



**RICARDO LARA**  
CALIFORNIA INSURANCE COMMISSIONER

November 12, 2024

**VIA ELECTRONIC MAIL**

The Honorable California Insurance Commissioner Ricardo Lara  
California Department of Insurance  
300 Capitol Mall, 16th Floor  
Sacramento, CA 95814

**SUBJECT: Request for Reconsideration of Decision Awarding Compensation in the Matter of the Request for Compensation by Intervenor Consumer Watchdog in Case No. RFC-2024-006 (PA-2023-00022), issued October 18, 2024**

To the Honorable Ricardo Lara, Insurance Commissioner of the State of California:

This letter follows our prior letter to you dated November 4, 2024, regarding a series of six decisions issued by your Administrative Hearing Bureau (AHB) on October 18, 2024.<sup>1</sup> On behalf of your staff in the Rate Enforcement Bureau (REB) of the California Department of Insurance (Department or CDI), we write now to respectfully bring your attention to, and if appropriate request reconsideration of<sup>2</sup>, a seventh Decision Awarding Compensation issued by AHB on October 18, 2024, in the above matter (Seventh Decision).

Unlike the concerns we expressed regarding the first six Decisions Awarding Compensation in our November 4 letter, REB does not believe that the Seventh Decision contains improper advisory opinions, directives that conflict with your previously published regulatory guidance, and/or other erroneous interpretations of law. However, because of the numerous improprieties contained in the first six Decisions, REB is concerned that this Seventh Decision may have been similarly issued without your full permission. As previously stated, REB understands that you delegated to AHB the authority to draft preliminary decisions regarding intervenors' requests for compensation pursuant to Proposition 103. (Ins. Code, §§ 7, 21.5; see also, Gov. Code, §§ 11415.50 & 18572.) REB wishes to bring the Seventh Decision to your attention to the extent that AHB may have exceeded its delegated authority by issuing it as a final decision in your name but without your prior review and approval.

Based upon all of the foregoing, therefore, REB respectfully requests your attention to, and if appropriate reconsideration of, the Seventh Decision, a true and correct copy of which is attached here.

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<sup>1</sup> Our prior letter addressed six Decisions Awarding Compensation in the Matters of the Requests for Compensation by Intervenor Consumer Watchdog in Case Nos. RFC-2024-002, RFC-2023-015, RFC-2024-003, RFC-2024-004, RFC-2024-005, and RFC-2024-001, that AHB issued on October 18, 2024.

<sup>2</sup> You are authorized to order reconsideration pursuant to sections 2659.1-2659.4 and 2662.7(b) of Title 10 of the California Code of Regulations as well as Government Code section 11521. All references to regulations in this letter are to regulations located in Title 10 of the California Code of Regulations.

#1480567

The Hon. Ricardo Lara, Insurance Commissioner  
November 12, 2024  
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Very truly yours,



Nikki McKennedy

cc: Lucy Wang, Deputy Commissioner, Special Counsel to the Commissioner  
Teresa Campbell, Deputy Commissioner, General Counsel  
Heather Hoesterey, Assistant General Counsel of the Legal Division  
Kristin Rosi, Chief Administrative Law Judge, Administrative Hearing Bureau  
Margaret Hosel, Public Advisor  
All parties listed on attached Proof of Service

**BEFORE THE INSURANCE COMMISSIONER  
OF THE STATE OF CALIFORNIA**

In the Matter of the Requests for Compensation of ) FILE NO. RFC-2024-006  
)  
)  
**CONSUMER WATCHDOG,** ) **DECISION AWARDING**  
) **COMPENSATION**  
)  
) *In the Matter of the Rate Applications of*  
) *Farmers Insurance Exchange,*  
Intervenor. ) *Mid-Century Insurance Company, &*  
) *Truck Insurance Exchange*  
)  
)  
) Rate Application Nos. 23-2949; 23-2949-A  
) 23-2949-B; 23-2950; 23-2950-A; 23-2950-  
) B; 23-4951; 23-4951-A; 23-4951-B  
)  
) Prior Approval File No. PA-2023-00022

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**INTRODUCTION**

California law requires that the rates used for calculating premiums on certain classes of insurance be approved by the Insurance Commissioner before they are put into use.<sup>1</sup> In the parlance of the insurance industry and government regulators, this is colloquially known as *prior approval rate regulation*.<sup>2</sup> Independent parties representing the interests of consumers may intervene and participate in the rate approval process, separate and apart from the Rate Enforcement Bureau, the regulatory unit established in the Department of Insurance (Department) by the Commissioner that is responsible for prior approval compliance.<sup>3</sup>

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<sup>1</sup> Ins. Code, § 1861.01, subd. (c); Cal. Code Regs., tit. 10, § 2644.1; *Amwest Surety Ins. Co. v. Wilson* (1995) 11 Cal.4th 1243, 1259.

