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BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF CALIFORNIA

In the Matter of the Rate Application of
State Farm General Insurance Company,
Applicant.

File No.: 23-613

**CONSUMER WATCHDOG'S
PETITION FOR HEARING,
PETITION TO INTERVENE, AND
NOTICE OF INTENT TO SEEK
COMPENSATION**

[Ins. Code §§ 1861.05 and 1861.10; Cal.
Code Regs, tit. 10, §§ 2653.1, 2661.2
and 2661.3]

1 Consumer Watchdog hereby requests that the Insurance Commissioner notice a public
2 hearing pursuant to Insurance Code sections 1861.05, subdivisions (a) and (c), and 1861.10,
3 subdivision (a), on the issues raised in this petition regarding the above-referenced Rate
4 Application of State Farm General Insurance Company (“Applicant” of “State Farm”), at which
5 time Applicant will be directed to appear and respond to the issues raised in this petition.
6 Consumer Watchdog also hereby requests that it be granted leave to intervene in the proceeding
7 on the Application. Consumer Watchdog intends to seek compensation in this proceeding, and,
8 pursuant to California Code of Regulations, title 10 (“10 CCR”), section 2661.3, subdivision (c),
9 Consumer Watchdog’s proposed budget is attached hereto as Exhibit A.

10 In support of its petition, Consumer Watchdog alleges:

11 **I. THE APPLICATION**

12 1. On or about February 28, 2023, Applicant filed a Rate Application with the
13 California Department of Insurance (“CDI”), seeking approval of an overall 28.1% rate increase
14 to its California Homeowners Program line of insurance (File No. 23-613 [“the Application”]).

15 2. On or about March 17, 2023, the public was notified by the Department of the
16 Application.

17 **II. PETITIONER**

18 3. Petitioner Consumer Watchdog is a nonprofit, nonpartisan public interest
19 corporation organized to represent the interests of consumers and taxpayers. A core focus of
20 Consumer Watchdog’s advocacy is the representation of the interests of insurance consumers
21 and policyholders, particularly as they relate to the implementation and enforcement of
22 Proposition 103, in matters before the Legislature, the courts, and the CDI.

23 4. Consumer Watchdog’s founder authored Proposition 103 and led the successful
24 campaign for its enactment by California voters in 1988. Consumer Watchdog’s staff and
25 consultants include some of the nation’s foremost consumer advocates and experts on insurance
26 ratemaking matters.

27 5. Consumer Watchdog has served as a public watchdog with regard to insurance
28 rates and insurer rollback liabilities under Proposition 103 by: monitoring rollback settlements

1 and the status of the rollback regulations; reviewing and challenging rate filings made by insurers
2 seeking excessive rates; participating in rulemaking and adjudicatory hearings before the CDI;
3 and educating the public concerning industry underwriting and rating practices, their rights under
4 Proposition 103, and other provisions of state law. Consumer Watchdog has also initiated and
5 intervened in actions in state court and appeared as amicus curiae in matters involving the
6 interpretation and application of Proposition 103 and the Insurance Code.¹

7 6. Consumer Watchdog has initiated and intervened in numerous proceedings before
8 the CDI related to the implementation and enforcement of Proposition 103's reforms, including
9 over 125 such proceedings in the last twenty years. In every proceeding in the last twenty years
10 that has resulted in a final decision and in which Consumer Watchdog sought compensation, the
11 Commissioner found that Consumer Watchdog made a substantial contribution, meaning that its
12 participation was separate and distinct from any other party and that it presented relevant issues,
13 evidence, and arguments that resulted in more credible, non-frivolous information being
14 available to the Commissioner in making his final decision.

