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BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF CALIFORNIA

In the Matter of the Rate Application of

Stillwater Insurance Company,

Applicant.

File No.: 25-456

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

[Ins. Code §§ 1861.02, 1861.05, and 1861.10;
Cal. Code Regs, tit. 10, §§ 2653.1, 2661.2 and
2661.3]

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

In support of its petition, Consumer Watchdog alleges:

I. THE APPLICATION

1. On or about February 27, 2025, Applicant filed a Prior Approval Rate Application with the California Department of Insurance (“CDI”), seeking approval of an overall 27.5% rate increase to its homeowners line of business (File No. 25-456 [“the Application”]).

2. On or about March 28, 2025, the public was notified by the CDI of the Application.

II. PETITIONER

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

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

1 5. Consumer Watchdog has served as a public watchdog to enforce Proposition 103's
2 protections with regard to property-casualty insurance rates and practices by: monitoring insurer
3 rollback settlements and the status of the rollback regulations; reviewing and challenging rate
4 filings made by insurers seeking to implement excessive and/or unfairly discriminatory rates
5 and/or practices; participating in rulemaking and adjudicatory hearings before the CDI to
6 implement and enforce Proposition 103's consumer protections; and educating the public
7 concerning industry underwriting and rating practices, their rights under Proposition 103, and
8 other provisions of state law. Consumer Watchdog has also initiated, intervened, or appeared as
9 amicus curiae in virtually every action in state court involving the interpretation and application
10 of Proposition 103 and the Insurance Code.¹

11 6. Consumer Watchdog has initiated and intervened in numerous proceedings before
12 the CDI related to the implementation and enforcement of Proposition 103's reforms, including
13 over 150 such proceedings in the last twenty years. In every rate proceeding that has resulted in a
14 final decision and in which Consumer Watchdog sought compensation from 2003–2022, the
15 Commissioner found that Consumer Watchdog made a substantial contribution under Insurance
16 Code section 1861.10(b) and the implementing regulations. Most recently in 2025, the
17 Commissioner found that Consumer Watchdog made a substantial contribution to his decisions in
18 two homeowners insurance rate matters.

19 **III. ISSUES AND EVIDENCE TO BE PRESENTED AND POSITIONS OF PETITIONER**

20 7. In the rate proceeding initiated by Consumer Watchdog's Petition, Consumer
21 Watchdog will present and elicit evidence to show that the rates proposed in the Application
22

23
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 result in rates that are excessive and/or unfairly discriminatory in violation of Insurance Code
2 section 1861.05, subdivision (a), which provides that “[n]o rate shall be approved or remain in
3 effect which is excessive, inadequate, [or] unfairly discriminatory.” Additionally, Consumer
4 Watchdog will present and elicit evidence that Applicants’ proposed rates violate 10 CCR
5 § 2644.1, which provides that “[n]o rate shall be approved or remain in effect that is above the
6 maximum permitted earned premium as defined in section 2644.2.”

7 8. Based on Consumer Watchdog’s preliminary analysis in consultation with its
8 actuarial expert and the information contained in the Application and publicly available,
9 Consumer Watchdog has identified the following issues with the Application on which it intends
10 to present and elicit evidence as set forth in (a)–(b) below. Each of these issues is directly
11 relevant to determining whether Applicant’s proposed rate increase is excessive under Insurance
12 Code section 1861.05(a) and the prior approval rate regulations, 10 CCR § 2644.1 et seq.
13 Consumer Watchdog intends to request further information on these issues through
14 informal/formal discovery from the Applicant and reserves the right to develop and refine its
15 positions as more information is made available.

- 16 a. Loss and Premium Trends (10 CCR § 2644.7): Consumer Watchdog’s current
17 position, to the extent now known based on the information in the Application at this
18 time, is that Applicant’s frequency and severity trend selections result in excessive
19 net trends which overstate the projected losses, causing an inflated rate indication.
20 Consumer Watchdog’s preliminary analysis indicates a much lower rate need.
21 Applicant’s selected 24-point Reported/Paid frequency and severity trends give too
22 much weight to the volatile historical experience, particularly to sharp increases seen
23 beginning in 2020 and 2021, which have turned sharply downward in recent quarters.

24 Applicant states in Exhibit I – Actuarial Memorandum.pdf: “For the Homeowners
25 loss trend, the 8-point and 12-point shorter term trends were not chosen due to the
26 volatility. Because Homeowners claims typically get reported promptly and are
27 without long delays in settlement and payment, the Reported Frequency and Paid
28

1 Severity for the longer term trends exhibited more stability and all had similar results.
2 The 24-point Reported Frequency and Paid severity was chosen for maximum
3 stability.” However, looking at the variances for each of the possible trend periods,
4 the volatility exhibited by the 24-point net trends is among the highest—particularly
5 for the HO-3 coverage, which represents 92% of the premium volume in this filing.
6 For all three coverages, net trends have generally been on a downward trajectory for
7 at least the past 6 quarters. Further, net trends prior to the increases noted above from
8 2020-2021 were markedly decreasing for HO-3 and HO-6, and basically flat for HO-
9 4.

10 Consumer Watchdog analyzed the actual and fitted net trends on both a numerical
11 and graphical basis for each of the possible trend bases (Closed/Paid, Reported/Paid,
12 Closed/Total Paid, and Reported/Total Paid). Our preliminary analysis shows that
13 lower trend factors, considering the entirety of the historical data but based on more
14 recent experience, are more reasonable and actuarially sound. This analysis produces
15 an overall rate indication that is substantially lower than the 27.5% rate increase
16 proposed by Stillwater. Based on these findings, Applicant has not fully supported its
17 assertion that the selected trend factors are the most actuarially sound.
18

- 19 b. Improper / Unsupported Excluded Expenses (10 CCR § 2644.10): Applicant has not
20 shown that the sum of the institutional advertising expenses listed on page 4.1 of the
21 Prior Approval Rate Template, \$1,572, is appropriate. Consumer Watchdog’s current
22 position, to the extent now known, is that Applicant has failed to provide sufficient
23 information in the filing to support its claim that there were no institutional
24 advertising expenses in 2022 or 2023, and only \$1,572 in 2021. Per the regulation:
25 “‘Institutional advertising’ means advertising not aimed at obtaining business for a
26 specific insurer and not providing consumers with information pertinent to the
27 decision whether to buy the insurer’s product.”
28

Based on the information currently available in the Application, and subject to review of additional information that may be obtained from Applicant during the proceeding through formal or informal discovery on these and other excluded expenses items, it is Consumer Watchdog's position that Applicant has not proven that its three-year average excluded expense ratio of 0.2% shown on page 4.2 of the Prior Approval Rate Template is appropriate. Consumer Watchdog reserves the right to seek discovery and raise additional issues regarding the accuracy of the amounts listed in page 4.2 of the Prior Approval Rate Template for other categories of excluded expenses that should be reflected in the rate calculation but may not be adequately reflected in the filing, including political contribution and lobbying expenses, excessive executive compensation, bad faith judgments and associated DCCE, costs of unsuccessful defense of discrimination claims, and fines and penalties.

9. This petition is based upon Consumer Watchdog's preliminary analysis of the Application. Thus, Consumer Watchdog reserves the right to modify, withdraw, and/or add issues for consideration and its positions on each issue as more information becomes available through discovery or otherwise.

IV. AUTHORITY FOR PETITION AND GRANTING REQUEST FOR A HEARING

10. The authority for this petition for hearing is Insurance Code section 1861.10, subdivision (a), which grants "any person" the right to initiate or intervene in a proceeding permitted or established by Proposition 103 and the right to enforce Proposition 103. Specifically, as stated above, Consumer Watchdog initiates this proceeding to enforce Insurance Code section 1861.05 and the Commissioner's rate regulations, 10 CCR § 2644.1 et seq.

11. Additionally, a hearing is authorized pursuant to Insurance Code section 1861.05, subdivision (c), which allows "a consumer or his or her representative" to request a hearing on a rate application and 10 CCR § 2653.1, which provides that "any person, whether as an individual, representative of an organization, or on behalf of the general public, may request a hearing by submitting a petition for hearing." Given that Applicant's requested rate change exceeds 7%, Insurance Code section 1861.05(c) requires that the Commissioner "must hold a hearing upon a

1 timely request.”

2 12. This petition is timely pursuant to Insurance Code section 1861.05, subdivision (c),
3 and 10 CCR § 2646.4(a)(1) because is filed within forty-five (45) days of the March 28, 2025
4 public notice date.

