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October 28, 2014

BCUC Core Review Task Force  
Ministry of Energy and Mines and Ministry Responsible for Core Review

*Submitted electronically*

**Re: ICBC Comments on the BCUC Review Task Force Interim Report**

Dear Task Force:

Thank you for the opportunity to comment on the BCUC Review Task Force Interim Report to the Minister of Energy and Mines and Minister Responsible for Core Review.

First, ICBC is bringing to the attention of the Task Force two points of clarification on information in the Interim Report with respect to ICBC. Second, ICBC is commenting on three of the suggestions/conclusions in the Report.

**Clarifications:**

1) On page 29 of the Interim Report it states:

ICBC has 17 ongoing compliance filings, and must file reports for all information technology capital projects exceeding \$1 million before the expenditure can be made.

ICBC wishes to clarify that information technology capital projects that are 100% funded by Optional insurance are not subject to reporting requirements, as such projects are outside the jurisdiction of the BCUC.

2) On page 41 of the Interim Report it states:

No other submissions from other ICBC related interveners were received by the Task Force.

In addition to Canadian Direct Insurance, ICBC related intervenors who have made submissions to the Task Force include: BC Public Interest Advocacy Centre, and Quail & Worth.

ICBC's silence on other statements referencing ICBC in the Report does not imply accuracy of those statements.

**Comments on Suggestions/Conclusions:**

**1) Transcribed Workshop**

On page 22 of the Interim Report it states:

A transcribed pre-application workshop, supplemented if needed by written answers, was suggested by Quail and Worth as a way to reduce the number of subsequent IRs while building the evidentiary record.

The Commission already has the ability to order a transcribed pre (or post) application workshop in appropriate circumstances. Transcription of workshops has never been the norm for this tribunal or similar tribunals in other jurisdictions. This is for good reason: this suggestion actually adds to regulatory burden unnecessarily:

- First, the purpose of a workshop is to increase stakeholder familiarity with the materials filed. Transcription is not, and has never been, necessary to achieve that goal. The request for transcription seeks to fundamentally change the nature of the workshop to turn it into a type of examination for discovery,
- Second, this exercise will inevitably be much less focused than a traditional examination for discovery process in litigation because it is occurring before stakeholders are even familiar with the materials.
- Third, transcription can have the effect of posturing by some participants and in other cases participants may feel constrained. Others may use the opportunity to elicit information for use in other contexts (e.g., collective bargaining), which is not appropriate and can prolong the workshop. Typically workshops are not transcribed to allow for a more informal discussion, to dispense with initial questions of clarification, and to contribute to a greater understanding of the issues and facts.
- Fourth, in anticipation of being examined by stakeholders at a workshop with a transcript, applicants are left with no alternative but to prepare for the workshop as if it was a hearing rather than a less formal workshop. The task of doing so is a difficult one when the issues have yet to be focused through Information Requests (IRs), thus creating more work for the speakers/witnesses. This will result in more time of key employees being diverted from the management of the business.
- Fifth, there is typically a written record of the workshop in any event. The Applicant typically files its presentation as an exhibit which is on the evidentiary record and, in some regulatory processes; the Applicant may also file additional information to supplement the evidentiary record. For instance, ICBC has just undertaken a process in its 2014 Revenue Requirements Application where it filed over 300 pages of materials following a workshop as a result of questions posed, all before IRs were even issued.

In summary, the proposed transcribed discovery process would add another level of process unnecessarily when the goal should be to simplify the process.

## **2) Review of draft applications by regulatory/BCUC staff**

The Interim Report makes the following statements regarding the review of draft applications by regulatory/BCUC staff.

On page 21,

There are opportunities to improve processes by drawing on best practices from other jurisdictions, including:

- Staff review of draft applications;

On page 22,

An expert with experience in the United States noted that after pre-filing workshops and processes, the utility would provide a final draft application to the regulatory staff to seek comments prior to filing the final formal application.

On page 23,

Reviews of draft applications by staff can provide feedback to applicants, ensuring applications are complete before the IR process commences, saving time and costs.

In certain circumstances it is appropriate to have stakeholder input, including from BCUC staff, on the content of an application. However, a requirement to do so in all circumstances would be inappropriate and counterproductive.

- First, it is the Applicant that is responsible for preparing an application with sufficient material to support its application, since the Applicant bears the burden of proof. BCUC staff are not the decision-makers on an application.
- Second, the proposal could be particularly problematic if the requirement is to review a draft application rather than a summary (e.g., table of contents review) of what is in the Application. Given the current issues with timely decisions and short time for preparation of the next application, adding time for review of a draft application by regulatory staff, especially for applications with annual legislated timelines, is problematic.
- Third, there are already guidelines for some types of applications. In ICBC's case, the content of rate filings are informed (albeit not dictated) by requirements stipulated in a Special Direction and Government Directive(s) as to how rates should be determined. There is a developed body of decisions on these filings that have also determined the content and presentation of future applications.
- Fourth, feedback from BCUC staff on content that they consider is informative, unnecessary, or lacking is certainly helpful and can be provided after a regulatory proceeding has ended, particularly for annual applications. Some applications require expertise that may not be held by regulatory staff. ICBC notes, as with IRs, an application is not to be used for self-education or areas of specific personal interest of regulatory staff.

### **3) Information Requests (IRs)**

The Interim Report makes the following statements regarding IRs.

On page 23,

The substantial increase in the number of staff IRs does not appear to have improved outcomes, while increasing the cost of regulation borne by ratepayers.

...Through its Executive Director, legal counsel, the Panel, or a combination of the three, the BCUC should then ensure all BCUC IRs are screened for relevance to the scope that has been established. Even for routine applications, all BCUC staff IRs should be examined and edited by senior staff, counsel, and possibly Commissioners. Preambles to provide context for the question should normally be provided.

ICBC shares the concern about the relevance and volume of IRs and is supportive of the suggested screening and quality review of IRs.

ICBC's comments on only the above three suggestions/conclusions do not necessarily mean agreement with other suggestions/conclusions in the Report.

ICBC looks forward to the Task Force Final Report and the implementation of recommendations which achieve effective and efficient regulation and an open and transparent regulatory process for the setting of Basic insurance rates.

Sincerely,



Geri Prior, B.Comm, FCA, Chief Financial Officer