15 **III. EVIDENCE**

16 7. At the requested public hearing, Consumer Watchdog will present and elicit
17 evidence to show that the rates proposed in the Application are excessive and/or unfairly
18 discriminatory in violation of Insurance Code section 1861.05, subdivision (a), which provides
19 that "[n]o rate shall be approved or remain in effect which is excessive, inadequate, [or] unfairly
20 discriminatory." Additionally, Consumer Watchdog will present and elicit evidence that
21 Applicant's proposed rates violate 10 CCR § 2644.1, which provides that "[n]o rate shall be
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24 ¹ For example, *Calfarm Ins. Co. v. Deukmejian* (1989) 48 Cal.3d 805; *20th Century Ins. Co. v.*
25 *Garamendi* (1994) 8 Cal.4th 216; *Amwest Surety Ins. Co. v. Wilson* (1995) 11 Cal.4th 1243;
26 *Proposition 103 Enforcement Project v. Quackenbush* (1998) 64 Cal.App.4th 1473; *Spanish*
27 *Speaking Citizens' Found. v. Low* (2000) 85 Cal.App.4th 1179; *Donabedian v. Mercury Ins. Co.*
28 *(2004) 116 Cal.App.4th 968; State Farm Mut. Auto. Ins. Co. v. Garamendi* (2004) 32 Cal.4th
1029; *The Found. for Taxpayer and Consumer Rights v. Garamendi* (2005) 132 Cal.App.4th
1354; *Ass'n of Cal. Ins. Cos. v. Poizner* (2009) 180 Cal.App.4th 1029; *Mercury Cas. Co. v.*
Jones (2017) 8 Cal.App.5th 561; *Mercury Ins. Co. v. Lara* (2019) 35 Cal.App.5th 82; and *State*
Farm General Ins. Co. v. Lara (2021) 71 Cal.App.5th 197.

1 approved or remain in effect that is above the maximum permitted earned premium as defined in
2 section 2644.2.”

3 8. Based on Consumer Watchdog’s preliminary analysis and the information
4 contained in the Application and publicly available from the Department’s website, Consumer
5 Watchdog has identified the following issues with respect to the Application on which it intends
6 to present and elicit evidence as set forth in sections (a)–(j) below.

7 a) Excessive Rates (10 CCR § 2644.1): The net income in 2021 of \$436 million, which is
8 more than 20% of premium, is not consistent with the large rate increase being proposed,
9 but instead would be consistent with a rate decrease.

10 b) Catastrophe Adjustment (10 CCR § 2644.5): Applicant did not justify the use of amount
11 of insurance (AOI) as the proper base for the catastrophe adjustment. Applicant used an
12 inflated value for the AOI trend for Homeowners that results in an inflated catastrophe
13 provision. Applicant has not shown that the catastrophe adjustment used reflects any
14 changes between the insurer’s historical and prospective exposure to catastrophe due to a
15 change in the mix of business. The provision for Fire Following Earthquake was not
16 supported.

17 c) Premium and Loss Trends (10 CCR § 2644.7): The selected annual loss trends are among
18 the highest of the possible values. The excessive loss trend overstates the projected loss
19 resulting in an inflated rate indication. Applicant failed to prove that its trend selections,
20 as well as the data period used, are the most actuarially sound.

21 d) Improper Loss Development (10 CCR § 2644.6): Applicant uses incurred loss
22 development in the rate templates. In addition, the average case reserves for the most
23 recent year are materially higher than prior years. Applicant fails to explain why there is
24 such a large difference between the paid and incurred development. Nor do they
25 demonstrate that the higher incurred development method is the most actuarially sound.

26 e) Improper / Unsupported Excluded Expenses (10 CCR§ 2644.10): Applicant has not
27 shown that all of its institutional advertising expenses have been reflected in the excluded
28 expense provision. There may also be excluded expenses for other categories that should

1 be reflected in the rate calculation but were not adequately reflected in the filing,
2 including but not limited to “All payments to affiliates, to the extent that such payments
3 exceed the fair market rate or value of the goods or services in the open market”.

4 f) Ancillary Income (10 CCR § 2644.13): The use of \$0 for California Finance / Service
5 Charges in 2021 for projecting the future value appears to be unreasonable and
6 actuarially unsound. The Applicant has not explained or supported the decrease in
7 reported California Finance / Service Charges as a reasonable basis for projecting future
8 values.

9 g) Unsupported Variance 2C (10 CCR § 2644.27(f)(2)(C)): Applicant has not shown that its
10 average premiums are significantly larger or smaller than the average California
11 premiums. The Applicant has misapplied the applicable regulation for various reasons
12 including, but not limited to, using the wrong basis of comparison.

13 h) Improper / Unsupported Variance 7D (10 CCR § 2644.27(f)(7)(D)): While a variance
14 from the loss development section of the regulation (10 CCR § 2644.6) could be
15 appropriate, Applicant failed to prove that its selected loss development is the most
16 actuarially sound.

17 i) Improper / Unsupported Variance 8F (10 CCR § 2644.27(f)(8)(F)): While a variance
18 from the trend section of the regulation (10 CCR § 2644.7) could be appropriate,
19 Applicant failed to prove that its trend selections are the most actuarially sound.