5 **V. INTEREST OF PETITIONER**

6 13. Consumer Watchdog’s interest in the above-captioned proceeding is to ensure that
7 Applicant’s homeowners insurance policyholders are charged rates and premiums that comply
8 with the provisions of Insurance Code section 1861.05(a)’s requirement that “no rate shall be
9 approved or remain in effect which is excessive, inadequate, [or] unfairly discriminatory or
10 otherwise in violation of this chapter,” and the requirements contained in the regulations
11 promulgated thereunder. For many homeowners, their home is their most valuable asset and they
12 are required to purchase homeowners insurance by their mortgage lenders. Consumers who are
13 overcharged by insurers for this insurance coverage and/or arbitrarily non-renewed, even when
14 they have undertaken significant wildfire mitigation efforts to protect their homes and lower their
15 risk of loss, are part of Consumer Watchdog’s core constituency. The specific issues and positions
16 to be taken by Consumer Watchdog in this proceeding, to the extent known at this time, are set
17 forth in paragraph 8 *ante*.

18 14. As noted in paragraphs 3–6 *ante*, Consumer Watchdog’s staff and consultants
19 have substantial experience and expertise in insurance rate matters, which Consumer Watchdog
20 believes will aid the CDI in its review of the Application and aid the Commissioner in making
21 his ultimate decision as to whether to approve or disapprove the requested rate. As noted in
22 paragraph 6 above, the Commissioner has found that Consumer Watchdog has made a
23 substantial contribution to his decisions in every rate proceeding that has resulted in a final
24 decision and in which Consumer Watchdog sought compensation from 2003–2022, three
25 additional proceedings in 2023, six additional proceedings in 2024, and two additional
26 proceedings in 2025. If leave to intervene is granted, Consumer Watchdog will participate fully
27 in all aspects of this proceeding.

1 15. Consumer Watchdog also has an interest in assuring that Applicant, the CDI, and
2 the Insurance Commissioner comply with the laws enacted by the voters under Proposition 103,
3 and the rules and regulations that implement those laws, including that all information submitted
4 to the CDI in connection with the Application is made publicly available.

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

6 16. The authority for Consumer Watchdog’s petition to intervene is Insurance Code
7 section 1861.10, subdivision (a), which grants “any person” the right to “initiate or intervene in
8 any proceeding permitted or established pursuant to this chapter [Chapter 9 of Part 2 of
9 Division 1 of the Insurance Code] . . . and enforce any provision of this article.” This proceeding
10 is a rate proceeding to enforce Insurance Code section 1861.05 pursuant to Insurance Code
11 section 1861.10(a), and hence is a proceeding both “permitted” and “established” by Chapter 9.
12 Per the voters’ instruction, the mandatory right to intervene under section 1861.10(a), like all the
13 provisions of Proposition 103, must be “liberally construed and applied in order to fully promote
14 its underlying purposes.” (Prop. 103, § 8.) Thus, section 1861.10 must be interpreted and applied
15 broadly in a manner to fully encourage consumer participation. (*Ibid.*; see also *Ass’n of*
16 *California Ins. Cos. v. Poizner*, *supra*, 180 Cal.App.4th at 1052 [stating “the goal of fostering
17 consumer participation in the administrative rate-setting process” as “one of the purposes of
18 Proposition 103”].) The broad intervention standard enacted by section 1861.10 ensures that
19 consumers will be able to participate in proceedings independently of the CDI staff who may
20 take different positions or emphasize different issues in the proceeding, and with all rights
21 accorded to any other party, including the right to raise additional issues and/or violations as they
22 become known during the course of the proceeding through informal or formal discovery.

23 17. This petition to intervene is also authorized by 10 CCR § 2661.1 et seq. In
24 compliance with 10 CCR § 2661.3, the specific issues to be raised and positions to be taken by
25 Consumer Watchdog, *to the extent known at this time*, are set forth in paragraph 8 *ante*. Each of
26 these issues relate directly to specific standards and requirements under the ratemaking formula at
27 10 CCR § 2644.1 et seq. and thus are directly relevant to ultimately determining whether
28 Applicant’s requested rate is excessive or otherwise unjustified. Although consumer presence in

departmental proceedings typically results in significant reductions to policyholders' rates, the amount of savings for each individual consumer is outweighed by the time and expense of hiring individual counsel or an advocacy group to protect his or her rights. Thus, an independent organization like Consumer Watchdog introduces a voice that otherwise would be absent from this proceeding.

VII. PARTICIPATION OF CONSUMER WATCHDOG

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

VIII. INTENT TO SEEK COMPENSATION

19. The Commissioner has awarded Consumer Watchdog compensation for its reasonable advocacy and witness fees and expenses in past departmental proceedings. The Commissioner issued Consumer Watchdog's latest Finding of Eligibility on August 2, 2024, effective for two years as of July 12, 2024. Consumer Watchdog was previously found eligible to seek compensation on July 26, 2022, effective as of July 12, 2022; August 25, 2020, effective as of July 12, 2020; July 12, 2018; July 14, 2016; July 24, 2014; July 24, 2012; July 2, 2010; August 25, 2008; July 14, 2006; July 2, 2004; June 20, 2002; October 1, 1997; September 26, 1995; September 27, 1994; and September 13, 1993.


20. Pursuant to 10 CCR § 2661.3(c), Consumer Watchdog's estimated budget in this proceeding is attached hereto as Exhibit A. Consumer Watchdog has based its estimated budget on several factors including: (1) the technical and legal expertise needed to address these issues; (2) its current best estimate of the time needed to participate effectively in this proceeding, taking into account the time already expended by Consumer Watchdog's legal and actuarial staff and an estimate of time needed to complete remaining tasks through completion of a noticed evidentiary hearing; and (3) past experience in similar rate proceedings before the CDI. The estimated budget is reasonable and the staffing level is appropriate, given the expertise that Consumer Watchdog brings to these proceedings when the issues involved are issues at the very core of its organizational mission and strike at the very heart of Proposition 103 itself. The attorney,

1 paralegal, and staff actuary hourly rates contained in the attached budget do not exceed market
2 rates as defined by 10 CCR § 2661.1(c).² The budget presented in the attached Exhibit A is a
3 preliminary estimate, and Consumer Watchdog reserves the right to amend its proposed budget as
4 its expenses become more certain, or in its request for final compensation. Further, Consumer
5 Watchdog affirms that it will file an amended budget as soon as possible when it learns that its
6 total estimated budget amount increases by \$10,000 or more, in accordance with 10 CCR
7 § 2661.3(d).

8 WHEREFORE, Consumer Watchdog respectfully requests that the Insurance
9 Commissioner GRANT its petition for hearing and petition to intervene in the proceeding, having
10 all rights and responsibilities accorded any other party to the proceeding.

11
12
13 DATED: May 12, 2025

Respectfully submitted,
Harvey Rosenfield
Pamela Pressley
Ryan Mellino
CONSUMER WATCHDOG

14
15
16
17 By: 
18 Ryan Mellino
19 Attorney for CONSUMER WATCHDOG
20

21 ² 10 CCR § 2661.1(c) defines “market rates” as “the prevailing rate for comparable services in the
22 private sector in the Los Angeles and San Francisco Bay Areas *at the time of the Commissioner’s*
23 *decision awarding compensation* for attorney advocates, non-attorney advocates, or experts with
24 similar experience, skill and ability.” (Emphasis added.) Attached as Exhibit B and Exhibit C are
25 the two most recent Decisions Awarding Compensation by Commissioner Lara to Consumer
26 Watchdog in 2025 in rate proceedings, which found that Consumer Watchdog’s 2025 rates used
27 in the estimated budget set forth in Exhibit A for its attorneys, staff actuary, and paralegal, Ms.
28 Pressley, Mr. Mellino, Mr. Powell, Mr. Armstrong, and Ms. Gentile, were reasonable and did not
exceed market rates in the private market in Los Angeles and the San Francisco Bay Area.
Attached as Exhibit D is a 2024 Decision Awarding Compensation by Commissioner Lara to
Consumer Watchdog, which found that the 2025 rate used in the estimated budget set forth in
Exhibit A for its attorney, Mr. Rosenfield, was reasonable and did not exceed the market rate in
the private market in Los Angeles and the San Francisco Bay Area.

1 **VERIFICATION OF RYAN MELLINO IN SUPPORT OF CONSUMER WATCHDOG'S**
2 **PETITION FOR HEARING, PETITION TO INTERVENE, AND NOTICE OF INTENT**
3 **TO SEEK COMPENSATION**

4 I, Ryan Mellino, verify:

5 1. I am a Staff Attorney for Consumer Watchdog. If called as a witness, I could and
6 would testify competently to the facts stated in this verification.

