G-97-17 (PACA Guidelines), ICBC filed a letter dated November 25, 2021 to provide its comments on the PACA applications; and
- F. The BCUC has reviewed the PACA applications including the comments received in accordance with the criteria and rates set out in the PACA Guidelines and makes the following determinations.

NOW THEREFORE pursuant to section 118(1) of the *Utilities Commission Act* and for the reasons set out in Appendix A to this order, the BCUC orders as follows:

1. Funding is awarded to the following participants in the listed amounts for their respective participation in the ICBC 2021 RRA:

Participant	Award
MoveUP	\$6,359.36
The Fournier Auto Group	\$750.00

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 17th day of December 2021.

BY ORDER

Original signed by:

A. K. Fung, QC
Commissioner

Attachment

Insurance Corporation of British Columbia
Revenue Requirements Application for Universal Compulsory Automobile Insurance
Effective May 1, 2021
Participant Assistance/Cost Award Application

REASONS FOR DECISION

1.0 Background

On December 15, 2020, the Insurance Corporation of British Columbia (ICBC) filed its 2021 Revenue Requirements Application (RRA) with the British Columbia Utilities Commission (BCUC), seeking a 15 percent decrease to Basic insurance rates for the 23-month policy year (PY) commencing May 1, 2021 and ending March 31, 2023 (PY 2021) (ICBC 2021 RRA).

The regulatory process for review of the ICBC 2021 RRA included public notice, intervener registration, a workshop, and two rounds of BCUC and intervener information requests (IR) to ICBC, followed by written final and reply arguments. On October 28, 2021, by Order G-307-21, the BCUC issued its decision on the ICBC 2021 RRA.

The following participants filed Participant Assistance/Cost Award (PACA) applications with the BCUC with respect to their participation in the proceeding:

Date	Participant	Application
September 7, 2021 and revised on November 4, 2021	Movement of United Professionals (MoveUP)	\$6,359.36
October 7, 2021	The Fournier Auto Group	\$3,780.00

MoveUP and the Fournier Auto Group were registered interveners in the ICBC 2021 RRA.

Subsequent to the PACA application filings, ICBC was provided the opportunity to comment on the PACA applications. ICBC responded with comments on November 25, 2021. The PACA applicants did not provide any reply comments.

2.0 Criteria

Section 118(1) of the *Utilities Commission Act* (UCA) provides that “The commission may order a participant in a proceeding before the commission to pay all or part of the costs of another participant in the proceeding.”

The PACA Guidelines as set out in Appendix A attached to BCUC Order G-97-17 dated June 15, 2017 (PACA Guidelines), establish the eligibility requirements and criteria used in assessing cost awards, including the process for applying for a cost award, eligible costs, and rates. In its review of the PACA applications, the Panel is guided by these PACA Guidelines.

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

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

If the participant is eligible for a cost award, the Panel then considers 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 BCUC 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 BCUC determines appropriate in the circumstances.

Sections 7.0 through 13.0 of the PACA Guidelines outline the types of eligible costs that can be awarded to participants including, among other things, professional fees, foregone earnings, childcare expenses, disbursements, tax costs and other costs.

3.0 Review

The Panel, in its review of MoveUP's and the Fournier Auto Group's PACA applications, was guided by the PACA Guidelines.

MoveUP is the union which represents ICBC employees. MoveUP submits that it is a long-standing participant in BCUC proceedings related to ICBC. ICBC employees have a direct and material stake in the financial health of ICBC, and its continued support from the public. They bring a unique perspective on a wide range of issues affecting and about ICBC.¹

The Fournier Auto Group, represented by Mr. Rob Fournier, provides third-party appraisals to people who are impacted by accelerated depreciation of vehicle damage. Mr. Fournier believes that accelerated depreciation exposure has not been factored into the ICBC 2021 RRA. Mr. Fournier also submitted that if the ICBC 2021 RRA is allowed, clients pursuing accelerated depreciation from ICBC will have no recourse and his services will no longer be needed.²

¹ Exhibit C3-1, p. 2.

² Exhibit C7-1, p. 2.

In accordance with section 3.1 of the PACA Guidelines, as outlined above, both PACA applicants are sufficiently affected by the BCUC's decision in the ICBC 2021 RRA proceeding and have experience, information, or expertise relevant to ICBC 2021 RRA. Therefore, the Panel is satisfied that both MoveUP and the Fournier Auto Group are eligible for a cost award.

Having concluded that the MoveUP and the Fournier Auto Group are eligible for PACA funding, the next step is to determine the amount of the award for each PACA applicant.