<sup>2</sup> Ins. Code, § 1861.05, subd. (a); *20th Century Ins. Co. v. Garamendi* (1994) 8 Cal.4th 216, 243, as modified on denial of reh'g (Sept. 29, 1994).

<sup>3</sup> Ins. Code, § 1861.10, subd. (a).

In the matter presented here, Consumer Watchdog intervened in Farmers Insurance Exchange, Mid-Century Insurance Company and Truck Insurance Exchange (Farmers) Rate Change Applications<sup>4</sup> (Applications), which sought an overall 6.9% rate increase to their auto line for their three, separate occupation-based groups—Regular Program, Business and Professional Group I, and Business and Professional Group II. Consumer Watchdog now makes a Request for an Award of Compensation (RFC) based on their intervention.<sup>5</sup> In the RFC, Consumer Watchdog requests advocacy and witness fees totaling \$19,508.50.<sup>6</sup> Consumer Watchdog urges the Chief Administrative Law Judge (CALJ or Chief Judge) to grant the fees and expenditures in full, contending that such an award is proper because Consumer Watchdog met or exceeded all procedural and substantive prerequisites necessary for receiving such relief.<sup>7</sup>

Consumer Watchdog's fees and expenditures are permissible because Consumer Watchdog made a substantial contribution by raising five distinct issues with Farmers' Applications, propounding information requests, preparing an actuarial analysis and rate template, contributing to the overall rate negotiations.<sup>8</sup> This resulted in more relevant, credible, and non-frivolous information being available to the Commissioner in making the decision approving the Applications. Accordingly, as is consistent with this decision, an award of \$19,508.50, is appropriate.

The RFC is GRANTED.

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<sup>4</sup> Rate Application Nos. File Nos. 23-2949, 23-2949-A, 23-2949-B; 23-2950, 23-2950-A, 23-2950-B; 23-4951, 23-4951-A, and 23-4951-B.

<sup>5</sup> Ins. Code, § 1861.10, subd. (b); Cal. Code Regs., tit. 10, § 2662.3, subd. (a).

<sup>6</sup> Consumer Watchdog Request for Compensation (RFC), p. 2; Exh. A.

<sup>7</sup> Ins. Code, § 1861.10, subd. (b); Cal. Code Regs., tit. 10, §§ 2662.5, 2662.3, subds. (a),(b).

<sup>8</sup> RFC at pp. 4-6.

## **PROCEDURAL AND FACTUAL BACKGROUND**

### **I. Prior Approval History and Purpose**

In November 1988, California voters passed the Insurance Rate Reduction and Reform Act, better known as Proposition 103. Proposition 103 fundamentally changed insurance regulation in California. Prior to Proposition 103's passage, California was an "open rate" jurisdiction, under which insurance carriers set rates without the Insurance Commissioner's (Commissioner) prior or subsequent approval.<sup>9</sup> Proposition 103 altered this system in order "to protect consumers from arbitrary insurance rates and practices, to encourage a competitive insurance marketplace, to provide for an accountable Insurance Commissioner, and to ensure that insurance is fair, available and affordable for all Californians."<sup>10</sup> To that end, Proposition 103 added Insurance Code article 10, which provides the Commissioner with broad authority over insurance rates, guarantees public rate hearings and expressly precludes the Commissioner from approving rates that are "excessive, inadequate, unfairly discriminatory or otherwise in violation" of the Insurance Code.<sup>11</sup>

Proposition 103's other central objective was to "enable consumers to permanently unite to fight against insurance abuse" by promoting consumer participation in the rate review process.<sup>12</sup> Accordingly, it encouraged consumer groups to "initiate or intervene in any proceeding permitted or established pursuant this chapter, challenge any action of the commissioner under this article, and enforce any provision of this article."<sup>13</sup> To further that participation, the initiative provided consumer groups with advocacy fees for any work that

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<sup>9</sup> *Calfarm Ins. Co. v. Deukmejian* (1989) 48 Cal.3d 805, 812; *20<sup>th</sup> Century Ins. Co. v. Garamendi* (1984) 8 Cal.4<sup>th</sup> 216, 240.

<sup>10</sup> *State Farm Mutual Automobile Ins. Co. v. Garamendi* (2004) 32 Cal.4<sup>th</sup> 1029, 1041; *Farmers Ins. Exchange v. Superior Court* (2006) 137 Cal.App.4<sup>th</sup> 842, 853.

<sup>11</sup> Ins. Code, § 1861.05, subds. (a) and (c).

<sup>12</sup> *State Farm Mutual Automobile Ins. Co. v. Garamendi*, 32 Cal 4<sup>th</sup> at p. 1045.