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

12 3. Pursuant to California Code of Regulations, title 10, section 2661.3, Consumer
13 Watchdog attaches as Exhibit A its estimated budget in this proceeding. I affirm that the hourly
14 rates in the estimated budget do not exceed market rates.

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

17 Executed May 12, 2025, at Los Angeles, California.

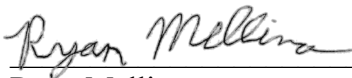
18 
19 _____
20 Ryan Mellino

EXHIBIT A

**EXHIBIT A
PRELIMINARY BUDGET**

ITEMS

ESTIMATED COST

1. Consumer Watchdog Attorneys, Paralegal, and Staff Actuary

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

- Draft and edit petition for hearing and petition to intervene; supervise Consumer Watchdog counsel; oversee preparation of discovery requests, motions, and briefing; 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.

Ryan Mellino (Staff Attorney) @ \$250 per hour, 200 hours..... \$50,000

- Confer with Consumer Watchdog counsel and outside experts regarding legal and evidentiary issues; participate in discussions with CDI and Applicant's counsel; participate in briefing legal issues; conduct discovery, preparation of motions, and preparation for evidentiary hearing; participate in examination of witnesses and all phases of evidentiary hearing and post-hearing legal briefing; prepare 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.

Ben Armstrong, Staff Actuary @ \$425 per hour, 100 hours \$42,500

- Staff actuary to review rate application, 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 insurer's expert witnesses.

2. Consumer Watchdog Expenses

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

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

TOTAL ESTIMATED BUDGET: \$179,425

EXHIBIT B

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5
6 **BEFORE THE INSURANCE COMMISSIONER**
7 **OF THE STATE OF CALIFORNIA**
8

9 In the Matter of the Request for
10 Compensation of:

11 CONSUMER WATCHDOG,

12
13
14 Intervenor.

File No. RFC-2024-014/IP-2023-00013

DECISION AWARDING COMPENSATION

*In the Matter of the Rate Application of
Liberty Insurance Corporation*

Rate Application No. 23-2333

Prior Application File No. PA-2023-00016

15
16 **INTRODUCTION**

17 In the instant matter, Consumer Watchdog (Watchdog) submits a Request for an Award of
18 Compensation (RFC) based on its intervention in Liberty Insurance Corporation's (Liberty) Rate
19 Change Application¹ (Application), which sought a 29.1% overall rate increase in its
20 homeowners line of insurance. Watchdog requests advocacy and witness fees totaling \$37,920.00
21 and urges the Commissioner to grant the fees and expenditures in full, contending that such an
22 award is proper because Watchdog met or exceeded all procedural and substantive prerequisites
23 necessary for receiving such relief.²

24 Upon review, the Commissioner determines that Watchdog has made a showing of
25 substantial contribution required under Insurance Code section 1861.10, but reduced the total
26 amount by 25% to reflect that Watchdog's contribution regarding the issues they raised were not
27 separate and distinct from those emphasized by the Department staff. Pursuant to the applicable

28

¹ Rate Application No. 23-2333.

² Ins. Code, § 1861.10(b); Cal. Code Regs., tit. 10, §§ 2662.5, 2662.3(a), (b).

1 regulations, if an intervenor's claimed substantial contribution is duplicative, and not separate and
2 distinct from the Department's participation, the Commissioner may reduce the intervenor's
3 award of compensation. Also, some of Watchdog's requested fees did not meet the regulatory
4 requirements in support of an award. Therefore, an award of \$28,440.00 is reasonable and
5 appropriate.

6 7 **PROCEDURAL AND FACTUAL BACKGROUND**

8 **I. Prior Approval Overview and Rate Review Process**

9 In November 1988, California voters passed the Insurance Rate Reduction and Reform
10 Act, better known as Proposition 103, which provides the Commissioner with broad authority
11 over insurance rates, guarantees public rate hearings, and expressly precludes the Commissioner
12 from approving rates that are "excessive, inadequate, unfairly discriminatory or otherwise in
13 violation" of the Insurance Code.³ Proposition 103 also allows consumer groups to "initiate or
14 intervene in any proceeding permitted or established pursuant this chapter, challenge any action
15 of the commissioner under this article, and enforce any provision of this article."⁴ Recognizing
16 the importance of public participation, the Legislature authorized the award of certain costs,
17 expenses, and reasonable attorneys' fees to an intervenor who makes a "substantial contribution"
18 to a rate decision.⁵ The Commissioner has the authority to award these fees based on a finding
19 that an intervenor has made a "substantial contribution."⁶

20 In the present matter, the Department of Insurance (Department), Watchdog, and Liberty
21 resolved the requested rate change application, and settled the matter through a signed stipulation
22 between all the parties, as allowed under 10 CCR § 2656.1(a) ["Parties may stipulate to the
23 resolution of an issue of fact or the applicability of a provision of law material to a proceeding, or
24 may agree to settlement on a mutually acceptable outcome to a proceeding, with or without
25 resolving material issues"].

26 After the parties settle and the Commissioner approves the agreed upon rate, the

27 ³ Ins. Code, § 1861.05(a) and (c).

28 ⁴ Ins. Code, § 1861.10(a).

⁵ Ins. Code § 1861.10(b); 10 CCR § 2661.1(a), (d), (k), (l).

⁶ Ins. Code § 1861.10(b); 10 CCR § 2662.6

1 intervenor – Watchdog – can then submit a request for compensation to the Public Advisor within
2 the Department.

3 **II. Rate Application and Intervention**

4 On July 20, 2023, Liberty filed Application No. 23-2333 with the Department seeking
5 approval of a 29.1% rate increase for homeowner coverage.

6 On September 18, 2023, Watchdog filed a Petition for Hearing, Petition to Intervene, and
7 Notice of Intent to Seek Compensation. The Commissioner issued an Order Denying Consumer
8 Watchdog’s Petition to Intervene with Leave to Amend on October 3, 2023. The Order allowed
9 Watchdog fourteen (14) calendar days to file an amended petition that established a basis for
10 intervention and complied with relevant regulatory requirements. On October 16, 2023,
11 Watchdog filed an amended petition. On October 31, 2023, the Commissioner granted
12 Watchdog’s Petition to Intervene.

13 Watchdog’s amended petition alleged that Applicant’s frequency and severity trend
14 selections resulted in excessive net trends that overstated projected losses.⁷ The amended petition
15 also alleged that Applicant had not shown that all of its institutional advertising expenses had
16 been reflected in the excluded expense provision.⁸

17 After receiving permission to intervene, Watchdog submitted a series of requests for
18 information.⁹ Liberty submitted responses.¹⁰ Watchdog’s actuary billed 11.5 hours for
19 preparation of a cover letter and rate template pages.¹¹

20 On August 19, 2024, the Department provided a document comparing the proposed rates
21 and analysis of each party.¹² Pursuant to long-standing practice, after the parties engaged in an
22 exchange of information relevant to the rate application, the parties engaged in a three-way call to
23 discuss the range of potential rates on August 22, 2024.¹³

24 On August 27, 2024, Watchdog provided the parties with their actuarial analysis of the

25 ⁷RFC 5:1-3; Mellino Decl.¶ 28.

26 ⁸ RFC 5:19-20.

27 ⁹ RFC 6:14-16; Mellino Decl.¶ 32; RFC Exh. B.

28 ¹⁰ RFC 7:25-26; Mellino Decl.¶ 34.

¹¹ Mellino Decl. Exh 1a (p. 34)

¹² RFC 14:24-26; Mellino Decl.¶ 43.

¹³ RFC 14:26

1 application.¹⁴ Watchdog only identified two areas of note – loss and premium trends, and
2 institutional advertising.

3 On October 1, 2024, the parties prepared and executed a joint settlement, agreeing to an
4 overall rate increase of 16.5%.¹⁵

5 On October 2, 2024, the Commissioner approved the amended Application via the
6 Department's electronic filing system reflecting the agreed upon rate. On October 7, 2024,
7 Watchdog withdrew its Petition for Hearing.

8 **III. Request for Compensation**

9 On October 31, 2024, Watchdog filed a Request for Compensation (RFC) with the
10 Commissioner pursuant to Insurance Code section 1861.10(b), seeking \$37,920.00 in fees for
11 work performed by Pamela Pressley, Ryan Mellino, Ben Armstrong and Kaitlyn Gentile. Liberty
12 did not file a response to the RFC.

