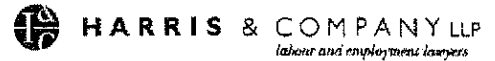


Sari A. Wiens  
Direct No. 604 891 2248  
swiens@harrisco.com  
Our file 000162.136

April 19, 2012

By Fax



British Columbia Labour Relations Board  
Suite 600, Oceanic Plaza,  
1066 West Hastings Street,  
Vancouver, British Columbia, V6E 3X1

14th Floor Bentall 5 T 604 684 6633  
550 Burrard Street F 604 684 6632  
Vancouver, BC info@harrisco.com  
Canada V6C 2B5 harrisco.com

Attention: Registrar

Dear Sirs and Mesdames:

Re: Insurance Corporation of British Columbia - Section 72 Application for Essential Services

We are counsel for the Insurance Corporation of British Columbia ("ICBC") and are authorized and instructed to make this application for designation of essential services pursuant to Section 72 of the *Labour Relations Code*. A completed Form 72 – Application for Designation of Essential Services together with appended Appendix "A" is attached. We would be pleased to provide further submissions with regard to our application should the Board so wish.

The parties have scheduled future bargaining dates for May 2012. However, the Union is also in the process of taking a strike vote. We understand the strike vote process is continuing through April 23, 2012.

A copy of this application is being provided to the Unions via facsimile at the same time as it is filed with the Board.

Yours very truly,  
Harris & Company LLP

Per:

Sari A. Wiens

SAW/skm

Enclosure

cc client

COPE, Local 378 Attn: Jamie Zygmunt

**APPLICATION FOR THE  
DESIGNATION OF ESSENTIAL SERVICES  
(SECTION 72)**

**APPLICANT INFORMATION (Trade Union, Employer or Employer Organization making the application)**

Name: Insurance Corporation of British Columbia \_\_\_\_\_

Address: 151 West Esplanade \_\_\_\_\_ City: North Vancouver \_\_\_\_\_

Postal Code: V7M 3H9 \_\_\_\_\_ E-mail: N/A \_\_\_\_\_

Representative to be contacted: Brent Hale, Director, Compensation Services and Employee Relations \_\_\_\_\_

Telephone: 604-982-2864 \_\_\_\_\_ Fax: 604-661-6080 \_\_\_\_\_

Cell: 604-250-6336 \_\_\_\_\_ E-mail: brent.hale@icbc.com \_\_\_\_\_

If applicant is represented by another party; name: Sari A. Wiens \_\_\_\_\_

Company Name: Harris & Company LLP \_\_\_\_\_

Address: 14<sup>th</sup> Floor, 550 Burrard Street \_\_\_\_\_ City: Vancouver \_\_\_\_\_

Postal Code: V6C 2B5 \_\_\_\_\_ E-mail: swiens@harrisco.com \_\_\_\_\_

Telephone: 604-891-2248 \_\_\_\_\_ Fax: 604-684-6632 \_\_\_\_\_

Cell: \_\_\_\_\_

**RESPONDENT INFORMATION (Trade Union, Employer or Employer Organization that is the other party in collective bargaining)**

Name: Canadian Office and Professional Employees Union Local 378 \_\_\_\_\_

Address: 2<sup>nd</sup> Floor, 4595 Canada Way \_\_\_\_\_ City: Burnaby \_\_\_\_\_

Postal Code: V5G 1J9 \_\_\_\_\_ E-mail: \_\_\_\_\_

Representative to be contacted: Jamie Zygmunt \_\_\_\_\_

Telephone: 604-299-0378 \_\_\_\_\_ Fax: 604-299-8211 \_\_\_\_\_

Cell: \_\_\_\_\_ E-mail: Jzygmunt@cope378.ca \_\_\_\_\_

If respondent is represented by another party; Contact name: N/A \_\_\_\_\_

Employer Name: \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_

Postal Code: \_\_\_\_\_ E-mail: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Cell: \_\_\_\_\_

