



**ORDER NUMBER**  
**F-45-23**

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  
2023 Revenue Requirements Application  
Participant Cost Award Application

**BEFORE:**

E. B. Lockhart, Panel Chair  
B. A. Magnan, Commissioner

on December 7, 2023

**ORDER**

**WHEREAS:**

- A. On December 15, 2022, the Insurance Corporation of British Columbia (ICBC) filed an application with the British Columbia Utilities Commission (BCUC) for its 2023 Revenue Requirements for universal compulsory automobile insurance (Basic insurance), seeking a Basic insurance rate change of zero percent for the policy year commencing April 1, 2023 (PY 2023), on an interim and permanent basis, among other requests (ICBC 2023 RRA);
- B. By Orders G-2-23 and G-81-23, the BCUC established, among other things, a regulatory timetable for the review of the ICBC 2023 RRA, which included public notice, intervenor registration, one round of BCUC and intervenor information requests to ICBC, a workshop and final and reply arguments that concluded on June 27, 2023. Order G-2-23 also approved the requested zero percent change to ICBC's Basic insurance rates on an interim basis;
- C. The following parties registered as intervenors in the proceeding:
  - Movement of United Professionals (MoveUP);
  - Richard McCandless;
  - Insurance Bureau of Canada; and
  - British Columbia Old Age Pensioners' Organization et al. (BCOAPO).
- D. On August 18, 2023, ICBC filed an errata (Errata) to its response to an intervenor IR;

- E. On August 22, 2023, the BCUC reopened the evidentiary record to admit the Errata and requested submissions from interveners outlining any concerns related to the Errata including whether any further regulatory process was warranted. The BCUC did not receive any submissions;
- F. On October 11, 2023, by Decision and Order G-266-23, the BCUC issued its final decision on the ICBC 2023 RRA, approving a Basic insurance rate change of zero percent on a permanent basis for all new or renewal policies with an effective date on or after April 1, 2023, among other matters;
- G. The following participants filed a Participant Cost Award (PCA) application with the BCUC with respect to their participation in the proceeding:

| Date             | Participant | Application |
|------------------|-------------|-------------|
| June 30, 2023    | MoveUP      | \$6,742.40  |
| October 20, 2023 | BCOAPO      | \$35,356.39 |

- H. By letter dated November 3, 2023, ICBC provided its comments on the PCA applications, stating that it had no comments in respect of MoveUP's PCA application but that BCOAPO's costs are much higher compared to MoveUP and raised a number of issues. BCOAPO replied to ICBC's comments by letter dated November 10, 2023; and
- I. The BCUC has reviewed the PCA applications and the comments received in accordance with the criteria and rates set out in the Rules of Practice and Procedure for Participant Cost Awards, attached to BCUC Order G-72-23, 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 interveners in the listed amounts for their participation in the ICBC 2023 RRA proceeding:

| Participant | Application | Award       |
|-------------|-------------|-------------|
| MoveUP      | \$6,742.40  | \$6,742.40  |
| BCOAPO      | \$35,356.39 | \$35,121.19 |

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

**DATED** at the City of Vancouver, in the Province of British Columbia, this 7<sup>th</sup> day of December 2023.

BY ORDER

*Original signed by:*

E. B. Lockhart  
Commissioner

Attachment

Insurance Corporation of British Columbia  
2023 Revenue Requirements Application  
Participant Cost Award Application

## REASONS FOR DECISION

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### 1.0 Background

On December 15, 2022, the Insurance Corporation of British Columbia (ICBC) filed its 2023 Revenue Requirements Application (RRA) for Universal Compulsory Automobile Insurance (Basic insurance) with the British Columbia Utilities Commission (BCUC) seeking a Basic insurance rate change of zero percent for the 24-month period beginning on April 1, 2023 and ending on March 31, 2025 (Policy Year 2023 or PY 2023), among other requests (ICBC 2023 RRA).

The BCUC established a regulatory timetable for the review of the ICBC 2023 RRA, which included public notice, intervener registration, one round of BCUC and intervener information requests (IRs) to ICBC, a workshop, and final and reply arguments that concluded on June 27, 2023. On August 18, 2023, ICBC filed an errata (Errata) to its response to an intervener IR and on August 22, 2023, the BCUC reopened the evidentiary record to admit the Errata and requested submissions from interveners outlining any concerns related to the Errata including whether any further regulatory process was warranted. The BCUC did not receive any submissions.