20 j) Other: The Applicant has not adequately supported other items in the filing, including but
21 not limited to, to the values and procedures used for: (i) Location Rating, (ii) Wildfire
22 Mitigation Discount – Community Level and (iii) Wildfire Mitigation Discount –
23 Property Level.

24 9. This petition is based upon Consumer Watchdog’s preliminary analysis of the
25 Application. Thus, Consumer Watchdog reserves the right to modify, withdraw, and/or add
26 issues for consideration as more information becomes available, including but not limited to
27 violations of Insurance Code section 1859 for failure to disclose information in its filings that
28 will affect policyholders’ rates and premiums.

1 **IV. AUTHORITY FOR PETITION AND GRANTING REQUEST FOR A HEARING**

2 10. The authority for this petition for hearing is Insurance Code section 1861.10,
3 subdivision (a), which grants “any person” the right to initiate or intervene in a proceeding
4 permitted or established by Proposition 103 and the right to enforce Proposition 103.
5 Specifically, as stated above, Consumer Watchdog initiates this proceeding to enforce Insurance
6 Code sections 1861.05 and 1861.02 and the Commissioner’s regulations.

7 11. Additionally, this petition is authorized pursuant to Insurance Code section
8 1861.05, subdivision (c), which allows “a consumer or his or her representative” to request a
9 hearing on a rate application and 10 CCR § 2653.1, which provides that “any person, whether as
10 an individual, representative of an organization, or on behalf of the general public, may request a
11 hearing by submitting a petition for hearing.” Since Applicant is requesting rate changes
12 exceeding 7%, the Commissioner is required to hold a hearing in response to this timely petition
13 pursuant to Insurance Code section 1861.05(c).

14 12. This petition is timely pursuant to Insurance Code section 1861.05, subdivision
15 (c), and 10 CCR § 2646.4(a)(1) because it is filed within forty-five (45) days of the March 17,
16 2023 public notice date.

17 **V. INTEREST OF PETITIONER**

18 13. Consumer Watchdog’s interest in the above-captioned proceeding is to ensure that
19 Applicant’s California Homeowners Program insurance policyholders are charged rates and
20 premiums that comply with the provisions of Insurance Code section 1861.05(a)’s requirement
21 that “no rate shall be approved or remain in effect which is excessive, inadequate, [or] unfairly
22 discriminatory or otherwise in violation of this chapter,” and the requirements contained in the
23 regulations promulgated thereunder. For many homeowners and condo owners, their home is
24 their most valuable asset, and they are required to purchase homeowners insurance by their
25 mortgage lenders. Consumers who are overcharged by insurers for homeowners and renters
26 insurance coverage and/or arbitrarily non-renewed are part of Consumer Watchdog’s core
27 constituency.

1 14. As noted in paragraphs 3–6 above, Consumer Watchdog’s staff and consultants
2 have substantial experience and expertise in insurance rate matters, which Consumer Watchdog
3 believes will aid the CDI in its review of the Application and aid the Commissioner in making
4 his ultimate decision as to whether to approve or disapprove the requested rate. As noted in
5 paragraph 6 above, the Commissioner has found that Consumer Watchdog has made a
6 substantial contribution in all of the rate proceedings in which it has intervened in the last
7 nineteen years that have proceeded to a final decision wherein Consumer Watchdog has sought
8 compensation. If leave to intervene is granted, Consumer Watchdog will participate fully in all
9 aspects of this proceeding.

10 15. Consumer Watchdog also has an interest in ensuring that Applicant, the CDI, and
11 the Insurance Commissioner comply with the laws enacted by the voters under Proposition 103,
12 and the rules and regulations that implement those laws, including that all information submitted
13 to the Department in connection with the Application is made publicly available.

14 **VI. AUTHORITY FOR PETITION TO INTERVENE**

15 16. The authority for Consumer Watchdog’s petition to intervene is Insurance Code
16 section 1861.10, subdivision (a), which grants “any person” the right to “initiate or intervene in
17 any proceeding permitted or established pursuant to this chapter [Chapter 9 of Part 2 of Division
18 1 of the Insurance Code] . . . and enforce any provision of this article.” This proceeding is a
19 proceeding to enforce Insurance Code sections 1861.05 and 1861.02 pursuant to Insurance Code
20 section 1861.10(a), and hence is a proceeding both “permitted” and “established” by Chapter 9.
21 This petition to intervene is also authorized by 10 CCR § 2661.1 et seq. Although consumer
22 presence in departmental proceedings typically results in significant reductions to policyholders’
23 rates, the amount of savings for each individual consumer is outweighed by the time and expense
24 of hiring individual counsel or an advocacy group to protect his or her rights. Thus, an
25 independent organization like Consumer Watchdog introduces a voice that otherwise would be
26 absent from this proceeding.