14 **APPLICABLE LAW**

15 **I. Statutory and Regulatory Rules Governing Compensation for** 16 **Public Participation**

17 To promote enforcement and public participation, Insurance Code section 1861.10(a)
18 authorizes consumers and their representatives to initiate and intervene in rate proceedings to
19 enforce Article 10's provisions. The Insurance Code and the intervenor regulations provide that
20 an intervenor must be compensated for their participation if they meet substantive and procedural
21 requirements.¹⁶

22 **A. Substantive Requirements**

23 Insurance Code section 1861.10(b) provides that the Commissioner shall award
24 reasonable advocacy and witness fees and expenses to persons demonstrating that (1) they
25 "represent the interests of consumers," and (2) they have "made a substantial contribution to the
26

27 ¹⁴ RFC 14:18-19; Mellino Decl.¶ 43; RFC Exh. M.

28 ¹⁵ RFC 16:13-18; Mellino Decl.¶ 54.

¹⁶ 10 CCR §§ 2662.1 to 2662.8.

1 adoption of any order, regulation, or decision by the commissioner[.]” The Regulations contain
2 substantially identical requirements.¹⁷

3 An intervenor represents the interests of consumers if it “represents the interests of
4 individual insurance consumer[s], or the intervenor is a group organized for the purpose of
5 consumer protection as demonstrated by, but is not limited to, a history of representing
6 consumers in administrative, legislative or judicial proceedings.”¹⁸

7 An intervenor makes a substantial contribution if the intervenor “substantially
8 contributed, as a whole, to a decision, order, regulation, or other action of the Commissioner by
9 presenting relevant issues, evidence, or arguments which were separate and distinct from those
10 emphasized by the Department of Insurance staff or any other party, such that the intervenor's
11 participation resulted in more relevant, credible, and non-frivolous information being available
12 for the Commissioner to make his or her decision than would have been available to a
13 Commissioner had the intervenor not participated.”¹⁹ A substantial contribution may be
14 demonstrated without regard to whether a petition for hearing is granted or denied.²⁰

15 **B. Procedural Requirements**

16 The Regulations set forth various procedural requirements for claiming intervenor
17 compensation. The intervenor must obtain the Commissioner's approval of a petition to intervene,
18 and the intervenor must be found eligible to seek compensation by the Commissioner's Public
19 Advisor.²¹ In addition, the intervenor must submit a request for an award of compensation within
20 30 days after the Commissioner's decision or action in the proceeding for which intervention was
21 sought, or within 30 days after conclusion of the entire proceeding.²² The request for
22 compensation must be verified and include detailed descriptions of the services and expenditures,
23 legible time and billing records, and a description of the intervenor's substantial contribution.²³

24 Any objection to the RFC by the insurance carrier must be filed within 15 days of service

25 ¹⁷ 10 CCR § 2662.5(a).

26 ¹⁸ 10 CCR § 2661.1(j).

27 ¹⁹ 10 CCR § 2661.1(k).

28 ²⁰ *Ibid.*

²¹ 10 CCR § 2662.3.

²² *Ibid.*

²³ *Ibid.*

1 of the Request For Compensation.²⁴

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

3 Where an intervenor's advocacy occurs in response to an insurer's rate application, the
4 insurer must pay the intervenor's reasonable advocacy fees, witness fees and expenses.²⁵ Time
5 spent preparing the intervenor's request for compensation may be included in those amounts.²⁶
6 The intervenor's advocacy and witness fees must not exceed "the prevailing rate for comparable
7 services in the private sector in the Los Angeles and San Francisco Bay Areas at the
8 time of the Commissioner's decision awarding compensation for attorney advocates, non-attorney
9 advocates, or experts with similar experience, skill and ability."²⁷

10 An award of advocacy fees is granted where (1) the petitioner, intervenor or participant's
11 presentation makes a substantial contribution, and (2) represents the interests of consumers. (10
12 Cal. Code Regs., § Section 2662.5(a)(1), (a)(2).) However, to the extent the "substantial
13 contribution" duplicates the substantial contribution of another party to the proceeding, or was not
14 authorized on the Petition to Intervene or Participate, compensation may be reduced. (10 Cal.
15 Code Regs., § Section 2662.5(b).) "In assessing whether there was duplication, the Commissioner
16 will consider whether or not the petitioner, intervenor or participant presented relevant issues,
17 evidence, or arguments which were separate and distinct from those presented by any party of the
18 Department of Insurance Staff." (10 Cal. Code Regs., § Section 2662.5(b).)

19 Requests for compensation must include, at a minimum, the following: (1) a detailed
20 description of services and expenditures, (2) legible time and/or billing records, which show the
21 date and exact amount of time spent on each specific task, and (3) a description of the substantial
22 contribution citing to the record." (10 Cal. Code Regs., § Section 2662.3.) Further, "each specific
23 task" is defined to require identification of the subject matter discussed beyond categorization of
24 the task involved, i.e. telephone calls must identify the subject matter discussed. (10 Cal. Code
25 Regs., § Section 2662.3.)

27 ²⁴ 10 CCR § 2662.3(e).

28 ²⁵ Ins. Code § 1861.10(b).

²⁶ 10 CCR § 2661.1(d).

²⁷ 10 CCR § 2661.1(c).

DISCUSSION

I. Watchdog's Request for Compensation is Timely Taken

The Commissioner finds Watchdog's Request for Compensation is timely. Regulation section 2662.3(a) provides that an intervenor whose Petition to Intervene has been granted and who has been found eligible to seek compensation may submit a request for compensation “within 30 days after the service of the order, decision, regulation or other action of the Commissioner in the proceeding for which intervention was sought, or at the requesting petitioner's, intervenor's or participant's option, within 30 days after the conclusion of the entire proceeding.” Watchdog submitted its Request for Compensation within 30 days of the Commissioner's Order closing the proceeding.

II. Watchdog Satisfied the Requirements for Compensation

As set forth above, Watchdog must demonstrate that it made a substantial contribution regarding Liberty's rate application to the Department, and (2) must represent the interests of consumers.

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

"Substantial contribution" requires "presenting relevant issues, evidence, or arguments which were separate and distinct from those 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." Here, Watchdog focused on two areas – loss and premium trends, and institutional advertising.

Neither Watchdog's discussion on loss and premium trends, or institutional advertising, were separate and distinct from those emphasized by the Department staff. Upon review of the Department's analysis, and Watchdog's analysis, the Commissioner notes that the Department's analysis was more thorough and in depth. However, there is a range of reasonableness and discretion associated with review of rate applications, and the Commissioner acknowledges the work performed by Watchdog in this regard. Thus, the Commissioner will award fees to

1 Watchdog, but the requested compensation will be reduced by 25% to reflect their duplicative
2 contribution.

3 As for representation of consumers, Watchdog was granted a request for eligibility to seek
4 compensation, wherein it attested that this group represents the interests of consumer.

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

6 The Commissioner approved Watchdog's Petition to Intervene on October 31, 2023.
7 Watchdog then submitted a timely request for compensation, which was verified and included
8 detailed descriptions of the services and expenditures, legible time and billing records, and a
9 description of Watchdog's contribution.

10 **C. Watchdog's Requested Fees Are Reduced Based on Determination of**
11 **“Substantial Contribution”**

12 The award for fees in a request for compensation may be reduced when the work
13 performed were not separate and distinct from those presented by any other party or Department
14 staff, and were not duplicative.

15 Watchdog billed at hourly rates of \$595 for Pamela Pressley, an experienced attorney,
16 \$425 for Ben Armstrong, an actuary, \$250 for Ryan Mellino, an attorney, and \$200 for Kaitlyn
17 Gentile, a paralegal. These rates are consistent with the current prevailing private sector rates for
18 advocates in Los Angeles with similar experience, skill, and ability. Watchdog billed a total of
19 98.6 hours. Watchdog's requested compensation is to be reduced by 25% to acknowledge that the
20 issues raised by their intervention were not entirely separate and distinct from those emphasized
21 by the Department staff so no additional reductions will be made based on Watchdog's billing
22 entries. However, the Commissioner notes that Watchdog's billing entries could be strengthened
23 to better meet the requirements set forth in the regulations.