On October 11, 2023, by Decision and Order G-266-23, the BCUC issued its final decision on the ICBC 2023 RRA.

Participant Cost Award (PCA) applications were received from Movement of United Professionals (MoveUP) and British Columbia Old Age Pensioners' Organization et al. (BCOAPO) with respect to their participation in the ICBC 2023 RRA proceeding and are evaluated in these Reasons for Decision.

### 2.0 Legislative Framework

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."

Part IV – Participant Cost Awards of the BCUC Rules of Practice and Procedure establishes the eligibility requirements and criteria used in assessing cost awards, including the process for applying for a cost award, eligible costs, and rates (PCA Rules).

Rule 32 outlines general considerations regarding PCA. Rule 32.03 states: "A participant may only claim costs for participation in a proceeding from the date the proceeding is initiated until the date of the final decision or report."

Rule 33 relates to participant eligibility for a cost award and Rule 34 relates to the types of eligible costs that may be awarded including professional fees and disbursements. If the participant is eligible for a cost award, the Panel then considers the following criteria in determining the amount of a participant's cost award, pursuant to Rule 36.01:

- (a) whether such costs were necessarily and properly incurred in the conduct of the proceeding;
- (b) whether such costs are reasonable;

- (c) whether the participant has demonstrated through its participation that it has:
- i. Contributed to a better understanding by the BCUC of one or more of the issues in the proceeding;
  - ii. Made reasonable efforts to combine or coordinate its participation with that of one or more participants with similar interests, in order to avoid duplication and reduce costs;
  - iii. Engaged in conduct or activity that resulted in a more efficient and/or shorter proceeding;
  - iv. Refrained from conduct or activity that unnecessarily lengthened the duration of the proceeding or resulted in unnecessary costs;
  - v. Refrained from conduct or activities which the BCUC considers inappropriate or irresponsible;
  - vi. Made reasonable efforts to ensure participation in the proceeding, including information requests, issues raised, evidence, cross-examination, and arguments, was within the scope of the proceeding or not unduly repetitive;
  - vii. Engaged in conduct consistent with the participant's approved scope of participation in the proceeding;
  - viii. Incurred time participating in the proceeding that was proportionate to the scope of the proceeding and/or the complexity or novelty of the proceeding;
  - ix. Complied with the BCUC's orders, directions, and rules; and
- (d) any other matter the BCUC determines appropriate in the circumstances.

### 3.0 PCA Applications

The following table summarizes the total cost award sought by each intervener in its PCA application:

| Date             | Participant | Application |
|------------------|-------------|-------------|
| June 30, 2023    | MoveUP      | \$6,742.40  |
| October 20, 2023 | BCOAPO      | \$35,356.39 |

In accordance with Rule 35 of the PCA Rules, ICBC was provided the opportunity to comment on the PCA applications. In its letter dated November 3, 2023, ICBC stated it has no comments in respect of MoveUP's PCA application, but that BCOAPO's costs are much higher compared to MoveUP and raised a number of issues. BCOAPO replied to ICBC's comment on November 10, 2023.

#### 3.1 MoveUP

MoveUP is the union representing the unionized employees of ICBC's workforce. As such, MoveUP states that the union and its members are directly and materially affected by regulatory decisions concerning ICBC.<sup>1</sup>

MoveUP requests a cost award of \$6,742.40 for legal fees (17.2 hours or hrs) at an hourly rate of \$350, inclusive of applicable taxes. In the ICBC 2023 RRA, MoveUP pursued primarily issues related to ICBC's business

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<sup>1</sup> Exhibit C1-1, p. 2.

operations, staffing and service challenges. MoveUP participated in the workshop and filed IRs and final argument.

### Panel Determination

The Panel, in its review of the PCA applications, is guided by the PCA Rules. The Panel is satisfied that MoveUP meets the eligibility criteria outlined in Rule 33 for a cost award in this proceeding, as it is a union and was granted intervener status in the proceeding.