1 **VII. PARTICIPATION OF CONSUMER WATCHDOG**

2 17. Consumer Watchdog verifies, in accordance with 10 CCR § 2661.3, that it will be
3 able to attend and participate in this proceeding without unreasonably delaying this proceeding
4 or any other proceedings before the Insurance Commissioner.

5 **VIII. INTENT TO SEEK COMPENSATION**

6 18. The Commissioner has awarded Consumer Watchdog compensation for its
7 reasonable advocacy and witness fees and expenses in past departmental proceedings. The
8 Commissioner issued Consumer Watchdog’s latest Finding of Eligibility on July 26, 2022,
9 effective for two years as of July 12, 2022. Consumer Watchdog was previously found eligible to
10 seek compensation on August 25, 2020, effective as of July 12, 2020; July 12, 2018; July 14,
11 2016; July 24, 2014; July 24, 2012; July 2, 2010; August 25, 2008; July 14, 2006; July 2, 2004;
12 June 20, 2002; October 1, 1997; September 26, 1995; September 27, 1994; and September 13,
13 1993.

14 19. Consumer Watchdog intends to seek compensation in this proceeding. Pursuant to
15 10 CCR § 2661.3(c), Consumer Watchdog’s estimated budget in this proceeding is attached
16 hereto as Exhibit A. Consumer Watchdog has based its estimated budget on several factors
17 including: (1) the technical and legal expertise needed to address these issues; (2) its current best
18 estimate of the time needed to participate effectively in these proceedings, taking into account
19 the time already expended by Consumer Watchdog staff and its consulting actuary and an
20 estimate of time needed to complete remaining tasks through completion of a noticed evidentiary
21 hearing; and (3) past experience in similar rate proceedings before the CDI. The estimated
22 budget is reasonable and the staffing level is appropriate, given the expertise that Consumer
23 Watchdog and its consultants bring to these proceedings when the issues involved are issues at
24 the very core of its organizational mission and strike at the very heart of Proposition 103 itself.
25 The budget presented in the attached Exhibit A is a preliminary estimate, and Consumer
26 Watchdog reserves the right to amend its proposed budget as its expenses become more certain,
27 or in its request for final compensation. Consumer Watchdog will give notice of such
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1 modifications as soon as practicable after it discovers the need to revise its estimates and shall
2 comply with the budget revision requirements in the relevant intervenor regulations.

3 WHEREFORE, Consumer Watchdog respectfully requests that the Insurance
4 Commissioner GRANT its petition for hearing and petition to intervene in the proceeding.

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6 DATED: May 1, 2023

Respectfully submitted,

7
8 Harvey Rosenfield
9 Pamela Pressley
10 Benjamin Powell
11 Ryan Mellino
12 CONSUMER WATCHDOG

13 By:

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16 Benjamin Powell
17 Attorneys for CONSUMER WATCHDOG
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1 **VERIFICATION OF BENJAMIN POWELL IN SUPPORT OF CONSUMER**
2 **WATCHDOG'S PETITION FOR HEARING, PETITION TO INTERVENE, AND**
3 **NOTICE OF INTENT TO SEEK COMPENSATION**

4 I, Benjamin Powell, verify:


5 1. I am an attorney employed by Consumer Watchdog. If called as a witness, I could
6 and would testify competently to the facts stated in this verification.

7 2. I personally prepared the pleading titled "Consumer Watchdog's Petition for
8 Hearing, Petition to Intervene, and Notice of Intent to Seek Compensation" filed in this matter.
9 All of the factual matters alleged therein are true of my own personal knowledge, or I believe
10 them to be true after conducting some inquiry and investigation.

11 3. Pursuant to California Code of Regulations, title 10, section 2661.3, Consumer
12 Watchdog attaches as Exhibit A its estimated budget in this proceeding.

13 I declare under penalty of perjury under the laws of the State of California that the
14 foregoing is true and correct.