24 Mr. Mellino appears to charge multiple entries to prepare for, and participate in, phone
25 calls where there are multiple attendees and it is not clear he is the principal lead in such calls. He
26 also charged 5.5 hours for revising the Request for Compensation where Ms. Gentile also billed
27 ten hours. These particular requests are mostly the same and contain mostly the same information
28 in both the request and supporting documentation. Mr. Mellino also bills time for revising time

1 entries, which are not the types of billing that is specific to the work conducted and does not seem
2 reasonable to recover. Awards of compensation for time spent should primarily be for the work
3 performed participating in the review of the rate application, and not to recover compensation for
4 such work. Of the time Mr. Mellino billed to this matter, nearly one-third of his time was spent
5 working on the request for compensation. Similarly, Ms. Gentile's billed hours were spent mostly
6 on working on the request for compensation.

7 Furthermore, Mr. Armstrong billed 40 hours to this matter without providing specificity
8 on the particular issues with the rate application. It is unclear how much time was spent analyzing
9 trend selection versus any other issues. The report submitted consisted of merely one and a
10 quarter pages, and does not appear to reflect the amount of time billed. Further, the regulations
11 provide that the subject matter of each specific task should be identified, and that specificity was
12 lacking in Mr. Armstrong's billing entries.

13 **III. Conclusion**

14 Watchdog is entitled to advocacy and expert witness fees in the amount of \$28,440.00
15 pursuant to Insurance Code section 1861.10(b) and the regulations thereunder. Because
16 Watchdog's advocacy was in response to Liberty Insurance Corporation, Liberty Insurance
17 Corporation must pay the award.²⁸

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²⁸ Ins. Code, § 1861.10(b).

ORDER

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2 1. Watchdog is hereby awarded \$28,440.00 in advocacy and expert witness fees in
3 connection with Liberty Insurance Corporation's rate application (Prior Approval File No. PA-
4 2023-00016).

5 2. Liberty Insurance Corporation shall pay the award no later than 30 days after the
6 date of this Decision and shall notify the Department's Office of the Public Advisor upon making
7 payment.²⁹

8
9 DATED: January 29, 2025

RICARDO LARA
Insurance Commissioner

10
11 By 
12 Lucy F. Wang
13 Deputy Commissioner & Special Counsel
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²⁹ Margaret W. Hosel, Public Advisor, 1901 Harrison St, Oakland, CA; margaret.hosel@insurance.ca.gov.

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PROOF OF SERVICE
In the Matter of the Request for Compensation of:
CONSUMER WATCHDOG, Intervenor
Case No. RFC-2024-014/IP-2023-00013
Rate Application No. 23-2333
Prior Application File No. PA-2023-00016

I am over the age of eighteen years and am not a party to the within action. I am an employee of the Department of Insurance, State of California, employed at 300 Capitol Mall, 17th Floor, Sacramento, CA 95814. On January 29, 2025, I served the following document(s):

DECISION AWARDING COMPENSATION

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

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

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

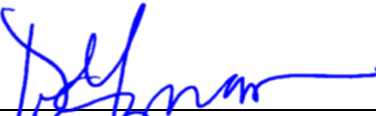
If **FAX SERVICE** is indicated, by facsimile transmission this date to fax number stated for the person(s) so marked.

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 Sacramento, California. I declare under penalty of perjury under the laws of the State of California that the above is true and correct.



DEBBIE DE GUZMAN

**PROOF OF SERVICE
SERVICE LIST**
In the Matter of the Request for Compensation of:
CONSUMER WATCHDOG, Intervenor
Case No. RFC-2024-014/IP-2023-00013
Rate Application No. 23-2333
Prior Application File No. PA-2023-00016

<u>Name/Address</u>	<u>Phone/Fax Numbers</u>	<u>Method of Service</u>
Harvey Rosenfield Pamela Pressley Daniel L. Sternberg Ryan Mellino Attorney(s) for Intervenor CONSUMER WATCHDOG 6330 San Vicente Blvd., Suite 250 Los Angeles, CA 90048 harvey@consumerwatchdog.org pam@consumerwatchdog.org danny@consumerwatchdog.org ryan.m@consumerwatchdog.org	Tel: (310) 392-0522 Fax: (310) 392-8874	VIA EMAIL
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Teresa Campbell Heather Hoesterey Nikki McKennedy Lisbeth Landsman-Smith Sara Ahn CALIFORNIA DEPARTMENT OF INSURANCE 1901 Harrison Street, 6th Floor Oakland, CA 94612 Teresa.Campbell@insurance.ca.gov Heather.Hoesterey@insurance.ca.gov Nikki.McKennedy@insurance.ca.gov Lisbeth.Landsman@insurance.ca.gov Sara.Ahn@insurance.ca.gov	Tel: (415) 538-4126 (415) 538-4176 Fax: (510) 238-7829	VIA EMAIL

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Margaret W. Hosel
Attorney and Public Advisor
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EXHIBIT C

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6 **BEFORE THE INSURANCE COMMISSIONER**
7 **OF THE STATE OF CALIFORNIA**
8

9 In the Matter of the Request for
10 Compensation of:

11 CONSUMER WATCHDOG,

13 Intervenor.
14

File No. RFC-2024-015/IP-2023-00018

DECISION AWARDING COMPENSATION

*In the Matter of the Rate Application of United
Services Automobile Association*

Rate Application No. 23-3147
Prior Application File No. PA-2023-00023

15 **INTRODUCTION**

16 In the instant matter, Consumer Watchdog (Watchdog) submitted a Request for an Award
17 of Compensation (RFC) based on its intervention in United Services Automobile Association's
18 (USAA) rate application (Application), which sought a 20.2% overall rate increase in its
19 homeowner line of insurance. Watchdog requests advocacy and witness fees totaling \$41,121.00
20 and urges the Commissioner to grant the fees and expenditures in full, contending that such an
21 award is proper because Watchdog met or exceeded all procedural and substantive prerequisites
22 necessary for receiving such relief. (Ins. Code, § 1861.10(b); Cal. Code Regs., tit. 10, §§ 2662.5,
23 2662.3(a), (b).)

24 Upon review, the Commissioner determines that Watchdog has made a showing of
25 substantial contribution required under Insurance Code section 1861.10 and filed a timely request
26 for contribution. However, some of Watchdog's time billed for duplicative work was excessive
27 and not reasonable. Therefore, an award of \$ 37,002.30 is reasonable and appropriate.

28 ///

PROCEDURAL AND FACTUAL BACKGROUND

I. Prior Approval Overview and Rate Review Process

In November 1988, California voters passed the Insurance Rate Reduction and Reform Act, better known as Proposition 103, 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. (Ins. Code, § 1861.05(a) and (c).) Proposition 103 also allows 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." (Ins. Code, § 1861.05(a).)

Recognizing the importance of public participation, the Legislature authorized the award of certain costs, expenses, and reasonable attorneys' fees to an intervenor who makes a "substantial contribution" to a rate decision. (Ins. Code § 1861.10(b); Cal. Code Regs., tit.10, § 2661.1(a), (d), (k), (l).) The Commissioner has the authority to award these fees based on a finding that an intervenor has made a "substantial contribution." (Ins. Code § 1861.10(b); Cal. Code Regs., tit. 10, § 2662.6.)

In the present matter, the Department of Insurance (Department), Watchdog, and USAA resolved the requested rate change application, and settled the matter through a signed stipulation between all the parties, as allowed under Section 2656.1(a) of title 10 of the California Code of Regulations. ["Parties may stipulate to the resolution of an issue of fact or the applicability of a provision of law material to a proceeding, or may agree to settlement on a mutually acceptable outcome to a proceeding, with or without resolving material issues".]

After the parties settle and the Commissioner approves the agreed-upon rate, the intervenor – Watchdog – can then submit a request for compensation to the Public Advisor within the Department.

II. Rate Application and Intervention

On October 25, 2023, USAA filed Application No. 23-3147 with the Department seeking approval of a 20.2% rate increase for homeowner coverage.

1 On December 18, 2023, Watchdog filed a Petition for Hearing, Petition to Intervene, and
2 Notice of Intent to Seek Compensation.

3 Watchdog's Petition to Intervene ("Petition") identified three areas of focus for its
4 intervention. First, Watchdog asserted that USAA's selected frequency, severity and premium
5 trends overstate projected losses. (Petition, pp. 4-5.) Second, Watchdog noted that applicant failed
6 to provide "required data triangles" and to follow the prior approval application template.
7 (Petition, p. 5.) Third, Watchdog alleged that USAA failed to provide sufficient information to
8 support its claim that 1% of advertising expenses over the last three years were "institutional
9 advertising." (Petition, pp. 5-6.)