The Panel considers that MoveUP made reasonable efforts to participate in the proceeding and contributed to a better understanding of the issues raised in the proceeding. Noting there was no opposition from ICBC, the Panel also finds the cost award sought by MoveUP in its PCA application to be fair and reasonable. **As such, the Panel awards MoveUP funding of \$6,742.40 as applied for.**

## 3.2 BCOAPO

BCOAPO is a group of community-based organizations who represent a diverse cross-section of individual ICBC policyholders: the low- and fixed-income residents of BC.<sup>2</sup>

The table below summarizes the components of the total PCA funding requested by BCOAPO in its PCA application:

| Professional Fees/<br>Disbursements | # of Hrs | Rate  | Subtotal    | Taxes      | Total       |
|-------------------------------------|----------|---|-------------|------------|-------------|
| Legal Counsel                       | 44.4 hrs | 26.4 hrs @ \$350/hr; and<br>18 hrs @ \$285/hr | \$14,370.00 | \$1,724.40 | \$16,094.40 |
| Consultant                          | 78 hrs   | \$235/hr                                      | \$18,330.00 | \$916.50   | \$19,246.50 |
| Disbursement                        | N/A      | N/A   | \$14.75     | 0.74       | \$15.49     |
| Total Costs                         |          |   |             |            | \$35,356.39 |

As outlined in the table above, BCOAPO requests a cost award of \$16,094.40, inclusive of applicable taxes, for legal fees (44.4 hrs) at an hourly rate of \$350 and \$285 for 26.4 hrs and 18 hrs, respectively, for legal counsel. BCOAPO also seeks a cost award of \$19,246.50, inclusive of applicable taxes, for consulting fees (78 hrs) at an hourly rate of \$235. Lastly, BCOAPO requests disbursements to be awarded for the cost of photocopying associated with proceeding in the amount of \$15.49 including applicable taxes.

In the ICBC 2023 RRA, BCOAPO pursued issues related to the actuarial indicated rate change analysis, ICBC's operating expenses and allocation, business operations and investments. BCOAPO participated in the workshop and filed IRs and final argument.

As noted above in Section 3.0, several issues were raised by ICBC with respect to the amounts claimed by BCOAPO. The table below outlines the issues raised and summarizes the parties' positions:

<sup>2</sup> Exhibit C4-1, p. 2.

|  | ICBC Comments  | BCOAPO Reply Comments  |
|--|--|--|
| Claimed amount is significantly higher than that of MoveUP                                     | ICBC stated that it finds BCOAPO's claimed amount "much higher in comparison" to MoveUP's PCA application. <sup>3</sup>  | BCOAPO submits that although its costs appear higher than MoveUP's, the scope of its interests is significantly different in that MoveUP does not intervene on behalf of policyholders but on behalf of the union representing ICBC's inside workers. BCOAPO states: "It is, we submit, important to consider BCOAPO's application in its true context, and not simply comparing one figure (BCOAPO's cost award) to that of other players who interests differ significantly from the insurer's policy holders." <sup>4</sup> |
| Claimed amount is not reflective of a concise review process                                   | Considering the zero percent rate change sought and the legislated rate framework that governed the ICBC 2023 RRA, ICBC's view is that the submissions for PCA funding should be reflective of the concise review process that was achieved. <sup>5</sup>  | BCOAPO notes that the cost award claimed for this proceeding is significantly lower than the cost claimed by the BCOAPO in the ICBC 2021 RRA, for which it was awarded \$53,369.58 inclusive of applicable taxes. BCOAPO states that its lower cost claim for the ICBC 2023 RRA reflects ICBC's point that the process in this proceeding was relatively straightforward compared to the 2021 RRA. <sup>6</sup>  |
| Claimed amount includes costs incurred prior to BCOAPO's registration as registered intervener | ICBC notes that, in the total claimed amount, BCOAPO has included a total amount of \$1,972.50 (before taxes) for review time costs incurred before BCOAPO applied to participate in the proceeding on January 30, 2023 (0.6 hours and 7.5 hours on January 24 and 27, 2023, respectively). <sup>7</sup> | BCOAPO submits that Rule 32.03 allows a participant to claim costs for participation in a proceeding from the date the proceeding is initiated, which is December 15, 2022. Thus, the costs incurred by its legal counsel on January 24, 2023 and consultant on January 27, 2023 for reviewing the ICBC 2023 RRA are appropriately included. <sup>8</sup>  |
| Claimed amount includes costs incurred after the date of final decision                        | ICBC notes that, in the total claimed amount, BCOAPO has included a total amount of \$210 (before taxes) for review time costs incurred after the proceeding concluded on October 11, 2023 (0.6 hours on October 12, 2023). <sup>9</sup>   | Although BCOAPO acknowledges that under Rule 32.03, a participant may only claim costs for participation in a proceeding until the date of the final decision, it submits that "the interpretation of this rule should allow participants reasonable time to review a final decision." BCOAPO notes that Decision  |

<sup>3</sup> ICBC comments on the PCA applications dated November 3, 2023 (ICBC comments), p. 2.