**BARGAINING UNIT**

Actual location of business:  
Head Office - 151 West Esplanade, North Vancouver, BC with multiple locations throughout the province (See attached.) \_\_\_\_\_

Certification Date: November 05, 1974 \_\_\_\_\_

Number of Bargaining Unit Employees: 4,544 \_\_\_\_\_

**COLLECTIVE AGREEMENT**

Is this the first collective agreement?       Yes       No

If no, enter the term of the previous agreement:

Term: From: July 01, 2006\_\_ To: June 30, 2010\_\_\_\_\_

**STRIKE/LOCKOUT VOTE**

Has a strike or lockout vote been taken?       Yes       No

If yes, what date was vote taken? The Union is in the process of taking a strike vote. We understand the vote process is continuing through April 23, 2012. \_\_\_\_\_

**STRIKE/LOCKOUT NOTICE**

If strike or lockout notice has been given:

Name of party serving notice: \_\_\_\_\_

Date and time the notice was served: \_\_\_\_\_

If a strike or lockout has commenced, on what date? \_\_\_\_\_

**BRIEF BARGAINING HISTORY**

(For example, When did bargaining commence, how many sessions were held and when was the last session?)

COPE gave notice to bargain on April 21, 2010. There were 13 bargaining dates in 2011 (main table and subcommittee) including, January 12, 13, June 8, 9, 15, 16, October 11, 12, 24, November 30, December 1, 6, and 7, 2011. The latest bargaining dates were on March 29 and 30, 2012. Future bargaining dates have been scheduled for May 2012.

**LIST OF THE OTHER UNIONS INVOLVED AT THE WORK LOCATION(S) INVOLVED**

Name: N/A	_____
Representative:	_____
Telephone:	_____ Fax: _____
Cell:	_____ E-mail: _____
Number of employees in bargaining unit.:	_____
Name:	_____
Representative:	_____
Telephone:	_____ Fax: _____
Cell:	_____ E-mail: _____
Number of employees in bargaining unit.:	_____
Name:	_____
Representative:	_____
Telephone:	_____ Fax: _____
Cell:	_____ E-mail: _____
Number of employees in bargaining unit.:	_____

**BRIEF DESCRIPTION OF THE EMPLOYER'S BUSINESS**

ICBC is a provincial Crown corporation established in 1973 to provide universal compulsory automobile insurance (Basic Insurance) to British Columbian motorists. ICBC has a head office located in North Vancouver together with other locations around the Province. ICBC employs approximately approximately 4,500 bargaining unit employees.

ICBC is the sole provider of Basic Insurance in the province, the rates for which are regulated by the British Columbia Utility Commission. It offers and authorizes insurance products to more than three million policyholders through a network of more than 900 brokers, government agents, and appointed agents. ICBC processes almost 900,000 claims each year through its 24-hour, seven days-a-week telephone claims handling facility, 38 claim centres and other claims handling facilities across the province, including Express Glass and Repair facilities, and icbc.com.

Along with Basic Insurance (and optional insurance lines of business), ICBC also provides and authorizes a number of services on behalf of the provincial government, including vehicle registration and licensing, driver licensing including testing, administering the Graduated Licensing Program and regulations governing the driver training industry, violation ticket administration and fines collection. These services are provided through 120 points of service, including driver licensing centres, government agents and appointed agents throughout BC. ICBC manages the issuance of vehicle licence plates and decals through brokers that perform vehicle registration and licensing functions at the time of insurance purchase. ICBC also supports the Office of the Superintendent of Motor Vehicles' programs relating to driver fitness, driver improvement, administrative driving prohibitions, and vehicle

impoundment. By helping to put the right drivers on the road with the right skills, these programs and services contribute to safer roads for all British Columbians.

**REASONS WHY THE DESIGNATIONS ARE BEING SOUGHT**

(i.e. Why does the dispute pose a threat to the health, safety or welfare of the residents of British Columbia?)