<sup>13</sup> Ins. Code, § 1861.10, subd. (a).

substantially contributed to the Commissioner's decision on a rate applications.<sup>14</sup>

It is against this backdrop that the following proceeding was undertaken.

## **II. Rate Application & Intervention**

On or about September 27, 2023, Farmers filed the Applications with the Department, seeking approval of an overall 6.9% rate increase to their auto line of insurance for their three separate occupation-based groups—Regular Program, Business and Professional Group I, and Business and Professional Group II.<sup>15</sup> On October 13, 2023, the Department notified the public of Farmers' Applications, as required by statute.<sup>16</sup>

After the Applications were publicly noticed, Consumer Watchdog and its actuaries reviewed the Applications and determined the proposed rate change was excessive and/or unfairly discriminatory in violation of Insurance Code section 1861.10, subdivision (a).<sup>17</sup>

On November 27, 2023, Consumer Watchdog filed its Petition for Hearing, and Petition to Intervene (Petition) including the issues on which it would provide evidence to show why Farmers' proposed rates were excessive and/or unfairly discriminatory. .<sup>18</sup> The Petition raised a number of issues. Specifically, Consumer Watchdog's Petition alleged that Farmers' frequency and severity trend selections resulted in excessive net trends which overstated the projected losses, causing an inflated rate indication. Consumer Watchdog's preliminary analysis indicated no rate increase was warranted, particularly for Bodily Injury, Property Damage, and Collision.<sup>19</sup> Consumer Watchdog also noted the average of the 8- and 12-point fits produced excessive net trends which overstated the projected losses, causing an inflated rate indication, and that

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<sup>14</sup> Ins. Code, § 1861.10, subd. (b).

<sup>15</sup> RFC, 3:17-20; see also, Declaration of Pamela Pressley in Support of Consumer Watchdog's Request for Compensation (Pressley Decl.) at ¶ 24.

<sup>16</sup> Pressley Decl. at ¶ 24.

<sup>17</sup> Pressley Decl. at ¶ 25.

<sup>18</sup> Pressley Decl. at ¶ 27; Exh. 5.

<sup>19</sup> Pressley Decl. at ¶ 27; Petition for Hearing at ¶ 8a.

Farmers used incurred loss development in the rate templates, which yielded higher ultimate loss and DCCE than paid development across all coverages; more than 10% higher for all coverages combined.<sup>20</sup> Additionally, the intervenor alleged that Farmers had failed to provide sufficient information in the filing to support the claim that roughly 30% of advertising expenses over the last three years had been institutional, and asserted that Farmers' use of occupation to create three separate base rate tiers for their Regular Program and Business and Professional Groups I and II violated Insurance Code sections 1861.05(a) and 1861.02(a), and California Code of Regulations, title 10. § 2632.5(d).<sup>21</sup>

On December 11, 2023, the Department contacted the Parties via email to schedule a 3-way conference call to discuss the filing, before intervention had been granted. The Commissioner granted Consumer Watchdog's Petition to Intervene on the Applications the same day, finding "[a]s to the allegations related to loss and premium trends, Variance 8D, loss development, excluded expenses related to excessive payments to affiliates, and separate base rate tiers for affinity groups, the Petition complies with relevant provisions of 10 CCR section 2661.3. The Commissioner finds that these specific issues raised in the Petition are relevant to the issues of this proceeding."<sup>22</sup>

On December 15, 2023, based on its actuary's preliminary analysis, Consumer Watchdog circulated rate templates with its proposed indications showing overall rate decreases were justified and a rate template comparison chart showing the differences between Consumer Watchdog's selections and Farmers' selections for trends and loss development. Consumer Watchdog's indications did not include Variance 8D because it believed that "appropriate

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<sup>20</sup> Pressley Decl. at ¶¶ 28, 29; Petition for Hearing at ¶¶ 8b, 8c.

<sup>21</sup> Pressley Decl. at ¶¶ 30, 31; Petition for Hearing at ¶¶ 8d, 8e.

<sup>22</sup> Pressley Decl. at ¶ 32; Exh. 6.

selections can be made from the available point fits.”<sup>23</sup>

On December 18, 2023, the Department circulated a three-way comparison of the Parties’ indications.<sup>24</sup> Later that day, the Parties held a three-way call during which the Parties discussed the issues raised by Consumer Watchdog’s Petition and Consumer Watchdog’s actuary explained his analysis and differences between his selections and calculations and Farmers on trend and loss development. On the call, counsel for Farmers asserted that per statute, Farmers had a right to a decision on its rate application within 60 days (the day after Consumer Watchdog was granted intervention), despite the fact that Farmers had waived the 60-day and 180-day deemer provisions in Insurance Code section 1861.05 in a response letter to the Department posted in SERFF on November 27, 2023.<sup>25</sup>