<sup>4</sup> BCOAPO reply comments to ICBC's comments on the PCA applications dated November 10, 2023 (BCOAPO reply comments), p. 4.

<sup>5</sup> ICBC comments, p. 1.

<sup>6</sup> BCOAPO reply comments, p. 4.

<sup>7</sup> ICBC comments, p. 2.

<sup>8</sup> BCOAPO reply comments, p. 4.

<sup>9</sup> ICBC comments, p. 2.

|  |  |  |
|--|--|--|
|  |  | and Order G-266-23 for this proceeding was issued on October 11, 2023, and that it was promptly reviewed by BCOAPO counsel the next day. <sup>10</sup> |
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### *Panel Determination*

The Panel is satisfied that BCOAPO meets the eligibility criteria outlined in Rule 33 for a cost award in this proceeding as BCOAPO is a ratepayer group and was granted intervener status in the proceeding.

Having concluded that BCOAPO is eligible for PCA funding, the Panel needs to determine the cost award that BCOAPO is entitled to receive. Comments from ICBC primarily address the comparatively higher costs of professional services incurred by BCOAPO compared to the costs incurred by another registered intervener in the proceeding, MoveUP. In ICBC's view, the efficient review process achieved in this proceeding should be reflected in the amount of costs claimed by the participants. ICBC requests that the costs claimed by BCOAPO be assessed against the applicable PCA Rules to determine their appropriateness, particularly in relation to Rules 36.01 and 32.03.

The Panel addresses Rule 36.01 first. The considerations listed in Rule 36, as referenced above in Section 2.0, are useful guidance in determining the amount of the cost award for a 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 2023 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?

Although the ICBC 2023 RRA was subject to a legislative requirement resulting in a requested rate change of zero percent, the Panel considers that a number of technical issues were canvassed in the course of the proceeding. BCOAPO specifically explored issues in technical areas such as BVDC<sup>11</sup> claims frequency and severity estimates, operating expenses, and investments. The questions raised by BCOAPO were relevant and generally within the scope of the RRA. Therefore, the Panel finds that BCOAPO contributed to a better understanding by the BCUC of the issues in the proceeding. Additionally, the Panel generally finds that the number of hours claimed by BCOAPO for its legal counsel and consultant services is reasonable based on the scope and complexity of the proceeding, and that BCOAPO's use of a consultant, at a lower hourly rate, to explore issues was appropriate.

The Panel disagrees with ICBC that comparing BCOAPO's PCA application to that of MoveUP is appropriate. MoveUP's and BCOAPO's interests in the proceeding are not similar, namely that MoveUP's focus was narrower, pertaining to ensuring that ICBC remains on sound financial and operational footing and maintains broad public support.<sup>12</sup>

With respect to Rule 32.03, the Panel agrees with BCOAPO's interpretation that the ICBC 2023 RRA proceeding was initiated by ICBC's application dated December 15, 2022. Thus, the costs incurred by BCOAPO on January 24, 2023 and January 27, 2023 are appropriately included in the PCA application. However, with respect to BCOAPO's costs to review the final decision incurred on October 12, 2023 (i.e. the day after the final decision

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<sup>10</sup> BCOAPO reply comments, p. 4.

<sup>11</sup> Basic Vehicle Damage Coverage.

<sup>12</sup> Exhibit C1-1, p. 2.



was issued), the Panel notes that Rule 32.03 sets out that a participant may only claim costs for participation “until the date of the final decision or report.” BCOAPO incurred costs on October 12, 2023 in the amount of \$235.20 (after taxes). **Therefore, the Panel reduces the funding award to BCOAPO by \$235.20 and awards BCOAPO funding in the amount of \$35,121.19, inclusive of applicable taxes.**