The considerations listed in section 4.0 of the PACA Guidelines, and referenced above, are useful guidance in this part of the analysis, to determine the amount of the award for each PACA participant. Rather than addressing each consideration separately (because not all are relevant), the Panel addresses the following considerations, which are the most relevant in the ICBC 2021 RRA proceeding:

- a. Has the participant contributed to a better understanding by the BCUC of the issues in the proceeding?
- b. Are the costs incurred by the participant fair and reasonable?

The table below summarizes the number of PACA funding days requested by each intervener in their PACA applications:

Participant	Legal	Consulting	Daily Rate	Application (Including applicable taxes)
MoveUP	2.09	0	\$2,720	\$6,359.36
The Fournier Auto Group	0	3	\$1,200	\$3,780.00

3.1 MoveUP

MoveUP requests a cost award of \$6,359.36 for legal fees (2.09 days) at a daily rate of \$2,720, inclusive of applicable taxes. In the ICBC 2021 RRA, MoveUP pursued issues including claims costs, workplace culture, and corporate performance measures. MoveUP participated in the workshop, one round of IRs, and filed written final argument.

ICBC submits that MoveUP's requests in its PACA application are fair and reasonable.³

Panel Determination

The Panel acknowledges that MoveUP actively participated in the ICBC 2021 RRA and finds that MoveUP contributed to a better understanding of the issues it raised in the proceeding. Further, the number of funding days claimed by MoveUP and the daily rate for its legal fees are within the Panel's expectation for the ICBC 2021 RRA.

For the reasons outlined above, the Panel awards MoveUP a cost award of \$6,359.36 inclusive of applicable taxes.

³ ICBC comments on the PACA Application dated November 25, 2021, p. 1.

3.2 The Fournier Auto Group

The Fournier Auto Group's PACA application consists of Mr. Fournier's request as a consultant at a daily rate of \$1,200 for three funding days, plus applicable taxes, for a total of \$3,780.

ICBC submits that the Fournier Auto Group raised a single issue in its intervention regarding accelerated depreciation, which was a government legislated change. ICBC views this matter to be out of scope for the ICBC 2021 RRA. In its final decision, the BCUC acknowledged it has no authority to direct product reform pursuant to section 45(6) of the *Insurance Corporation Act*. Mr. Fournier did not raise any other issues in IRs or his final argument that would have a direct impact on the 2021 RRA. Further, ICBC submits that Mr. Fournier's intervention is primarily based on his own business interest rather than being hired to act as a consultant or a specialist witness by any intervenor group. The daily rate that Mr. Fournier has included in his PACA application (\$1,200/day) appears to be more in line with a consultant's daily rate. ICBC proposes that the applicable daily rate for Mr. Fournier should be based on foregone earnings (i.e., maximum of \$250/day per PACA guidelines).⁴

Panel Determination

The Panel acknowledges that Fournier Auto Group actively participated throughout the ICBC 2021 RRA proceeding, including attendance at the workshop, filing two rounds of IRs and written final argument. As noted in the ICBC 2021 RRA Decision, the Panel found that it has no authority to direct product reform because the BCUC is limited by legislation and Government direction to its jurisdiction of Basic insurance regulation.⁵ Further, in consideration of the ICBC 2021 RRA, the Panel did not find that there were any material financial implications stemming from accelerated depreciation that contributed to the Panel's final approval of the 15 percent rate decrease. Despite BCUC requests to the Fournier Auto Group to provide supporting documentation or invoices, it was unable to do so for the three funding days claimed for Mr. Fournier at the daily consultant rate of \$1,200. Therefore, given the Fournier Auto Group's limited contributions to a better understanding of the issues in the ICBC 2021 RRA, the Panel finds that reimbursing Mr. Fournier's time for his participation in the form of foregone earnings at \$250 per day is reasonable.

For the reasons outlined above, the Panel awards Mr. Fournier three days of foregone earnings at \$250 per day for a total of \$750, for his participation on behalf of the Fournier Auto Group.

Participant	Day(s)	Daily Rate	Total
The Fournier Auto Group	3	\$250.00	\$750.00

The Panel also wish to address ICBC's comment on the Fournier Auto Group's intervention being viewed as protecting Mr. Fournier's own business interest. Section 1(a) of the PACA Guidelines defines an affected group as a group or organization who may be potentially affected by a proceeding. It does not prevent parties from participating in a proceeding solely based on the protection of their own business interests. Therefore, the Panel clarifies that its determinations in this PACA application have not considered whether the Fournier Auto Group has intervened in the ICBC 2021 RRA based on its own business interest or otherwise.

⁴ ICBC comments on the PACA Application dated November 25, 2021, p. 1.

⁵ ICBC 2021 RRA Decision, Section 5.0, pp. 60–61.