On December 19, 2023, Consumer Watchdog submitted 15 Requests for Information to Farmers. Specifically, Consumer Watchdog requested additional support for the use of the average of the 8- and 12-point trend fits under Variance 8D; detailed, numerical support for the use of the incurred loss development method in the Applications; details about what was driving the indicated rate need; a discussion of the general type of risk profiles that would receive the larger and smaller premium changes as a result of the filing; an explanation of other actions being taken by the company, in addition to rate revision filings, to address overall profitability and growth plans; premium, paid loss, and incurred loss data by month going back to January 2018 for Farmers’ PPA business, split out by new business and renewals; and a discussion of all measures taken by Farmers in the last five years to limit access to their automobile insurance products; an explanation for any material increase/decrease in the in-force policy

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<sup>23</sup> RFC, Exh. B.

<sup>24</sup> RFC Exh. C.

<sup>25</sup> Pressley Decl. at ¶ 36.



count/exposures over the past several years.<sup>26</sup> Consumer Watchdog also sought the overall company strategy with writing business in California as well as what differentiates Farmers' product from other competitors in the marketplace; a complete detailed description of any agreements and payments between Farmers and affiliated companies from 2019 to 2022; a complete, detailed description of the methodology used by Farmers to separate advertising expenses into institutional and noninstitutional expenses; all data, documents, correspondence, and analyses provided in response to CDI Bulletins related to COVID; with regard to Comprehensive coverage, any data, analyses, or exhibits Farmers had dealing with losses by cause of loss; what portion of the proposed rate change for comprehensive was due to catalytic converter theft claims; and an explanation of how the Applications took into account AB 1740 and SB 1087 in deriving the rate change.<sup>27</sup>

On December 20, 2023, Farmers responded to each of Consumer Watchdog's Requests for Information. Farmers provided support for using the average of the 8- and 12-point trend fits under Variance 8D; provided support for the use of incurred loss development for liability and first-party bodily injury lines; explained that the main drivers of their indicated rate need were increase in mileage driven, elevated claim severity, attorney representation rate, and adverse development due to subrogation demand; explained that Farmers always focused on validating rating and underwriting accuracy on all risks and also continues to explore and increase options for agents to place private passenger auto policies with other carriers through their in-house brokerage; provided earned premium, Paid Loss, and Incurred Loss data by month going back to January 2018; and confirmed that they continued to give full access to their Farmers Auto

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<sup>26</sup> RFC Exh. E; Pressley Decl. at ¶ 37.

<sup>27</sup> *Ibid.*

program for Good Driver policies.<sup>28</sup>

Later that same day, Consumer Watchdog responded to Farmers' responses with updated rate templates based on Farmers' updated information. Consumer Watchdog stated that Farmers' substantive response to the loss development question had convinced its staff actuary to move to the Incurred method for BI and UM, but that he did not find PD or MED to be particularly "long-tailed" based on the data, so those were left as paid development. Consumer Watchdog's updated indications came to a roughly +.8% increase, including +2.2% for Group 0, -1.5% for Group 1, and -1.2% for Group 2.<sup>29</sup>

On December 21, 2023, Farmers responded to Consumer Watchdog's December 20 email and rate templates by stating that Consumer Watchdog's indication was "far below the 6.9% rate increase Farmers needs to move toward (but not achieve) rate adequacy." Farmers requested that the Commissioner deny Consumer Watchdog's petition and approve the Applications subject to the program and coverage adjustments necessary to apply the CDI's selected factors<sup>30</sup>

On December 22, 2023, the Commissioner issued an order denying Consumer Watchdog's Petition for Hearing after the Parties "were unable to resolve the Applications by stipulation."<sup>31</sup> In approving the Applications, the Order responded to each of the issues raised by Consumer Watchdog and concluded that the Department had "considered *all allegations, contentions and evidence submitted by the Parties to date, including Petitioner's requests for information and Applicants' responses thereto*" to reach its determination that overall rate changes of 6.8% for Group I and 6.9% for Regular and Group II were justified.

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<sup>28</sup> RFC Exh. F; Pressley Decl. at ¶ 38.

<sup>29</sup> RFC Exh. G.

<sup>30</sup> RFC Exh. H; Pressley Decl. at ¶ 40.

<sup>31</sup> Pressley Decl. at ¶ 41; Exh. 7.

