

GOVERNMENT ORDERS REBATE AFTER SURPRISE LEAP IN ICBC'S PROFIT

On 8 May 2024, Premier David Eby announced that the government had ordered ICBC to issue a \$110 rebate to Basic private and commercial policyholders.¹ He also announced that the government had ordered the BC Utilities Commission (BCUC) to approve the rebate.

The timing of the announcement was criticized by a number of journalists and observers as an attempt to buy public goodwill some six months before the 2024 provincial general election, and as an affront to the independence of the BCUC.² While these comments may be true there are other observations that relate to this latest rebate.

Surprise Increase in Net Income

ICBC estimates that the rebate and the related administrative cost will cost approximately \$400 million. The government says that the rebate is affordable because ICBC is forecasting a net income of \$1.5 billion for the 2023/24 fiscal year, which ended on 31 March 2024. This forecast is a massive increase of approximately \$1.3 billion over the \$140 million surplus forecast for the same period in ICBC's service plan released some two months ago.³

The government was vague about how the public auto insurer was able to increase the year-end profit by such a large amount in such a short period. The announcement said that "prudent financial management and better-than-expected investment income" explained the \$1.5 billion net income.⁴ ICBC, in its pro forma application to the BCUC,

¹ <https://www.timescolonist.com/local-news/drivers-to-get-110-rebates-from-icbc-basic-rate-to-stay-same-for-sixth-year-8715770>

² <https://www.biv.com/news/commentary/rob-shaw-eby-tosses-tnt-at-utility-commissions-independence-with-latest-icbc-rebates-8726295> and <https://www.timescolonist.com/opinion/les-leyne-icbc-rebate-is-a-good-idea-because-ndp-says-so-8719556>

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<https://assets.ctfassets.net/nnc41duedoho/6NI89S1kRiDwp5HjHi9CCJ/1aacd4c74a4d7d0e059ab7a45c880982/service-plan-2024-2027.pdf> p. 19. The third quarter net income was \$617 million; see <https://assets.ctfassets.net/nnc41duedoho/5zZdsTXbJ5Z8252QYtkHNm/7a9b006016d32fb40543bd759a1f595d/StatementOps-Dec23.pdf>

⁴ <https://news.gov.bc.ca/releases/2024PSSG0023-000698>

stated that increased investment income was the reason for the jump in net income.⁵ ICBC did not provide any detail about its year-end financial position to the regulator of the Basic program, not even confirming the \$1.5 billion net income forecast released by the government. Needless to say, no equity position or Minimum Capital Test ratio was included in the filing.

While ICBC has a history of conservative forecasting (understated revenue and overstated expenditures), the massive increase in the net income and equity in a few weeks is especially worrisome for public accountability.

The Flat \$110 Rebate is Unfair

The rebate of \$400 million represents approximately 12% of the estimated 2023/24 Basic net income of \$3.3 billion.⁶ Yet the 3.6 million policies are priced differently depending on a variety of variables. Younger and less experienced drivers as well as commercial drivers, pay a far higher rate than do older drivers in a lower risk actuarial group. Policyholders 65 and older receive a special lower rate due to their age. Therefore, while all policyholders contributed to the financial performance, the rebate represents a 18% decrease for those paying \$600 for Basic insurance, but only 5.5% for those paying \$2,000.

ICBC's computer systems would take a tremendous amount of expensive reprogramming to tailor the rebate to ensure a similar percentage outcome for most policyholders. This would take time, which probably did not suit the government's timeline. Yet, the current flat-rate approach is clearly inequitable.

Accounting Policy

On 30 April 2024, Mike Farnworth, the minister responsible for ICBC, ordered the public insurer to apply to the BCUC for the rebate. The rebate would be issued no earlier than 21 May 2024.⁷

The government direction to ICBC was issued some 30 days after the close of the 2023/24 fiscal year, but the cost of the rebate will be charged to that year. The rebate should have been funded from the 2024/25 fiscal year. Based on the stated \$1.5 billion increase to net income from the year just ended there would have been ample Basic capital reserves to fund the \$400 million charge in 2024/25.

Perhaps the provincial auditor general may review this issue when he reviews the government's financial statements.

⁵ https://docs.bcuc.com/documents/proceedings/2024/doc_77086_b-1-icbc-2024-rebate-oic238-application.pdf

⁶ My estimate based on the 2022/23 actual Basic earned premium income.

⁷ https://docs.bcuc.com/documents/proceedings/2024/doc_77086_b-1-icbc-2024-rebate-oic238-application.pdf

The BC Utilities Commission's Role

The government-ordered rebate has again demonstrated that the nominal regulator of the Basic insurance program operates as an agent of the provincial government.⁸ Both the previous Liberal government and the current NDP government have issued directives to the BCUC to ensure that their policies respecting ICBC are approved by the nominal regulator.

The government has ordered no increase in Basic rates spanning the period from 2020/21 to 2025/26. The change to the no-fault liability model in 2021 resulted in a major reduction in claims costs (through the virtual elimination of claims for pain and suffering). This has allowed ICBC to rebuild its capital reserves and avoid the need for a general rate increase for these years.

While ICBC's stronger financial position is welcome, the lack of a regular detailed review of the Basic program by the BCUC significantly reduces the accountability of ICBC to its regulator and the public. With each year the operations of the public insurer become even more opaque.

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⁸ Rob Shaw wrote "that a government lawyer on a background briefing call took a hatchet to the remnants of the commission's independence. 'The Supreme Court of Canada has confirmed time and time again that while these tribunals and commissions and boards possess adjudicative functions, they operate ultimately as part of the executive branch of government,' said the official. 'In other words, the unwritten constitutional guarantee of judicial independence has not been specifically held to apply to administrative tribunals.' Translation: This NDP administration views the BCUC as just a slightly annoying arm of the government that needs to be brought to heel." See <https://www.biv.com/news/commentary/rob-shaw-ebay-tosses-tnt-at-utility-commissions-independence-with-latest-icbc-rebates-8726295>