15 Executed May 1, 2023 at Los Angeles, California.

16 
17 _____
18 Benjamin Powell

**EXHIBIT A
PRELIMINARY BUDGET**

ITEMS

ESTIMATED COST

1. Consumer Watchdog Attorneys and Paralegal

Pamela Pressley (Senior Staff Attorney) @ \$595 per hour, 100 hours \$59,500

- Edit petition for hearing and petition to intervene; supervise Consumer Watchdog counsel; oversee preparation of legal documents; confer with Consumer Watchdog counsel and outside experts regarding legal and evidentiary issues; participate in discussions with CDI and Applicant’s counsel; assist in all phases of proceeding, evidentiary hearing, and preparation of post-hearing briefing; edit request for compensation and supporting attorney declaration.

Benjamin Powell (Staff Attorney) @ \$350 per hour, 200 hours \$70,000

- Draft and edit petition for hearing and petition to intervene; Confer with Consumer Watchdog counsel and outside experts regarding legal and evidentiary issues; participate in discussions with CDI and Applicant’s counsel; draft briefing of legal issues; conduct discovery and preparation for evidentiary hearing; participate in evidentiary hearing and post-hearing legal briefing; edit request for compensation.

Kaitlyn Gentile (Paralegal) @ \$200 per hour, 50 hours \$10,000

- Draft and edit petition for hearing and petition to intervene; assist with discovery and preparation of motions and briefs; prepare request for compensation.

Harvey Rosenfield (Of Counsel) @ \$695 per hour, 15 hours \$10,425

- Supervise Consumer Watchdog counsel and participate in strategy discussions.

2. Consumer Watchdog Expenses

Office expenses (photocopies, facsimile, telephone calls, postage, etc.)\$2,000

Travel (ground transportation; airfare; hotel)\$5,000

Consumer Watchdog Subtotal\$156,925

3. Expert Witness: AIS Risk Consultants, Inc.

Allan I. Schwartz, President of AIS Risk Consultants @ \$915 per hour, 200 hours \$183,000

- Lead actuary to review all discovery documents; prepare actuarial analysis; participate in meet and confers with the parties as needed; prepare written testimony; testify and assist attorneys in preparation for cross-examination of insurers’ expert witnesses.

Katherine Tollar @ \$415 per hour, 100 hours \$41,500

- Assist Mr. Schwartz in document review, rate level analysis, preparation of testimony.

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4. Travel by Mr. Schwartz
Ground transportation; airfare to hearing; hotel \$5,000

AIS Risk Consultants Subtotal \$229,500

TOTAL ESTIMATED BUDGET: \$386,425

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PROOF OF SERVICE
BY OVERNIGHT OR U.S. MAIL, FAX TRANSMISSION,
EMAIL TRANSMISSION AND/OR PERSONAL SERVICE

State of California, City of Los Angeles, County of Los Angeles

I am employed in the City and County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action. My business address is 6330 South San Vicente Boulevard, Suite 250, Los Angeles, California 90048, and I am employed in the city and county where this service is occurring.

On May 1, 2023, I caused service of true and correct copies of the document entitled

**CONSUMER WATCHDOG'S PETITION FOR HEARING, PETITION TO INTERVENE,
AND NOTICE OF INTENT TO SEEK COMPENSATION**

upon the persons named in the attached service list, in the following manner:

1. If marked FAX SERVICE, by facsimile transmission this date to the FAX number stated to the person(s) named.
2. If marked EMAIL, by electronic mail transmission this date to the email address stated.
3. If marked U.S. MAIL or OVERNIGHT or HAND DELIVERED, by placing this date for collection for regular or overnight mailing true copies of the within document in sealed envelopes, addressed to each of the persons so listed. I am readily familiar with the regular practice of collection and processing of correspondence for mailing of U.S. Mail and for sending of Overnight mail. If mailed by U.S. Mail, these envelopes would be deposited this day in the ordinary course of business with the U.S. Postal Service. If mailed Overnight, these envelopes would be deposited this day in a box or other facility regularly maintained by the express service carrier, or delivered this day to an authorized courier or driver authorized by the express service carrier to receive documents, in the ordinary course of business, fully prepaid.

I declare under penalty of perjury that the foregoing is true and correct. Executed on May 1, 2023 at Los Angeles, California.



Kaitlyn Gentile

Service List

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- OVERNIGHT MAIL
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