### III. Request for Compensation

On February 9, 2024, Consumer Watchdog filed a Request for Compensation (RFC) with the Commissioner, pursuant to Insurance Code section 1861.10, subdivision (b), seeking advocate fees for work performed by Consumer Watchdog employees Pamela Pressley, Benjamin Powell, Ben Armstrong and Kaitlyn Gentile.<sup>32</sup>

Ms. Pressley is an attorney with over 26 years of consumer advocacy experience, and Mr. Powell is an attorney with seven years of experience, who began his career as a law clerk at Consumer Watchdog.<sup>33</sup> Ben Armstrong, FAAS, MAAA is a staff actuary at Consumer Watchdog. In this capacity, Mr. Armstrong performs independent analysis of insurers rate filings, including assessments of their accuracy and actuarial soundness. Mr. Armstrong is a Fellow of the Casualty Actuarial Society and a Member of the American Academy of Actuaries.<sup>34</sup> Ms. Gentile is a paralegal with over 14 years of litigation experience.<sup>35</sup>

The Request for Compensation seeks compensation for 17.8 hours of Ms. Pressley's time at the rate of \$595 per hour, 10 hours of Mr. Powell's time at the rate of \$350 per hour, 10.3 hours of Mr. Armstrong's time at \$425 per hour, and 5.2 hours of Ms. Gentile's time at the rate of \$200 per hour, for a total of \$19,508.50.<sup>36</sup>

Consumer Watchdog supported the Request for Compensation with a declaration by Ms. Pressley and Richard M. Pearl, Esq, an expert in court-awarded attorneys' fees.<sup>37</sup> The hours billed are limited to time spent on Farmers' Applications, including preparation of the Request for Compensation.<sup>38</sup>

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<sup>32</sup> Consumer Watchdog requested, and received, an extension of time to file its RFC.

<sup>33</sup> *Id.* at ¶¶ 9, 13, 16

<sup>34</sup> *Id.* at ¶ 26.

<sup>35</sup> *Id.* at ¶ 22.

<sup>36</sup> *Id.* at ¶ 20.

<sup>37</sup> *Id.* at Exh. 2.

<sup>38</sup> *Id.* at Exh. 1a.

Farmers did not file a response to Consumer Watchdog's RFC.

### ***APPLICABLE LAW***

#### **I. Statutory and Regulatory Rules Governing Compensation for Public Participation**

To promote enforcement and public participation, Insurance Code section 1861.10, subdivision (a) authorizes consumers and their representatives to initiate and intervene in rate proceedings to enforce Article 10's provisions. The Insurance Code and the intervenor regulations provide that an intervenor must be compensated for their participation if substantive and procedural requirements are met.<sup>39</sup>

##### **A. Substantive Requirements**

Insurance Code section 1861.10, subdivision (b) provides that the Commissioner shall award reasonable advocacy and witness fees and expenses to persons demonstrating that (1) they "represent the interests of consumers," and (2) they have "made a substantial contribution to the adoption of any order, regulation, or decision by the commissioner[.]" The Regulations contain substantially identical requirements.<sup>40</sup>

An intervenor represents the interests of consumers if it "represents the interests of individual insurance consumer[s], or the intervenor is a group organized for the purpose of consumer protection as demonstrated by, but is not limited to, a history of representing consumers in administrative, legislative or judicial proceedings."<sup>41</sup>

An intervenor makes a substantial contribution if the intervenor "substantially contributed, as a whole, to a decision, order, regulation, or other action of the Commissioner by presenting relevant issues, evidence, or arguments which were separate and distinct from those

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<sup>39</sup> Cal. Code Regs., tit. 10, §§ 2662.1 to 2662.8.

<sup>40</sup> Cal. Code Regs., tit. 10, § 2662.5, subd. (a).

<sup>41</sup> Cal. Code Regs., tit. 10, § 2661.1, subd. (j).

emphasized by the Department of Insurance staff or any other party, such that the intervenor's participation resulted in more relevant, credible, and non-frivolous information being available for the Commissioner to make his or her decision than would have been available to a Commissioner had the intervenor not participated."<sup>42</sup> A substantial contribution may be demonstrated without regard to whether a petition for hearing is granted or denied.<sup>43</sup>

### **B. Procedural Requirements**

The Regulations set forth various procedural requirements for claiming intervenor compensation. The intervenor must obtain the Commissioner's approval of a petition to intervene, and intervenor must be found eligible to seek compensation by the Commissioner's Public Advisor.<sup>44</sup> In addition, the intervenor must submit a request for an award of compensation within 30 days after the Commissioner's decision or action in the proceeding for which intervention was sought, or within 30 days after conclusion of the entire proceeding.<sup>45</sup> The request for compensation must be verified and include detailed descriptions of the services and expenditures, legible time and billing records, and a description of the intervenor's substantial contribution.<sup>46</sup>

Any objection to the RFC by the insurance carrier must be filed within 15 days.<sup>47</sup>

### **C. Payment and Amount of Compensation Award**

Where an intervenor's advocacy occurs in response to an insurer's rate application, the insurer must pay the intervenor's reasonable advocacy fees, witness fees and expenses.<sup>48</sup> Time

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<sup>42</sup> Cal. Code Regs., tit. 10, § 2661.1, subd. (k).