10 On January 2, 2024, the Commissioner granted Watchdog's Petition to Intervene.
11 After receiving authorization to intervene, Watchdog issued Requests for Information (RFIs) that
12 USAA responded to after some follow-up communications from Watchdog. In its RFC,
13 Watchdog asserts that the additional documentation, explanations and data obtained in responses
14 to its RFIs would not have been available to the Commissioner without Watchdog's intervention.
15 (RFC, p, 21.) Watchdog participated in three-way calls and settlement discussions with the
16 Department and USAA. Ultimately, the parties agreed to a rate increase of 16.8%.

17 On October 2, 2024, the Commissioner approved the amended Application via the
18 Department's electronic filing system reflecting the agreed-upon rate. On October 7, 2024,
19 Consumer Watchdog withdrew its request for a hearing.

20 **III. Request for Compensation**

21 On November 1, 2024, Watchdog filed a Request for Compensation with the
22 Commissioner pursuant to Insurance Code section 1861.10(b), seeking \$41,121.00 in fees for
23 99.1 hours of work performed by Pamela Pressley, Benjamin Powell, Ben Armstrong and Kaitlyn
24 Gentile. USAA did not file a response to the RFC.

25 **APPLICABLE LAW**

26 To promote enforcement and public participation, Insurance Code section 1861.10(a)
27 authorizes consumers and their representatives to initiate and intervene in rate proceedings. The
28 regulations related to intervention are found at Title 10 of the California Code of Regulations

1 beginning at Section 2661.1. The Insurance Code and the intervenor regulations provide that an
2 intervenor must be compensated for their participation if they meet substantive and procedural
3 requirements.

4 **Procedural Requirements**

5 Before filing a request for compensation, an intervenor must have been found eligible to
6 seek compensation as “a person or group representing the interests of consumers” and have
7 received an Order granting a Petition to Intervene from the Commissioner. (Cal. Code Regs., tit.
8 10, § 2662.2, § 2662.3(a).)

9 The intervenor must submit a request for an award of compensation within 30 days after
10 the Commissioner's decision or action in the proceeding for which intervention was sought, or
11 within 30 days after conclusion of the entire proceeding. The request for compensation must be
12 verified and must include detailed descriptions of the services and expenditures, legible time and
13 billing records, and a description of the intervenor's substantial contribution supported by
14 citations to the record. (Cal. Code Regs., tit. 10, § 2662.3(b)(3).)

15 Where an intervenor's advocacy occurs in response to an insurer's rate application, the
16 insurer must pay the intervenor's reasonable advocacy fees, witness fees and expenses. (Ins. Code
17 § 1861.10(b).) Time spent preparing the intervenor's request for compensation may be included in
18 those amounts. (Cal. Code Regs., tit. 10, § 2661.1(d).)

19 **Substantive Requirements**

20 Insurance Code section 1861.10(b) provides that the Commissioner shall award
21 reasonable advocacy and witness fees and expenses to persons demonstrating that (1) they
22 "represent the interests of consumers," and (2) they have "made a substantial contribution to the
23 adoption of any order, regulation, or decision by the commissioner[.]"

24 As mentioned above, an intervenor can establish eligibility to seek compensation as “a
25 person or group representing the interests of consumers” by obtaining a finding of eligibility
26 using the process described in Section 2662.2.

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1 Determining whether an intervenor has made a substantial contribution to the
2 Commissioner's decision on a rate application requires analyzing the intervenor's contribution in
3 the context of the contributions of other participants in the proceeding.

4 An intervenor makes a substantial contribution if the intervenor "substantially
5 contributed, as a whole, to a decision, order, regulation, or other action of the Commissioner by
6 presenting relevant issues, evidence, or arguments which were separate and distinct from those
7 emphasized by the Department of Insurance staff or any other party, such that the intervenor's
8 participation resulted in more relevant, credible, and non-frivolous information being available
9 for the Commissioner to make a decision than would have been available had the intervenor not
10 participated." (Cal. Code Regs., tit. 10, § 2661.1(k).) A substantial contribution may be
11 demonstrated without regard to whether a petition for hearing is granted or denied.

12 However, to the extent the "substantial contribution" duplicates the substantial
13 contribution of another party to the proceeding and was not authorized on the Ruling on the
14 Petition to Intervene or Participate, compensation may be reduced. (Cal. Code Regs., tit.10, §
15 2662.5(b).) "In assessing whether there was duplication, the Commissioner will consider whether
16 or not the petitioner, intervenor or participant presented relevant issues, evidence, or arguments
17 which were separate and distinct from those presented by any party or the Department of
18 Insurance Staff." (Cal. Code Regs., tit. 10, § 2662.5(b).)

19 **Reasonableness of Fees**

20 If an intervenor has met the procedural and substantive requirements of Section 1861.10,
21 the intervenor is entitled to "reasonable advocacy and witness fees [Emphasis Added]." The
22 intervenor's advocacy and witness fees must not exceed "the prevailing rate for comparable
23 services in the private sector in the Los Angeles and San Francisco Bay Areas at the time of the
24 Commissioner's decision awarding compensation for attorney advocates, non-attorney advocates,
25 or experts with similar experience, skill and ability." (Cal. Code Regs., tit. 10, § 2661.1(c).)

26 Requests for compensation must include, at a minimum, the following: (1) a detailed
27 description of services and expenditures, (2) legible time and/or billing records, which show the
28 date and exact amount of time spent on each specific task, and (3) a description of the substantial

1 contribution citing to the record.” (Cal. Code Regs., tit. 10, § 2662.3.) Further, “each specific
2 task” is defined to require identification of the subject matter discussed beyond categorization of
3 the task involved, i.e., telephone calls must identify the subject matter discussed. (Cal. Code
4 Regs., tit. 10, § 2662.3.)

5 The bills for specific tasks should reflect a reasonable amount of time to complete a task.
6 Counsel is not entitled to unreasonable compensation for duplicative or inefficient efforts.
7 (*Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1132.)

8 **DISCUSSION**

9 **Watchdog’s Request for Compensation is Timely**

10 The Commissioner finds Watchdog’s Request for Compensation is timely. Regulation
11 section 2662.3(a) provides that an intervenor whose Petition to Intervene has been granted and
12 who has been found eligible to seek compensation may submit a request for compensation
13 “within 30 days after the service of the order, decision, regulation or other action of the
14 Commissioner in the proceeding for which intervention was sought, or at the requesting
15 petitioner’s, intervenor’s or participant’s option, within 30 days after the conclusion of the entire
16 proceeding.” Watchdog submitted its Request for Compensation within 30 days of the
17 Commissioner’s approval of the rate that was agreed upon in the stipulation.

18 **Substantial Contribution**

19 “Substantial contribution” requires “presenting relevant issues, evidence, or arguments
20 which were separate and distinct from those emphasized by the Department of Insurance staff or
21 any other party, such that the intervenor’s participation resulted in more relevant, credible, and
22 non-frivolous information being available for the Commissioner to make a decision than would
23 have been available had the intervenor not participated.”

24 Here, Watchdog’s intervention resulted in more relevant and credible information being
25 available to the Commissioner and, therefore, Watchdog did make a substantial contribution.

26 **Reasonableness of Fees**

27 Watchdog billed at hourly rates of \$595 for Pamela Pressley, an experienced attorney,
28 \$425 for Ben Armstrong, an actuary, \$250 for Benjamin Powell, an attorney, and \$200 for

1 Kaitlyn Gentile, a paralegal. These rates are consistent with the current prevailing private sector
2 rates for advocates in Los Angeles with similar experience, skill, and ability. Watchdog billed a
3 total of 99.1 hours, with 48.3 of those hours billed by the actuary and the remainder billed by the
4 legal professionals.

5 In reviewing Watchdog's bills, we note that legal work performed on the RFC was
6 duplicative and excessive. In particular, 40% of the total hours spent by legal professionals was
7 spent preparing the RFC. It is inefficient and unreasonable to bill this much time on a document
8 where much of the work is duplicative of other RFCs. Furthermore, while intervenors are entitled
9 to recover "other expenses" which includes the costs incurred in preparing an RFC, preparation of
10 the RFC is unrelated to the rate application itself. Therefore, the legal fees billed by the legal
11 professionals will be reduced by 20%, which results in a total award of \$37,002.30.

12 **CONCLUSION**

13 Watchdog is entitled to advocacy and expert witness fees in the amount of \$37,002.30
14 pursuant to Insurance Code section 1861.10(b) and the regulations thereunder. Because
15 Watchdog's advocacy was in response to a rate application filed by USAA, USAA must pay the
16 award.

17 **ORDER**

18 1. Watchdog is hereby awarded \$37,002.30 in advocacy and expert witness fees in
19 connection with United Services Automobile Association's rate application (Prior Approval File
20 No. PA-2023-00023).