Members of the public will suffer irreparable harm without an essential services designation as strike action affects their safety, ability to receive income, disability payments, rehabilitation services and their eligibility to obtain and continue employment. Further, without an essential services designation, a strike would result in serious financial impact on a significant number of individuals and businesses within the Province.

**A BRIEF DESCRIPTION OF THE SCOPE AND MAGNITUDE OF THE DESIGNATIONS SOUGHT**

The health, safety and welfare (including the economic welfare) of the residents of British Columbia is threatened without the designation of specific Claims, Insurance and Driver Licensing services provided by ICBC as essential services. In Claims, a designation is sought to provide contractual rehabilitation and accidental benefits to injured drivers, to process environmental, property and commercial truck damage losses as well as provide estimating services. In Insurance, the designation is sought to register, license and insure all vehicles, including commercial vehicles, within the province. In Driver Licensing, this designation is sought to issue and renew driver licenses as well as to ensure certain types of individuals are restricted or prohibited from driving who are prohibited or deemed unsafe by the Superintendent to ensure the safety of BC motorists.

See "Appendix A" attached.

**LABOUR RELATIONS BOARD FEES**

- PARTIES TO THE DISPUTE SHALL SHARE EQUALLY, THE MEDIATION FEE OF \$500.00, PLUS G.S.T., PER DAY.
- THE LABOUR RELATIONS BOARD SHALL INVOICE THE PARTIES.

- Copies must be delivered or mailed to your employer and the union. Has this been done?  yes  no

If yes how? Via fax \_\_\_\_\_

When? April 19, 2012 \_\_\_\_\_

Signature of applicant: \_\_\_\_\_



Print name: Sari A. Wiens \_\_\_\_\_

Date of signing: April 19, 2012 \_\_\_\_\_

Completed forms and ALL supporting documents to be sent to:

Registrar

Labour Relations Board

600 – 1066 West Hastings Street

Vancouver, BC V6E 3X1

Tel: 604-660-1300

Fax: 604-660-1892

## Appendix "A"

The health, safety and welfare (including the economic welfare) of the residents of British Columbia is threatened without the designation of specific Claims, Insurance and Driver Licensing services provided by ICBC as essential services. These services include but are not necessarily limited to the following:

### Claims:

***Injury Operations*** – Determination and administration of statutory benefits for injured customers that include medical rehabilitation benefits and disability payments (partial indemnity for lost wages as a result of disability). The medical rehabilitation services are particularly required for seriously injured individuals (such as quadriplegic, paraplegic and brain injured claimants) whose recovery is dependent on their rehabilitation plans, administration of their benefits and payment to their service providers. Failure to provide claimants with benefits will cause financial hardship and increase the risk of a prolonged recovery for claimants.

***Claims Customer Services*** – Claim Centres process a significant number of "accident benefit claims" which customers rely on for medical rehabilitation benefits and disability payments. Without processing these claims, many individuals will not receive any medical benefits, or disability payments to partially offset lost income.

***Commercial Claims*** – ICBC is responsible for responding to and addressing environmental and/or property damage related to commercial claims. Environmental losses include situations such as serious chemical spills. Property damage losses include situations such as damaged bridges or highway infrastructure, and train derailments. Inability to respond to environmental and property losses as required has the potential to create serious environmental and health risks for the public, and result in serious economic loss to individuals and businesses.

***Estimating Services*** – Estimating services are required to process claims involving vehicles, in particular vehicles that are non-driveable and/or total losses. Failure to repair and/or replace damaged vehicles that are either non-driveable or total losses would result in serious economic hardship for affected customers, who have lost their transportation.