<sup>43</sup> *Ibid.*

<sup>44</sup> Cal. Code Regs., tit. 10, § 2662.3.

<sup>45</sup> *Ibid.*

<sup>46</sup> *Ibid.*

<sup>47</sup> Cal. Code Regs., tit. 10 2662.3, subd. (e).

<sup>48</sup> Ins. Code, § 1861.10, subd. (b).

spent preparing the intervenor's request for compensation may be included in those amounts.<sup>49</sup>

The intervenor's advocacy and witness fees must not exceed "the prevailing rate for comparable services in the private sector in the Los Angeles and San Francisco Bay Areas at the time of the Commissioner's decision awarding compensation for attorney advocates, non-attorney advocates, or experts with similar experience, skill and ability."<sup>50</sup>

Where an intervenor meets the requirements for compensation, the Commissioner may award a reduced amount only in limited circumstances. Regulations section 2662.5(b) provides:

To the extent the substantial contribution claimed by a petitioner, intervenor or participant duplicates the substantial contribution of another party to the proceeding and was not authorized in the ruling on the Petition to Intervene or Participate, the petitioner's, intervenor's or participant's compensation may be reduced. Participation by the Department of Insurance staff does not preclude an award of compensation, so long as the petitioner's, intervenor's, or participant's substantial contribution to the proceeding does not merely duplicate the participation by the Department of Insurance's staff. In assessing whether there was duplication, the Commissioner will consider whether or not the petitioner, intervenor or participant presented relevant issues, evidence, or arguments which were separate and distinct from those presented by any party or the Department of Insurance staff.

## ***DISCUSSION***

### **I. Consumer Watchdog Satisfied the Requirements for Compensation**

Consumer Watchdog's Request for Compensation satisfies both the statutory and regulatory substantive and procedural requirements for intervenor compensation. In addition, Consumer Watchdog's attorney and expert witness fees are reasonable. Accordingly, the Request for Compensation must be granted.

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<sup>49</sup> Cal. Code Regs., tit. 10, § 2661.1(d).

<sup>50</sup> Cal. Code Regs., tit. 10, § 2661.1(c).

**A. Consumer Watchdog Represented the Interests of Consumers and Made a Substantial Contribution to the Commissioner's Decision**

Consumer Watchdog satisfied the requirements of Insurance Code section 1861.10, subdivision (b) and Regulations section 2662.5 to “represent the interests of consumers” and to make “a substantial contribution” to the Commissioner’s action in connection with Applications. Consumer Watchdog has a history of participation in Department proceedings and is a nationally recognized consumer advocacy group. In addition, on July 12, 2022, the Commissioner issued Consumer Watchdog a Finding of Eligibility stating “Consumer Watchdog represents the interests of consumers, and on those grounds, the Commissioner hereby finds Consumer Watchdog eligible to seek compensation in Department proceedings pursuant to [Insurance Code section] 1861.02 *et seq.*”<sup>51</sup>

As to substantial contribution, Consumer Watchdog’s Petition raised five distinct and separate issues, including (1) Farmers’ frequency and severity trend selections resulted in excessive net trends which overstated the projected losses, causing an inflated rate indication; (2) the average of the 8- and 12-point fits produced excessive net trends which overstated the projected losses, causing an inflated rate indication; (3) Farmers used incurred loss development in the rate templates, which yielded higher ultimate loss and DCCE than paid development across all coverages; (4) Farmers failed to provide sufficient information in the filing to support the claim that roughly 30% of advertising expenses over the last three years had been institutional; and (5) Farmers’ use of occupation to create three separate base rate tiers for their Regular Program and Business and Professional Groups I and II violated sections 1861.05(a) and

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<sup>51</sup> Finding of Consumer Watchdog’s of Eligibility to Seek Compensation, dated July 12, 2022. That Finding was succeeded by the Commissioner’s Finding of Eligibility to Seek Compensation, dated Aug. 25, 2020, File No. IE-2020-0002, p. 4. Consumer Watchdog’s eligibility is effective until July 2022.

1861.02(a), and 10 CCR§ 2632.5(d).<sup>52</sup> Consumer Watchdog issued multiple requests for information and their intervention resulted in numerous responses from Farmers, all of which provided additional significant information in evaluating the rate application. In addition, Consumer Watchdog's attorneys and actuaries participated in discussions with the Parties, and their actuary prepared a written analysis and rate template, that served as the backdrop of settlement negotiations.

As such, Consumer Watchdog made a substantial contribution to the Commissioner's ultimate decision.