21 2. United Services Automobile Association shall pay the award no later than 30 days
22 after the date of this Decision and shall notify the Department's Office of the Public Advisor upon
23 making payment.

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25 DATED: February 14, 2025

RICARDO LARA
Insurance Commissioner

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27 By 
28 Lucy F. Wang
Deputy Commissioner & Special Counsel

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PROOF OF SERVICE
In the Matter of the Request for Compensation of:
CONSUMER WATCHDOG, Intervenor
Case No. RFC-2024-015/IP-2023-00018
Rate Application No. 23-3147
Prior Application File No. PA-2023-00023

I am over the age of eighteen years and am not a party to the within action. I am an employee of the Department of Insurance, State of California, employed at 300 Capitol Mall, 17th Floor, Sacramento, CA 95814. On February 14, 2025, I served the following document(s):

DECISION AWARDING COMPENSATION

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

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

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

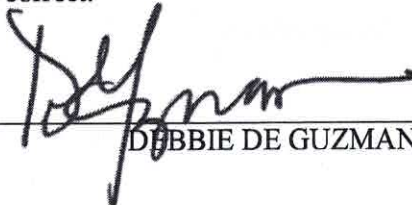
If **FAX SERVICE** is indicated, by facsimile transmission this date to fax number stated for the person(s) so marked.

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 Sacramento, California. I declare under penalty of perjury under the laws of the State of California that the above is true and correct.



DEBBIE DE GUZMAN

**PROOF OF SERVICE
SERVICE LIST**
In the Matter of the Request for Compensation of:
CONSUMER WATCHDOG, Intervenor
Case No. RFC-2024-015/IP-2023-00018
Rate Application No. 23-3147
Prior Application File No. PA-2023-00023

<u>Name/Address</u>	<u>Phone/Fax Numbers</u>	<u>Method of Service</u>
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EXHIBIT D

1
2
3
4
5
6 **BEFORE THE INSURANCE COMMISSIONER**
7 **OF THE STATE OF CALIFORNIA**
8

9 In the Matter of the Requests for
10 Compensation of:

File No. RFC-2024-003

11 CONSUMER WATCHDOG,

DECISION AWARDING COMPENSATION

*In the Matter of the Rate Application of
State Farm General Insurance Company*

13
14 Intervenor.

Rate Application No. 23-563

Prior Application File No. PA-2023-00006

15
16 **INTRODUCTION**

17 In the instant matter, Consumer Watchdog (Watchdog) submits a Request for an Award of
18 Compensation (RFC) based on its intervention in State Farm General Insurance Company's (State
19 Farm) Rate Change Application¹ (Application), which sought a 20% overall rate increase in its
20 California Rental Dwelling Program line. Watchdog requests advocacy and witness fees totaling
21 \$74,679.50, and urges the Commissioner to grant the fees and expenditures in full, contending
22 that such an award is proper because Watchdog met or exceeded all procedural and substantive
23 prerequisites necessary for receiving such relief.²

24 Upon review, the Commissioner determines that Watchdog has met the showing of
25 substantial contribution required under Insurance Code § 1861.10, and an award of \$74,679.50 is
26 appropriate.
27

28

¹ Rate Application No. 23-563.

² Ins. Code, § 1861.10(b); Cal. Code Regs., tit. 10, §§ 2662.5, 2662.3(a), (b).

PROCEDURAL AND FACTUAL BACKGROUND

I. Prior Approval Overview and Rate Review Process

In November 1988, California voters passed the Insurance Rate Reduction and Reform Act, better known as Proposition 103, 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.³ Proposition 103 also allows 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."⁴ Recognizing the importance of public participation, Proposition 103 authorized the award of certain costs, expenses, and reasonable attorneys' fees to an intervenor who makes a "substantial contribution" to a rate decision.⁵ The Commissioner has the authority to award these fees based on a finding that an intervenor has made a "substantial contribution."⁶

In the present matter, the Department of Insurance (Department), Watchdog, and State Farm resolved the requested rate change application, and settled the matter through a signed stipulation between all the parties, as allowed under 10 CCR § 2656.1(a) ["Parties may stipulate to the resolution of an issue of fact or the applicability of a provision of law material to a proceeding, or may agree to settlement on a mutually acceptable outcome to a proceeding, with or without resolving material issues"]. The regulations allow the Commissioner to adopt an order or decision on a rate change application based on an approved settlement and without holding a formal rate hearing.

After the parties settle, the settlement stipulation is then posted on the Department's public website and the new agreed-upon rates then take effect. The intervenor – Watchdog – can then submit a request for compensation to the Public Advisor within the Department.

³ Ins. Code, § 1861.05(a) and (c).

⁴ Ins. Code, § 1861.10(a).

⁵ Ins. Code § 1861.10(b); 10 CCR § 2661.1(a), (d), (k), (l).

⁶ Ins. Code § 1861.10(b); 10 CCR § 2662.6

II. Rate Application and Intervention

On February 28, 2023, State Farm filed Application No. 23-563 with the Department.⁷ The Application sought a 20% rate increase in its California Rental Dwelling Program line.⁸ On March 17, 2023, the Department notified the public of State Farm's Application, as required by statute.⁹

On May 1, 2023, Watchdog filed a Petition for Hearing, Petition to Intervene, and Notice of Intent to Seek Compensation (Petition) regarding State Farm's Application.¹⁰ The Petition asserted State Farm's Application for a rate increase was excessive and/or unfairly discriminatory. On May 15, 2023, the Commissioner granted Watchdog's Petition to Intervene.

The parties then engaged in an exchange of information over the next three months to determine if State Farm's rate change application was sufficiently supported.

State Farm responded to the issues raised by Watchdog in their Petition, providing argument in support of its proposed rate increase, including its use of amount of insurance (AOI) and Fire Following Earthquake (FFEQ), selected annual loss trends, use of incurred loss development, excluded expenses, and decrease in reported California Finance/Service Charges.¹¹

Watchdog submitted a series of requests for information and State Farm responded by providing the following information:

- Statements of Actuarial Opinion for 2019-2022, Annual and Combined Annual Statements 2019-2022, the 2023 Q1 Financial Statement, its Management's Discussion and Analysis 2019-2022, and Insurance Expense Exhibits 2019-2020.¹²
- Data regarding the average length of time taken to close the top 30% of California Total Homeowners non-catastrophe claims between 2019 and 2021.¹³
- Insurance Expense Exhibits for 2021-2022.¹⁴

⁷ Consumer Watchdog's Request for Compensation (RFC), 3:20-21.

⁸ RFC, 4:1-4; see also, Declaration of Benjamin Powell in Support of Consumer Watchdog's Request for Compensation (Powell Decl.) at ¶ 29.

⁹ Powell Decl. at ¶ 29.

¹⁰ *Id.* at ¶ 31; Exh. 3.

¹¹ *Id.* at ¶ 40; Exh. 5.

¹² RFC Exh. E; Powell Decl. at ¶ 45.

¹³ RFC Exh. F, Powell Decl. at ¶ 46.

¹⁴ RFC at Exhs. H and I.

1 On September 27, 2023, Watchdog provided the Parties with their actuarial analysis of
2 State Farm's Application, which indicated a maximum overall rate increase of 11.7%.¹⁵

3 Pursuant to long-standing practice, after the parties engaged in an exchange of information
4 relevant to the rate application, the parties engaged in a three-way call to discuss Watchdog's
5 actuarial analysis on October 4, 2023. In particular, the parties focused on the differences in trend,
6 loss development, and cat factor selections from those used by State Farm and the Department.¹⁶
7 The parties engaged in a further exchange of information where State Farm indicated it would not
8 resume writing new Rental Dwelling business regardless of the rate increase ultimately granted.¹⁷

9 On November 17, 2023, the Parties prepared and executed a joint settlement, agreeing to
10 an overall rate increase of 11.43% to be implemented on February 1, 2024.¹⁸ The settlement
11 called for the filing of an amended Application and for the withdrawal of Watchdog's Petition for
12 Hearing.¹⁹

13 On November 17, 2023, the Commissioner approved the amended Application via the
14 Department's electronic filing system, reflecting a 11.43% rate increase.²⁰ On
15 November 27, 2023, Watchdog withdrew its Petition for Hearing.²¹

17 **III. Request for Compensation**

18 On December 15, 2023, Watchdog filed a Request for Compensation (RFC) with the
19 Commissioner, pursuant to Ins. Code § 1861.10(b), seeking advocate fees for work performed by
20 Watchdog employees Harvey Rosenfield, Pamela Pressley, Benjamin Powell, Ryan Mellino, and
21 Kaitlyn Gentile, and expert witness fees for outside actuarial expert Allan I. Schwartz and
22 Kathleen Tollar, which included supporting documentation justifying the requested rates for the
23 work performed on State Farm's Application.