***Contact Centre*** - The Contact Centre provides a single first notice of loss contact point for all customers who have had an accident and are reporting for assistance. The claims received include incidents of a serious nature which involve injury requiring hospitalization/treatment or vehicles that are rendered inoperable. In the case of injuries requiring immediate hospitalization or treatment of the injury (such as physiotherapist, chiropractor, etc.), customer health will be affected if they do not have access to funds for treatment payments as they are not covered by MSP and will require the treatment funding under their accident benefit coverage. Customers may also be disabled from working and reliant on the disability benefits under their accident benefit coverage to supplement their income. Customers whose vehicles are inoperable will be without vehicles, resulting in serious economic hardship.

***Notice of Civil Claim (Writ) Handling*** - Customers involved in motor vehicle accidents may be sued by other parties. ICBC receives the Notice of Civil Claim and is obligated to provide a defence for its insured who is being sued. This division receives the Notice of Civil Claim and initiates the legal



defence of the customer, once they have determined there is coverage. There are specific timelines that are to be adhered to in order to protect the customer from any further action against them (including default judgment). There is a potential financial or economic harm to the customer if ICBC does not provide the appropriate support to the customer within the legal parameter outlined by the Supreme Court Rules.

*Special Counsel's Office* - This division assigns the defence counsel to handle the case on behalf of the ICBC insured defendant named in the Notice of Civil Claim above. Expedited and timely assignment is required so that ICBC is able to adhere to the timelines within the Supreme Court Rules to protect customers from adverse decisions.

Insurance:

*Broker Enquiry Unit* – on a daily basis, this unit receives an average of 1,800 calls from approximately 2,400 insurance brokers to ensure auto insurance, vehicle registration and licensing transactions are properly authorized. There will be an immediate threat to the health, safety and financial welfare of the citizens of B.C., and neighbouring jurisdictions, if motorists are unable to insure, register and license vehicles. It will create an immediate risk to the financial welfare of individuals and businesses if they cannot drive. It will also increase the risk of uninsured or inadequately insured motorists and unsafe vehicles licensed on the road.

This unit also supports the Canadian Police Information Centre (CPIC) for stolen vehicles, the Interprovincial Record Exchange (IPRE) to determine licensing and registration eligibility of insureds and vehicles and Mandatory AirCare inspection. In the event of job action it is critical that these services are continued in order to ensure the welfare and safety of British Columbians.

*Prorate Licensing* - is solely responsible for the licensing of British Columbia commercial vehicles traveling in BC and multiple jurisdictions across North America. This includes processing licensing transactions, safety compliance, providing carrier documentation/credentials, producing documentation for crossing the border into the US, collecting and remitting licensing fees to other jurisdictions, and processing financial responsibility filings required by law for commercial carriers travelling into BC.

Commercial carriers must be able to produce the credentials/documentation to many different agencies – the border, law enforcement, weigh scales, United States Department of Transportation (USDOT) personnel. Without credentials/documentation, commercial carriers may not be allowed to cross the border, may be fined, or have their vehicles seized by law enforcement. Providing the required credentials also ensures the safety of carriers and the motoring public.

Commercial carriers are responsible for delivering goods or people to various jurisdictions. If they are unable to obtain the credentials they require, their livelihood is threatened. In addition, this would halt the flow of goods and products adversely impacting businesses, communities and the overall economy. Depending on the nature of the goods to be delivered (i.e. medical equipment), there may also be an impact to the safety of the public.

## Driver Licensing:

ICBC is responsible for issuing new and renewed driver licences in British Columbia. Section 60 of the *Motor Vehicle Act* sets out the validity period of driver licenses issued to different classes of drivers (e.g., new BC drivers, drivers returning from a driving prohibition). Driver licence services are supported by a number of Victoria Head Office departments, including Licensing Support Services (including driver adjudication), Driver Licensing Integrity and Risk Management (driver licence fraud detection and response), Customer Contact (customer inquiries) and Help Desk/ISD (systems support).