**B. Consumer Watchdog Met the Procedural Requirements for Compensation**

The Commissioner approved Consumer Watchdog's Petition to Intervene on July 26, 2022, and the Public Advisor found Consumer Watchdog eligible to seek compensation.<sup>53</sup> Consumer Watchdog submitted a timely request for compensation and the request was verified.<sup>54</sup> It included detailed descriptions of the services and expenditures, legible time and billing records, and a description of Consumer Watchdog's substantial contribution.<sup>55</sup> Accordingly, Consumer Watchdog met the procedural requirements for compensation.

**C. Consumer Watchdog's Requested Fees Are Reasonable**

Consumer Watchdog billed at hourly rates of \$595 for Ms. Pressley, an attorney with over 26 years of consumer advocacy experience, \$350 for Mr. Powell, an attorney with seven years' experience, \$450 for Mr. Armstrong, an experienced actuary, and \$200 for Ms. Gentile, a paralegal with over 14 years of litigation experience.<sup>56</sup> These rates are consistent with the current prevailing private sector rates for advocates in Los Angeles with similar experience, skill and

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<sup>52</sup> Cal. Code Regs., tit. 10, § 2661.1, subd. (k).

<sup>53</sup> Finding of Consumer Watchdog's of Eligibility to Seek Compensation, Aug. 25, 2020, File No. IE-2020-0002.

<sup>54</sup> Request for Compensation at p. 11.

<sup>55</sup> Request for Compensation at pp. 5-8; Pressley Decl., Exh. 1a.

<sup>56</sup> Powell Decl. at ¶¶ 7, 9, 12.



ability.<sup>57</sup>

Consumer Watchdog billed a total of 43.3 hours in connection with the Applications, including 17.8 hours for Ms. Pressley, 10 hours for Mr. Powell, 10.3 hours for Mr. Armstrong, and 5.2 hours for Ms. Gentile.<sup>58</sup> That time is reasonable for the work Consumer Watchdog performed reviewing the Applications, preparing the Petition, engaging with its expert witness, preparing the Compensation Request, and engaging in related conferences, calls, correspondence and negotiations over three months. None of Consumer Watchdog's advocacy fees were excessive for the nature and quality of work performed. Nor did that work duplicate the Department's participation, since Consumer Watchdog first raised most of the relevant the issues and arguments. As such, Consumer Watchdog's advocacy and expert witness fees are reasonable.

### **III. Conclusions**

Consumer Watchdog is entitled to advocacy and expert witness fees in the amount of \$19,508.50, pursuant to Insurance Code section 1861.10, subdivision (b) and the regulations thereunder. Because Consumer Watchdog's advocacy was in response to Farmers' Applications, Farmers must pay the award.<sup>59</sup>

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<sup>57</sup> See Powell Decl., Exh. 2 [fee expert declaration].

<sup>58</sup> RFC.

<sup>59</sup> Ins. Code, § 1861.10, subd. (b).


**ORDER**

1. Consumer Watchdog is hereby awarded \$19,508.50 in advocacy and expert witness fees in connection with Farmers' rate applications (Prior Approval File No. PA-2023-00022).

2. Farmers shall pay the award no later than 30 days after the date of this Decision and shall notify the Department's Office of the Public Advisor upon making payment.<sup>60</sup>

Date: October 18, 2024

RICARDO LARA  
Insurance Commissioner

By:   
**Hon. Kristin L. Rosi**  
Chief Administrative Law Judge  
Administrative Hearing Bureau

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<sup>60</sup> Jon Phenix, Public Advisor, 300 Capitol Mall, Sacramento, CA. [jon.phenix@insurance.ca.gov](mailto:jon.phenix@insurance.ca.gov).



**PARTY SERVICE LIST**

Name/Address

Method of Service

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1 **PROOF OF SERVICE**  
2 **In the Matter of the**  
3 **REQUEST FOR COMPENSATION OF CONSUMER WATCHDOG, INTERVENOR.**  
4 **AHB File No. RFC-2024-006**  
5 **(CDI File No. PA-2023-00022)**

6 I am over the age of eighteen years and am not a party to the within action. I am an  
7 employee of the Department of Insurance, State of California, employed at 1901 Harrison Street,  
8 4<sup>th</sup> Floor, Oakland, CA 94612. On November 12, 2024, I served the following document(s):

9 **LETTER TO THE HONORABLE CALIFORNIA INSURANCE**  
10 **COMMISSIONER RICARDO LARA DATED NOVEMBER 12, 2024**  
11 **REGARDING REQUEST FOR RECONSIDERATION OF DECISION**  
12 **AWARDING COMPENSATION IN THE MATTER OF THE REQUEST**  
13 **FOR COMPENSATION BY INTERVENOR CONSUMER WATCHDOG IN**  
14 **CASE NO. AHB RFC-2024-006 (PA-2023-00022)**  
15 **ISSUED OCTOBER 18, 2024**