24 State Farm did not object to the Request for Compensation.

25
26 ¹⁵ *Id.* at Exh. J; Powell Decl. at ¶ 50.

27 ¹⁶ Powell Decl. at ¶ 52.

28 ¹⁷ RFC Exh. M; Powell Decl. at ¶ 54.

¹⁸ Powell Decl. at ¶ 58; Exh. 6.

¹⁹ *Id.*

²⁰ *Id.* at ¶ 59.

²¹ *Id.* at ¶ 60; Exh. 7.

APPLICABLE LAW

I. Statutory and Regulatory Rules Governing Compensation for Public Participation

To promote enforcement and public participation, Ins. Code § 1861.10(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.²²

A. Substantive Requirements

Ins. Code § 1861.10(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.²³

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."²⁴

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 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."²⁵ A substantial contribution may be demonstrated without regard to whether a petition for hearing is granted or denied.²⁶

²² 10 CCR §§ 2662.1 to 2662.8.

²³ 10 CCR § 2662.5(a).

²⁴ 10 CCR § 2661.1(j).

²⁵ 10 CCR § 2661.1(k).

²⁶ *Ibid.*

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 the intervenor must be found eligible to seek compensation by the Commissioner's Public Advisor.²⁷ 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.²⁸ 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.²⁹

Any objection to the RFC by the insurance carrier must be filed within 15 days of service of the RFC.³⁰

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.³¹ Time spent preparing the intervenor's request for compensation may be included in those amounts.³²

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."³³

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:

²⁷ 10 CCR § 2662.3.

²⁸ *Ibid.*

²⁹ *Ibid.*

³⁰ 10 CCR § 2662.3(e).

³¹ Ins. Code § 1861.10(b).

³² 10 CCR § 2661.1(d).

³³ 10 CCR § 2661.1(c).

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

11 **DISCUSSION**

12 **I. Watchdog's Request for Compensation is Timely Taken**

13 The Commissioner finds Watchdog's Request for Compensation is timely. Regulation
14 section 2662.3(a) provides that an intervenor whose Petition to Intervene has been granted and
15 who has been found eligible to seek compensation may submit a request for compensation
16 “within 30 days after the service of the order, decision, regulation or other action of the
17 Commissioner in the proceeding for which intervention was sought, or at the requesting
18 petitioner's, intervenor's or participant's option, within 30 days after the conclusion of the entire
19 proceeding.”

20 Watchdog submitted its Request for Compensation within 30 days of the Commissioner's
21 Order closing the proceeding.

23 **II. Watchdog Satisfied the Requirements for Compensation**

24 Watchdog's Request for Compensation satisfies the statutory and regulatory substantive
25 and procedural requirements for intervenor compensation. In addition, Watchdog's attorney and
26 expert witness fees are reasonable. Accordingly, the Request for Compensation is granted.
27
28

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

3 Watchdog satisfied the requirements of Ins. Code § 1861.10(b) and Regulations section
4 2662.5 to "represent the interests of consumers" and to make "a substantial contribution" to the
5 Commissioner's action in connection with Application 23-563. Watchdog's Petition raised seven
6 separate and distinct issues with the Application that rendered the proposed rate changes
7 potentially excessive and/or unfairly discriminatory, including the carrier's 2021 net income, use
8 of AOI as the proper base for the catastrophe adjustment, proof that its trend selections and data
9 period used were the most actuarially sound, the large difference between the paid and incurred
10 development, and evidence that all of its institutional advertising expenses had been reflected in
11 the excluded expense provision.³⁴ Those issues and arguments were "separate and distinct from
12 those emphasized by the Department of Insurance staff or any other party."³⁵

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

14 The Commissioner approved Watchdog's Petition to Intervene on July 26, 2022.
15 Watchdog then submitted a timely request for compensation, which was verified and included
16 detailed descriptions of the services and expenditures, legible time and billing records, and a
17 description of Watchdog's contribution.³⁶

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

19 Watchdog billed at hourly rates of \$695 for Mr. Rosenfield, an attorney with over 40
20 years' experience; \$595 for Ms. Pressley, an attorney with over 26 years of consumer advocacy
21 experience; \$350 for Mr. Powell, an attorney with seven years' experience; \$250 for Mr. Mellino,
22 an attorney with two years' experience; and \$200 for Ms. Gentile, a paralegal with over 14 years
23 of litigation experience.³⁷ These rates are consistent with the current prevailing private sector
24 rates for advocates in Los Angeles with similar experience, skill, and ability.³⁸

25 Watchdog billed a total of 93 hours in connection with the Application, including 13.5
26

27 ³⁴ Powell Decl. at ¶ 32 through 38; Petition for Hearing at ¶¶ 8a through 8g.

28 ³⁵ 10 CCR § 2661.1(k).

³⁶ RFC at pp. 5-8; Powell Decl., Exh. 1a.

³⁷ Powell Decl. at ¶¶ 7, 9, 12.

³⁸ See Powell Decl., Exh. 2 [fee expert declaration].

1 hours for Mr. Rosenfield, 40.4 hours for Ms. Pressley, 24.8 hours for Mr. Powell, 6.2 hours for
2 Mr. Mellino, and 8.1 hours for Ms. Gentile.³⁹ That time is reasonable for the work Watchdog
3 performed reviewing the Application, preparing the Petition, engaging with its expert witness,
4 preparing the Compensation Request, and engaging in related conferences, calls, correspondence,
5 and negotiations over nine months. It does not appear that the work duplicated the Department's
6 participation.

7 Mr. Schwartz's expert witness fees are reasonable. Although there is little publicly
8 available information regarding actuarial consulting fees, Mr. Schwartz provided the rates
9 charged by other consulting actuaries in earlier prior approval cases. Adjusting those rates for
10 2024, Mr. Schwartz's fee of \$915 per hour is within a reasonable range, as are the rates for his
11 associates. In addition, Mr. Schwartz's rates in this proceeding are consistent with his rates for
12 other entities and jurisdictions. Mr. Schwartz spent 30.1 hours and Ms. Tollar spent 4.5 hours
13 reviewing State Farm's Application, including its updated financial information and
14 loss ratios. Mr. Schwartz's records were kept contemporaneously and there is no evidence
15 suggesting Mr. Schwartz's rates exceed current market rates for actuarial services.⁴⁰

17 **III. Conclusion**

18 Watchdog is entitled to advocacy and expert witness fees in the amount of \$74,679.50,
19 pursuant to Ins. Code § 1861.10(b) and the regulations thereunder. Because Watchdog's advocacy
20 was in response to State Farm's Application, State Farm must pay the award.⁴¹

27 ³⁹ RFC.

28 ⁴⁰ Fees for Ms. Tollar are similarly reasonable and there is no evidence they do not reflect a reasonable rate for an
Actuarial Assistant with over 20 years' experience.

⁴¹ Ins. Code, § 1861.10(b).

ORDER

1. Watchdog is hereby awarded \$74,679.50 in advocacy and expert witness fees in connection with State Farm's rate application (Prior Approval File No. PA-2023-00006).

2. State Farm 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.⁴²

DATED: December 6, 2024

RICARDO LARA
Insurance Commissioner

By 
Lucy F. Wang
Deputy Commissioner & Special Counsel

⁴² Margaret W. Hosel, Public Advisor, 1901 Harrison St, Oakland, CA; margaret.hosel@insurance.ca.gov.

In the Matter of the Requests for
Compensation of:

CONSUMER WATCHDOG,

Intervenor.

DECLARATION OF SERVICE:
BY E-MAIL

File No. RFC-2024-003

I am over the age of 18 years and not a party to this cause.

I am an employee at the Department of Insurance, State of California, employed at 1901 Harrison Street, 4th Floor, Oakland, CA 94612.

On December 6, 2024, at Sacramento, California, I electronically served the following true copies of the documents, which are listed as an attachment; said copies were addressed to below. I am readily familiar with this business's practice for collecting and processing correspondence for mailing.

DECISION AWARDING COMPENSATION; and DECLARATION OF SERVICE
were mailed to:

The Honorable California Insurance
Commissioner Ricardo Lara
Office of the Commissioner
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Via EMAIL

I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 6, 2024 at Sacramento, California.



Thomas Oates, Declarant

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