It is anticipated any work stoppage would functionally eliminate ICBC's ability to deliver regular driver licence renewal services and granting first-time license out of its ICBC-staffed Driver Service Centres or continue providing the vast majority of its Head Office licensing support services. In addition, Government Agent and Appointed Agent offices may be subject to potential loss of systems access, or to activities interfering with their ability to provide driver licensing services while a work stoppage is underway.

On average, ICBC renews approximately 10,000 driver's licenses per week, 700-1000 of which are commercial vehicle licenses. A disruption in licence renewal services would impact segments of BC's driving population differently. Section 24 of the *Motor Vehicle Act* (MVA) requires individuals driving in BC to hold a valid and subsisting (non-expired) driver's licence. Driving without a valid licence carries a fine, driver penalty points and is considered a breach of insurance. Carrying an expired licence would also significantly limit out-of-province travel, impacting commercial vehicle drivers and passenger vehicle/motorcycle drivers planning to leave BC on either business or pleasure. For example, commercial vehicle drivers are often required to show their licence at weigh scales and when crossing the US/Canada border. If an expired licence is discovered, the driver would likely be refused entry, ticketed and/or required to park their vehicle.

Related to the renewal process is ICBC's mandate conduct testing that determines one's ability to hold a driver's licence. Each week, ICBC conducts approximately 4,160 road tests (over 200,000 annually). This includes a wide variety of testing, including those who drive commercial vehicles.

Failure to test and license motorists will create an immediate threat to the health, safety and financial welfare of the citizens of B.C. if motorists are unable to obtain their appropriate driver licenses. It will create an immediate risk to the financial welfare of individuals if they cannot drive and increase the risk of unlicensed motorists on the road.

Further, the safety of the public will be impacted if ICBC does not continue to act on the delegated authorities from the Superintendent of Motor Vehicles to ensure certain types of individuals are restricted or prohibited from driving. The following key services (plus transaction volumes in 2011) include: cancelling a driver's licence for medical/unsafe reasons (3,400); sending customers re-exam notices for further road testing, testing drivers and then processing the results of those tests which includes de-licensing who fail re-exams (2,500 notices, 6,000 tests); processing the prohibition of drivers who have been deemed to have an unsatisfactory driving record and present a risk to others on the road (41,000) and notifying drivers of the outcome of their motor vehicle criminal code conviction after the courts have rendered judgement (1,400).

Direction for these services comes from both *Motor Vehicle Act* legislation and regulations. If ICBC is no longer able to send cancellation notices to those drivers that have been deemed unsafe by

the superintendent, the safety of all road users (e.g., drivers, pedestrians and cyclists) is put at risk. Further, ICBC's systems will not be updated for police enforcement to take necessary action.

Drivers who are prohibited or deemed unsafe by the Superintendent include: medical cancellation (drivers who have sustained a serious injury e.g., brain injury from a stroke or developed a serious condition such as dementia; prohibition/cancellation), drivers who have enough serious violations on their record including, excessive speeding, impaired driving, and new drivers in the Graduated Learning Program who have, in a short period of time, accumulated enough driving infractions to warrant prohibition; and criminal code convictions (this includes drivers who have been convicted through the courts for serious driving offences such as vehicular manslaughter and impaired driving).

#### **Information Services:**

All of the above services are dependent upon various computer systems (hardware and software) and processes supported by the Information Services Division. In order to provide the above essential services it is critical that there is sufficient Information Services staff to support and operate the related systems along with ensuring the security and reliability of critical corporate data records.

#### **Designation of Essential Services**

A strike affecting ICBC's operations would result in a threat to health, safety and welfare of the public as described above. With respect to welfare, the Labour Relations Board has confirmed that this term is to be given a broad and liberal interpretation. The concept of welfare under the Code encompasses economic welfare, continuation of transportation routes and activities, as well as other economic activities: *Board of School Trustees of School District No. 54 (Bulkley Valley)*, BCLRB No. B147/93; *B.C. Ferries*, BCLRB No. B518/98, *B.C. Ferries*, BCLRB No. B406/2003.