16 on all persons named on the attached Service List, by the method of service indicated, as follows:

17 If **U.S. MAIL** is indicated, by placing on this date, true copies in sealed envelopes, addressed to  
18 each person indicated, in this office's facility for collection of outgoing items to be sent by mail,  
19 pursuant to Code of Civil Procedure Section 1013. I am familiar with this office's practice of  
20 collecting and processing documents placed for mailing by U.S. Mail. Under that practice,  
21 outgoing items are deposited, in the ordinary course of business, with the U.S. Postal Service on  
22 that same day, with postage fully prepaid, in the city and county of San Francisco, California.

23 If **OVERNIGHT SERVICE** is indicated, by placing on this date, true copies in sealed  
24 envelopes, addressed to each person indicated, in this office's facility for collection of outgoing  
25 items for overnight delivery, pursuant to Code of Civil Procedure Section 1013. I am familiar  
26 with this office's practice of collecting and processing documents placed for overnight delivery.  
27 Under that practice, outgoing items are deposited, in the ordinary course of business, with an  
28 authorized courier or a facility regularly maintained by one of the following overnight services in  
the city and county of San Francisco, California: Express Mail, UPS, Federal Express, or Golden  
State overnight service, with an active account number shown for payment.

If **FAX SERVICE** is indicated, by facsimile transmission this date to fax number stated for the  
person(s) so marked.

If **PERSONAL SERVICE** is indicated, by hand delivery this date.

If **INTRA-AGENCY MAIL** is indicated, by placing this date in a place designated for collection  
for delivery by Department of Insurance intra-agency mail.

If **EMAIL** is indicated, by electronic mail transmission this date to the email address(es) listed.

Executed this date at San Francisco, California. I declare under penalty of perjury under the laws  
of the State of California that the above is true and correct.

\_\_\_\_\_  
Cecilia Padua

**SERVICE LIST**  
**In the Matter of the**  
**REQUEST FOR COMPENSATION OF CONSUMER WATCHDOG, INTERVENOR.**  
**AHB File No. RFC-2024-006**  
**(CDI File No. PA-2023-00022)**

<u>Name/Address</u>	<u>Phone/Fax Numbers</u>	<u>Method of Service</u>
<p>The Honorable California Insurance  Commissioner Ricardo Lara  Office of the Commissioner  <b>CALIFORNIA DEPARTMENT OF  INSURANCE</b>  300 Capitol Mall, 16<sup>th</sup> Floor  Sacramento, CA 95814  <a href="mailto:CommissionerLara@insurance.ca.gov">CommissionerLara@insurance.ca.gov</a></p>	<p>Tel: (916) 492-3500  Fax: (916) 445-5280</p>	Via EMAIL
<p>Lucy Wang, Deputy Commissioner  Special Counsel to the Commissioner  Office of the Special Counsel  <b>CALIFORNIA DEPARTMENT OF  INSURANCE</b>  300 Capitol Mall, 16<sup>th</sup> Floor  Sacramento, CA 95814  <a href="mailto:Lucy.Wang@insurance.ca.gov">Lucy.Wang@insurance.ca.gov</a></p>	<p>Tel: (415) 538-4377</p>	Via EMAIL
<p>Teresa Campbell, Deputy Commissioner  General Counsel  Heather Hoesterey  Assistant General Counsel  Legal Division  <b>CALIFORNIA DEPARTMENT OF  INSURANCE</b>  1901 Harrison Street, 6<sup>th</sup> Floor  Oakland, CA 94612  <a href="mailto:Teresa.Campbell@insurance.ca.gov">Teresa.Campbell@insurance.ca.gov</a>  <a href="mailto:Heather.Hoesterey@insurance.ca.gov">Heather.Hoesterey@insurance.ca.gov</a></p>	<p>Tel: (415) 538-4126  (415) 538-4176  Fax: (510) 238-7829</p>	Via EMAIL
<p>Kristin Rosi  Chief Administrative Law Judge  Administrative Hearing Bureau  <b>CALIFORNIA DEPARTMENT OF  INSURANCE</b>  1901 Harrison Street, 3rd Floor  Oakland, CA 94612  <a href="mailto:Florinda.Cristobal@insurance.ca.gov">Florinda.Cristobal@insurance.ca.gov</a>  <a href="mailto:Camille.Johnson@insurance.ca.gov">Camille.Johnson@insurance.ca.gov</a></p>	<p>Tel: (415) 538-4127  (415) 538-4243  Fax: (510) 238-7828</p>	Via EMAIL

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